

## **Santa Cruz Metropolitan Transit District Purchase Order Terms and Conditions**

In consideration of the issuance of the general purchase order by the Santa Cruz Metropolitan Transit District (hereinafter "Santa Cruz METRO") and acceptance thereof by the Vendor, the parties agree as follows:

1. Vendor shall furnish to Santa Cruz METRO the labor, materials, equipment supplies or services described in the general purchase order on the reverse side of this form at the time and place indicated.
2. ACCEPTANCE of this general purchase order implies the acceptance of all terms and conditions contained herein and all specifications, drawings, and additional terms and conditions referred to herein and/or attached hereto. **READ them carefully.** No changes or substitutions will be effective without written approval from Santa Cruz METRO.
3. WARRANTY AND QUALITY INSPECTION: Vendor warrants that all articles, materials, and work furnished shall be of good quality and free from defects, shall conform to drawings and/or specifications, shall be of merchantable quality and fit for the purpose for which purchased, and shall be at all times subject to Santa Cruz METRO's inspections; but neither Santa Cruz METRO's inspection nor failure to inspect shall relieve Vendor of any obligation hereunder. If in Santa Cruz METRO's opinion, any article, material, or work fails to conform to specifications or is otherwise defective, Vendor shall promptly replace same at Vendor's expense. No acceptance or payment by Santa Cruz METRO shall constitute a waiver of the forgoing and nothing herein shall exclude or limit any warranties implied by law.
4. PAYMENT: Santa Cruz METRO shall pay the agreed-upon price, or prices, which shall be specified in the general purchase order, upon delivery of the requested labor, materials, equipment, supplies or services and acceptance thereof by Santa Cruz METRO, or upon completion of the work to be performed as specified in the general purchase order and acceptance thereof by Santa Cruz METRO. Payments that are due shall be paid within 30 days after receipt of an undisputed and properly submitted invoice. Invoices shall reflect Santa Cruz METRO's purchase order number. For services, Santa Cruz METRO shall be invoiced monthly. For goods, each order and shipment shall be invoiced separately.
5. COMPLIANCE: Vendor shall comply and has complied with all California, federal and local laws, regulations (including Federal Transit Administration non-construction contract clauses available upon request from Santa Cruz METRO) and orders applicable to the purchase, manufacture, processing and delivery of the labor, materials, equipment, supplies or services described in the general purchase order on the reverse side of this form.
6. TIME FOR PERFORMANCE: Vendor shall perform or deliver the labor, materials, equipment, supplies or services within the time and in the manner specified in the general purchase order. Failure to comply with stated terms and conditions shall be cause for, and may result in, cancellation.
7. ALTERNATIVE TERMS AND CONDITIONS: No charge will be accepted for packing, boxing, or cartage, except as specified on the face of this general purchase order. **Freight collect shipments will not be accepted.** Merchandise will not be accepted if payment is to be made at the time of delivery. The cost of inspection on deliveries which do not meet specifications will be charged against the account of the Vendor.
8. PACKING MATERIALS: POLYSTYRENE PELLETS PROHIBITED. Due to environmental and solid waste considerations, Santa Cruz METRO has directed that Polystyrene pellets shall not be accepted as packing. DO NOT ship your products using this material. Alternate vendors will be sought to replace vendors violating this policy.

9. **TITLE:** Vendor warrants that any article, material or work delivered or performed pursuant to this general purchase order is free and clear of all liens and encumbrances whatsoever and that Vendor has good marketable title to the same. Vendor further agrees to hold Santa Cruz METRO and its officers and employees free and harmless from any and all claims to said article, material or work. Title to the materials and supplies purchased hereunder shall pass to Santa Cruz METRO upon delivery to Santa Cruz METRO at its building and subject to the right of Santa Cruz METRO to reject upon inspection (unless otherwise agreed).
10. **ASSIGNMENT OF PAYMENT:** This general purchase order payment and any payment due hereunder shall not be assigned by the Vendor without prior written approval of Santa Cruz METRO.
11. **CONTRACT:** This general purchase order and any referenced attachments, when accepted by the Vendor either in writing or by shipment of all or any portion of the material, or the commencement of performance of any portion of the services provided for herein, constitutes the entire contract between the Vendor and Santa Cruz METRO concerning the subject matter of the general purchase order, and neither any contrary or additional conditions specified by the Vendor nor any subsequent amendment or supplement shall have any effect without Santa Cruz METRO's prior written approval.
12. **DELIVERY:** Timely performance and deliveries are essential to this general purchase order. Santa Cruz METRO reserves the right to refuse deliveries made in advance of the delivery schedule. If Santa Cruz METRO agrees to accept deliveries after the date of delivery has passed, Santa Cruz METRO shall have the right to direct the Vendor to make shipment to the delivery point set forth in this general purchase order by the most expeditious means, and the total cost of such expedited shipment and handling shall be borne by the Vendor. Acceptance of late deliveries shall not be deemed a waiver of Santa Cruz METRO's right to hold the Vendor liable for any loss or damage resulting therefrom.
13. **TERMINATION FOR CONVENIENCE:** Santa Cruz METRO shall have the right to terminate this general purchase order in whole or in part at any time, and from time to time, by written or telegraphic notice effective upon receipt by Vendor of such notice, even though Vendor is not in breach of any obligation hereunder. Upon receipt of notice of termination, Vendor shall immediately discontinue performance and shall comply with Santa Cruz METRO's instructions concerning disposition of completed and partially completed items, work in progress and materials acquired pursuant to this general purchase order. In the event of a termination for Santa Cruz METRO's convenience, and provided that Vendor is not otherwise in default, Vendor shall be paid an amount in settlement to be mutually agreed upon by the parties which shall cover Vendor's reasonable costs of performance incurred prior to termination in connection with the items for which this general purchase order is terminated plus a reasonable profit based upon such costs. However, said payment shall not exceed the price specified herein for such items. Vendor shall advise Santa Cruz METRO, in writing, of Vendor's claim, if any, for termination costs within ten (10) days after receipt of the notice of termination. Termination in accordance with this article shall not affect Santa Cruz METRO's obligation to pay for items accepted by Santa Cruz METRO prior to such termination. If Santa Cruz METRO has made an advance payment on this contract, Santa Cruz METRO shall be reimbursed for any unused portion.
14. **INSPECTION AND ACCEPTANCE:** All items are subject to final inspection and acceptance after delivery to Santa Cruz METRO. If any items are defective in material or workmanship or otherwise not in conformity with requirements of this general purchase order, Santa Cruz METRO shall have the right to require Vendor to correct or replace them. Vendor shall be required to pay transportation/shipping charges to remove rejected materials or products. Final acceptance or rejection shall be made by Santa Cruz METRO as promptly as practicable after delivery. Final acceptance shall be conclusive except with respect to latent defects, fraud or such gross mistakes as amount to fraud, or with respect to Santa Cruz METRO's rights under the "warranty" clause or as otherwise provided by law.
15. **RECORDS:** Vendor shall maintain all data and records relating to its performance of this general purchase order for 4 years after Santa Cruz METRO makes final payment under this general purchase order and shall permit Santa Cruz METRO to inspect, audit and copy these records.

16. **TAXES/CHARGES:** Santa Cruz METRO is exempt from federal taxes and federal transportation taxes. If prices quoted on this general purchase order include an additional charge for delivery from point of origin, Vendor shall invoice such delivery charge separately and such charge shall not be subject to California State sales/use tax. **No C.O.D. shipments will be accepted.** No additional charge for transportation, containers, packing, etc. will be allowed unless so specified in the general purchase order.
17. **VENDOR'S STATUS:** Vendor is an independent contractor. Neither Vendor nor any party contracting with Vendor or employed by Vendor shall be deemed an agent or employee of Santa Cruz METRO.
18. **INDEMNIFICATION:** Vendor shall indemnify, defend and hold harmless Santa Cruz METRO, its directors, officers, employees and agents from and against all suits, losses, expenses or claims of any kind or nature including those based on any injury to or death of any person or any damage to property, and also including any suits or proceedings claiming an infringement of any patent, copyright, or secret process of the United States, or that may be alleged to have occurred, arising from the performance of this general purchase order by the Vendor, whether or not it shall be claimed that the injury was caused through a negligent act or omission of the Vendor or its employees or agents.
19. **INSURANCE:** Vendor shall maintain worker's compensation insurance in accordance with state requirements. Vendor shall also maintain commercial general liability insurance, including automobile liability insurance, in the amount of at least \$1,000,000 per claim. Santa Cruz METRO reserves the right to require submittal of a certificate of insurance naming Santa Cruz METRO as additional insured. In addition, Vendor shall maintain professional liability insurance, if applicable.