

ST. MARY'S COUNTY METROPOLIAN COMMISSION PURCHASE ORDER TERMS & CONDITIONS

The following terms, conditions and instructions apply to all St. Mary's County Metropolitan Commission (MetCom) purchase orders. The fulfillment of a purchase order means that the vendor understands and agrees with MetCom's "Purchase Orders Terms & Conditions." Any variance is to be discussed and decided with MetCom prior to fulfillment of a purchase order and a formal change order to the purchase order issued.

1. PURCHASE ORDER DEFINED

MetCom issues purchase orders as permission for the vendor to ship goods or perform services as indicated on the purchase order and according to these terms and conditions, terms and conditions of the invitation to bid, request for proposal, request for quote, bid, proposal and quote response and attachments thereto (if applicable), award and the MetCom Procurement Policy. All terms and conditions are incorporated herein and made part hereof by reference. Vendor shall not supply the goods or services if in disagreement with these terms.

2. ACCEPTANCE

The purchase order is MetCom's offer to purchase goods and/or services described on the purchase order from the vendor. Vendor's written acceptance or commencement of work, shipment or delivery of an item or service call shall constitute acceptance by the vendor of the purchase order, its terms and conditions and applicable law.

3. VARIATION IN QUANTITY

No variation in the quantity of any item called for by this purchase order will be accepted unless such variation has been caused by conditions of loading, shipping, packing, or allowances in manufacturing processes, and then only in the extent, in any, specified elsewhere in this purchase order.

4. SHIPMENTS

Delivery of all goods shall be FOB to final destination, paid by the shipper, unless otherwise set forth on the purchase order or other signed agreements. If delivery dates or conditions cannot be met, the vendor agrees to notify the Procurement Agent in writing, of the earliest suggested delivery date or change in conditions. MetCom will then decide if the proposed delivery date or conditions are acceptable and either proceeds with the purchase or cancel the order.

5. INSPECTION AND ACCEPTANCE OF DELIVERY

Inspection and acceptance of delivery shall be at the destination unless otherwise provided. Until delivery and acceptance of delivery, and after any rejection, risk of loss will be on the Contractor unless the loss results from negligence of MetCom. An itemized packing list, bearing the purchase order number shall be attached to the outside of every shipping container.

6. INVOICES

Invoices must be submitted to a general mail box at invoicing@metcom.org. Construction related purchase orders require submission of invoices to the general mailbox and a hard copy to the Engineering Department.

7. TAXES

All prices included in the purchase order are exclusive of any federal, state or local taxes. MetCom is exempt from Sales and Use Tax.

8. PAYMENTS

Invoices must reference the purchase order number. Invoices will be processed when properly submitted within 30 days after receipt. Partial payments may be paid on partial shipments.

9. DISCOUNTS

In connection with any discounts offered, time will be computed from the date of completion and acceptance of services or the delivery and acceptance of supplies. For purposes of computing the discount earned, payment shall be considered to have been made on the date the check for payment was mailed or EFT processed.

10. COMMERCIAL WARRANTY

The Contractor agrees that the supplies or services under this purchase order shall be covered by the most favorable commercial warranties the Contractor gives to any customer for such supplies or services and that the rights and remedies provided herein are in addition to and do not limit any rights afforded to MetCom by any other clause of this purchase order or bid documents.

11. MATERIAL SAFETY DATA SHEETS

Where applicable, the vendor must supply proper Material Safety Data Sheets in compliance with OSHA's Hazard Communications Standard to MetCom at the time of purchase.

12. ALTERATIONS OR AMENDMENTS

Alterations, amendments, changes, modifications or additions to the purchase order shall not be binding without the prior written approval of the Procurement Agent. The Procurement Agent may at any time, by written order, and without notice to the sureties, make changes within the general scope of this purchase order.

13. DISPUTES

Disputes arising under the purchase order shall be directed to the Procurement Agent or their duly appointed representative for resolution.

14. OFFICIALS NOT TO BENEFIT

No MetCom Commissioner, official or employee of MetCom shall be admitted to any share of part of this purchase order or to any benefit arising from the procurement. However, this clause does not apply to this purchase order to the extent that purchase order is made with a corporation for the corporation's general benefit provided the official is not a major shareholder.

15. COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this purchase order upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona-fide employees or bona-fide commercial or selling agencies maintained by the Contract for the purpose of securing business.

16. GRATUITIES

1. The right of the contract to proceed may be terminated by a written notice, if, after notice and hearing the Procurement Agent, or designee, determines that the Contractor, his agent or representative offered or gave a gratuity (entertainment or gift) to an Officer, Official or Employee of MetCom, intended by this gratuity to obtain a contract or favorable treatment under a contract.
2. The facts supporting this determination may be reviewed by any court having lawful jurisdiction.
3. If the contract is terminated under paragraph 1, MetCom is entitled to pursue the same remedies as in a breach of the contract.

17. TERMINATION FOR DEFAULT

The Procurement Agent, by written notice, may terminate this purchase order, in whole or in part for failure of the Contractor to perform any of the provisions hereof.

18. TERMINATION FOR CONVENIENCE

The Procurement Agent, by written notice, may terminate this purchase order, in whole or in part, when it is in the best interest of MetCom. If this purchase order is for supplies and is so terminated, the Contractor shall be compensated in accordance with terms and conditions set forth in the original bid document or under the applicable UCC provisions.

19. ASSIGNMENTS

Vendor shall not assign the agreement, its obligations or rights hereunder to any party, company, partnership, incorporation or person without the prior written consent of the Procurement Agent.

20. FORCE MAJEURE

The Contractor shall not be liable for any delay or damage if the delay or damage arises out of causes beyond the control and without the fault or negligence of the Contractor. MetCom shall not be liable for any failure to pay for the services hereunder or for any breach of Contract if the failure or breach arises out of causes beyond the control and without the fault or negligence of MetCom. Such causes beyond the control of the Contractor and MetCom may include, but are not restricted to, acts of God or the public enemy, acts of the federal or state in either its sovereign or Contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform must be beyond the control and without the fault or negligence of the Contractor or MetCom. The foregoing shall be regarded as an "unavoidable delay". For any bona fide unavoidable delays in performance by the Contractor and/or MetCom, the time to perform shall be extended for that period of time necessary and reasonable to allow performance to be completed.

21. INCORPORATION

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

22. INDEMNIFICATION/HOLD HARMLESS

The Contractor shall pay, indemnify, and hold harmless MetCom, its agents and employees, from all suits, actions, claims, demands, losses, expenses, and/or costs of every kind of description to which MetCom may be subjected, including any claims relating to injury, including death, to persons, or damage to property to the extent arising from:

1. The negligent manner or method employed by the Contractor, his agents and employees, or Sub-Contractors, in the performance of this Contract, or any part thereof, including but not limited to the violation of any law, ordinance, rule, regulation, order, or decree;
2. Any negligent act or omission of the Contractor, his agents and/or employees;
3. Or be against, suffered or sustained by other corporations and persons to whom the MetCom, its agents and employees may become liable thereof; and the whole or so much of the monies due or to become due the Contractor under the Contract, as may be considered necessary by MetCom, may be retained until such suits or claims for damages or injuries shall have been settled or otherwise disposed of, and satisfactory evidence to that effect shall have been furnished to MetCom.