

Village of Tinley Park
STANDARD PURCHASE ORDER
TERMS AND CONDITIONS

The following Terms and Conditions are applicable to each Purchase Order ("PO") entered into by and between the Village of Tinley Park ("VILLAGE") and Vendor, as named on this PO (hereinafter "VENDOR"), for the one-time purchase of certain commodities or the provision of one-time services. Hereafter, VILLAGE and VENDOR may be collectively referred to as "Parties." Unless otherwise agreed to in writing by the Parties in a formal executed agreement, these Terms and Conditions shall prevail over any of VENDOR'S general terms and conditions of sale to the extent that such terms are inconsistent, regardless of whether or when VENDOR has submitted its sales confirmation or such terms. These Terms and Conditions may only be amended or modified in writing stating specifically that it amends these Terms and Conditions and is signed by an authorized representative of each Party. Village reserves the right to require VENDOR to agree to additional terms in a formal executed agreement governing the services or goods to be provided herein. If any term or provision of this PO is invalid or inapplicable, such invalidity or unenforceability shall not affect any other term or provision of this PO.

1. Acceptance of this Purchase Order, including the terms and conditions set forth herein, shall constitute the formation of a binding enforceable contract between VILLAGE and VENDOR. VILLAGE hereby objects to and shall 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 the VILLAGE. Where there is conflict between and additional terms and conditions proposed by the VENDOR, these Terms and Conditions shall control. VENDOR'S action in (a) accepting this order, (b) delivering materials, or (c) performing services called for hereunder shall constitute an acceptance of terms and conditions below on this order.
2. Non-exclusive: This Purchase Order is non-exclusive. VILLAGE does not guarantee any minimum purchase other than as provided herein.
3. A Packing Slip shall be enclosed with all orders and have the purchase order number appear on all paperwork.
4. **CANCELLATION.** Time is of the essence in this order. VILLAGE reserves the right to cancel this order, or any portion of this order, without liability, if (a) delivery is not made when and as specified; (b) VENDOR fails to meet contract commitments as to exact time, price, quality or quantity; (c) VENDOR ceases to conduct its operation in the normal course of business; (d) VENDOR is unable to meet its obligations as said obligations mature; (e) proceedings are instituted against VENDOR under the bankruptcy laws or any other laws relating to the relief of creditors; (f) a receiver is appointed or applied for by VENDOR; or (g) any assignment is made by VENDOR for the benefit of creditors. VILLAGE also reserves the right to cancel for any other reason permitted by the Uniform Commercial Code then in effect in the State of Illinois.
5. If pricing is different than specified or is expected to be different than the price listed on the Purchase Order, the VILLAGE must be notified in writing by VENDOR as soon as practicable but no later than five (5) business days prior to shipment of item, if said item is not specifically manufactured or is in the commencement of manufacturing for where said item is manufactured or being manufactured based on certain special order requirements or specifications of the Village. If it is specifically manufactured or being specifically manufactured, the VILLAGE may approve different pricing or cancel the order. Failure by VENDOR to notify the VILLAGE of different pricing in writing as required by this paragraph shall enable the VILLAGE to purchase the material in accordance with this Purchase Order or cancel the purchase without penalty before materials are accepted after delivery.
6. **INVOICE.** A separate invoice shall be issued for each shipment. Unless otherwise specified on this order, no invoice shall be issued prior to shipment of goods and no payment shall be made prior to receipt of both the goods and a correct and accurate invoice. Applicable discount periods shall be computed from the date of receipt of the goods and a correct and accurate invoice to the date VILLAGE'S check is mailed. Unless freight and other charges are itemized, discount shall be taken on the full amount of invoice.
7. **WARRANTIES.** VENDOR warrants that:
 - a. Price: The prices for the goods sold to the VILLAGE under this order are not less favorable than those currently extended to any other customer for the same or like articles in comparable or less quantities.
 - b. Quality:
 - i. The VENDOR shall, upon acceptance of the good or service by the VILLAGE, transfer all manufacturer warranties for the goods and services purchased in the Purchase Order to the VILLAGE.
 - ii. The VENDOR warrants the VILLAGE that all goods and services furnished hereunder will conform in all respects to the terms of this order, including any drawings, specifications or standards incorporated herein, without defects in materials, workmanship, and shall further be free from such defects in design. In addition, VENDOR warrants that the goods and services are suitable for and will perform in accordance with the purposes for which they were intended.
 - iii. The VENDOR warrants against defective or faulty workmanship of VENDOR installed or crafted equipment or materials which appear within one (1) year after final acceptance of the goods and services by the VILLAGE. This warranty period may be extended by mutual written agreement of the Parties as signed by each Party's authorized representative.
8. **INSURANCE.** Seller shall procure Commercial General Liability Insurance to include products liability with a limit of \$1,000,000 and name the VILLAGE as an additional insured on a primary and non-contributory basis. Failure by the VILLAGE to request the Certificate of Insurance documenting coverage shall not be construed as a waiver of VENDOR'S obligation.
9. The delivery schedule for the item subject to the Purchase Order is 8:00 A.M.-4:00 P.M., Monday through Friday, excluding holidays listed by the VILLAGE. Items not delivered in accordance with the delivery schedule and date as reflected in the bid or purchase order, are subject to refusal by the VILLAGE and will be redelivered and stored at the VENDOR'S sole expense.
10. **INDEMNITY**
 - a. Patent Indemnity: VENDOR, at its expense, shall protect, defend and indemnify the VILLAGE, and its officers, employees, agents, elected and appointed officials, volunteers, and users of the item or goods against all claims and proceedings alleging infringement of any United States or foreign patent by any goods delivered under this order, and VENDOR shall hold them harmless from any resulting liabilities and losses. VENDOR'S obligation shall extend to the U.S. government only if and to the extent VILLAGE has agreed to indemnify the U.S. Government.
 - b. General Indemnity: VENDOR shall defend at its expense, pay on behalf of, hold harmless and indemnify the Village, its officers, employees, agents, elected and appointed officials and volunteers (collectively, "Indemnified Parties") from and against any and all claims, demands, liens, liabilities, penalties, fines, fees, judgments, losses and damages (collectively, "Claims"), whether or not a lawsuit is filed, including, but not limited to Claims for damage to property or bodily or personal injuries, including death at any time resulting therefrom, sustained by any persons or entities; and costs, expenses and attorneys' fees and experts' fees at trial and on appeal, which Claims are alleged or claimed to have arisen out of or in connection with, in whole or in part, directly or indirectly:
 - i. The performance of this Agreement (including any amendments thereto) by VENDOR, its employees, agents, representatives or subcontractors;
 - ii. The failure of VENDOR, its employees, agents, representatives or subcontractors to comply and conform with applicable Laws (as defined herein); or
 - iii. Any negligent act or omission of the VENDOR, its employees, agents, representatives, or subcontractors, whether or not such negligence is claimed to be either solely that of the VENDOR, its employees, agents, representatives or subcontractors, or to be in conjunction with the claimed negligence of others, including that of any of the Indemnified Parties; or
 - iv. Any reckless or intentional wrongful act of omission of the VENDOR, its employees, agents, representatives, or subcontractors; or
 - v. VENDOR'S failure to maintain, preserve, retain, produce, or protect records in accordance with this Agreement and applicable Laws (including but not limited to Illinois laws regarding public records).
 - c. The provisions of this paragraph are independent of, and will not be limited by, any insurance required to be obtained by VENDOR pursuant to this Amendment or otherwise obtained by VENDOR, and the provisions of this paragraph survive the expiration or earlier

termination of this Agreement with respect to any claims or liability arising in connection with any event occurring prior to such expiration or termination.

11. All items purchased are FOB (Free on Board) Destination with such destination being designated on the purchase order, transportation charges prepaid; No extra charges will be allowed for boxing, crating, packaging insurance, transportation, assembling and in-place installation unless otherwise indicated on the purchase order. CASH ON DELIVERY WILL NOT BE APPROVED.
12. **ASSIGNMENTS.** No assignment of any rights, including rights to money due or to become due hereunder, or delegation of any duties under this order shall be binding upon VILLAGE until its written consent has been obtained.
13. **INSTALLATION.** If this PO requires VENDOR to furnish services related to the installation or any other matter under the Purchase Order to perform work on VILLAGE'S premises, VENDOR agrees, whether or not a separate charge is made therefore, that such supervisor, expert or other employee of VENDOR, in performing such services, is not and shall not be deemed to be the agent or employee of the VILLAGE. VENDOR assumes full responsibility for its acts and omissions and agrees to save VILLAGE harmless from any claims whatever arising therefrom. VENDOR assumes exclusive liability for any payroll or other taxes imposed upon by the employer by a Federal or State law.
14. **CHANGES AND DISCREPANCIES.** Any discrepancies, omissions or lack of clarity in drawings, specifications, or purchase orders, must be referred to the VILLAGE for written approval before this order is processed. VILLAGE shall have the right at any time before completion of the order, to make changes in quantities, in drawings and specifications, in delivery schedules, and in methods of shipment and packaging. If such changes cause an increase or decrease in price or in the time required for performance, VENDOR shall promptly notify VILLAGE thereof in writing and equitable adjustments shall be made to the purchase price or other term as agreed to by the Parties in writing signed by an authorized representative of each Party. Changes shall not be binding upon VILLAGE unless evidence by a purchase order change notice and issued and signed by the an authorized representative of the VILLAGE.
15. **FORCE MAJEURE.** VENDOR shall not be liable for any delay or failure to deliver any or all of the goods covered by this purchase order in the event of delay or failure caused by governmental regulations, labor disputes, strikes, war, riots, insurrection, civil commotion, mobilization, explosion, fire, flood, accident, storm or any act of God, failure of crops or supplies, delays of common carriers, embargoes, or other causes beyond VENDOR'S reasonable control. Similarly, VILLAGE shall not be liable for failure to take delivery of the goods for any of the above causes, or other causes beyond VILLAGE'S reasonable control if they render it commercially impracticable for VILLAGE to receive or use the goods on a timely basis. Where only a part of VENDOR'S capacity to perform is excused under this paragraph, Vendor must allocate production and deliveries among itself and its various customers then under contract for similar goods during the period. The allocation must be made in a fair and equitable manner. Where either Vendor or VILLAGE claims an excuse of nonperformance under this paragraph, it must give notice in writing to the other party. Vendor shall not be obligated to sell nor VILLAGE obligated to purchase at a later date that portion of the goods that Vendor is unable to deliver or VILLAGE is unable to receive or use because of any of the aforementioned causes. No goods are to be tendered by Vendor after expiration of the terms specified in this purchase order without consent of VILLAGE.
16. **TERMINATION FOR CONVENIENCE.** The VILLAGE shall have the right at any time to terminate further performance of this Contract, in whole or in part, for any reason. Such termination shall be effective by written notice from the VILLAGE to the VENDOR, specifying the extent and effective date of the termination. The VENDOR shall submit a written request for incurred costs for work performed through the date of termination, and shall provide any substantiating documentation requested by the VILLAGE.
17. **TERMINATION FOR DEFAULT.** Upon failure to perform this Purchase Order under its terms, the VILLAGE will provide written notice to the Supplier of the breach, the Supplier will have reasonable time (as stated in the VILLAGE'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 the VILLAGE. The VILLAGE will retain all rights to common law breach of contract remedies.
18. All correspondence referring to this PO must be addressed to the VILLAGE OF TINLEY PARK and a copy shall be made to the VILLAGE'S PURCHASING & CONTRACT ADMINISTRATOR.
19. All credit adjustments must be made by check or credit memo directly to the VILLAGE.
20. The VENDOR shall preserve and make available all relevant transaction documents related to the purchase for a period of three (3) years after termination or performance. If an audit of the purchase has been initiated and audit findings have not been resolved at the end of these three (3) years, the records shall be retained until resolution of the audit finding.
21. VENDOR shall comply with the requirements of the Toxic Substance Disclosure to Employees Act, 820 ILCS 255/4, *et seq.* for any materials supplied and covered by said act. Material Safety Data Sheets (MSDS) shall be provided by Seller with each shipment at time of delivery.
22. This PO sets forth rights and remedies of and to the VILLAGE that are different than those otherwise set forth in the Illinois Uniform Commercial Code. To that extent, such VILLAGE rights and remedies shall be supplemental and additional to those otherwise afforded by such governing law.
23. Discount terms are as set forth in the Form. If no terms are specified, the net amount shall be payable in accordance with the Local Government Prompt Payment Act, 50 ILCS 505/1, *et seq.* Except as otherwise provided in the PO, the price includes all applicable Federal, State and local taxes and duties. VENDOR assigns to VILLAGE all rights to refunds of sales and use taxes paid in connection with this Purchase Order and VENDOR agrees to cooperate with VILLAGE in the processing of any refund claims. Unless expressly otherwise provided for in writing signed by authorized representatives of the Parties, VILLAGE shall not be liable for any shipping, handling, fuel surcharges or similar fees.
24. **SUPPLEMENTAL TERMS.** The supplemental terms attached hereto, if any, shall constitute a part of this order.
25. **PAYMENT.** By accepting this PO, the VENDOR agrees that payment terms shall be governed by the Local Government Prompt Payment Act, 50 ILCS 505/1, *et seq.* VENDOR shall render an original invoice to the VILLAGE's requesting Department as indicated by the requester or on the front of the Purchase Order. If no "Bill To" address has been provided, please send invoices via email to accountspayable@tinleypark.org in PDF. Invoices submitted by any other method, including U.S. mail, may be delayed in processing or returned for resubmission. Vendor shall reference the applicable Purchase Order number on all invoices.
26. **TAXES.** The VILLAGE is exempt from Federal and State taxes for tangible personal property. VENDORS doing business with the VILLAGE, which are not otherwise exempt, shall not be exempt from paying sales tax to their suppliers for materials to fulfill contractual obligations with the VILLAGE, nor shall any VENDOR be authorized to use the VILLAGE's Tax Exemption Number in securing such materials.
27. **APPLICABLE LAW.** This PO shall be governed by the laws of the State of Illinois.
28. **NON-DISCRIMINATION.** The Seller shall comply with all rules and regulations pertaining to public contracts adopted by the State of Illinois and the Village inclusive of, but not limited to: the Illinois Human Rights Act, the Equal Employment Opportunity Clauses, the Public Works Employment Discrimination Act, the Civil Rights Act, the Americans with Disabilities Act and any other applicable laws or acts.
29. **NON-WAIVER OF RIGHTS.** No failure of either Party to exercise any power given to it thereunder or to insist upon strict compliance by the other party with its obligations hereunder, and no custom 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 hereof.
30. **COURTS OF JURISDICTION.** The parties agree that any and all disputes, disagreements or litigation, by, between, or among them, related to this contract shall be exclusively heard and resolved in the Cook County Circuit Court, County of Cook, State of Illinois.