

**DENTON COUNTY TRANSPORTATION AUTHORITY
PURCHASE ORDER STANDARD TERMS AND CONDITIONS**

- 1. Acceptance.** Your acceptance of this purchase order (PO) including shipping, sending, delivering the articles, or performing the services, must be without qualifications. DCTA objects to and will not be bound by any different or additional terms and conditions contained in the acceptance unless each such different or additional term is expressly agreed to in writing by DCTA. Seller's action in (a) accepting the order; (b) delivering materials; or (c) performing services called for hereunder shall constitute acceptance of the terms and conditions below and on this order.
- 2. Changes/Quantities.** No changes may be made in this order without written authorization of DCTA. Ship exact quantities ordered except in instances where this is impractical such as material in bulk, uneven lengths, etc. in which case nearest amount available and not exceeding specified quantity is acceptable.
- 3. Delivery.** Time and delivery and/or performance of the services therein, are of the essence. Deliveries will be accepted only during normal business hours on normal working days (8 a.m.-5 p.m. Central Time, Monday – Friday). Unless otherwise indicated, items received must be new and in first class condition. All services performed shall conform to the quality and workmanship of the accepted standards in the industry. Seller's failure to deliver to DCTA at time and rate specified shall be the basis for rejection and default termination by DCTA.
- 4. Packaging and Shipping.** Articles shall be suitably packed for delivery to prevent damage in transit, to comply with carrier requirements and to secure the lowest transportation and insurance rates. Each container must be marked with applicable PO number and be accompanied by a packing slip. All materials and services shall be subject to DCTA approval.
- 5. Risk of Loss.** Risk of loss, damage or destruction of the materials covered by this order shall be borne by the Seller until delivery in good condition of conforming products at the F.O.B. point designated on this order. Any rejected goods shall be at the Seller's risk until returned to Seller, at Seller's expense, or otherwise disposed of as Seller shall reasonably request.
- 6. Commercial Warranty.** The Seller shall warrant that all items/services shall conform to the proposed specifications and/or all warranties as stated in the Uniform Commercial Code and be free from all defects in material, workmanship, and title.
- 7. Invoices and Payment.** Invoices shall be mailed to DCTA, Accounts Payable, PO Box 96, Lewisville TX 75067 or emailed to accountspayable@dcta.net and must contain the following information: date; PO number; item number; PO description of supplies or services; sizes/quantities; unit prices; and extended totals. Invoices will be paid 30 days from receipt of the invoice or 30 days from receipt of the goods/services, whichever is later. Payment will be made in accordance with Vernon's Texas Codes Annotated, Government Code, Title 10, Subtitled F, Chapter 2251.
- 8. Termination for Convenience.** DCTA may terminate all or part of this Contract upon determining that termination is in the public interest. Termination under this Article shall be effective upon delivery of written notice of termination to Vendor. Upon termination under this provision, Vendor shall be entitled to payment in accordance with the terms of this Contract for Contract work completed before termination, and to payment for all reasonable Contract close-out costs including reasonable profit to include materials purchased and work performed. Within thirty (30) days after termination pursuant to this provision, Vendor shall submit an itemized invoice for all un-reimbursed Contract work completed before termination and all Contract close-out costs actually incurred by Vendor. DCTA shall not be liable for any costs invoiced later than thirty (30) days after termination notice. Vendor is not entitled to any alleged lost profit on work not performed but which would have been performed had this Contract not been terminated. Termination for Default. If the Vendor refuses or fails to properly prosecute or perform the work or any separable part, with the diligence and good workmanship that will ensure its completion and acceptance within the time specified in this Contract including any extension, or fails to complete the work within this time, DCTA may, by written notice to the Vendor, terminate the right to proceed with the work (or the separable part of the work) that has been delayed or not performed in a good workmanship like manner. In this event, DCTA may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, reports, schedules, appliances, or other work product necessary for completing the work. The Vendor and its sureties shall be liable for any damage to DCTA resulting from the Vendor's refusal or failure to complete the work within the specified time or not performed in a good workmanship like manner, whether or not the Vendor's right to proceed with the work is terminated. This liability includes any increased costs incurred by DCTA in completing the work.

The Vendor's right to proceed shall not be terminated nor the Vendor charged with damages under this Article, if:
The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Vendor. Examples of such causes include (i) acts of God or of the public enemy, (ii) acts of another Vendor in the performance of a contract with DCTA, (iii) fires, (iv) floods, (v) epidemics, (vi) quarantine restrictions, (vii) strikes, (viii) freight embargoes, (ix) unusually severe weather, or (x) delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Vendor and the subcontractors or suppliers; and

The Vendor, within 10 days from the beginning of any delay (unless extended by the Project Manager), notifies the Project Manager in writing of the causes of delay. The Project Manager shall ascertain the facts and the extent of delay. If, in the judgment of the Project Manager, the findings of fact warrant such action, the time for completing the work shall be extended with an appropriate Contract amendment, the right to proceed terminated or no action taken by the Project Manager. The findings of the Project Manager shall be final and conclusive on the parties, but subject to Claims.

The Vendor cures such failures to perform within 10 calendar days (or more if authorized in writing by the Project Manager) after receipt of the notice of default.

If, after termination of the Vendor's right to proceed, it is determined that the Vendor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of DCTA.

Default. In case of default of the seller, DCTA may procure the articles or services from other sources and charge the seller as liquidated damages any excess cost or damages thereby.
- 9. Indemnification.** Seller will defend, indemnify and hold harmless DCTA and the members of the Board of Directors, officers, employees and agents from and against all liabilities, damages, losses, claims, fines and judgments, including all costs and expenses incidental thereto which may be charged to or incurred by DCTA or any of the members of the Board of Directors, officers, employees or agents by reason of any loss, damage or injury related in any way to this PO or arising out of or in connection with any goods, articles or services covered by this PO, unless resulting solely from DCTA's gross negligence or willful misconduct.
- 10. Taxes.** DCTA is exempt from Texas state and local sales and uses taxes, and any such taxes included on any invoice or voucher received by DCTA shall be deducted from the amount of the invoice or voucher for purposes of payment. DCTA reserves the right to require a corrected invoice.
- 11. Assignment.** The Seller shall not sell, assign transfer or convey this order without the written consent of DCTA.
- 12. Governing Law.** The rights, obligations, and remedies of the parties shall be governed by the laws of the State of Texas. Venue for any action shall lie in Denton County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said court. If any provision of the PO is found to be invalid or unenforceable, the remaining provisions shall not be impaired.
- 13. Interest of Public Officials.** The Seller represents and warrants that no members of the Board of Directors, officers, employees or agents of DCTA, nor any member of any of their immediate families, is or will be interested or benefited directly or indirectly in this Order. The Seller further represents and warrants that it has not offered or given gratuities (in the form of entertainment, gifts, or otherwise) to any Board of Directors member, officer, employee, or agent with a view toward securing favorable treatment in the awarding, amending, or evaluating the performance of this contract/purchase order. For breach of any representation or warranty in this clause, DCTA, shall have the right to annul this Purchase Order without liability and/or have recourse to any other remedy it may have at law.
- 14. Prohibition of Boycott of Israel.** Company verifies that (i) it does not Boycott Israel; and (ii) will not Boycott Israel during the term of the Contract. This section does not apply if the Company is a sole proprietor, a non-profit entity or a governmental entity; and only applies if: (i) the Company has ten (10) or more fulltime employees and (ii) this Contract has a value of \$100,000.00 or more to be paid under the terms of this Contract.
- 15. Prohibition of contracts with certain companies.** DCTA is prohibited from entering into a contract with a company that does business with Iran, Sudan, or a foreign terrorist organization.
- 16. Federally Funded procurements.** If this procurement is made in whole or in part with Federal Funds, the applicable requirements of the governing regulations are incorporated by reference for work done under this purchase order.
- 17. Non-discrimination.** The vendor, sub-recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of contracts. The vendor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the vendor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.