

TERMS AND CONDITIONS FOR PURCHASE ORDER

Rev: 08-25-20

Purchase Orders issued by the Central Purchasing office of County of York, Virginia shall by reference include and be bound by Terms and Conditions as posted on the Central Purchasing website on the day of Purchase Order issuance. Future revisions to the Terms and Conditions when posted to the website shall only apply to Purchase Orders issued by the Central Purchasing office having an issue date of on or after the date of posting the revision. The current Terms and Conditions are as follows.

SECTION A

GENERAL TERMS AND CONDITIONS APPLICABLE TO ALL PURCHASES

1. **APPLICABLE POLICY:** This Purchase Order is subject to the provisions of the County of York, Virginia, Procurement Policy (Ordinance No. 18-12-effective June 5, 2018), and any revisions thereto.
2. **DEFINITIONS:**
 - Owner:** Any entity for whom the Central Purchasing office of the County of York, Virginia has served as the Purchasing Agent, and may include, without limitation, the County of York, Virginia, its officers, agents and employees and the County School Board of York County, Virginia, its officers, agents and employees.
 - Contractor:** As used herein, the term "Contractor" shall be the individual or organization named on the front of a Purchase Order issued by Central Purchasing, whether identified on the Purchase Order as "Contractor", "Vendor", or any similar term.
 - Central Purchasing:** The office of the Division of Purchasing, Department of Finance, County of York, Virginia.
3. **INVOICES AND PAYMENT TERMS:** The Purchase Order or Contract number shall be included on each invoice. Failure to include this information will delay payment. Invoices shall be sent to the address specified on the Purchase Order. Payment will be authorized following receipt of a valid invoice and delivery of goods or completion of services according to the Purchase Order. The following are the payment terms applicable to the Purchase Order:
 - a. Payment terms shall be "Net 30 Days" unless otherwise stated on the face of the Purchase Order.
 - b. The payment terms stated herein must appear on the Contractor's invoice. Failure to comply with this requirement may result in the invoice being returned to the Contractor for correction.
 - c. Late payment charges shall not exceed 1% per month of the invoice amount due.
 - d. If offered by the Contractor, a payment discount period shall be computed from the date of proper receipt of a valid invoice, or from the date of acceptable receipt of the goods and/or services, whichever is latest.
 - e. Invoices for goods or services ordered, delivered and accepted shall be submitted directly to the "Invoice To" address shown on the purchase order. All invoices shall show the Purchase Order. Any payment terms requiring payment in less than thirty (30) days will be regarded as requiring payment thirty (30) days after invoice or delivery, whichever occurs last. However, this shall not affect offers or discounts for payment in less than thirty (30) days.
4. **ANTI-DISCRIMINATION:** If this Purchase Order is for an amount over \$10,000, the Contractor agrees as follows:
 - a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, age, disability, status as a service disabled veteran, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. Contractor, in all solicitations for advertisements for employees placed on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with Federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
 - d. During the performance of this Contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace.
5. **FAITH BASED ORGANIZATIONS:** In accordance with §2.2-4343.1 of the Code of Virginia, et. seq., the Owner shall not (i) discriminate against a faith-based organization as defined in Code of Virginia section 2.2-4343.1(B) on the basis of the organization's religious character or (ii) impose conditions that (a) restrict the religious character of the faith-based organization, except as provided in subsection F of section 2.2-4343.1 the Code of Virginia, or (b) impair, diminish, or discourage the exercise of religious freedom by the recipients of such goods, services, or disbursements.
6. **IMMIGRATION REFORM AND CONTROL ACT OF 1986:** By signing the proposal, the Contractor certifies that it does not and will not during the performance of this Contract for goods and/or services knowingly violate the provisions of the Federal Immigration Reform and Control Act of 1986, which prohibits employment of unauthorized aliens as defined in the Federal Immigration Reform and Control Act of 1986, as amended.
7. **AMERICANS WITH DISABILITIES ACT (ADA):** The Contractor warrants that it complies with Virginia and federal disabilities laws and regulations. (Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq). Contractor hereby warrants that the products or services it will provide under any resulting Contract complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, Part 1194. Contractor agrees to promptly respond to and resolve any complaint regarding accessibility of its products or services at no additional cost to the Owner. Contractor further agrees to indemnify and hold harmless the Owner from any and all claims arising out of Contractor's failure to comply with the aforesaid requirements. Failure to comply with these requirements shall constitute a material breach of any resulting Contract and shall be grounds for termination of that Contract by the Owner.
8. **INDEMNITY AGREEMENT:** Contractor, its employees, servants or agents (including subcontractors) shall bear all loss, expense (including reasonable attorney's fees) and damage from any cause whatsoever arising out of, incidental to, or in connection with the performance of the Contract and shall indemnify the Owner, its officers, agents and employees against and save the Owner, its officers, agents and employees harmless from all claims, demands, and judgments made or recovered against the Owner because of bodily injuries, including death, at any time resulting therefrom and/or because of damage to property, from any cause whatsoever; all such arising out of, incidental to, or in connection with the performance of the Contract whether or not due to any act of Contractor, its employees, servants or agents (including subcontractors) and whether or not due to any act of omission or commission, including negligence, but excluding gross negligence of the Owner. Compliance by the Contractor with the insurance provision hereof shall not relieve Contractor from liability under this provision. Should Contractor, its employees, servants or agents (including subcontractors) use any of the Owner's equipment, tools, employees, or facilities, such will be gratuitous and Contractor shall release the Owner, its agents, officers and employees, from and indemnify and save harmless the Owner, its agents, officers and employees, from and against any claims for bodily injury, personal injury, including death, and property damage, from

any cause whatsoever; all such arising out of the use of any such equipment, tools, employees, or facilities, whether or not based upon the condition thereof or any alleged negligence of the Owner in permitting the use thereof.

Contractor, its employees, servants and/or agents (including subcontractors) guarantee to save the Owner, its officers, agents and employees, harmless from liability of any nature or kind for use of any copyrighted or un-copyrighted composition, secret process, patented or unpatented invention, articles or appliances furnished or used in the performance of the work under the Purchase Order, or of which the Contractor is not the patentee, assignee or licensee.

9. **AVAILABILITY OF FUNDS:** It is understood and agreed between the Contractor and the Owner that the Owner shall be bound hereunder only to the extent of the funds available and lawfully appropriated or which may hereafter become available and lawfully appropriated for the purpose of this Purchase Order.

10. **CERTIFICATIONS:** In accordance with Virginia Code Section 22.1-296.1, if the performance of the purchase order will require the Contractor or Contractor's employees, servants, agents or subcontractors to have direct contact with students of the York County School Division on school property during regular school hours or during school-sponsored activities, then the Contractor shall certify by submission of a signed Certification Form that they or any of their employees, servants, agents or subcontractors who will provide such services: *"Have not been convicted of a felony or any offense involving the sexual molestation or physical or sexual abuse or rape of a child."*

Any person making a materially false statement regarding any such offense shall be guilty of a Class 1 misdemeanor and, upon conviction, the fact of such conviction shall be grounds for the revocation of the Contract to provide such services and, when relevant, the revocation of any license required to provide such services.

The Company signed Certification should be completed in its entirety as provided in Attachment F. Any person, employee, subcontractor, agent, officer, owner or shareholder of the corporation, firm or partnership who will provide services under this Purchase Order and who will be in direct contact with the Board's students shall meet the certification requirements. This certification shall be binding throughout the contracted period and the Contractor shall provide the Board with immediate notice of any event which renders their certifications untrue.

Those persons required to register as a sex offender in any U.S. state, the District of Columbia, any U.S. territory or Indian Country shall not meet the requirements of this section. Such persons shall not be permitted on School Property except in compliance with School Board Policies KN and KNA.

The County School Board of York County, Virginia has enacted a 100% ID check at all schools. All persons entering upon the Board's property shall be required to scan their valid driver's license in order to print a visitor's badge which includes the person's photo, name, and time of arrival. All visitors are required to wear their badge while on school property and sign out at the front office as they are leaving the building. As an added security feature, the scanning process now includes a cross reference to the national and state sex offender registry. If a visitor does not have a valid driver's license, staff may request an alternate government issued ID and manually check the visitor in through the system.

11. **PERMITS, LICENSES AND REGULATIONS:** All work shall comply with all applicable federal, state and local regulations, codes and ordinances, as well as any other authorities that may have lawful jurisdiction pertaining to the work specified (collectively the "codes"). None of the terms or provisions of this specification shall be construed as waiving any other rules, regulations or requirements of these authorities. The Contractor and/or subcontractor shall be responsible for obtaining all necessary building permits (no charge to Contractor for Owner projects). Further, the Contractor shall keep himself fully informed of and comply with any local regulation and all state and federal laws which in any manner effect the work herein specified.

In any instance where these specifications or scope of work call for materials for construction of a better quality or larger size than required by the codes, the provisions of the specifications and scope of work shall take precedence. Conversely, should the codes call for better quality or larger size, the codes shall govern.

12. **CLAIMS:** Disputes and claims arising under this Purchase Order shall be processed pursuant to Virginia Code Sections 15.2-1245 through 15.2-1248 and 22.1-122, or if the Owner is the County School Board then as applied to the Owner *mutatis mutandis*. The Owner shall give its final decision on any claim

of the Contractor within sixty (60) days of the date the claim is submitted to the Clerk of the governing Board.

13. **TERMINATION FOR CONVENIENCE:** The Owner may terminate the Purchase Order without default when funds are not appropriated for the specified goods or services or when it is determined to be in the Owner's best interest without providing specific cause. The Owner will provide as much notice as it deems to be practical.

Either party may terminate the Contract without penalty or financial obligation as of the conclusion of the initial contract term, or as of the completion of any renewal term, except that the parties remain liable for performance of all terms, conditions, and obligations through the date of termination. Written notice of termination shall be given to the other party a minimum of thirty (30) days prior to its effective date.

In the event the Contract shall be terminated for any reason, the Owner shall be obligated to pay the Contractor only for those services which have actually been rendered by the Contractor, through the date of termination.

14. **TERMINATION FOR CAUSE:** In the event that the Contractor shall for any reason or through any cause be in default of the terms, conditions, or obligations of the Purchase Order, the Owner may give the Contractor written notice of such default and terminate the Purchase Order. All terms, conditions, and obligations of the Purchase Order are considered material. The Owner may, in its discretion, provide the Contractor an opportunity to cure the default, if curable, prior to termination. If such an opportunity to cure is provided, the unless a different duration is provided in the notice of default, or agreed upon by the parties in writing, the Contractor shall have ten (10) calendar days to cure the default from the date such notice is mailed to the Contractor, unless notification is by electronic transmission or personal delivery, in which case the opportunity to cure shall commence upon delivery of the notice. Upon failure of the Contractor to cure the default, or in the event Owner does not provide an opportunity to cure, the Owner may immediately terminate the Purchase Order effective as of the mailing or delivery of the default notice. If the Owner terminates the Purchase Order, the Contractor shall remain liable for performance of all terms, conditions, and obligations through the date of termination. Termination by the Owner shall not constitute a waiver by the Owner of any other rights or remedies available to the Owner by law or contract. In the event the Purchase Order shall be terminated for cause, the Owner shall be obligated to pay the Contractor only for those services which have actually been rendered by the Contractor, through the date of termination.

In the event of a default by Contractor, the Owner reserves the right to procure the products or services from other sources, and hold the Contractor liable for any excess cost occasioned thereby. If, however, public necessity requires the use of materials or supplies not conforming to the specifications, they may be accepted and payment therefore shall be made at a proper reduction in price.

In addition, failure of the Contractor to perform the obligations of the Purchase Order may result in debarment of the Contractor from further consideration for award of a contract or purchase order for a period of up to three years. Termination and/or debarment of the Contractor shall not constitute a waiver by the Owner of any other rights or remedies available to the Owner by law or contract.

15. **AUTHORIZATION TO TRANSACT BUSINESS IN VIRGINIA:** All Contractors must be duly authorized or licensed to conduct business in the Commonwealth of Virginia and if required by applicable law, have a York County Business License. If Contractor is organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50, as amended, Contractor shall provide the identification number issued to it by the State Corporation Commission.

Contractor shall not allow its existence to lapse or its Certificate of Authority or Registration to Transact Business in the Commonwealth, if so required under Title 13.1 or Title 50, as amended, to be revoked or cancelled at any time during the term of the Purchase Order. Such lapse, cancellation or revocation shall constitute a material default by Contractor, and Owner may void any Purchase Order with a business entity if the business entity fails to remain in compliance with the provisions of this section. Visit <https://www.scc.virginia.gov/> for more information.

16. **INDEPENDENT CONTRACTOR:** The Contractor and any employees, agents, or other persons or entities acting on behalf of the Contractor shall act in an independent capacity and not as officers, employees, or agents of the Owner. The Contractor shall not represent that Contractor is an employee or agent of the Owner in any way.

17. **GOVERNING LAW AND VENUE:** This Purchase Order is subject to the laws of the Commonwealth of Virginia and the ordinances and regulations

established by the County of York, Virginia. Any litigation with respect thereto shall be brought in the courts of the County of York, Virginia, or the United States District Court for the Eastern District of Virginia.

18. **RIGHTS UNDER ANTITRUST LAWS:** The Contractor assigns to the Owner any and all rights that it may have under the antitrust laws of the United States and the Commonwealth of Virginia in any way arising from or pertaining to the Purchase Order. This provision is remedial in nature and is to be liberally construed by any court in favor of the Owner.
19. **ASSIGNMENT OF CONTRACT:** A Purchase Order shall not be assignable by the Contractor in whole or in part without the written consent of the Owner.
20. **RIGHTS AND REMEDIES NOT WAIVED:** In no event shall a payment by the Owner to the Contractor, or the waiver by the Owner of any provision under the Purchase Order, including the Terms and Conditions, including any obligation of the Contractor, constitute or be construed as a waiver by the Owner of any other provision, obligation, breach of covenant, or any default which may exist under the Purchase Order on the part of the Contractor, and the making of any such payment by the Owner while any such breach or default exists shall not impair or prejudice any rights or remedies available to the Owner.
21. **SEVERABILITY:** If any provision of the Purchase Order, including the Terms and Conditions, or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of the Purchase Order, or the application of such provision to persons or circumstances other than those which it is invalid or unenforceable, shall not be affected, and each provision of this contract shall be valid and enforced to the full extent permitted by law.
22. **RECORDS AND INSPECTION:** The Contractor shall maintain full and accurate records with respect to all matters covered under the Purchase Order, including, without limitation, accounting records, written policies and procedures, time records, telephone records, and any other supporting evidence used to memorialize, reflect, and substantiate charges or fees related to this Contract. The Contractor's records shall be open to inspection and subject to audit and/or reproduction, during normal working hours, by the Owner and its employees, agents or authorized representatives after giving at least three (3) Owner business days' notice to the Contractor by the Owner. The Owner shall have access to such records from the effective date of the Purchase Order, for the duration of the Purchase Order, and for five (5) years after the date of final payment by the Owner to the Contractor pursuant to the Purchase Order or any renewal or extension of the Purchase Order. The Owner's employees, agents or authorized representatives shall have access to the Contractor's facilities, shall have access to all necessary records, and shall be provided adequate and appropriate work space, in order to conduct audits.
23. **ENTIRE AGREEMENT:** The Purchase Order including the Terms and Conditions herein, any change orders, any Owner approved written exceptions noted by Contractor on the face of the Purchase Order, any Owner Contract and Contractor's Proposal constitute the entire agreement between the Owner and the Contractor. The Terms and Conditions set forth herein may not be superseded, altered, deleted or added to without the express written consent of the Owner.

In case of conflict, the following order of precedence shall prevail:

1. Change Orders
2. Owner Contract, if issued
3. Expressly approved written exceptions as noted on the face of the Purchase Order
4. Purchase Order Terms and Conditions, this document
5. Contractor Proposal.

Commencement of performance by Contractor constitutes agreement to these Terms and Conditions. The Owner shall have no responsibility or liability for products or services delivered or performed prior to Contractor's receipt of Owner issued documents. Each shipment received by the Owner from Contractor shall be solely upon the Terms and Conditions contained herein and within the Purchase Order and any signed contract between the parties.

24. **MODIFICATIONS:** The Purchase Order can be modified or rescinded only in writing signed by the Purchasing Agent or his/her duly authorized representative. Contractor may not transfer the Purchase Order to a third party nor in any way amend the Purchase Order without prior written consent of the Owner.
25. **NO IMPLIED REPRESENTATIONS:** No representations, agreements, covenants, warranties, or certifications, express or implied, shall exist as between the parties, except as specifically set forth in the Purchase Order.

26. **REMEDIES:** The Owner shall have rights and remedies afforded by the Commonwealth of Virginia's Uniform Commercial Code and other applicable laws.
27. **BLANKET OR "AS NEEDED" PURCHASE ORDERS:** The Owner is obligated only to the extent of purchases actually made and received under a Blanket or "As Needed" Purchase Order. A Blanket or "As Needed" Purchase Order is intended to authorize the purchase of goods or services from the Contractor as needed for a fiscal year, and is not a guarantee of quantities or actual work required.

SECTION B

ADDITIONAL TERMS AND CONDITIONS FOR ACQUISITION OF GOODS

1. **DELIVERY OF GOODS:** Contractor shall transfer and deliver goods to the Owner's place of business as stated on the Purchase Order, FOB destination. Title to the goods shall remain with the Contractor until the Owner receives the goods or by prior agreement of freight terms. A packing list must accompany each shipment.
2. **WARRANTIES:** Contractor warrants that the goods are merchantable and as described in the Purchase Order or in any quote tendered to Owner. All provisions and remedies of the Uniform Commercial Code relating to both implied and expressed warranties are herewith referred to and made part of the Purchase Order
3. **RIGHT OF INSPECTION:** The Owner shall have the right to inspect the goods at the time and place of delivery before accepting them. Damaged or substituted merchandise other than goods on the Purchase Order shall be refused and returned at Contractor's expense. Additional charges for packing or restocking will not be accepted.
4. **SALES TAX:** No sales tax or use tax shall be included or added to prices of materials on the order. The Owner is tax exempt from state and local taxes.
5. **QUALITY:** The Owner will be the sole judge in determining "equals", if allowed, with regard to quality, price and performance. All products delivered shall be newly manufactured and of the manufacturer's current model, unless otherwise specified.
6. **SAFETY INFORMATION:** All chemicals, equipment and materials proposed and/or used in the performance of the Purchase Order must conform to the standards required by the Occupational Safety and Health Act of 1970. Contractors must furnish Safety Data Sheets (SDS) for any regulated chemicals, equipment or hazardous materials at the time of delivery.

SECTION C

ADDITIONAL TERMS AND CONDITIONS FOR ACQUISITION OF SERVICES

1. **STATION OF WORK:** The Contractor shall provide and furnish at its own proper cost and expense all materials, machinery, equipment, tools, superintendence, labor, insurance and other accessories and services necessary to provide services in strict accordance with the conditions and prices stated in the Purchase Order and applicable documents.
2. **INSURANCE:** Unless waived by Owner, the Contractor shall maintain adequate liability insurance, which shall protect and save harmless the Owner, its officers, agents and employees from all suits and actions of every kind and description arising from injury or damage to persons and property in the prosecution of said work or in failure to properly safeguard same, and from all claims arising under the workers' compensation laws. Contractor shall furnish proof of said insurance and the proper endorsements prior to commencement of services. The Contractor shall carry insurance in the amounts specified below, including the Broad Form Contractual Liability assumed by the Contractor and shall deliver certificates of insurance from carriers acceptable to the Owner specifying such limits, along with a proper endorsements naming the Owner, its Officers, Agents and Employees, as Additional Insured, with primary status, without participation from the Owner's insurers" (Form No. CG 2010 1985 version or its equivalent or CG 2010 and CG 2037 or their equivalent). Further, the successful Contractor agrees they shall immediately notify, in writing, the Owner of any changes, modifications, and/or termination of any insurance coverages and/or policies required by the resulting Contract.
 - a. **Worker's Compensation and Employer's Liability**
 - Coverage A - Statutory Requirement
 - Coverage B - \$100,000; \$100,000; \$500,000
 - b. **Comprehensive Automobile Liability**, including Owned, Non-Owned and Hired Car Coverage.
 - Limits of Liability - \$500,000 Per Occurrence Bodily Injury or Property Damage.

- c. Commercial General Liability
Limits of Liability - \$500,000 Per Occurrence Bodily Injury or Property Damage.
Broad Form Contractual Liability includes the Contractual liability assumed hereunder.
Completed Operations Insurance, to remain in full effect until the date of acceptance of the project by the Owner.
 - d. Umbrella Liability
Excess Liability over Employers Liability, Comprehensive Automobile Liability and Commercial Liability policies.
Limits of Liability - \$1,000,000. Each Occurrence
\$1,000,000. Aggregate
 - e. Professional Liability Insurance
Unless waived by the Owner, the limit shall be a minimum of \$1,000,000 per claim.
A 3 year extended reporting period endorsement shall be required on all claims based policies.
3. REPLACEMENT OF DAMAGED GOODS OR OWNER'S PROPERTY: Any damages to products or to Owner's property, including but not limited to finished surface, existing structures, fences, trees, plants, grass, walks, drives and building surfaces, without limitation, resulting from delivery of the products or resulting from Contractor's services shall be replaced/repaired to the Owner's satisfaction and at the Contractor's sole expense.

**SECTION D
ADDITIONAL REQUIREMENTS APPLICABLE TO PROCUREMENTS MADE
USING FUNDING FROM FEDERAL GRANTS**

As required by the Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Final Rule Title 2 of the Code of Federal Regulations; 2 CFR 200, if funding for this Purchase Order (Contract) is provided in whole or in part by one or more Federal Grants, then the following provisions shall apply, as applicable.

1. If this Purchase Order (Contract) is more than \$150,000 and the Vendor (Contractor) violates or breaches contract terms, the County shall, if not otherwise specified in contract documents, issue a cure letter to the Vendor (Contractor) identifying the breach and specifying a deadline by which the Vendor (Contractor) is to cure the breach. Failure of the Vendor (Contractor) to cure the breach by the specified time may result in the County's determination that the Contract is in default. The County may thereafter make a claim against the Vendor's (Contractor's) bond, if any, or withhold funds from payments due to the Vendor (Contractor) or from escrow or retainage amounts held. The County reserves the right to take legal action for any Vendor (Contractor) breach or default.
 2. Termination procedures shall be as specified in Section A, paragraphs 13 and 14 of these Terms and Conditions.
 3. Except as otherwise provided under 41 CFR Part 60, if this Purchase Order (Contract) meets the definition of "federally assisted construction contract," it includes by reference the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part 1964-1965 Comp., p.339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
 4. When required by Federal program legislation, if this Purchase Order (Contract) is a prime construction contract in excess of \$2,000 awarded by non-Federal entities, then:
 - (a) the Vendor (Contractor) shall comply with the Davis-Bacon Act as supplemented by Department of Labor regulations.
 - (b) Copeland Anti-Kickback Act (40 U.S.C. 3145). (i) The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract. (ii) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses. (iii) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.
 5. Where applicable, if this Purchase Order (Contract) is in excess of \$100,000 and involves the employment of mechanics or laborers, the Vendor (Contractor) shall comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations.
6. If the Federal award meets the definition of "funding agreement" under 37 CFR 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement", the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and by any implementing regulations issued by the awarding agency.
 7. If this Purchase Order (Contract) is in excess of \$150,000, the Vendor (Contractor) shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act and the Federal Water Pollution Control Act as amended.
 - (a) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
 - (b) The contractor agrees to report each violation to the (name of agency or applicant entering into the contract) and understands and agrees that the (name of the agency or applicant entering into the contract) will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
 - (c) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.
 - (d) The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
 - (e) The contractor agrees to report each violation to the County of York and understands and agrees that the County, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
 - (f) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.
 8. This Purchase Order (Contract) includes by reference all mandatory standards issued in compliance with the Energy Policy and Conservation Act Debarment and Suspension Clause (2 C.F.R. PART 200 APPENDIX II(h)).
 9. The Vendor (Contractor) shall notify the Central Purchasing Office if it is listed on the government-wide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines. Specifically: (i) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935). (ii) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into. (iii) This certification is a material representation of fact relied upon by the County of York. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the County of York, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. (iv) The agency, bidder, or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.
 10. The Vendor (Contractor) shall comply with the Byrd Anti-Lobbying Amendment (31.U.S.C.1352) Contractors that apply or bid for an award of \$100,000 or more must file the required certification. Byrd Anti-Lobbying Clause (2 C.F.R. PART 200 APPENDIX II(I))
 - (a) Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

(b) Required Certification. If applicable, contractors must sign and submit to the agency the following certification:

The undersigned certifies, to the best of his or her knowledge and belief, that:

- i. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- ii. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- iii. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

11. Utilization of Recovered Materials

- (a) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:
 - i. Competitively within a timeframe providing for compliance with the contract performance schedule;
 - ii. Meeting contract performance requirements; or
 - iii. At a reasonable price.
- (b) Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- (c) The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act."

12. Contract Work Hours and Safety Standards Act (29 C.F.R. 5.5(b)). For any contracts over \$100K utilizing mechanics or laborers (as defined in 40 U.S.C. §§ 3701), the following shall apply:

- (a) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (b) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph (a) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the

case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph(a) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in subparagraph (a) of this section.

- (c) Withholding for unpaid wages and liquidated damages. The County of York shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (b) of this section.
- (d) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraphs (a) through (d) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (a) through (d) of this section.14. Equal Employment Opportunity Clause (2 C.F.R. PART 200 APPENDIX II(C)). For any construction contract as defined in 41 C.F.R. section 60-1.3, during the performance of this contract, the contractor agrees as follows:
 - (a) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
 - (b) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
 - (c) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
 - (d) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 - (e) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

- (f) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (g) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (h) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States. The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work:

Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract. The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

END OF PURCHASE ORDER TERMS AND CONDITIONS