

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

1. **Purpose.** These purchase order terms and conditions govern any products or services Platte River Power Authority (“**Platte River**”) purchases from the entity listed on the face of the purchase order attached to these terms and conditions (the “**Vendor**,” including all Vendor employees, contractors, subcontractors, and agents). Vendor and Platte River may be referred to individually as a “**Party**” and together as the “**Parties**.” These purchase order terms and conditions, and the accompanying purchase order, together constitute the “**PO**.” This PO is effective either (1) upon Vendor’s written acceptance of the PO or (2) when Vendor begins performing the services or ships the products described in the PO, whichever occurs first. This PO, including any attachments, is a binding contract, contains the entire agreement of the Parties, and supersedes all prior and contemporaneous oral and written agreements concerning its subject matter, unless the Parties have agreed to and fully signed other contractual terms and conditions governing Platte River’s purchases from Vendor. **This PO may not be modified, replaced, or overridden with any other Platte River- or Vendor-issued terms and conditions, or any other document or communication (including, by way of example but not limitation, any confirmation, acknowledgement, consent, price quotation, invoice, billing statement, or legend) without Platte River’s prior written consent.**

2. **Purchasing and Payment.** Vendor will furnish the products or services at the prices set forth in this PO. Vendor warrants that the prices charged for products or services under this PO are not higher than those charged to any other customer for products or services of like grade, quality, and quantity. Vendor will invoice Platte River for the products or services furnished (including the PO number and a description of the products or services furnished, part numbers, line numbers, quantities, and prices), and Platte River will pay Vendor within 30 days after Platte River receives and approves a valid invoice. Platte River is not responsible for any delay in payment due to Vendor’s failure to timely submit invoices. Vendor must send electronic copies of invoices to:

Platte River Power Authority
Attention: Accounts Payable
Email Address: platteriver-ap@prpa.org

Platte River is a tax-exempt government entity. Vendor may not include any sales or use taxes on invoices for any products or services furnished under this PO.

3. **Changes and Additions.** Platte River may at any time, upon request to Vendor, change, reduce, or increase the general scope of this PO. If any change or addition causes an increase or decrease in the cost of products or services or the time required for performance under this PO, Vendor must immediately notify Platte River in writing. Once Platte River receives and accepts Vendor's notice, Platte River will equitably adjust the price, time of performance, or both, by written modification of this PO. Vendor may not make any change or addition to this PO without Platte River's prior written consent.
4. **Delivery.** Vendor must strictly comply with the delivery and time provisions specified in this PO. All products must be delivered in packages adequate to ensure the integrity of the product and safe arrival. Vendor shipments must be from the nearest distribution point to destination, and Platte River may deduct excess freight from invoices if Vendor makes shipments from greater distances. All shipments must be made on FOB Destination terms, freight prepaid and added, unless the Parties otherwise agree in writing. If Vendor fails to comply with this PO's delivery terms, Platte River may elect to (a) extend any applicable delivery dates or (b) provide for alternative transportation and shipment at Vendor's expense. Vendor will bear the risk of loss for products until Platte River has had an opportunity to inspect and has accepted the products.

If Vendor anticipates any delay in delivery, Vendor must immediately inform Platte River, and Platte River reserves the right to cancel the delivery and purchase the products or services elsewhere. Vendor will bear the difference in the cost of any substitute purchases.

Vendor must deliver the specified quantity of products to Platte River. If Vendor delivers a quantity exceeding the purchased amount, Platte River may retain any quantities up to a value of \$100 without compensating Vendor and Vendor waives any right to, or interest in, excess quantities. For excess deliveries with a value exceeding \$100, Platte River may, at its option, either (x) retain the excess delivery and pay Vendor for the excess product at the PO price or (y) return the excess delivery to Vendor at Vendor's expense.

5. **Monitoring and Evaluation.** Platte River reserves the right to monitor and evaluate Vendor's progress and performance under this PO. Vendor will cooperate with Platte River in this monitoring and evaluation.
6. **Warranty.** Vendor warrants that the products or services furnished under this PO will be as specified in the PO, and that Vendor will perform any services in a professional and competent manner consistent with industry standards and free from defects in workmanship and materials. This warranty applies for 90 days from the date Vendor completes delivery of the products or performance of the services (the "**Warranty Period**"). Vendor transfers to Platte River any manufacturer warranties on products supplied under this PO.

Should Platte River notify Vendor within the Warranty Period that the products or services fail to meet the provisions of this warranty, Vendor will promptly correct any defects at no cost to Platte River by adjustment, repair, replacement, or reperformance. The Warranty Period will be extended by 90 days from the completion of any adjustment, repair, replacement, or reperformance.

7. **Platte River Property; Work for Hire.** Any deliverables specified in this PO (for example, reports, surveys, maps, plans, drawings, photographs, and any other materials produced by Vendor under this PO) are Platte River property. Deliverables will constitute “Work for Hire” under United States copyright law.
8. **Liens.** All products sold must be clear of all taxes, liens, and encumbrances of any kind and Vendor must immediately issue a clean bill of sale upon completion of delivery of products to Platte River or performance of services.
9. **Safety; On-Site Work Requirements.** If Vendor will perform services or install products on Platte River premises, Vendor must comply with the following:

9.1 General Requirements. Vendor must always follow safe work procedures and use safe work habits. Vendor has read and agrees to adhere to the Vendor Safety Requirements outlined in Platte River’s Vendor Safety Qualification form. Before coming on site, Vendor must submit a completed Vendor Safety Qualification form, located at <https://www.prpa.org/vendor-safety-qualification/>. Vendor must provide Platte River with an updated Vendor Safety Qualification form no later than February 15 of each year through the term of this PO.

Platte River may inspect the services to verify compliance with this requirement. It is strictly prohibited for anyone to be under the influence of drugs (other than validly prescribed medication that does not impair job functions) or alcohol while working on behalf of Platte River or on Platte River’s premises. Any Vendor personnel who violate this policy will be removed from the job site.

9.2 Safety Orientation. At Platte River’s request, on-site Vendor personnel must attend a 30-minute safety orientation before the first shift of the first day of work. The orientation will be held at the beginning of the first shift. This orientation can be scheduled and completed at any time before the first installation of products or start of services. If the orientation is not completed before the first installation of products or start of services, Vendor must allow for 30 minutes before the start of the first shift to complete this orientation.

9.3 Measures to Protect Employee and Public Health. At Platte River’s request, Vendor must promptly provide information concerning potential risks to public health or the health of employees or subcontractors (for example, recent travel or other activities that could result in exposure to contagious illnesses). Platte River and Vendor will collaborate to share information about potential risks in a manner that complies with applicable laws. Platte River may suspend or adjust work schedules if Platte River determines it is necessary or advisable to reduce risk of illness to the public or employees or subcontractors of Platte River or Vendor. Platte River and Vendor will confer in good faith to identify measures to effectively protect public, employee, and subcontractor health while minimizing disruption to the purposes of this PO and to operations and activities of Platte River and Vendor.

9.4 Use of Platte River Tools. At Platte River's discretion, Vendor may use Platte River owned hand tools to install products or perform services. Vendor accepts any Platte River tools "AS IS" and WITH NO WARRANTIES, express or implied. Vendor accepts full responsibility for the care of Platte River tools, and will be responsible for their replacement at full retail value if not returned or returned in a damaged condition (but will not be held responsible for replacement of or damages from normal "wear and tear"). Any damages, injuries, or deaths due to Vendor's use of Platte River tools are subject to the indemnification obligations under **Section 11** of this PO.

10. Independent Contractor; No Partnership. Vendor is an independent contractor and not an employee or agent of Platte River. No Vendor employee, agent, or subcontractor is entitled to workers' compensation benefits from Platte River. Vendor is solely responsible for paying any federal and state income or other taxes on money received under this PO. This PO does not create an agency, partnership, or joint venture relationship between Platte River and Vendor or any other party. Platte River is not responsible for the debts or obligations of Vendor or any other party.

11. Indemnification. Vendor agrees to indemnify, defend, and hold harmless Platte River and its directors, officers, employees, and agents from all liability, loss, costs, charges, obligations, expenses, attorneys' fees, litigation, judgments, damages, claims or other demands of any kind (collectively, "**Damages**") arising from any negligent act or omission, other tortious conduct, or willful misconduct of Vendor or its directors, officers, employees, or agents, in connection with this PO.

Vendor warrants that services or products furnished under this PO, and Platte River's use of them, will not infringe any patent or invention, copyright, trade secret, or other proprietary right. Vendor agrees to indemnify, defend, and hold harmless Platte River and its directors, officers, employees, and agents from all Damages arising out of any claims of patent or other intellectual property infringement, in part or in whole, for Platte River's use, sale, or purchase of Vendor-provided services or products.

12. Insurance Requirements. Vendor agrees to secure and maintain insurance, including endorsements for "Waiver of Subrogation" and "Additionally Insured," to protect both Vendor and Platte River against all hazards and risks of loss related to the services and products delivered under this PO. The form and limits of insurance, together with the underwriter for each type of insurance, are subject to Platte River acceptance, but regardless of Platte River's acceptance, Vendor must always maintain insurance coverage adequate for the risks of its business operations. Vendor must provide proof of coverage as requested by Platte River. Vendor's compliance with these insurance requirements does not limit Vendor's contractual responsibilities, liabilities, or obligations under this PO.

Subject to Vendor's obligation to obtain Platte River's prior written consent before subcontracting any products or services under this PO, Vendor must include the insurance requirements in this PO in all subcontracts related to this PO. Vendor will be responsible if any subcontractor fails to meet the insurance requirements of this PO. Platte River reserves the right to approve variations in the insurance requirements applicable to subcontractors

upon joint written request of a subcontractor and Vendor if, in Platte River's opinion, the variations do not substantially affect Platte River's interests.

13. **Equal Employment Opportunity**. Platte River is an equal opportunity employer and federal contractor. The Parties agree to abide by the requirements of 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a), as applicable. Neither Platte River, nor Vendor, will discriminate against any person because of race, color, national origin or ancestry, sex, gender identity, age, religious convictions, religious practices and observances, pregnancy, childbirth, or related medical conditions, disability, sexual orientation, status as a protected veteran or spouse or family member of a protected veteran, or any other protection under applicable federal, state, and local laws and regulations.

To the extent not exempt, Platte River and covered Vendor will comply with Section 503 of the Rehabilitation Act, as amended; the Vietnam Era Veterans' Readjustment Assistance Act, as amended; and the requirements of 41 CFR §§ 60 300.5(a) and 60-741.5(a). **These laws and regulations prohibit discrimination against all individuals based on their disability status and status as a protected veteran or spouse or family member of a protected veteran and require that covered prime contractors and subcontractors employ and advance in employment individuals without regard to disability status and status as a protected veteran or spouse or family member of a protected veteran.** To the extent not exempt, Platte River and covered Vendor will also comply with the requirements of 29 CFR Part 471, Appendix A.

14. **Harassment**. All persons on Platte River premises are entitled to a working environment free from harassment based on race, color, religion, creed, sex, national origin, ancestry, age, sexual orientation, gender identity, or disability. Platte River does not tolerate harassment on its premises. By entering this PO, Vendor agrees to comply with this policy.
15. **Time of the Essence**. Time is of the essence in performance of Vendor's obligations under this PO.
16. **Governmental Immunity Act; Colorado Open Records Act**. Nothing in this PO waives any 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 by law to Platte River. Platte River is subject to the Colorado Open Records Act, C.R.S. §§24-72-201 et. seq. and any information provided to Platte River may be made public if required by law.
17. **Governing Law; Venue**. This PO is governed by the laws of the state of Colorado (exclusive of choice-of-law principles), and venue for any litigation related to this PO will be Larimer County, Colorado.
18. **Restriction on Assignment; Subcontracting**. Vendor may not assign this PO or delegate any of its duties or engage a subcontractor to carry out any obligations without Platte River's prior written consent.

19. **Severability**. If a court of competent jurisdiction holds any provision of this PO invalid or unenforceable, the other provisions of this PO remain valid.
20. **Headings**. Headings used in this PO are for convenience and do not affect the meaning or interpretation of this PO.
21. **Termination; Suspension of Services**.
- 21.1 **Generally**. Platte River may terminate this PO without cause if it determines termination is in Platte River's best interest. If Platte River elects to terminate this PO without cause, Platte River will give Vendor at least 14 days' prior written notice of termination. Platte River may also elect at any time to suspend services or product orders under this PO by giving Vendor at least 14 days' prior written notice.
- 21.2 **For Cause**. If Vendor fails to fulfill any obligation under this PO in a timely and proper manner, breaches any provision of this PO, or violates any applicable law, Platte River will have the right to terminate this PO for cause immediately upon written notice. Vendor will be liable to Platte River for any Damages Platte River incurs due to Vendor's breach of this PO, and Platte River may withhold payment to Vendor until Platte River determines the exact amount of Damages due from Vendor.
- 21.3 **Termination-Related Obligations**. If Platte River terminates this PO or suspends services or product orders under **Section 21.1** or **21.2** above, Platte River will pay Vendor for products delivered or installed and services performed as of the termination (or suspension) date. Vendor may not deliver or install any additional products or perform any additional services following notice of termination or suspension unless otherwise instructed by Platte River. Platte River will have no payment obligations or other liability to Vendor for products delivered or services performed after the termination or suspension date.
22. **Platte River's Right to Audit**. If required by law or corporate compliance policies, Platte River (or its designee) may audit Vendor records related to this PO during the term of the PO and for the longer of (a) three years following its termination or expiration or (b) any period required by law. To exercise its rights under this **Section 22**, Platte River (x) must give Vendor reasonable advance notice, (y) may view Vendor's PO-related records at Vendor's place of business during Vendor's normal business hours, and (z) will make good-faith efforts to minimize disruption to Vendor's business operations while conducting audit activities. Vendor must cooperate in good faith to support an efficient and effective audit.
23. **Notices**. Notices required under this PO, other than invoices, must be directed to the Parties' addresses listed on the face of this PO. Notices will be considered received when hand-delivered or three days after being sent by certified mail, return receipt requested. Other general correspondence between the Parties related to PO implementation may be delivered to the Parties' email addresses listed on the face of this PO, unless either Party notifies the other that email correspondence is not acceptable.

24. Survival. If this PO terminates or expires, any payment obligations outstanding on the termination date and the provisions in **Section 2** (Purchasing and Payment) will survive until fully satisfied. In addition, this **Section 24** (Survival), **Section 6** (Warranty), **Section 7** (Platte River Property; Work for Hire), **Section 10** (Independent Contractor; No Partnership), **Section 11** (Indemnification), **Section 16** (Governmental Immunity Act; Colorado Open Records Act), **Section 17** (Governing Law; Venue), **Section 19** (Severability), **Section 20** (Headings) and **Section 22** (Platte River's Right to Audit) will survive until all statutes of limitation related to claims that could be made in connection with this PO have run.