

HOUSING AUTHORITY OF THE CITY OF LOS ANGELES
Purchase Order Terms and Conditions for Goods, Equipment and/or Materials
(Within the Simplified Acquisition Threshold)

A. All Orders – Regardless of Funding Source

All Orders for the purchase of Goods, Equipment and/or Materials (collectively, “Goods”), regardless of funding source utilized, are subject to the following contract terms and conditions:

1. Offer/Acceptance; Conflicting Terms. Upon acceptance by HACLA, a solicitation, bid, proposal, or price quotation and the resulting Purchase Order (collectively, this “Order”) shall be deemed a binding contract upon Vendor’s commencement of performance. This Order constitutes the sole and entire agreement of the parties with respect to this Order and supersedes all prior agreements, understandings and commitments, whether oral or written. This Order shall not be amended in any way except by a writing expressly purporting to be such an amendment, signed and acknowledged by both of the parties hereto. If any term and condition listed herein is in conflict with any other term and condition imposed by the Authority for the purchase of the subject Goods, the Authority shall decide which terms and conditions apply.

2. Price and Payment. The price of the Goods is the price stated on the face of this Order (the “Price”). Vendor shall invoice HACLA for this Order within 30 days of delivery. Invoices shall be prepared and submitted to the "Bill To" address shown on the Purchase Order. Invoices must be itemized and shall reference the Purchase Order number, description of Goods, unit of measure, and price. Unless otherwise stated in this Order, HACLA shall pay all properly invoiced amounts due to Vendor within 30 days after receipt of such invoice, except for any amounts disputed by HACLA. The parties shall seek to resolve all such disputes expeditiously and in good faith. Vendor shall continue performing its obligations under this Order notwithstanding any such dispute. Without prejudice to any other right or remedy, HACLA reserves the right to set off any amount owing to it by Vendor against any amount payable by HACLA to Vendor. Payment of an invoice is not evidence or admission that the Goods meet the requirements of this Order.

3. Deliveries. Goods shall be delivered and/or performed at the delivery point (the “Deliver Location”), and on the date(s) specified in this Order (the "Delivery Date"). If no delivery date is specified, Vendor shall deliver in full within a reasonable time of receipt of this Order. Timely delivery is of the essence. If Vendor cannot ship this Order without delay, Vendor shall notify HACLA and establish a mutually acceptable delivery date. If Vendor fails to deliver the Goods in full, on the Delivery Date or a mutually acceptable delivery date, HACLA may terminate all or any part of this Order and Vendor shall indemnify HACLA against any losses, damages, and reasonable costs and expenses attributable to Vendor's failure to deliver. Vendor shall not substitute material or ship more than the quantity ordered without HACLA’s prior written approval. Vendor shall be solely responsible for and pay all costs of delivering the Goods to the Delivery Location, including, without limitation, all shipping and freight costs.

4. Risk of Loss. Risk of loss shall not pass to HACLA until the Goods called for in this Order actually have been received and accepted by HACLA at the Delivery Location. Vendor assumes full responsibility for packing, crating, marking, transportation and liability for loss and/or damage even if HACLA has agreed to pay freight, express or other transportation

charges.

5. Inspection. HACLA reserves the right to inspect the Goods on or after the Delivery Date. HACLA, at its sole option, may reject all or any portion of the Goods if it determines the Goods are defective or nonconforming. If HACLA requires repair or replacement of the Goods, pursuant to the Warranty provision at section 6, Vendor shall promptly repair or replace the nonconforming Goods. If Vendor fails to timely deliver repaired or replacement Goods, HACLA may replace them with Goods from a third party and charge Vendor the cost thereof and terminate this Order. Any inspection or other action by HACLA under this Inspection section shall not affect Vendor's obligations under this Order, and HACLA shall have the right to further inspection after Vendor takes remedial action.

6. Warranty. Notwithstanding HACLA's acceptance or right of inspection and/or any other terms or conditions provided in this Order, Vendor warrants that the Goods furnished hereunder: (i) are new and free from any defects in workmanship, material and design; (ii) conform to applicable specifications; (iii) are fit for their intended purpose and operate as intended; (iv) are free and clear of all liens, security interests or other encumbrances; and (v) do not infringe or misappropriate any third party's intellectual property rights. These warranties survive any delivery, inspection, acceptance or payment. These warranties are cumulative and in addition to any other warranty provided by law or equity. Any applicable statute of limitations runs from the date of HACLA's discovery of the noncompliance. If HACLA gives Vendor notice of noncompliance, Vendor shall, at its own cost and expense, promptly replace or repair the nonconforming Goods.

7. Safety Requirements. All Goods furnished hereunder shall meet all Federal and State requirements regarding Health and Safety. All shipments of hazardous and toxic material shall include Material Data Safety Sheets (MSDS), which shall be sent to the attention of the Purchasing Department at the Delivery location indicated on the Purchase Order, and shall include the Purchase Order Number.

8. Equal Employment Opportunity. Vendor shall not discriminate against any employee or applicant for employment on any basis prohibited by law. Vendor shall provide equal opportunity in all employment practices.

9. Performance Evaluation. Vendor's performance under this Order will be evaluated in accordance with HACLA's Vendor Evaluation Form, a copy of which is available at <http://www.hacla.org/forms>. Vendor understands and agrees that HACLA may rely upon completed Vendor Evaluation Forms in assessing Vendor's qualifications, responsibility and ability to perform on future contracting opportunities with HACLA and that an over-all assessment of "Unsatisfactory" may result in Vendor's disqualification or debarment from future contracting opportunities with HACLA.

10. Compliance with Laws. Vendor agrees to comply with all applicable federal and state laws, regulations and policies, as amended, including those regarding discrimination, unfair labor practices, anti-kick-back, collusion, and the provisions of the Americans with Disability Act.

11. Conflicts of Interest. Vendor warrants that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest which is defined as a situation in which the nature of work under this Order and a Vendor's organizational, financial, contractual or other interests are such that (i) award of the Goods may result in an unfair competitive advantage, or (ii) Vendor's objectivity in performing the contract work may be impaired. Vendor agrees that if after award it discovers an organizational conflict of interest with respect to this Order or any task/delivery under this Order, he or she shall make an immediate and full disclosure in writing to the Purchasing Department, which shall include a description of the action which Vendor has taken or intends to take to eliminate or neutralize the conflict. HACLA may, however, terminate this Order for the convenience of HACLA if it would be in the best interest of HACLA. In the event the Vendor was aware of an organizational conflict of interest before the award of this Order and intentionally did not disclose the conflict to HACLA, HACLA may terminate this Order for default.

12. Independent Contractor. While engaged in carrying out other terms and conditions of this Order, Vendor is an independent Contractor, and not an officer, employee, agent, partner, or joint venture of HACLA.

13. Indemnification. The Vendor shall hold HACLA harmless and at HACLA's request defend from any or all damages, liability, costs, judgments or obligations arising out of death, injuries or damage to any person or property resulting from or in any way connected with the performance or failure to perform this Order by the Vendor, its officers, employees, subcontractors or agencies.

14. Certification of Eligibility. Vendor certifies that neither he/she/it nor any person or firm who has an interest in the Vendor's business is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act (40 U.S.C. 3144(b)(2)) or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

B. Federally-Assisted Orders

Federally-assisted Orders for the purchase of Goods, Equipment and/or Materials (collectively, "Goods"), are also subject to the following contract terms and conditions from HUD's Mandatory Contract Clauses for Small Purchases other than Construction:

"HA" and "PHA" as used herein refers to HACLA. "Contract" as used herein refers to this Order. "Contractor" as used herein refers to Vendor.

1. Contractor is subject to Federal laws including the U.S. Housing Act of 1937, as amended, Federal regulations, and all applicable state law and regulations. Additionally, Contractor is subject to the following mandatory contract provisions for non-construction purchases under \$100,000, when paid using federal funds:

a. Examination and Retention of Contractor's Records. The PHA, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall,

until three years after final payment under this contract, have access to and the right to examine any of the Contractor's directly pertinent books, documents, papers, or other records involving transactions related to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

b. Right in Data and Patent Rights (Ownership and Proprietary Interest). The PHA shall have exclusive ownership of, all proprietary interest in, and the right to full and exclusive possession of all information, materials, and documents discovered or produced by Contractor pursuant to the terms of this Contract, including, but not limited to, reports, memoranda or letters concerning the research and reporting tasks of the Contract.

c. Energy Efficiency. Contractor shall comply with all mandatory standards and policies relating to energy efficiency which are contained in the energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub.L. 94-163) for the State in which the work under this contract is performed.

d. Procurement of Recovered Materials¹. (a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Contractor shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The Contractor shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Contractor determines that such items: (1) are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (iii) are only available at an unreasonable price. (b) Paragraph (a) of this clause shall apply to items purchased under this contract where: (1) the Contractor purchases in excess of \$10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Contractor: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of \$10,000 of the item both under and outside that contract.

e. Termination for Cause and for Convenience (contracts of \$10,000 or more). (a) The PHA may terminate this contract in whole, or from time to time in part, for The PHA's convenience or the failure of the Contractor to fulfill the contract obligations (cause/default). The PHA shall terminate by delivering to the Contractor a written Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall: (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the PHA all information, reports, papers, and other materials accumulated or generated in performing the contract, whether completed or in process. (b) If the termination is for the convenience of the PHA, the PHA shall be liable only for payment for services rendered before the effective date of the termination. (c) If the termination is due to the failure of the Contractor to fulfill its obligations under the contract (cause/default), the PHA may (1) require the Contractor to deliver to it, in the manner and to the extent directed by the PHA,

¹ Applicable to Orders over \$10,000

any work described in the Notice of Termination; (2) take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable for any additional cost incurred by the PHA; and (3) withhold any payments to the Contractor, for the purpose of set-off or partial payment, as the case may be, of amounts owned by the PHA by the Contractor. In the event of termination for cause/default, the PHA shall be liable to the Contractor for reasonable costs incurred by the Contractor before the effective date of the termination. Any dispute shall be decided by the Contracting Officer.

2. Compliance with Copeland “Anti-Kickback” Act Requirements.² Contractor shall comply with the requirements of 29 CFR Part 3, which are hereby incorporated by reference in this Order.

² 2 CFR Chapter 1, Chapter II, Part 200 (Appendix), 40 U.S.C. Sec. 3145