

**Regional Transportation Commission of Southern Nevada
Standard PO Terms and Conditions
Revised 10/04/2023**

1. DEFINITIONS (Goods, Services)

“RTC” means the Regional Transportation Commission of Southern Nevada.

“Purchase Order” or “PO” means an RTC order for goods and/or services, which becomes a binding contract upon written acceptance or performance by a Supplier, and which consists of the face of the PO and these Standard PO Terms and Conditions, and any other specifically referenced documents.

“Supplier” means the individual, partnership, company, or corporation contractually obligated to provide the goods and/or services described in this PO.

2. APPLICABILITY (Goods, Services)

Notwithstanding any provision of U.C.C. 2-207 or NRS 101.2207, the Supplier’s written acceptance of this PO, or the Supplier’s commencement of performance without providing a written rejection of the PO to the RTC within five days of receipt, shall convert this PO, in its entirety, into a legally binding contract and constitute acceptance of this PO and all terms and conditions stated therein. Each clause title within these Standard PO Terms and Conditions shall indicate its applicability to the purchase of goods and/or services. Except for the Rules of Precedence clause below, these Standard PO Terms and Conditions do not apply if a specific bid award or contract is referenced on the face of the PO.

3. RULES OF PRECEDENCE (Goods, Services)

In the event of a conflict, the following rules of precedence shall govern this PO (1) terms and conditions on the face of the PO prevail over these Standard PO Terms and Conditions; (2) all terms and conditions of the PO prevail over U.C.C. Article 2; (3) all terms and conditions of the PO prevail over any Supplier quotations; and (4) the terms and conditions of a specific bid award or contract referenced on the face of the PO prevail over any term or condition contained in the PO.

4. FEDERAL, STATE AND LOCAL LAWS (Goods, Services)

Suppliers must comply with all federal, state, and local laws relative to conducting business in Clark County including, but not limited to, licensing, labor, and health laws, and including NRS 338.010 through NRS 338.180, as amended, if applicable. The Supplier shall provide the goods and/or services in compliance with the Americans with Disabilities Act, as amended to date, and the rules and regulations promulgated there under (collectively the ADA) and shall immediately notify the RTC of any conflicts between the contract documents and the ADA.

5. SHIPPING (Goods)

Goods are to be packaged in a manner that assures they are protected against deterioration and contamination. All shipments are to meet applicable US Department of Transportation and Nevada Department of Transportation Regulations. Serial numbers noted on the packing slip must match the serial number of the actual goods shipped. Incorrect, or questionable documentation of serial numbers may result in shipment rejection. Shipments rejected due to Supplier error will be returned solely at Supplier’s cost. No additional charges of any kind, including charges for handling, boxing, packing, cartage, or other extras, will be allowed unless stated on the face of this PO.

6. DELIVERY REQUIREMENTS; F.O.B. DESTINATION (Goods)

All prices must be F.O.B. destination as required. Prices include delivery as well as necessary unloading.

7. MATERIAL SAFETY DATA SHEETS (Goods)

The Supplier shall provide current Material Safety Data Sheets (MSDS) for all hazardous materials and products delivered under this PO.

8. TAXES (Goods, Services)

The RTC is exempt from paying Sales and Use Taxes under the provision of NRS 372.325(4), and Federal Excise Tax, under Registry Number 90-0036752. The price(s) must be net, exclusive of these taxes. The Supplier shall pay all taxes, levies, duties, and assessments of every nature, which may be applicable to any goods and/or services delivered under this PO. The Supplier herein indemnifies and holds the RTC harmless from any liability on account of any and all such taxes, levies, duties, assessments, and deductions.

9. INVOICES/PAYMENT (Goods, Services)

The Supplier shall generate invoices and send to the “Bill To” address on the face of the PO. Invoices should include the following: (1) Supplier name and address; (2) date and unique invoice number; (3) applicable PO number; and (4) any other information (e.g., quantity, description, period of performance) necessary to identify the goods or services for which payment is requested. Handwritten invoices will be accepted only if submitted on pre-printed and pre-numbered invoice forms.

The payment terms of this PO are net 30 days. Supplier understands and agrees that net thirty (30) days in this case means that the check is generated at the RTC the first business day after thirty (30) calendar days after the invoice date, and additional days must be allowed

for mailing. The RTC shall mail payments to the Supplier based on receipt by the RTC of the final invoice and supporting documents. Upon reconciliation of all errors, corrections, and credits, payment will be made within 30 calendar days, unless otherwise noted on the face of the PO. Invoices received that do not comply with the standards set forth herein may be returned to Supplier unpaid.

This PO must not be filled at a higher price than last quoted or changed without the RTC's prior consent in writing.

10. DISPUTES (Goods, Services)

The parties shall attempt to amicably resolve disputes through escalating levels of management. All unresolved disputes may be settled by arbitration in Nevada if agreed to by both parties; otherwise, litigation may be used. Notice of any dispute must be given in writing within 30 calendar days of the claim, dispute, or matter arising.

11. GOVERNING LAW/VENUE OF ACTION (Goods, Services)

This PO shall be construed and enforced in accordance with the laws of the State of Nevada. Any action at law or other judicial proceeding for the enforcement of any provision shall be instituted in Clark County, Nevada.

12. NOTIFICATION (Goods, Services)

Notices will be addressed to the places of business identified on the face of the PO.

13. INDEMNIFICATION (Goods, Services)

To the fullest extent permitted by law, Supplier, at its sole cost and expense, agrees to indemnify, defend, and hold harmless the RTC and its respective subsidiaries, affiliates, member agencies and their respective members, officers, directors, managers, employees, agents, shareholders, successors and assigns, heirs, administrators, and personal representatives (collectively, "Indemnitees") from and against any and all losses, damages, costs, expenses, claims, judgments, or liabilities (including reasonable costs and attorney's fees which shall be reimbursed as incurred) which in any way arise out of or relate to any actual or alleged injury, death, or damage to any person or property resulting from any act or omission of Supplier, its employees, contractors, or affiliates or the goods supplied or services covered by this PO. Supplier also agrees, at its sole cost and expense, to indemnify, defend, and hold harmless Indemnitees, each of their respective parents, subsidiaries and affiliates, and their respective officers, directors, shareholders, successors and assigns, employees, from and against any and all claims, demands, losses, liabilities, damages, causes of action, or expenses (including reasonable costs and attorney's fees, which shall be reimbursed as incurred), caused by, resulting from, or in any way connected with (a) an infringement of or claimed infringement of any patent, trademark, or copyright arising out of the sale, use, or possession of the merchandise furnished by or the services performed by Supplier, (b) the acts or omissions of Supplier or Supplier's agents, employees, or contractors in conjunction with this PO, or (c) any breach of the warranties of Supplier contained in this PO.

14. TERMINATION FOR CONVENIENCE (Goods, Services)

The RTC shall have the right at any time to terminate further performance of this PO, in whole or in part, for any reason or for no reason. RTC shall provide written notice to the Supplier, specifying the extent and effective date of the termination. The Supplier shall submit a written request for incurred costs for work performed through the date of termination and shall provide any substantiating documentation requested by the RTC.

15. TERMINATION FOR DEFAULT (Goods, Services)

The RTC, by written notice of default to the Supplier, may terminate the whole or any part of this PO if the Supplier fails to make delivery or perform the service, as applicable, within the time specified herein or any extension thereof. The RTC, by written notice of default to the Supplier, may terminate the whole or any part of this PO if the Supplier fails to perform any of the other provisions of this PO or so fails to make progress as to endanger the performance of this PO in accordance with its terms; and, in either of these two circumstances, does not cure such failure within a period of ten calendar days (or such longer period as the RTC may authorize in writing) after receipt of notice from the RTC specifying such failure.

If this PO is terminated in whole or in part for default, the RTC may procure, upon such terms and in such manner as the RTC may deem appropriate, similar goods or services. The Supplier shall be liable to the RTC for any excess costs for such similar procurement and shall continue the performance of this PO to the extent not terminated under the provisions of this clause.

If, after notice of termination of this PO under the provisions of this clause, it is determined for any reason that the Supplier was not in default under the provisions of this clause, or that the default was excusable under the provisions of Section 23, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to termination for convenience of the RTC. The rights and remedies of the RTC provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this PO.

16. INSURANCE (Goods, Services)

The Supplier shall procure and maintain workers' compensation, general liability, and auto liability insurance, in compliance with the Sample Insurance Requirements (and applicable certificates and endorsements) on the RTC Purchasing & Contracts webpage for all work related to the performance of this PO, and shall provide proof of such insurance at the request of the RTC.

17. INDEPENDENT CONTRACTOR (Goods, Services)

The Supplier is deemed to be an independent contractor under this PO and not an employee of the RTC.

18. WARRANTY (Goods)

The Supplier shall guarantee all workmanship, materials, and equipment it has furnished for a period of one year after final acceptance of the equipment and/or materials; and if during the guarantee period, any defect or faulty materials are found, it shall immediately, upon written notification by the RTC, proceed at its own expense to replace and repair the same, together with any damages to all finishes, fixtures, equipment, and furnishings that may be damaged as a result of this defective equipment or workmanship. The Supplier also warrants that any goods, materials, and equipment supplied under this PO are free of defects in material, workmanship, and design, suitable for the purpose intended, and in compliance with all applicable specifications and free from liens or encumbrance on title.

19. WARRANTY (Services)

The Supplier warrants that any services performed are in accordance with current, sound, and generally accepted industry practices by qualified personnel trained and experienced in the appropriate fields and that the services are in conformance with any specification/statement of work contained or referenced in this PO. In the event of a breach of this warranty, the Supplier shall, at no cost to the RTC, re-perform the services so that the services conform to the warranty.

20. SUPPLIER'S REPRESENTATIONS AND WARRANTIES (Goods, Services).

Supplier represents and warrants the following upon execution and throughout the term of this PO:

- A. The goods or services covered by this PO or other description, or specification furnished by the RTC will be in exact accordance with such PO, and free from defects in materials and/or workmanship, fit for their intended purpose. Such warranty shall survive delivery and shall not be deemed waived either by reason of the RTC's acceptance or by payment.
- B. Supplier has obtained or filed all licenses, registrations, statements, compliance certificates, and permits as may be required by law or other governmental authority.
- C. The goods or services covered by this PO do not infringe on any patent, trademark, or copyright granted or recognized by the United States.
- D. The goods covered by this PO were not designed, manufactured, shipped, installed, sold, or priced in violation of any federal, state, or local law.
- E. Supplier, its employees and contractors shall abide by all federal, state, and local laws or regulations and also the RTC's Policies and Procedures while upon any RTC property or property of its affiliates.
- F. Supplier is a duly organized and a valid business entity under the laws of its state of incorporation, and it has obtained all requisite licenses to conduct business in the State of Nevada.
- G. The execution of this PO has been duly authorized by all necessary corporate action on behalf of Supplier.
- H. Supplier's warranty period for installed goods shall begin upon installation of the goods at the Project.

In the event that any of the aforementioned representations and warranties ceases to be true, complete, and accurate at any time during the term of this PO, Supplier shall promptly notify the RTC in writing of such default and shall promptly take such action as is necessary to cure such default. If such default is not cured within a period of ten calendar days (or such longer period as the RTC may authorize in writing), then this PO may be terminated in accordance with Section 15.

21. NEW EQUIPMENT (Goods)

Unless otherwise specified or agreed to by the RTC, the Supplier shall guarantee that the items provided pursuant to this PO are new, of the latest and most improved model of current production, are first quality as to workmanship and materials used in said units. All modifications will have been made at the factory.

New equipment is defined as equipment that is made completely of unused genuine original parts. Equipment must not have been operated for any purpose other than routine operational testing. Demonstration equipment does not meet this definition and is not acceptable.

22. INSPECTION (Goods, Services)

An authorized representative of the RTC will inspect the goods and/or services at the time of delivery or upon completion. The RTC shall assume risk of loss of the equipment upon acceptance. Prior to acceptance by the RTC, the Supplier shall have risk of loss, including any damages sustained during delivery. If deficiencies are detected, the goods and/or services will be rejected, and the Supplier will be required to make necessary repairs, corrections, or replacements. Payment and/or commencement of a discount period will not be made until the corrective action is made; the good and/or services are re-inspected; and the good and/or services are accepted. However, payment for goods or services on this PO prior to inspection shall not constitute acceptance thereof and is without prejudice to any and all claims that the RTC may have against Supplier.

23. FORCE MAJEURE (Goods, Services)

The Supplier shall not be liable for any failure to perform if acceptable evidence has been submitted to the RTC that failure to perform the PO was due to causes beyond the control and without the fault or negligence of the Supplier ("Force Majeure"). Examples of such causes include acts of God, civil disturbances, fire, war, or floods, but does not include labor related incidents, such as strikes or work stoppages. Supplier shall provide the RTC satisfactory evidence that non-performance is due to an occurrence other than fault or negligence on its part. Notwithstanding the foregoing, a Force Majeure shall not be deemed to have occurred unless Supplier notifies

the RTC in writing of an occurrence giving rise to a Force Majeure within three (3) days after such occurrence, and Supplier provides the RTC with the details of such event and the length of the anticipated delay within an additional five (5) days thereafter. Notwithstanding anything to the contrary elsewhere in this PO, a Force Majeure shall only entitle Supplier to an appropriate extension of time, and Supplier shall not be entitled to any additional compensation hereunder by reason of such delay.

24. ASSIGNMENT/MODIFICATION (Goods, Services)

It is agreed that the Supplier will not assign, transfer, convey, or otherwise dispose of this PO or its right, title, or interest in the same, or any part thereof, without previous written consent of the RTC and any sureties. This PO sets forth the entire understanding of the parties and only may be modified through a bilaterally executed writing.

25. SEVERABILITY (Goods, Services)

In the event any provision of this PO is held to be invalid or unenforceable, the remaining provisions shall remain valid and binding. If any provision contained within this PO is finally determined to be illegal, invalid, or unenforceable by a court of competent jurisdiction, the remaining provisions shall not be affected thereby.

26. COLLUSION (Goods, Services)

Any evidence of agreement or collusion among bidders or prospective bidders acting to restrain freedom of competition by agreement to quote a fixed price or otherwise, will render the bids of such bidders void.

Advance disclosures of any information to any particular bidder, which gives that particular bidder any advantage over any other interested bidder, in advance of the opening quotes, made or permitted by a member of the governing body or any employee or representative thereof, will operate to void all quotations of that particular request.

27. EQUAL OPPORTUNITY (Goods, Services)

No business enterprise shall be discriminated against on the grounds of race, color, age, disability, creed, sex, or national origin in consideration for an award.

28. RIGHT TO ADEQUATE ASSURANCE OF PERFORMANCE (Goods, Services)

When reasonable grounds for insecurity arise with respect to the performance of Supplier, the RTC may in writing demand adequate assurance of due performance and until it receives such assurance may, if commercially reasonable, suspend any performance for which it has not already received the agreed return. Acceptance of any improper delivery or payment does not prejudice the RTC's right to demand adequate assurance of proper performance. After receipt of a justified demand, failure to provide within a reasonable time not exceeding 30 calendar days, such assurance of due performance as is adequate under the circumstances of the particular case is a repudiation of the contract.

29. RELEASE OF LIENS (Goods, Services)

Supplier agrees, upon request, to give the RTC a release of lien or of the right to a lien arising out of past, present, or future work on this PO in a form acceptable to the RTC, accompanied by such receipts or releases from material suppliers as may be requested by the RTC, as a condition precedent for payment. The RTC shall have the right to apply funds otherwise due Supplier hereunder to any other liabilities or obligations of Supplier to the RTC arising from this transaction or from any other transaction or circumstance.

30. TIME (Goods, Services)

Time is of the essence of this PO. If delivery or completion dates cannot be met, Supplier shall advise the RTC immediately. Such notice shall not, however, constitute a change to the delivery or completion terms of this PO unless RTC modifies this PO in writing. If any item is not received or if any element of the work is not completed by the date specified, the RTC, at the RTC's option and without prior notice to Supplier, may either approve a revised date or may cancel this PO and may obtain such goods or work elsewhere and in either event the Supplier shall be liable to the RTC for any resulting loss incurred by the RTC.

31. Off-Project Stored Goods (Goods)

If Supplier requests payment for goods stored off the Project, payment for such goods shall be contingent upon Supplier providing the RTC with at least fifteen (15) days advance written notice of Supplier's intention to request such payment from the RTC, together with appropriate information and documentation, satisfactory to the RTC and evidencing the following:

- (a) the goods are suitably stored off the Project in a segregated area at a location approved by the RTC in writing;
- (b) the goods have clearly visible markings identifying the goods as belonging to the RTC for use in connection with the Project;
- (c) RTC's title to and interest in such goods is adequately protected;
- (d) applicable insurance (with coverage limits acceptable to the RTC) for goods of the Project, and for the transportation of the goods to the Project, which insurance shall be evidenced by a certificate of insurance showing RTC as a loss payee; and
- (e) date stamped photographs of such goods stored off the Project.

32. TITLE (Goods)

Title to goods covered by this PO shall pass to the RTC Freight on Board (FOB) Point of Shipping, unless specifically provided for in Section 31 above or otherwise by the RTC.

33. WAIVER

The RTC’s waiver of any breach or failure to avail itself of any right or remedy shall not be deemed to constitute a continuing waiver of the breach, right or remedy or any other breach, right or remedy provided herein or available at law or in equity.

34. INTEGRATED AGREEMENT

This PO embodies the final, exclusive, and complete expression of agreement of the parties hereto, and may not be modified orally, but only in writing duly executed by both the RTC and Supplier.

35. ADDITIONAL TERMS AND SCOPE.

Supplier specifically agrees that the terms and conditions stated herein exclusively govern the rights and responsibilities of the parties regardless of different or additional terms submitted by Supplier within its acceptance, confirmation, or invoice submitted to the RTC. Any different or additional terms submitted by Supplier shall not be part of this PO unless accepted in writing by the RTC. If the Supplier performs work beyond the scope of this PO without express written authorization from the RTC, then such work will be non-compensable.

36. SUBCONTRACTORS.

Supplier shall not subcontract any portion of the work contemplated by this PO without the prior written consent of the RTC, which consent may be withheld in its sole discretion. No approval of any subcontractor by the RTC shall relieve Supplier from any of its obligations under this PO.

37. ATTORNEY’S FEES.

Should the RTC utilize the services of an attorney to enforce or defend any term or condition herein, the RTC shall be entitled to an award of reasonable attorney’s fees and costs expended throughout the pendency of the demand, claim, and/or litigation. The prevailing party in any arbitration or litigation related this PO shall be entitled, in addition to any other relief granted in such proceeding, to recover its reasonable attorney’s fees, expert witness fees, and court costs from the non-prevailing party.

38. REMEDIES.

All remedies available to the RTC herein shall be in addition to and cumulative with any and all other remedies available to the RTC at law, in equity, or otherwise.

39. COUNTERPARTS.

Parties hereto agree that acceptance and approval of the PO via email and/or facsimile, and/or electronic signature, and any other documents shall have the same force as the original and be binding upon the parties.

41. SURVIVABILITY.

The following Sections survive termination of this PO: TAXES, DISPUTES, GOVERNING LAW/VENUE OF ACTION, INDEMNIFICATION, WARRANTY (Goods), WARRANTY (Services), SUPPLIER’S REPRESENTATIONS AND WARRANTIES, COLLUSION, ATTORNEY’S FEES, REMEDIES, SURVIVABILITY.

Authorized Signing Party’s Signature

Date

Authorized Signing Party’s Name

Authorized Signing Party’s Title

Vendor Name