

## **TERMS AND CONDITIONS**

Sellers providing goods or services to the Town of Southwest Ranches (the "Town") acknowledge and agree that by delivering such goods or services, they accept the following terms and conditions. Should a formal contract be executed between the Town and the Seller (whether as a result of a formal bid or not), the terms and conditions defined in that contract shall prevail over those listed here in any case of conflict.

### **ACCEPTANCE**

This Purchase Order is Town's offer to purchase the goods and/or services described on the Purchase Order from the Seller. Seller's written acceptance or commencement of work or shipment or delivery of an item or service shall constitute acceptance by the Seller of the Purchase Order, its terms and conditions and applicable law. Seller's acceptance of this order will be presumed unless Seller acknowledges exception, in writing, to the Town with ten (10) calendar days after date of order.

### **ASSIGNMENT**

Seller shall not assign the agreement, its obligations, or its rights hereunder to any party, company, partnership, incorporation or person without prior written consent of the Town, approved by the Town Attorney.

### **COMPLIANCE WITH ALL LAWS**

Seller is assumed to be familiar with, and agrees to observe and comply with, all federal, state and local laws, statutes, ordinances, and regulations in any manner affecting the provision of goods and/or services, and all instructions and prohibitive orders issued regarding the work and shall obtain all necessary permits.

### **DEFAULT**

If Seller fails to perform or comply with any provision of the Purchase Order or terms or conditions of any documents referenced and made a part hereof, Town may terminate the contract, in whole or in part, and may consider such failure or noncompliance a breach of contract. Town expressly retains all rights and remedies provided by law in case of such breach, and no action by Town shall constitute a waiver of any such rights or remedies. In the event of termination for default, Town reserves the right to purchase its requirements elsewhere, with or without competitive bidding, and Seller agrees to pay any difference in costs above those conditions in the order.

### **DELIVERY**

Delivery of all goods shall be FOB to final destination, paid by shipper, unless otherwise set forth in the Purchase Order. If complete deliveries are not made at the time agreed, Town reserves the right to cancel the Purchase Order and/or hold Seller accountable. If the delivery dates cannot be met, the Seller agrees to notify Purchasing Department, in writing, of the earliest suggested delivery date. Town will then decide whether the proposed delivery date is acceptable.

### **DELIVERIES**

Deliveries are to be made during the hours of 9:00 AM to 3:00 PM Monday through Friday, excluding holidays, unless otherwise stipulated. Seller shall notify the Town of deliveries that require special handling and/or assistance for off-loading. Failure to notify the Town concerning this type of delivery will result in the billing to Seller of any add-on redelivery, storage or handling charges.

### **EXCUSABLE DELAYS**

The Town may grant additional time for any delay or failure to perform hereunder if the delay will not adversely impact the best interests of the Town and is due to causes beyond the control of the Seller. Such grant must be in writing and made part of the order.

### **E-VERIFY**

Seller must comply with requirements under Florida Statute Chapter 448.095 and provide a copy of the registration certificate to the Town.

### **FORCE MAJEURE**

If either party is prevented from performing its obligations hereunder as a result of government regulations, fires, strikes, or other causes beyond the control of such party, the obligation to so perform shall be suspended for a reasonable time during which such condition continues to exist. If an actual or potential labor dispute delays or threatens to delay Seller's timely performance, Seller shall immediately notify Town in writing.

### **GOVERNING LAW**

The Purchase Order shall be governed by the laws of the State of Florida and all applicable federal laws and regulations. All obligations of the parties are performable in Broward County, Florida. The appropriate state court located in Broward County, Florida, shall have exclusive and concurrent jurisdiction of any disputes which arise hereunder.

### **INCORPORATION**

All specifications, drawings, technical information, invitation to bid, bid, award and similar items referred to or attached or which are the basis for the Purchase Order are deemed incorporated by reference as if set out fully herein.

### **INDEMNIFICATION**

Seller shall indemnify, defend, save and hold harmless Town, its officers, agents and employees from all suits, claims, actions or damages of any nature, including any attorney's fees, paralegal expenses, and court costs incurred at either the trial or appellate levels brought because of, arising out of, or due to breach of the agreement by Seller, its subcontractors, suppliers, agents, or employees or due to any negligent act or occurrence or any omission or commission of Seller, its subcontractors, suppliers, agents or employees. NOTHING HEREIN SHALL BE DEEMED TO WAIVE THE TOWN'S SOVEREIGN IMMUNITY.

### **INDEPENDENT CONTRACTOR**

Seller shall acknowledge that it and its employees serve as independent contractors and that Town shall not be responsible for any payment, insurance or incurred liability.

### **INSPECTION AND ACCEPTANCE**

All commodities delivered on this order are subject to inspection upon receipt by a representative of the Town. The Town reserves the right to reject any or all items not in conformance with applicable specifications, and Seller assumes the costs associated with

such nonconformance. Acceptance of goods does not constitute a waiver of latent or hidden defects or defects not readily detectable by a reasonable person under the circumstances. The Town reserves the right to inspect the goods at a reasonable time subsequent to delivery. Where commodities are rejected by the Town or where the Town revokes its acceptance, such commodities shall remain the property of the Seller and will be returned at the Seller's expense.

### **INSURANCE**

The Seller of services must have secured and maintained the required amount of \$1,000,000 general and \$500,000 automobile liability limits and must list the Town as an additional insured of this coverage. The Seller must have worker's compensation coverage as required by law. Any exception to the above stated limits or other requirements must be endorsed and approved by the Town of Southwest Ranches' Town Administrator.

### **INVOICING**

Sellers are required to submit invoices within ninety (90) days of the date the goods or services were delivered to the Town. Town reserves the right to not pay invoices submitted after the ninety (90) day threshold. Original invoice must be submitted to the Town of Southwest Ranches, Accounts Payable, 13400 Griffin Road, Southwest Ranches, FL 33330. Purchase Order numbers must be noted on all invoices.

### **LEGAL RESPONSIBILITY**

By accepting this order, Seller understands and agrees that the items covered herein, or services to be rendered, shall be manufactured, sold or performed in compliance with applicable federal, state, county and local laws, ordinances, rules and regulations. Lack of knowledge by the Seller shall in no way be a cause for relief from responsibility.

### **LIABILITY-COPYRIGHT/PATENT/TRADEMARK**

If an article sold and delivered to Town hereunder shall be protected by any applicable patent, trademark or copyright, the Seller agrees to indemnify and save harmless Town, from and against any all suits, claims, judgments and costs instituted or recovered against it by any person whomever on account of the use or sale of such articles by Town in violation or right under such patent or copyright.

### **MATERIAL SAFETY DATA SHEETS**

The Seller must supply proper Material Safety Data Sheets in compliance with OSHA's Hazard Communications Standard to Town at the time of purchase.

### **MODIFICATIONS**

This purchase order form and any other document pertaining to this transaction, which has been acknowledged in writing by the Town Administrator is a complete and exclusive statement of this order. Accordingly, no modification or amendment shall be binding upon the Town unless signed by the Town Administrator. The Town Attorney has approved these standard terms and conditions as to form and correctness. Accordingly, no modification of these terms and conditions shall be binding upon Town unless they are endorsed and approved by the Town Attorney. In the event of a conflict between these terms and conditions and any other document pertaining to the transaction covered by this order, except a formal contract, these terms and conditions shall prevail.

### **CHANGE ORDERS AND PROMPT PROCESSING**

All Sellers must comply with the Town's established change order process. Change orders affecting price, scope, or performance schedule are not binding unless submitted and approved in accordance with Town procedures and applicable Florida Statutes. Pursuant to § 218.755, Florida Statutes (effective July 1, 2025), the Town shall approve or deny conforming change order quotes within thirty (30) days of receipt. Where a change order requires review or approval by an authority in reference to the Town's established purchasing thresholds, additional time may be necessary for such authority to consider and act upon the request. Any work performed outside the Town's formal change order process shall be at the Contractor's sole risk and expense.

### **NONDISCRIMINATION AND NON-CONFLICT STATEMENT**

Seller agrees that no person on the grounds of handicap, age, race, color, religion, sex or national origin, shall be excluded from participation in, or be denied benefits of, or be otherwise subjected to discrimination in the performance of the agreement, or in the employment practices of Seller. Seller shall upon request show proof of such non-discrimination, and shall post in conspicuous places available to all employees and applicants notices of non-discrimination. Seller covenants that it complies with the Fair Wage and Hour Laws, the National Labor Relations Act, and other federal and state employment laws as applicable. Seller covenants that it does not engage in any illegal employment practices. Seller covenants that it has no public or private interest, and shall not acquire directly or indirectly any interest, that would conflict in any manner with the provision of its goods or performance of its services.

### **NON-PREFERENCE REQUIREMENT**

Seller acknowledges and certifies compliance with Florida law prohibiting preferences based on race, ethnicity, social, political, or ideological criteria, as required by SB 1694, effective July 1, 2025.

### **NON-WAIVER OF RIGHTS**

No failure of either party to exercise any power given to it hereunder or to insist upon strict compliance by the other party with its obligations hereunder, and no custom or practice of the parties at variance with the terms hereof, nor any payment under this agreement shall constitute a waiver of either party's right to demand exact compliance with the terms thereof.

### **OCCUPATIONAL SAFETY AND HEALTH**

Seller must comply with requirements under Chapter 440, Florida Statutes, and the Occupational Safety and Health Act of 1970. Any toxic substance delivered as part of this order must be accompanied by a Material Safety Data Sheet (M.S.D.S.)

### **OFFICIALS NOT TO BENEFIT**

Employees or officials of the Town shall not be permitted to receive any share or part of the Purchase Order or any benefit that may arise therefrom. Seller agrees not to provide any gratuity in any form, including entertainment, gifts, or otherwise, to any employee, buyer, agent, or representative of the Town, with a view to securing a contract or obtaining favorable treatment with respect to the award, amendment, or performance of any contract. Furthermore, Seller understands that public officers and employees, as defined in Chapter 112, Florida Statutes, are subject to ethics restrictions, including prohibitions on gifts and honoraria, as well as conflict-of-interest disclosure and abstention requirements. Seller certifies that no attempt

has been made to influence the contract award in violation of these provisions.

#### PACKING LISTS

An itemized packing list, bearing the Purchase Order number shall be attached to the outside of every shipping container.

#### PAYMENT AND TERMS

Payments shall be made by Town upon satisfactory delivery and acceptance of all items or service, and submission of a proper invoice(s) bearing the purchase description, delivery date, and/or contract number. Each Purchase Order shall be covered by separate invoice(s). Invoices are to be mailed to the address indicated on the Purchase Order. All payments shall be made in accordance with the Local Government Prompt Payment Act, Florida Statute 218.70, et seq.

#### PAYMENT CHANGES

Payments will be made only to the company and address as set forth on order unless the Seller has requested a change thereto on official company letterhead, signed by an authorized officer of the company accompanied by a signed current IRS form W-9.

#### PUBLICITY

No endorsement by the Town of the product and/or service will be used by Seller in any way, manner or form in product literature or advertising.

#### PUBLIC RECORDS; RIGHT TO AUDIT RECORDS

Town shall have the right to audit books, records, and accounts of Seller and its subcontractors that are related to this Purchase Order. Seller and its subcontractors shall keep such books, records and accounts as may be necessary in order to record complete and correct entries related to the project. All books, records, and accounts of Seller and subcontractors shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, Seller or subcontractor, as applicable, shall make same available at no cost to Town in written form. Such books and records shall be maintained by the Seller for a period of three (3) years from the date of final payment hereunder unless a shorter period is authorized in writing by the Town.

Written documents prepared by either the Seller or Town in furtherance of this order shall constitute a public record in accordance with Chapter 119, Florida Statutes.

The Town is subject to Chapter 119, Florida Statutes, "Public Records Law." No claim of confidentiality or proprietary information in all or any portion of a response will be honored unless a specific exemption from the Public Law exists and is cited in the response. An incorrectly claimed exemption does not disqualify the firm, only the exemption claimed. Seller acknowledges the public shall have access at all reasonable times, to all documents and information pertaining to Town's contracts, subject to the provisions of Chapter 119, Florida Statutes, and agrees to allow access by the Town and the public to all documents subject to disclosures under applicable law.

To the extent that Seller has been provided access to or has received security sensitive information, as defined by Florida Statutes, Section 119.071 and/or has executed a Confidential Information Acknowledgement, Seller shall keep and maintain the security sensitive information as confidential and exempt from public disclosures as required by Florida Statutes.

Seller agrees to keep and maintain public records required by the Town to perform the service in Seller's possession or control in connection with Seller's performance hereunder, and upon the request from the Town's custodian of public records, to provide the Town with a copy of the requested records or allow the records to be inspected or copied within a reasonable amount of time at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law. Seller shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the Contract if the Seller does not transfer the records to the Town.

Upon completion of this Agreement, Seller agrees, at no cost to Town, to transfer to the Town all public records in possession of the Seller or keep and maintain public records required by the Town to perform the service. If the Seller transfers all public records to the Town upon completion of this Agreement, the Seller shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Seller keeps and maintains public records upon completion of this Agreement, the Seller shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Town, upon request from the Town's custodian of public records, in a format that is compatible with the information technology system of the Town.

Seller's failure or refusal to comply with the provisions of this section shall result in the immediate termination for cause of this Agreement by Town.

#### QUANTITIES

Quantities specified in the order cannot be changed without Town approval. Goods shipped in excess of quantity designated may be returned at the Seller's expense.

#### REMEDIES

Town shall have all rights and remedies afforded under the U.C.C. and Florida law in contract and in tort, including but not limited to rejection of goods, rescission, right of act-off, refund, incidental, consequential and compensatory damages and reasonable attorney's fees.

#### EMERGENCY RECOVERY PERIOD – STATUTORY PENALTY

If this Purchase Order is for goods or services related to emergency response or recovery following a natural emergency and is entered into, renewed, or amended on or after July 1, 2025, section 252.505, Florida Statutes, shall apply. In the event of a breach during the "emergency recovery period" (the one-year period beginning on the date of the Governor's initial state of emergency declaration for a natural emergency), the Seller shall be liable for a statutory penalty of Five Thousand Dollars (\$5,000), in addition to all actual and consequential damages, or liquidated damages if specified herein.

#### RESPONSIBILITY

Responsibility will not be accepted for any goods delivered or services performed unless covered by a duly signed and authorized Town order, issued by Town Administrator.

#### REPRESENTATIVE

All parties to this order agree that the representatives named herein are, in fact, bona fide and possess full and complete authority to bind said parties.

#### SEVERABILITY

If any provision of the Purchase Order is declared illegal, void or unenforceable, the remaining provisions shall not be affected but shall remain in force and in effect.

#### SUB-CONTRACTING

Seller shall not sub-contract the Purchase Order to any other Seller without the expressed written consent of Town.

#### TAX

All prices included in the Purchase Order are exclusive of any Federal, State or local taxes. Town is exempt from sales tax and federal excise taxes. Sellers doing business with the Town, which are not otherwise exempt, shall not be exempt from paying sales tax to their suppliers for materials to fulfill contractual obligations with the Town, nor shall any Seller be authorized to use the Town tax exemption in securing such materials.

#### TERMINATION

Town may terminate this agreement, in part or in whole, for its convenience or the failure of the Seller to fulfill contractual obligations. Town shall terminate by delivering to the Seller a written Notice of Termination specifying the nature, extent and effective date of the termination. Upon receipt of the notice, the Seller shall:

1. Immediately discontinue all services affected (unless the notice directs otherwise).
2. Deliver to Town all information, papers, reports and other materials accumulated or generated in performing the contract, whether completed or in progress.

If the termination is for the convenience of Town, Town shall only be liable for payment for services rendered before the effective date of the termination. If the termination is due to the failure of the Seller to fulfill its obligations under the contract, Town may:

1. Require the Seller to deliver any work described in the Notice of Termination.
2. Take over and prosecute the same to completion by contract of otherwise and the Seller shall be liable for any additional cost incurred by Town.
3. Withhold any payments to the Seller for purpose of set-off or partial payment, as the case may be, of amounts owed by Town to the Seller.

In the event of termination for cause, Town shall be liable to the Seller for reasonable costs incurred by the Seller before the effective date of the termination. Seller will be liable for excess costs of re-procurement. Unless prohibited by applicable law, Town is not required to engage in competitive re-procurement, nor is Town required to obtain the lowest price.

#### UNIFORM COMMERCIAL CODE

Florida law, including without limitation the Uniform Commercial Code as applicable (including but not limited to Chapters 671 and 672, Florida Statutes), shall apply to and supplement the terms and conditions of this order.

#### ANTI-DISCRIMINATION

Seller shall not discriminate against any person in its operations, activities or delivery of services. Seller shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery.

#### WARRANTY

Seller warrants to Town that all items delivered and all services rendered shall conform to the specifications, drawings, bid and/or other descriptions furnished and/or incorporated by reference, and will be fit for the particular purpose purchased, of merchandisable quality, good workmanship, and free from defects. Seller extends to Town all warranties allowed under the U.C.C.

Seller shall provide copies of warranties to Town with invoice. Return of merchandise not meeting warranties shall be at Seller's expense.

#### HUMAN TRAFFICKING DISCLOSURE

Pursuant to, and as required by Section 787.06, Florida Statutes, Seller's acceptance of this Purchase Order constitutes its confirmation and attestation that it does not engage in coercion or use services obtained through coercion, as defined in Section 787.06, Florida Statutes."

#### FOREIGN COUNTRIES OF CONCERN

In accordance with §288.860, Florida Statutes, Town may not participate in an agreement with any foreign principal organized under the laws of, or having its principal place of business in, a foreign country of concern as defined by §288.860(1), Florida Statutes, as may be amended from time to time, or a subsidiary thereof. Seller affirms and represents that it is not a foreign principal of a country of foreign concern, and in the event of any assignment to such foreign principal, the Agreement shall be subject to immediate termination by Town. The Seller's acceptance of this Purchase Order constitutes its confirmation and attestation that it is not a foreign principal of a country of foreign concern.