

JEA PURCHASE ORDER

GENERAL TERMS AND CONDITIONS

1. The term “Company” as used in this Purchase Order shall mean the entity identified on the face of the Purchase Order with whom JEA is contracting. The term “Agreement” as used in this Purchase Order shall mean (i) the contents set forth on the face of this Purchase Order; and (ii) these General Terms and Conditions. The term “Work” shall mean the goods or services described on the face of the Purchase Order.
2. In the event of a conflict between the terms and conditions for an individual solicitation or negotiated contract and this Agreement, the individual solicitation or negotiated contract shall take precedence. These General Terms and Conditions shall supersede and exclude any terms and conditions found on Company’s quotes, purchase orders, or order confirmations. This Agreement may be amended or modified only by written instrument, signed by the duly authorized representatives of the parties hereto.
3. JEA’s maximum indebtedness under this Agreement shall not exceed the amount set forth on the face of the Purchase Order. It is strictly understood that Company’s entitlement to compensation is based on the Company’s satisfactory performance of the Work. JEA reserves the right to pro-rate or refuse payment of any submitted invoice where the Work is not performed to JEA’s reasonable satisfaction. Payment for Work performed under this Agreement shall not be construed as acceptance of the Work on the part of JEA. Work shall only be deemed accepted when it has been confirmed by JEA to be in conformance with the requirements of this Agreement.
4. All invoices submitted by Company under this Agreement shall contain sufficient information for JEA to identify the Payment of all invoices submitted under this Agreement shall be made in accordance with the requirements of the Florida Local Government Prompt Payment Act.
5. The Company acknowledges that JEA is a governmental agency that is exempt from sales and use taxes. Accordingly, the Company shall not include sales and use taxes as a line item on any invoice. JEA shall provide documentation of its tax-exempt status upon request.
6. JEA’s obligations under this Agreement are subject to the availability of lawfully appropriated funds. While JEA will make every reasonable effort to provide the funds needed to perform under this Agreement, JEA makes no express commitment to provide such funds in any given fiscal year. JEA agrees that it shall not execute and submit for the purchase of any products or services from Company unless it has properly secured funding for such purchase.
7. Except as otherwise expressly provided in the Agreement, any work or professional services subcontracted for by Company for which JEA has agreed to reimburse Company shall not be marked up but shall be payable by JEA only in the exact amount reasonably incurred by Company.
8. Except as otherwise expressly provided in the Agreement, in the event Company’s services are charged on a time basis, Company shall not bill or invoice JEA for time spent traveling to or from Company’s offices or other points of dispatch of its subcontractors, employees, officers, or agents in connection with the Work. If reimbursement of travel expenses is expressly provided in the Agreement, such expenses shall be reimbursed in accordance with the JEA Travel Policy.
9. This Agreement shall remain in effect for the duration specified on the face of the Purchase Order. If the Purchase Order does not specify an Agreement term, this Agreement shall remain in effect until Company has completed its performance of the Work.

- 10.** JEA reserves the right to terminate all or part of this Agreement for its convenience upon five (5) business days' written notice

In the event of a default on the part of Company, JEA shall provide written notice of such default to Company, which notice shall include a timeframe of no less than five (5) business days in which to cure the default. If the Company fails to cure the default or take acceptable corrective action within the time provided in the notice of default (or any such amount of time mutually agreed upon by the parties in writing), JEA may terminate this Agreement for cause upon five (5) business days' written notice. Further, if JEA issues more than one notice of default to Company during the term of this Agreement, JEA may, at its sole option, terminate this Agreement upon five (5) business days' written notice with no obligation to provide an opportunity to cure.

In the event this Agreement is terminated under this section, Company shall immediately stop all work and observe any instructions from JEA as to work in process. Company shall be paid an equitable adjustment for work already performed.

- 11.** To the extent that Company needs to obtain or maintain permits, certifications, or licenses in order to perform the Work pursuant to any applicable federal, state, or local law, rule, regulation, or ordinance, the obtaining and maintaining of such permits, certifications, or licenses shall be Company's sole responsibility and shall be done at Company's sole expense.
- 12.** Company warrants that all goods or services purchased hereunder shall be merchantable and free from any defects in workmanship or material. In the event of breach of this warranty, JEA shall have the right to require Company to repair or, at JEA's option, to replace any defective goods or correct any defective services. Company shall be responsible for all costs associated with the disassembly, removal, transportation, installation, and replacement of any defective goods. In the event that JEA determines that the repair or replacement of the defective goods or the correction of defective services is an ineffective remedy, JEA may recover the amount paid to Company for such defective goods and services. In such event, JEA shall return the defective goods to Company upon Company's written request.

Company shall extend to JEA all warranties it receives from its vendors in connection with the Work.

This warranty is in addition to all implied warranties provided by law.

- 13.** Company warrants and represents that the prices provided under this Purchase Order are the lowest prices, inclusive of all applicable discounts, for these or similar goods or services sold by Company to other customers, and in the event of any price reduction between execution of the Purchase Order and performance of the Work, JEA shall be entitled to such price reduction.
- 14.** JEA may delay delivery or acceptance of goods in the event of any event beyond JEA's reasonable control. In such event, Company shall hold the goods pending JEA's direction, and JEA shall be liable only for direct increased costs incurred by Company by reason of JEA's instructions.
- 15.** JEA or its duly authorized representatives shall be provided reasonable access to Company's facilities and the facilities of Company's suppliers as needed to expedite production and shipment of goods purchased hereunder.
- 16.** Company shall indemnify, defend, and hold harmless JEA and its officers and employees from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of Company or other persons employed or utilized by Company in its performance under this Agreement.

To the extent permitted by, and in accordance with Section 725.08 of the Florida Statutes, Contractor further agrees that “damages, losses and costs”, subject to the determination by a court or administrative body of competent jurisdiction, includes fines, citations, court judgments, insurance claims, restoration costs or other liability, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of Contractor and persons employed or utilized by Contractor in the performance of this Agreement.

To the extent permitted by, and in accordance with Section 725.08 of the Florida Statutes, for purposes of indemnity, the “persons employed or utilized by Contractor” shall be construed to include, but not be limited to, Contractor, its staff, employees, subcontractor, all deliverers, suppliers, furnishers of materials or services or anyone acting for, on behalf of, or at the request of Contractor.

17. If the Work performed under this Agreement is related to emergency response for a natural emergency, in the event of a breach of this Agreement on the part of Company during the emergency recovery period, Company shall pay to JEA a penalty of five thousand dollars (\$5,000.00) in addition to JEA’s actual and consequential damages. As used in this section, the term “emergency recovery period” means the one-year period that begins on the date that the Governor initially declared a state of emergency for a natural emergency.
18. No party shall be liable for any default or delay in the performance of its obligations under this Contract due to an act of God or other event to the extent that: (a) the non-performing party is without fault in causing such default or delay; (b) such default or delay could not have been prevented by reasonable precautions; and (c) such default or delay could not have been reasonably circumvented by the non-performing party through the use of alternate sources, work-around plans or other means. Such causes include: act of civil or military authority (including but not limited to courts or administrative agencies); acts of God; war; terrorist attacks; riot; insurrection; inability of JEA to secure approval, validation or sale of bonds; inability of JEA or the Company to obtain any required permits, licenses or zoning; blockades; embargoes; sabotage; epidemics; fires; hurricanes, tornados, floods; or strikes. In the event of a delay resulting from such causes, the party affected shall promptly notify the other party in writing of the nature, cause, date of commencement, and anticipated impact of such delay.
19. Company shall perform under this Agreement as an independent contractor, and nothing herein shall be construed as the creation of a partnership, joint venture, agency, or fiduciary relationship between JEA and Company. Neither party shall have the power to bind the other in any promise, agreement, or representation other than as specifically provided in this Agreement.
20. The parties shall comply with all applicable federal, state, and local laws, ordinances, rules, regulations, orders, and directives in their performance under this Agreement.
21. The cost of reproduction, access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials associated with this Agreement shall be subject to the applicable provisions of Florida’s Public Records Law (Chapter 119, Florida Statutes), and all other applicable provisions of state or federal law. Access to such public records may not be blocked, thwarted, or hindered by placing the records in the possession of an unaffiliated third party.
22. In accordance with Florida law, to the extent that Company’s performance under this Agreement constitutes an act on behalf of JEA, Company shall comply with all requirements of Florida’s public records law. Specifically, if Company is expressly authorized, and acts on behalf of JEA under this Agreement, Company shall:
 - (a) Keep and maintain public records that ordinarily and necessarily would be required by JEA in order to perform the Services;

(b) Upon request from JEA's custodian of public records, provide JEA with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost as provided in Chapter 119, Florida Statutes, or as otherwise provided by law;

(c) Ensure that public records related to this Agreement that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by applicable law for the duration of this Agreement and following completion of this Agreement if the Company does not transfer the records to JEA; and

(d) Upon completion of this Agreement, transfer, at no cost, to JEA all public records in possession of the Company or keep and maintain public records required by JEA to perform the Services.

If the Company transfers all public records to JEA upon completion of this Agreement, the Company shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Company keeps and maintains public records upon completion of this Agreement, the Company shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to JEA, upon request from JEA's custodian of public records, in a format that is compatible with the JEA's information technology systems. Failure by the Company to comply with the requirements of this section shall be grounds for immediate, unilateral termination of this Agreement by JEA.

IF THE COMPANY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE COMPANY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

**Public Records Request
Coordinator 225 N Pearl St.
Jacksonville, FL 32202
Ph: 904-665-8606
publicrecords@jea.com**

23. In accordance with Section 448.095, Florida Statutes, Company and all subcontractors shall register with and use the E-Verify system to verify the work authorization status of all employees hired on or after July 1, 2023. Company shall require each subcontractor performing work under this Agreement to provide an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Company shall maintain a copy of such affidavit for the duration of the awarded Contract.
24. Pursuant to Section 287.138, Florida Statutes, JEA may not enter into contracts that grant a contractor access to personal identifiable information if: 1) the Company is owned by the government of a Foreign Country of Concern (as defined by the statute); (b) the government of a Foreign Country of Concern has a controlling interest in the entity; or (c) the Company is organized under the law of or has its principal place of business in a Foreign Country of Concern. JEA shall be entitled to immediately terminate this Agreement with no further liability in order to ensure JEA's continued compliance with the statute.

Further, if Company may access, receive, transmit, or maintain personal identifiable information under this Agreement, Company must submit a Foreign Entity Affidavit to JEA upon this Agreement becoming

effective and prior to the effective date of any renewal term provided under this Agreement. Failure or refusal to submit a Foreign Entity Affidavit shall be cause for immediate termination of this Agreement by JEA.

25. By virtue of entering into this Agreement with JEA, Company acknowledges that it shall be subject to audit by the Office of the Council Auditor of the City of Jacksonville pursuant to Article 5 of the Charter of the City of Jacksonville.
26. For every material requirement of this Agreement, time is of the essence.
27. This agreement shall be governed under Florida law. Venue for any cause of action arising under this Agreement shall lie exclusively in the state or federal courts located in Duval County, Florida.
28. If any word, phrase, sentence, part, subsection, section or other portion of this Agreement, or any application thereof, to any person, or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, subsection, other portion, or the proscribed application thereof, shall be severable, and the remaining portions of this Agreement, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force, and effect.
29. The delay or failure by either party to exercise or enforce any of its rights or remedies under this Agreement shall not constitute or be deemed a waiver of the party's right thereafter to enforce those rights or remedies, nor shall any single or partial exercise of any such right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy. The conduct of the parties to this Agreement after the Effective Date shall not be deemed a waiver or modification of this Agreement. In any action brought by either party for the enforcement of the obligations of the other party, the prevailing party shall be entitled to recover reasonable attorney's fees.
30. If any dispute arises between the parties that cannot be resolved at the field level between JEA's and the Company's respective project managers, such dispute shall be referred to the senior management of each party, who shall meet as soon as reasonably possible to negotiate in good faith to resolve such disagreement. If, after such negotiations, the parties' senior management is unable to resolve the dispute on satisfactory terms, the parties may agree to mediate the dispute pursuant to Chapter 44, Florida Statutes. Upon failure of such negotiation or mediation, either of which may be terminated by either party on written notice, the parties shall have all rights available at law or in equity.
31. Company may not manufacture, use, display, or otherwise use any facsimile or reproduction of JEA's logo without JEA's express written consent.
32. The provisions of this Agreement which by their nature survive termination, including without limitation all warranties, indemnities, taxes, enforcement costs, payment obligations, and JEA's right to audit shall in all cases survive the expiration or earlier termination of this Agreement.
33. Both JEA and the Company agree that no third party beneficiary status or interest is conferred to, or inferred to, any other person or entity.
34. JEA and the Company agree that these terms and conditions, together with the Purchase Order, and any additional documents expressly incorporated into this Agreement under the Purchase Order, constitute the entire agreement between the parties, and that there are no promises or understandings other than those expressly stated or incorporated by reference herein.