

**SUNLINE TRANSIT AGENCY
PURCHASE ORDER GENERAL TERMS AND CONDITIONS**

- 1. ACCEPTANCE OF PURCHASE ORDER (P.O.).** These terms and conditions are made part of and govern the Purchase Order (P.O.). This P.O. General Terms and Conditions constitutes an offer by the SunLine Transit Agency (SunLine) to the seller named in this P.O. (Vendor) subject to these terms and conditions. This P.O. General Terms and Conditions will be a binding contract between SunLine and Vendor upon Vendor's acceptance of these terms and conditions either by acknowledgement or performance. SunLine shall not be responsible for goods or services provided to officials or employees without a duly authorized P.O.
- 2. INVOICES AND PAYMENT.** Invoices shall be submitted as specified in the P.O. and must be under the same name that is shown on the face of the P.O. The P.O. number must appear on all invoices, shipping notices, delivery and packing slips, packages and correspondence. Each P.O. shall be invoiced separately. Submit invoices monthly or as prescribed by SunLine's Finance Department. If the price quoted by Vendor includes an additional charge for delivery from point to origin, Vendor shall show such delivery charge on the invoice as a separate item and such charge shall not be subject to California State Sales/Use Tax. No additional charge for transportation, containers, packing, etc. will be allowed unless so specified in the P.O. SunLine will pay for the goods and services within 30 calendar days of SunLine's approval of an invoice, as determined in its sole discretion.
- 3. PACKING SLIPS.** Packing slips must accompany each shipment unit (included with each package in shipment), showing SunLine's P.O. number, description, and part number for each item.
- 4. INSPECTION AND ACCEPTANCE.** All items are subject to SunLine's inspection and approval within a reasonable time after delivery. If specifications are not met, the items may be returned to Vendor at Vendor's expense. Vendor will pay all costs to re-deliver the items that have been rejected by SunLine.
- 5. DELIVERY, TITLE, AND RISK OF LOSS.** Unless otherwise indicated on the face of the P.O., delivery shall be F.O.B. destination. COD shipments will not be accepted. Unless otherwise provided in the P.O., Vendor shall have title to and bear the risk of any loss or damage to the goods ordered until they are delivered in conformity with the P.O. at the specified F.O.B. point. Upon such delivery, title shall pass from Vendor to SunLine and Vendor's responsibility for losses or damage shall cease, except for loss or damage occurring prior to or upon delivery, or loss or damage resulting from Vendor's negligence or intentional acts. Passing of title upon such delivery shall not constitute acceptance of the goods and services by SunLine.
- 6. PARTIAL DELIVERIES.** Shipments must be identified as partial or complete, along with the number of shipping units.
- 7. MODIFICATIONS.** Vendor shall not make any alterations or change to the P.O. in any fashion without prior written authorization from SunLine.
- 8. WARRANTY.** Vendor warrants that all good(s) provided and/or work performed under the P.O. (i) comply with all specifications and conditions of SunLine and the manufacturer's warranty, (ii) are free of liens and encumbrances, and (iii) are free from patent and latent defects in design, materials, and workmanship. Work shall comply with nationally recognized codes and established industry standards. Equipment shall carry the manufacturers' most favorable commercial warranties. The warranty period shall begin after acceptance of item(s) and/or work. Vendor agrees to remedy by replacing or repairing any goods(s) that are damaged or defective during normal usage within the warranty period, at no additional cost to SunLine. Such repair or replacement shall occur within a reasonable time frame and to the satisfaction of SunLine. Vendor agrees that by acceptance of this warranty and acceptance of the goods provided by Vendor, SunLine does not waive any warranty, either expressed or implied in Sections 2312-2317, inclusive, of the Commercial Code of the State of California or of the United States.
- 9. FEDERAL, STATE AND LOCAL LAWS.** All goods or services furnished pursuant to the P.O. shall comply with all applicable federal, state and local laws and regulations.
- 10. FTA TERMS AND CONDITIONS.** Appendix A, Federal Transit Administration Clauses, of these Terms and Conditions is hereby incorporated by this reference.
- 11. GOVERNING LAW.** The P.O. is made in the State of California and shall in all respects be construed and governed by the laws of that state.
- 17. INDEMNIFICATION.** To the fullest extent allowed by law, Vendor shall indemnify, keep and save harmless SunLine and its directors, employees, officials and agents from any and all suits, claims, actions, losses, damages, and/or liability arising out of any of the following: (i) any injury to or death of any person or any damage to property that may occur, or that may be alleged to have occurred, arising from Vendor's performance of the P.O., caused by a negligent act or omission or willful misconduct of Vendor or its employees, subcontractors or agents and not caused by SunLine's sole negligence; (ii) any allegation that materials or services provided by Vendor infringe or violate any copyright, trademark, patent, trade secret, or any other intellectual property or proprietary right of any third party. Vendor will defend any and all such actions, suits or claims, with counsel acceptable to SunLine in its sole discretion, and pay all charges of attorneys and all other costs and expenses of defenses as they are incurred. If any judgment is rendered, or settlement reached, against SunLine, or any of the other individuals enumerated above in any such action, Vendor will, at its expense, satisfy and discharge the same. This indemnification shall survive termination, cancellation or expiration of the P.O.
- 18. INSURANCE.** If Vendor is providing services to SunLine, Vendor shall maintain workers' compensation insurance in

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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. SunLine reserves the right to require submittal of a certificate of insurance naming the SunLine, its directors, officers, employees and agents as additional insureds. In addition, Vendor shall maintain professional liability insurance if applicable.

19. CHANGES. SunLine may suspend the P.O. or make changes in any terms and conditions governing the P.O. at any time. If any change causes a change in the price or in the time required for its performance, Vendor shall promptly submit its claim for adjustment in writing to SunLine. All changes shall be by confirmed written amendment issued by SunLine. Nothing in this clause excuses Vendor from proceeding immediately with the P.O. as changed.

20. TERMINATION. SunLine may terminate the P.O. in whole or in part for SunLine's convenience or for cause if Vendor fails to fulfill its contractual obligations. SunLine will specify the nature, extent, and effective date of the termination. Upon receipt of the notice, Vendor shall: (a) immediately discontinue all services affected, and (b) deliver to SunLine all data, drawings, specifications, reports, estimates, summaries and other information and materials accumulated in performing this contract, whether completed or in process. SunLine will have all remedies as may be available whether or not it terminates the P.O., including, but not limited to, the payment by Vendor to SunLine of any expenses incurred by SunLine in reprocurring from another source the same or similar goods or services that Vendor failed to furnish satisfactorily. For services, SunLine will only pay for those services performed satisfactorily up to the date of termination

21. OSHA COMPLIANCE. If applicable, the goods covered by this P.O. must conform to safety orders of OSHA, CALOSHA, and/or NIOSH, and applicable Material Safety Data Sheets (MSDS). Vendor is required to provide a completed MSDS for all hazardous substances as required by Labor Code Sections 6390; General Industrial Safety Order, Section 5194; and Title 8, California Admins. Code. MSDS sheets need to be sent to SunLine's Safety and Regulatory Compliance Specialist for each specified item and a copy sent to SunLine's Procurement Department.

22. ENVIRONMENTAL COMPLIANCE. Vendor shall bear full and exclusive responsibility for any release of hazardous or nonhazardous substances, transportation or disposal of hazardous substances during the course of performance of the P.O. The Vendor shall be solely responsible for all claims and expenses associated with the transport or disposal of hazardous substances or with the removal or remediation of any release, including without limitation, payment of any fines or penalties levied against SunLine by any governmental authority as a result of such release. Vendor will hold harmless, indemnify, protect and defend SunLine from any claims, suits or actions arising from any disposal or release. Vendor shall immediately notify SunLine of any accidental incident related to the handling, transportation or disposal of hazardous or non-hazardous substances. SunLine reserves the right to gain access to and inspect vendor vehicles and/or facilities that handle, transport, or dispose of hazardous or non-hazardous substances.

23. ASSIGNMENTS AND SUBCONTRACTING. Neither this P.O. nor any interest nor claim hereunder may be assigned or subcontracted by Vendor either voluntarily or by operation of law, without the prior consent of SunLine. Consent shall not be deemed to relieve Vendor of its obligations to comply fully with the requirements thereof.

24. WAIVER. The waiver of any term, condition or provision hereof shall not be construed to be a waiver of any other such term, condition or provision, nor shall such waiver be deemed a waiver of a subsequent breach of the same term, condition or provision.

25. QUESTIONS. Questions regarding the Terms and Conditions herein are to be directed to: Ray Stevens, Deputy Chief of General Services (760) 343-3456 x1521 or rstevens@sunline.org

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Appendix A: Federal Transit Administration Clauses

In its performance of the Agreement, Vendor/Contractor/Consultant will comply with all of the applicable Federal Transit Administration (FTA) clauses:

DEFINITIONS. The following definitions apply to these federal terms and conditions:

- a. "Agency" means the SunLine Transit Agency.
- b. "Agreement" means the agreement to which these Federal Terms and Conditions apply.
- c. "Bid" means bid, proposal, or offer.
- d. "Bidder" means bidder, proposer, or offeror.
- e. "Contractor/Consultant" means the person or entity named in the Purchase Order (Vendor), Bid, Proposal or Agreement to which these Federal Terms and Conditions apply.
- f. "FTA" means the Federal Transit Administration.
- g. "U.S. DOT" means United States Department of Transportation.

CLAUSES

1. **INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS.** - The provisions within include, in part, certain Standard Terms and Conditions required under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR § 200), whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, detailed in 2 CFR § 200 or as amended by 2 CFR § 1201, or the most recent version of FTA Circular 4220.1 are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any request which would cause a violation of the FTA terms and conditions.
2. **ACCESS TO RECORDS AND REPORTS.** The following access to records requirements apply to this Agreement:
 - a. Record Retention. The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, leases, subcontracts, arrangements, other third party Contracts of any type, and supporting materials related to those records.
 - b. Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.334. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract in accordance with 2 CFR § 200.337
 - c. Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract in accordance with 2 CFR § 200.337.
 - d. Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract in accordance with 2 CFR § 200.337.
3. **CIVIL RIGHTS REQUIREMENTS.** Under this Contract, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.
 - a. *Nondiscrimination* - In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
 - b. *Equal Employment Opportunity* - The following equal employment opportunity requirements apply to the Agreement:
 - i. Race, Color, Religion, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
 - ii. Age - In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621- 634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue. Further, Contractor shall not discriminate on the basis of age. The "Age Discrimination Act of 1975," as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (EEOC) implementing regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, also prohibit employment discrimination against individuals age 40 and over on the basis of age.
 - iii. Disabilities - In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
 - iv. Promoting Free Speech and Religious Liberty. The Contractor shall ensure that Federal funding is expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements: including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.
 - c. During the performance of this contract, the Contractor agrees as follows:
 - i. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
 - ii. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
 - iii. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
 - iv. The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 - v. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
 - vi. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
 - vii. In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
 - viii. The contractor will include the provisions of paragraphs (i) through (vii) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.
4. **DISADVANTAGED BUSINESS ENTERPRISES.**
 - a. This Agreement is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs, as amended.

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- b. The Contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as Agency deems appropriate, which may include, but is not limited to: (1) Withholding monthly progress payments; (2) Assessing sanctions; (3) Liquidated damages; and/or (4) Disqualifying the contractor from future bidding as non-responsible. Each subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
- c. Contractor will be required to report its DBE participation obtained through race-neutral means throughout the period of performance of this Agreement.
- d. Contractor is required to pay its subcontractors performing work related to this Agreement for satisfactory performance of that work no later than 30 days after the Contractor's receipt of payment for that work from the Agency. In addition, the Contractor is required to return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the Agency and Contractor's receipt of the partial retainage payment related to the subcontractor's work. These prompt payment and return of retainage requirements also apply to all subcontractors and all tiers.
- e. For contracts in which there is a DBE contract goal, the Contractor must promptly notify Agency whenever a DBE subcontractor performing work related to this Agreement is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The Contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of Agency.
5. **ENERGY CONSERVATION.** - The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act(42 U.S.C. § 6201).
6. **FEDERAL CHANGES.** - Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Agency and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this Agreement.
7. **NO GOVERNMENT OBLIGATION TO THIRD PARTIES.**
 - a. The Agency and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the Agreement, absent the express written consent by the Federal Government, the Federal Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to the Agency, Contractor, or any other party (whether or not a party to that Agreement) pertaining to any matter resulting from the Agreement.
 - b. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.
8. **PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS.**
 - a. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the Agreement, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the Agreement or the FTA assisted project for which the Services are being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.
 - b. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.
 - c. The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.
9. **NOTICE TO THIRD PARTY PARTICIPANTS** - Federal requirements that apply to the Recipient or the Award, the accompanying Underlying Agreement, and any Amendments thereto may change due to changes in federal law, regulation, other requirements, or guidance, or changes in the Recipient's Underlying Agreement including any information incorporated by reference and made part of that Underlying Agreement; and Applicable changes to those federal requirements will apply to each Third Party Agreement and parties thereto at any tier.
10. **NOTIFICATION TO FTA** - If a current or prospective legal matter that may affect the Federal Government emerges, Contractor must promptly notify the Agency, which must then promptly notify the FTA Chief Counsel and FTA Regional Counsel for Region 9. Contractor must include an equivalent provision in its sub agreements at every tier for any agreement that is a "covered transaction" according to 2 C.F.R. §§ 180.220 and 1200.220.
 - a. Types of Legal Matters Requiring Notification. The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
 - b. Matters Affecting the Federal Government. Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the Contract, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.
 - c. Additional Notice to U.S. DOT Inspector General. Contractor must promptly notify the AGENCY, which must then promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for Region 9 if Contractor has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Contract or another agreement between the AGENCY and FTA, or an agreement involving a principal, officer, employee, agent, or Third-Party Participant of the AGENCY. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of Contractor. In this paragraph, "promptly" means to refer information without delay and without change. This notification provision also applies to all divisions of the AGENCY, including divisions tasked with law enforcement or investigatory functions.
11. **DISPUTES** - Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the agency. This decision shall be final and conclusive unless within [10] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the agencies authorized representative. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the agencies authorized representative shall be binding upon the Contractor and the Contractor shall abide by the decision.
12. **TRAFFICKING IN PERSONS** - The contractor agrees that it and its employees that participate in the Recipient's Award, may not: Engage in severe forms of trafficking in persons during the period of time that the Recipient's Award is in effect; Procure a commercial sex act during the period of time that the Recipient's Award is in effect; or Use forced labor in the performance of the Recipient's Award or sub agreements thereunder.
13. **FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTIONS** - By submitting a bid or proposal, the Contractor certifies that it (1) does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and (2) has not been convicted of a felony criminal violation under any Federal law within the preceding 24 months. The Contractor must follow this requirement down to subcontractors and vendors at all lower tiers.
14. **SAFE OPERATION OF MOTOR VEHICLES** - The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company- rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by Contractor or Agency. Contractor shall adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this Contract. The Contractor shall insert the substance of this clause, including this paragraph, in all subcontracts that exceed the micro-purchase threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award.
15. **PROMPT PAYMENT** - The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed. The contractor must promptly notify the Agency, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the Agency.
16. **AMERICANS WITH DISABILITIES ACT (ADA)** - The contractor agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments to that Act, and with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to persons with disabilities, including any subsequent amendments to that Act. In addition, the contractor agrees to comply with any and all applicable requirements issued by the FTA, DOT, DOJ, U.S. GSA, U.S. EEOC, U.S. FCC, any subsequent amendments thereto and any other nondiscrimination statute(s) that may apply to the Project.
17. **CHARTER SERVICE OPERATIONS** - The Contractor agrees to comply with 49 U.S.C. 5323(d) and 49 CFR Part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation.
18. **SCHOOL BUS OPERATIONS** - Pursuant to 69 U.S.C. 5323(f) and 49 CFR Part 605, recipients and subrecipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients may not use federally funded equipment, vehicles, or facilities.
19. **PUBLIC TRANSPORTATION EMPLOYEE PROTECTIVE ARRANGEMENTS.**
 - a. The Contractor agrees to the comply with applicable transit employee protective requirements as follows:
 - i. General Transit Employee Protective Requirements - To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit operations work on the Agreement in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the

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available to the Agency, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

24. **CLEAN AIR** - The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.
25. **CLEAN WATER** - The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.
26. **LOBBYING** - Contractor shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the Agency.
27. **BUY AMERICA REQUIREMENTS** - The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. part 661 and 2 CFR § 200.322 Domestic preferences for procurements, which provide that Federal funds may not be obligated unless all steel, iron, manufactured products or construction materials (as defined in §§ 661.3 and 661.5 of this part) are being procured and used in FTA funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. § 661.7. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C), 49 U.S.C. § 5323(u) and 49 C.F.R. § 661.11. Domestic preferences for procurements Contractor must submit to the Agency the appropriate Buy America certification. Offers that are not accompanied by a completed Buy America Certification will be rejected as non-responsive.
28. **BUILD AMERICA, BUY AMERICA** - The Contractor agrees to comply Construction materials used in FTA-funded projects are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L. 117-58, div. G, tit. IX, §§ 70911 - 70927 (2021), as implemented by the U.S. Office of Management and Budget, the U.S. Department of Transportation, and FTA.
29. **PRE-AWARD AND POST-DELIVERY AUDITS OF ROLLING STOCK** - The Contractor agrees to comply with 49 U.S.C. § 5323(m) and FTA's implementing regulation at 49 C.F.R. part 663. The Contractor shall comply with the Buy America certification(s) submitted with its proposal/bid. The Contractor agrees to participate and cooperate in any pre-award and post-delivery audits performed pursuant to 49 C.F.R. part 663 and related FTA guidance.
30. **Bus Testing** - Contractor [Manufacturer] agrees to comply with the Bus Testing requirements under 49 U.S.C. 5318(e) and FTA's implementing regulation at 49 CFR part 665 to ensure that the requisite testing is performed for all new bus models or any bus model with a major change in configuration or components, and that the bus model has achieved a passing score. Upon completion of the testing, Contractor shall obtain a copy of the bus testing reports from the operator of the testing facility and make that report(s) publicly available prior to final acceptance of the first vehicle by the grantee.
31. **CONFORMANCE WITH ITS NATIONAL ARCHITECTURE** - Intelligent Transportation Systems (ITS) projects shall conform to the National ITS Architecture and standards pursuant to 23 CFR § 940. Conformance with the National ITS Architecture is interpreted to mean the use of the National ITS Architecture to develop a regional ITS architecture in support of integration and the subsequent adherence of all ITS projects to that regional ITS architecture. Development of the regional ITS architecture should be consistent with the transportation planning process for Statewide and Metropolitan Transportation Planning (49 CFR Part 613 and 621).
32. **RECYCLED PRODUCTS AND SOLID WASTES** - Contractor shall provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 CFR part 247. The requirements of Section 6002 include: (A) procuring only items designated in guidelines of the U.S. EPA at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; (B) procuring solid waste management services in a manner that maximizes energy and resource recovery; and (C) establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
33. **PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT** - The Agency is prohibited from obligating or expending loan or grant funds to: procure or obtain, extend or renew a contract to procure or obtain, or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Contractor shall not provide covered telecommunications equipment or services in the performance of the Contract. As described in Public Law 115-232, section 889, covered telecommunications equipment is: (A) telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); (B) video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities) for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes; (C) Telecommunications or video surveillance services provided by such entities or using such equipment; and (D) telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country
34. **EMPLOYEE PROTECTIONS DAVIS-BACON ACT REQUIREMENTS**
 - a. **Prevailing Wage and Anti-Kickback**
 - i. For all prime construction, alteration or repair contracts in excess of \$2,000 awarded by FTA, Contractor shall comply with the Davis-Bacon Act and the Copeland "Anti-Kickback" Act. Under 49 U.S.C. § 5333(a), prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. Contractor will comply with the Davis Bacon Act, 40 U.S.C. §§ 3141-3144, and 3146-3148 as supplemented by DOL regulations at 29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction." In accordance with the statute, Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
 - ii. In addition, Contractor shall pay wages not less than once a week. Contractor shall also comply with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by DOL regulations at 29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States." Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.
 - b. **Contract Work Hours/Safety Standards for Awards Involving Construction.**
 - i. For all contracts in excess of \$100,000 that involve the employment of mechanics or laborers, Contractor shall comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708), as supplemented by the DOL regulations at 29 CFR part 5. Under 40 U.S.C. § 3702 of the Act, Contractor shall compute the wages of every mechanic and laborer, including watchmen and guards, on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or to contracts for transportation or transmission of intelligence.
 - ii. In the event of any violation of the clause set forth herein, Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of this clause in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by this clause.
 - iii. The FTA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in this section.
 - iv. Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this Contract
 - c. **Contract Work Hours/Safety Standards for Awards Not Involving Construction**
 - i. Contractor shall comply with all federal laws, regulations, and requirements providing wage and hour protections for non-construction employees, in accordance with 40 U.S.C. § 3702, Contract Work Hours and Safety Standards Act, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 CFR part 5.
 - ii. Contractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.
 - iii. Such records maintained under this paragraph shall be made available by Contractor for inspection, copying, or transcription by authorized representatives of the FTA and the Department of Labor, and Contractor will permit such representatives to interview employees during working hours on the job.
 - iv. Contractor shall require the inclusion of the language of this clause within subcontracts of all tiers

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35. **SEISMIC SAFETY** - Contractor shall design and construct any new building or addition to an existing building in accordance with the standards for Seismic Safety required in Department of Transportation (DOT) Seismic Safety Regulations (49 CFR part 41) and will certify its compliance to the extent required by the regulation. Contractor shall ensure that all work performed under this Contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety regulations and the certification of compliance issued on the project.
36. **VETERANS HIRING PREFERENCE** - Contractor shall give a hiring preference, to the extent practicable, to veterans (as defined in U.S.C. Section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the Contract. This requirement shall not be understood, construed or enforced in any manner that would require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.
37. **SECTION 508 OF THE REHABILITATION ACT** - Section 508 of the Rehabilitation Act (Section 508) requires that all Information and Communication Technology (ICT) be accessible to persons with disabilities, including those with vision, hearing, cognitive, and mobility impairments. The Contractor will ensure that all ICT meets the requirements of Section 508, as amended, 36 CFR Part 1194, and current website accessibility standards. As defined in Appendix A, E103.4, of 36 CFR Part 1194, ICT is "[i]nformation technology and other equipment, systems, technologies, or processes, for which the principal function is the creation, manipulation, storage, display, receipt, or transmission of electronic data and information, as well as any associated content. Examples of ICT include, but are not limited to: computers and peripheral equipment; information kiosks and transaction machines; telecommunications equipment; customer premises equipment; multifunction office machines; software; applications; Web sites; videos; and, electronic documents."
38. **CARGO PREFERENCE** - Contractor shall:
- a. Use privately owned US-Flag commercial vessels to ship at least 50% of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for US flag commercial vessels;
 - b. Furnish within 20 working days following the loading date of shipments originating within the US or within 30 working days following the loading date of shipments originating outside the US, a legible copy of a rated, "on-board" commercial bill-of-lading in English for each shipment of cargo described herein to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the recipient (through contractor in the case of a subcontractor's bill-of-lading.)
 - c. Include these requirements in all subcontracts issued pursuant to this contract when the subcontract involves the transport of equipment, material, or commodities by ocean vessel.
39. **BONDING FOR CONSTRUCTION ACTIVITIES**
- a. A performance bond on the part to the Contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
 - b. A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment, as required by law, of all persons supplying labor and material in the execution of the work provided for in the contract. Payment bond amounts required from Contractors are as follows:
 - i. 50% of the contract price if the contract price is not more than \$1 million;
 - ii. 40% of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
 - iii. \$2.5 million if the contract price is more than \$5 million.
 - c. A cash deposit, certified check or other negotiable instrument may be accepted by a grantee in lieu of performance and payment bonds, provided the grantee has established a procedure to assure that the interest of FTA is adequately protected. An irrevocable letter of credit would also satisfy the requirement for a bond.