

*PLATTE RIVER POWER AUTHORITY
PURCHASE ORDER TERMS AND CONDITIONS FOR GOODS AND SERVICES*

1. **PURCHASE ORDER AND ACCEPTANCE:** Upon Vendor's (Vendor shall mean: Seller, Supplier, Consultant, Contractor, or other supplying party term) acceptance, demonstrated by the commencement of Vendor's performance hereunder or by written acceptance of this Purchase Order ("PO"), (PO shall mean: Purchase Order, Agreement, Contract or other supplying party term) this PO is a binding contract and, together with any documents specifically referenced herein, represents the entire agreement between the parties. All specifications, drawings and data submitted to Vendor by Platte River Power Authority ("Platte River") in connection with this PO are hereby incorporated herein and made a part hereof. The terms and conditions set forth herein and on the face page(s) of the PO constitute the parties' complete contractual agreement and supersede any previous oral or written representations, including but not limited to provisions in the parties' prior quotations, proposals, acknowledgments, or other documents. No course of dealing or usage of trade shall be applicable unless expressly incorporated by this PO. **PLATTE RIVER TERMS AND CONDITIONS MAY NOT BE MODIFIED OR REPLACED WITH VENDOR TERMS AND CONDITIONS WITHOUT WRITTEN CONSENT BY PLATTE RIVER.**
 - a. **SAFETY, DRUGS AND ALCOHOL.** Vendor, and its employees, or agents, shall follow safe work procedures, using safe work habits in all situations. Platte River reserves the right to inspect the services in order to enforce this requirement. It is strictly prohibited for anyone to be under the influence of drugs or alcohol while working on behalf of Platte River or on Platte River's premises. Vendor, or any of its employees or agents, who violate this policy shall be removed from the job site.
 - b. **PERSONAL PROTECTIVE EQUIPMENT (PPE).** Safety Platte River requires that all Vendors, where applicable adhere to the same requirements of PPE as Platte River employees including but not limited to; hearing protection, eye protection (eye glasses with side shields, or safety glasses, leather work gloves, steel toed leather boots, hard hats, or any other PPE required by the Vendor as part of its safety program to ensure the safety of Vendor employees.
2. **CHANGES AND SUBSTITUTIONS:** Platte River may at any time by written order make changes or additions within the general scope of this PO in or to drawings, designs, specifications, instructions for work, or time, or the specified location for services to be performed. If any such change causes an increase or decrease in the cost of or the time required for performance of this PO, Vendor shall notify Platte River in writing immediately and an appropriate equitable adjustment will be made in the price or time of performance or both, by written modification within thirty (30) days after Vendor's receipt of notice and written acceptance of the change or within such other period as the parties may agree in writing. No substitution or modification of any good or service may be made without Platte River's prior written consent.
3. **DELIVERY:** Delivery must be in strict compliance with the delivery and time provisions specified with this document. All items must be delivered in packages in order to ensure the integrity of the product and safe arrival at their respective destination. Shipments are expected to be from the nearest distribution point to destination and excess freight will be deducted from invoices when shipments are made from greater distances. Platte River at its option may extend the Vendor's date of delivery of any goods and/or services upon written notification of Vendor's inability to comply with the terms of delivery set forth herein. If the Vendor fails to comply with the terms of the scheduled delivery dates and requirements, Platte River may elect to provide for alternative transportation and shipment at the Vendor's expense. Vendor shall bear the risk of loss for goods at all times until Platte River has accepted goods and has had an opportunity to inspect the same.

If Vendor experiences any difficulties in meeting the delivery requirement as set forth within this document, Vendor shall immediately inform Platte River of such issues and Platte River reserves the right to cancel this order and purchase the goods and/or services elsewhere and Vendor shall bear the difference in the cost.

Vendor is responsible to deliver the appropriate quantity to Platte River. If Vendor delivers a quantity in excess of the purchased amount, Platte River is entitled to retain any quantities up to a value of \$100 without compensating Vendor and Vendor expressly waives any right to, or interest in, excess quantities. All excess delivery of which exceeds \$100 may either be retained by Platte River and paid for at the PO price or returned to Vendor at Vendor's expense.

4. **DAMAGE LIMITATION:** Platte River shall not be responsible for any special, consequential, incidental, indirect, punitive, or exemplary damages in any way arising from or related to the performance of this PO.
5. **WARRANTY:** Vendor warrants that the goods or services contracted under this PO will be as specified, performed in a professional and competent manner, and will be free from defects in workmanship and materials. This warranty applies for twelve (12) months from the date Vendor completes the delivery of goods or services (the "Warranty Period"). If within the Warranty Period the goods or services fail to meet the provisions of this warranty, Vendor shall promptly correct any defects, including nonconformance with the specifications, by adjustment, repair, or replacement of all improper or defective workmanship or defective goods, at no cost to Platte River. This warranty shall be extended to cover all repairs furnished under the warranty and the period of the warranty for each such repair. Replacement of goods shall trigger a one-year warranty on the replacement of said good.
6. **PRICE TERMS:**
 - a. The goods or services will be furnished at the price set forth on the face page(s) of this PO in U.S. dollars. The prices set forth in this PO are FOB Destination pre-paid and allowed unless otherwise agreed upon. Vendor shall not make any additional charges for packaging, crating, storing, and/or shipping other than those set forth within this PO. Vendor warrants that prices charged for goods or services are not higher than those charged to any other customer for goods or services of like grade and quality of similar or lesser quantities. Platte River shall pay for the goods within the time frame set forth on the face page(s) of this PO following receipt and approval of invoices submitted by Vendor, which invoices shall be submitted to Platte River upon receipt of goods or completion of services which shall identify the specific goods or services including description, part numbers, line number, quantity, and price for which payment is requested. All invoices shall be addressed as set forth on the face page(s) of this PO.
 - b. Prices do not include taxes. Platte River is a political subdivision of the State of Colorado and a municipally owned utility. As such, Platte River is exempt from taxes and no taxes may be lawfully assessed against Platte River in connection with the services provided by Vendor in accordance with this PO.
 - c. Discount Terms - Platte River shall not be responsible for delay in receipt of Vendor's invoices. Should delay occur, time allowed by Vendor for payment of invoices, or accepting a cash discount offered, shall commence on the date invoices are received, and goods are received or services rendered.
7. **HARASSMENT:** ALL PERSONS WORKING OR DELIVERING GOODS ON PLATTE RIVER'S PREMISES SHALL HAVE A WORKING ENVIRONMENT FREE FROM HARASSMENT BASED UPON HIS/HER RACE, COLOR, RELIGION, CREED, SEX, NATIONAL ORIGIN, ANCESTRY, AGE, SEXUAL ORIENTATION (INCLUDING GENDER IDENTITY), OR DISABILITY. IT IS A VIOLATION OF PLATTE RIVER'S POLICY

FOR ANY EMPLOYEE TO HARASS ANOTHER ON PLATTE RIVER'S PREMISES. THIS POLICY APPLIES TO VENDOR, ITS EMPLOYEES, SUBCONTRACTORS OR AGENTS. BY COMMENCEMENT OF ANY SERVICES SET FORTH HEREIN TAKING PLACE ON PROPERTY OWNED OR CONTROLLED BY PLATTE RIVER, VENDOR ACKNOWLEDGES RECEIPT OF THIS POLICY.

8. TERMINATION:

- a. For Convenience. Platte River may terminate this PO without cause if it determines that such termination is in Platte River's best interest. Platte River shall affect such termination by giving written notice of termination to Vendor, specifying the effective date of termination, at least fourteen (14) calendar days prior to the effective date of termination. In the event of such termination by Platte River, Platte River shall be liable to pay Vendor for services performed as of the effective date of termination, but shall not be liable to Vendor for anticipated profits. Vendor shall not perform any additional services or deliver any product following receipt of the notice of termination unless otherwise instructed in writing by Platte River.
- b. For Cause. If, through any cause, Vendor fails to fulfill its obligations under this PO in a timely and proper manner, violates any provision of this PO, or violates any applicable law, Platte River shall have the right to terminate this PO for cause immediately upon written notice of termination to Vendor. In the event of such termination by Platte River, Platte River shall be liable to pay Vendor for services performed or goods delivered as of the effective date of termination, but shall not be liable to Vendor for anticipated profits. Vendor shall not perform any additional services or deliver any goods following receipt of the notice of termination. Notwithstanding the above, Vendor shall not be relieved of liability to Platte River for any damages sustained by Platte River by virtue of any breach of this PO, and Platte River may withhold payment to Vendor for the purpose of setoff until such time as the exact amount of damages due to Platte River from Vendor is determined.
- c. If at any time after termination it is concluded that Vendor was not, in fact, in default under the terms of this PO, the rights and obligations of the parties shall be deemed to have been pursuant to a termination for convenience and Platte River shall not be responsible for any damages to Vendor. The rights and remedies of Platte River shall not be exclusive, and Platte River shall be entitled to any other rights or remedies afforded by law and/or equity.

9. RIGHTS, REMEDIES AND CONSTRUCTION: A waiver by either party of any right or remedy shall not affect any rights or remedies subsequently arising under the same or similar clauses. The failure of either party to insist upon the performance of any term or condition of this PO, or to exercise any right hereunder shall not be construed as a waiver of the future performance of any such term or condition or the exercise in the future of any such right. If any term of this PO is invalid or unenforceable under any statute, regulation, ordinance, executive order or other rule of law, such term shall be deemed reformed or deleted, but only to the extent necessary to comply with such statute, regulation, ordinance, order or rule, and the remaining provisions of this PO shall remain in full force and effect.

10. LIENS: The Vendor shall guarantee Platte River that all items sold are free and clear of all taxes, liens, or encumbrances of any other nature whatsoever and a clean bill of sale shall be issued immediately upon completion of delivery of goods to Platte River or upon completion of work performed.

11. SUBCONTRACTS: The Vendor shall ensure through its subcontracts that any subcontractor shall be bound to the Vendor in the same manner, and to the same extent, as the Vendor is bound to Platte River under the PO and these Terms and Conditions, with respect to the subcontracted portion of the work.

12. INSURANCE REQUIREMENTS: Vendor hereby acknowledges that Vendor has secured and will maintain insurance of such types and in such minimum amounts or at coverages requested by Platte River including endorsements for "Waiver of Subrogation" and "Additionally Insured" as may be reasonably necessary to protect Vendor and the interests of Platte River against all hazards or risks of loss associated with the services or purchase of goods including the shipment of said goods. Vendor shall provide proof of such coverage as requested by Platte River. The maintenance of insurance by Vendor does not limit Vendor's contractual responsibilities, liabilities or obligations under this PO.
13. INDEMNIFICATION: VENDOR HEREBY COVENANTS AND AGREES TO INDEMNIFY, SAVE, AND HOLD HARMLESS PLATTE RIVER, ITS DIRECTORS, OFFICERS, AND EMPLOYEES FROM ANY AND ALL LIABILITY, LOSS, COSTS, CHARGES, OBLIGATIONS, EXPENSES, ATTORNEY'S FEES, LITIGATION, JUDGMENTS, DAMAGES, CLAIMS, AND DEMANDS OF ANY KIND WHATSOEVER FROM ANY THIRD PARTY ARISING FROM OR OUT OF ANY NEGLIGENT ACT OR OMISSION OR OTHER TORTIOUS CONDUCT OF VENDOR, ITS OFFICERS, EMPLOYEES, OR AGENTS IN THE PERFORMANCE OR NONPERFORMANCE OF ITS OBLIGATIONS UNDER THIS PURCHASE ORDER. VENDOR WARRANTS THAT THE GOODS OR SERVICES PROVIDED HEREIN, AND THE USE OF THEM, WILL NOT INFRINGE ANY PATENT OR INVENTION, COPYRIGHT, TRADE SECRET, OR OTHER PROPRIETARY RIGHT. VENDOR AGREES THAT IT SHALL DEFEND, INDEMNIFY, AND HOLD PLATTE RIVER, ITS DIRECTORS, OFFICERS, AND EMPLOYEES HARMLESS FROM ALL LIABILITY, LOSS, COSTS, CHARGES, OBLIGATIONS, EXPENSES, ATTORNEY'S FEES, LITIGATION, JUDGMENTS, DAMAGES, CLAIMS AND DEMANDS OF ANY KIND WHATSOEVER, ARISING OUT OF ANY SUCH CLAIMS FOR PATENT INFRINGEMENT OR, IN PART OR IN WHOLE, PLATTE RIVER'S USE, SALE, OR PURCHASE OF SAID GOODS. This "Indemnification" provision shall survive the completion of the services and the satisfaction, expiration, or termination of this PO.
14. RELATIONSHIP OF PARTIES: Vendor and Platte River are independent contracting parties and nothing in this PO shall make either party the agent or legal representative of the other for any purpose whatsoever, nor does it grant either party any authority to assume or to create any obligation on behalf of or in the name of the other party. **Vendor is not entitled to workers' compensation benefits from Platte River and is obligated to pay applicable federal and state income tax on any money earned pursuant to this PO.**
15. LAW/FORUM: The rights and obligations of the parties and the terms identified herein and elsewhere in any existing PO shall be governed by and construed in accordance with the laws of the State of Colorado, including the Uniform Commercial Code as enacted in Colorado, but without regard to the State of Colorado's conflict of laws rules. Any legal or equitable actions arising out of or relating to any terms identified herein or elsewhere in any PO shall be brought only in federal or state court in Colorado. Vendor and Platte River agree that such court shall have personal jurisdiction over the parties.
16. TIME OF THE ESSENCE: Time is of the essence for the performance of the Vendor's obligations created under this PO. Vendor's failure to complete any of the services contemplated herein during the term of this PO shall be deemed a breach of this PO. The rights and remedies of Platte River provided herein are not to be exclusive nor shall they prevent Platte River from recovering for any other rights or remedies Platte River may be afforded under the law.
17. NOTICES: Notices shall be addressed as set forth on the face page(s) of this PO and shall be deemed received when hand-delivered or three (3) days after being sent by certified mail.
18. WORK BY ILLEGAL ALIENS PROHIBITED: This paragraph shall apply to all Vendors whose performance of work under this PO does not involve the delivery of a specific product other than reports that are merely incidental to the performance of said work.

- a. Vendor hereby certifies that, as of the date of this PO, it does not knowingly employ or contract with an illegal alien who will perform work under this PO and that Vendor will participate in either the E-Verify Program (formerly referred to as the basic pilot employment verification program) or the Department Program as each is defined in C.R.S. §8-17.5-101(3.7) and (3.3) respectively (the "Program") in order to confirm the employment eligibility of all employees who are newly hired for employment in the United States since the effective date of this PO to perform work under this PO.
- b. Vendor shall not knowingly employ or contract with an illegal alien to perform work under this PO or enter into a contract with a subcontractor that fails to certify to Vendor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this PO.
- c. Vendor hereby certifies that it has confirmed the employment eligibility of all employees who are newly hired for employment in the United States since the effective date of this PO to perform work under this PO through participation in the Program.
- d. If the Vendor participates in the Department Program the Vendor shall notify Platte River of such participation. A participating Vendor shall, within twenty (20) days after hiring an employee who is newly hired for employment within the United States to perform work under this PO, affirm to the Colorado Department of Labor and Employment ("Department") that the Vendor has examined the legal work status of such employee, retained file copies of the documents required by 8 U.S.C. sec. 1324a, and not altered or falsified the identification documents for such employees. At the time of such submittal to the Department, the Vendor shall provide a written, notarized copy of the affirmation to Platte River.
- e. Vendor is prohibited from using Program procedures to undertake pre-employment screening of job applicants while this PO is being performed.
- f. If Vendor obtains actual knowledge that a subcontractor performing work under this PO knowingly employs or contracts with an illegal alien, Vendor shall be required to: (i) Notify the subcontractor and Platte River within three (3) days that Vendor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and (ii) Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to this subparagraph the subcontractor does not stop employing or contracting with the illegal alien; except that Vendor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.
- g. Vendor shall comply with any reasonable request by the Colorado Department of Labor and Employment ("Department") made in the course of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. Article 17.5.
- h. If Vendor violates this paragraph, Platte River may terminate this PO for cause. If this PO is so terminated, Vendor shall be liable for actual and consequential damages to Platte River.

19. PUBLIC CONTRACTS WITH NATURAL PERSONS. Vendor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of C.R.S. §24-76.5-101 et seq., and (c) has produced a form of identification required by C.R.S. §24-76.5-103 prior to the date Vendor delivers goods or begins performing services under the terms of this PO.

20. **GOVERNMENTAL IMMUNITY ACT.** No term or condition of this PO shall be construed or interpreted as a waiver by Platte River, express or implied, of any of the immunities, rights, benefits, protections, or other provisions of the Colorado Governmental Immunity Act, C.R.S. §§24-10-101, *et seq.*, or of any other defenses, immunities, and limitations of liability available to Platte River, its officers and employees under the law.
21. **COMPLIANCE WITH LAW.** Vendor shall strictly comply with all applicable federal, state and local laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.
22. **NO ASSIGNMENT.** Vendor shall not assign rights or delegate duties under this PO or subcontract any part of the performance required under this PO, without the express, written consent of Platte River. This PO shall inure to the benefit of and be binding upon Vendor and Platte River and their respective successors and assigns.
23. **BINDING EFFECT.** This PO shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective heirs, personal representatives, successors, and assigns.
24. **USE OF PLATTE RIVER TOOLS.** At Platte River's discretion, Vendor may be permitted to use Platte River owned tools in the performance of the Services. Vendor agrees that any such tools used are accepted "AS IS" and WITH NO WARRANTIES, express or implied. The Vendor accepts full responsibility for the care of Platte River tools during the period of use and will be responsible for their replacement at full retail value if not returned or returned in a damaged condition. In consideration of allowing use of Platte River tools the LIABILITY or claims for injury or death to person or damage to property arising from the Vendor's use of the tools, INCLUDING THOSE INJURIES OR DAMAGES CAUSED BY PLATTE RIVER'S ALLEGED OR ACTUAL NEGLIGENCE.
25. **EQUAL EMPLOYMENT OPPORTUNITY.** **Platte River is an equal opportunity employer and federal contractor or subcontractor. Consequently, the parties agree that, as applicable, they will abide by the requirements of 41 CFR 60-1.4(a), 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a) and that these laws are incorporated herein by reference. These regulations prohibit discrimination against qualified individuals. No person shall be unlawfully discriminated against because of race, color, national origin or ancestry, sex, age, religious convictions, veteran status, disability, sexual orientation, or other classification protected by law. These regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status, or disability. The parties also agree that, as applicable, they will abide by the requirements of Executive Order 13496 (29 CFR Part 471, Appendix A to Subpart A), relating to the notice of employee rights under federal labor laws.**