



STANDARD TERMS, CONDITIONS AND WARRANTIES GOVERNING PURCHASE ORDER

The Supplier shall provide the goods and/or services described in the Purchase Order subject to the following Standard Terms, Conditions And Warranties, unless otherwise noted on the face of the Purchase Order.

1. DEFINITIONS [Goods, Services]

“TMWA” means the Truckee Meadows Water Authority.

“Purchase Order” means a TMWA 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 Purchase Order and these Standard 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 Purchase Order.

2. APPLICABILITY [Goods, Services]

This Purchase Order is issued in accordance with N.R.S Chapter 332. Notwithstanding any provision of N.R.S. 104.2207, the Supplier’s written acceptance of this Purchase Order, or the Supplier’s commencement of performance without providing a written rejection of the Purchase Order to the TMWA within five (5) days of receipt, shall convert this Purchase Order, in its entirety, into a legally binding contract. Each clause title within these Standard 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 Terms and Conditions do not apply if a specific bid award or other contract is referenced on the face of the Purchase Order.

3. RULES OF PRECEDENCE [Goods, Services]

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

4. LAWS AND STATUTES [Goods, Services]

The Supplier will comply with all federal, state and local laws and regulations relative to conducting business or performing work in the County of Washoe, Nevada.

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 D.O.T. 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.

6. MATERIAL SAFETY DATA SHEETS [Goods]

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

7. TAXES [Goods, Services]

The TMWA is exempt from paying Sales and Use Taxes under the provision of Nevada Revised Statues 372.325(4), and Federal Excise Tax. 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 Purchase Order. The Supplier herein indemnifies and holds the TMWA harmless from any liability on account of any and all such taxes, levies, duties, assessments and deductions.

8. INVOICES [Goods, Services]

The Supplier shall generate invoices and send to the “Bill To” address on the face of the Purchase Order. Invoices should include the following: (i) Supplier name and address, (ii) date and unique invoice number, (iii) applicable Purchase Order number, and (iv) any other information (e.g., quantity, description, period of performance) necessary to identify the goods or services for which payment is requested. (v) handwritten invoices will be accepted only if submitted on pre-printed and prenumbered invoice forms. Upon reconciliation of all errors, corrections and credits, payment will be made within thirty (30) calendar days, unless otherwise noted on the face of the Purchase Order. Invoices received that do not comply with the standards set forth herein may be returned to supplier unpaid.

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9. 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 thirty days of the claim, dispute, or matter arising.

10. GOVERNING LAW/VENUE OF ACTION [Goods, Services]

This Purchase Order and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada, including, without limitation, Nevada's UCC (NRS Chapter 104). The parties consent to the jurisdiction and venue of the Second Judicial District Court, Washoe County, Nevada for enforcement of any provision of this agreement.

11. NOTIFICATION [Goods, Services]

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

12. INDEMNIFICATION [Goods, Services]

Notwithstanding any of the insurance requirements set forth herein, the Supplier shall protect, indemnify and hold the TMWA, its officers, employees and agents, harmless from and against any and all third-party claims arising under this Purchase Order. TMWA will not waive and intends to assert available NRS Chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages.

13. TERMINATION FOR CONVENIENCE [Goods, Services]

TMWA shall have the right at any time to terminate further performance of this Purchase Order, in whole or in part, for any reason. Such termination shall be effected by written notice from TMWA 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 TMWA.

14. TERMINATION FOR DEFAULT [Services]

Upon failure to perform this Purchase Order under its terms, the TMWA will provide written notice to the Supplier of the breach, and the Supplier will have a reasonable time (as stated in TMWA's written notice) in which to cure the breach. Failure to cure within the stated time will subject the Supplier to a default termination, with no liability to TMWA. TMWA will retain all rights to common law breach of contract remedies.

15. INSURANCE [Goods, Services]

The Supplier shall procure and maintain Workers' Compensation, General Liability and Auto Liability Insurance, at its own expense, for all work related to the performance of this Purchase Order in accordance with the TMWA Minimum Insurance Requirements, which are attached and incorporated by reference.

16. INDEPENDENT CONTRACTOR [Goods, Services]

The Supplier is deemed to be an Independent Contractor under this Purchase Order.

17. WARRANTY [Goods]

The Supplier warrants that goods supplied under this Purchase Order are merchantable, of good quality, free of defects in material, workmanship and design, conform to the standards, specifications and descriptions set forth in the agreement, and are fit and sufficient for the particular purpose set forth in the agreement and fit for the purpose for which goods of a like nature are ordinarily intended. The goods shall be without variation, and shall be of uniform kind, quality, and quantity within each unit and among all units. The Supplier has exclusive title to the goods and shall pass title to TMWA free and clear of all liens, encumbrances, and security interests. The Supplier warrants the purchase or use of the goods shall not infringe upon any United States or foreign patent, and the Supplier shall indemnify TMWA against all judgments, decrees, costs, and expenses resulting from any alleged infringement and shall defend, upon written request of TMWA, at its own expense, any action which may be brought against TMWA, its vendees, lessees, licensees, or assignees, under any claim of patent infringement in the purchase or use of the Supplier's goods. If TMWA is enjoined from using such goods, the Supplier shall re-purchase such goods from the TMWA at the original purchase price.

18. WARRANTY [Services]

The Supplier warrants that all 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 Purchase Order. In the event of a breach of this warranty, the Supplier shall, at no cost to TMWA, re-perform or perform the services so that the services conform to the warranty.

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19. DELIVERY, INSPECTION, ACCEPTANCE OF TITLE, RISK OF LOSS [Goods, Services]

An authorized representative of the TMWA will inspect the goods and services at time of 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 goods and/or services are re-inspected and accepted. The Supplier agrees to deliver the goods as indicated in the Purchase Order, and upon acceptance by TMWA, title to the goods shall pass to TMWA. TMWA shall have the right to inspect the goods on arrival and within a commercially reasonable time. TMWA must give notice to the Supplier of any claim or damages on account of condition, quality, or grade of the goods, and must specify the basis of the claim in detail. Acceptance of the goods described in the Purchase Order is not a waiver of UCC revocation of acceptance rights or of any right of action that TMWA may have for breach of warranty or any other cause. Unless otherwise stated above, risk of loss from any casualty, regardless of the cause, shall be on the Supplier until the goods have been accepted and title has passed to TMWA. If provided by the Supplier, TMWA agrees to follow reasonable instructions regarding return of the goods.

20. **NO ARRIVAL, NO SALE [Goods]:** The Purchase Order is subject to provisions of no arrival, no sale terms, but proof of shipment shall be given by the Supplier; each shipment to constitute a separate delivery. A variation of ten (10) days in time of shipment or delivery from that specified in the Purchase Order does not constitute a ground for rejection. TMWA may treat any deterioration of the goods as entitling TMWA to the rights resulting from a casualty to the identified goods without regard to whether there has been sufficient deterioration so that the goods no longer conform to the Purchase Agreement.

20. FORCE MAJEURE [Goods, Services]

The Supplier is excused from performance by acts of God, fire, war, loss or shortage of transportation facilities, lockout or commandeering of raw materials, products, plants or facilities by the Government.

21. ASSIGNMENT/ENTIRE AGREEMENT/CONFLICT WITH OTHER DOCUMENTS [Goods, Services]

This Purchase Order is not assignable without the prior written consent of TMWA. This Purchase Order sets forth the entire understanding of the parties and only may be modified through a bilaterally executed writing. The Purchase Order (including all incorporated attachments) is intended by the parties as the final expression of their agreement and is the complete and exclusive statement of the terms hereof. All prior agreements are superseded and excluded.

22. SEVERABILITY [Goods, Services]

In the event any provision of this Purchase Order is held to be invalid or unenforceable, the remaining provisions shall remain valid and binding.

23. JOINDER BIDS [Goods, Services]

TMWA is a member of the Northern Nevada Consortium for Cooperative Purchasing (NNCCP). A variety of bids are issued each year for which there are common or like needs for Northern Nevada Public agencies. In an effort to take advantage of quantity discounts, joint participation by area governments provides one situs agency to issue the bid and administer the contract. Suppliers bidding on another agencies product are afforded the opportunity to provide items on the bid to other agencies through the joinder bidding statute. Joinder provisions and instructions are included in bid packages when they apply.