

BAD RIVER BAND OF THE LAKE SUPERIOR TRIBE OF CHIPPEWA INDIANS CONTRACT GENERAL AND SUPPLEMENTARY CONDITIONS

1. **Definitions** - "Owner" means the Bad River Band of the Lake Superior Tribe of Chippewa Indians or any instrumentality thereof. "Contractor" means the person, firm, company, limited liability company or corporation supplying the goods or services under Owner's purchase order/contract, including these Conditions (the "Contract"), and includes all sales or other agents, subcontractors, employees and distributors thereof.
2. **Price** - The contract must not be filled at higher prices than the last quoted without authority of Owner, and it is agreed that your price will be the lowest prevailing market price.
3. **Delivery** - Deliveries shall be F.O.B. destination freight prepaid and included unless otherwise stated. Failure of the Contractor to adhere to delivery schedules as specified or to promptly replace rejected materials with same materials shall render the Contractor liable for all costs in excess of the contract price when alternate procurement is necessary. Excess costs shall include the administrative costs.
4. **Payment Terms** - The Tribe normally will pay properly submitted vendor invoices within thirty (30) days from receipt of invoice. Invoices presented for payment must be submitted with reference to purchase order number and submittal to the correct address for processing.
5. **Quantity** - Delivery of any material over and above the actual quantity specified on the contract will be at the risk of the Contractor and payment will not be made for such overruns unless agreed to in writing by the tribe.
6. **Quality** - Unless otherwise indicated all material shall be first quality and must be as specified and will be subject to inspection and approval of Owner after delivery. Items which are used, obsolete, seconds, or which have been discontinued are unacceptable without prior written approval. The Owner reserves the right to reject and return at the risk and expense of the Contractor such portion of any shipment which may be defective or fails to comply with specifications without invalidating the remainder of the contract. If rejected, it will be held for disposition at expense and risk of the Contractor. The Contractor shall correct or replace rejected materials without expense to Owner. No substitutions may be made without prior written approval.
7. **Warranty** - Contractor warrants the following: (i) all goods delivered will be free from defects in material and workmanship and conform to applicable specifications; (ii) Contractor has good title to the goods provided to Owner and passes such title to Owner free from any liens, security interests or other encumbrances; (iii) the goods are merchantable and fit for the purpose intended; (iv) all services shall be completed in a professional, workmanlike manner and in accordance with applicable specifications; (v) the Contractor shall repair all defects in materials, equipment, or workmanship appearing within one year from the date of acceptance by Owner, and; (vi) the goods and services provided under the Contract will not infringe or violate any patents, trade secrets, trademarks, copyrights or other rights of any third party. To the extent applicable, Contractor shall assign all express warranties of any manufacturer of the goods for the benefit of Owner.
8. **Packing Slips** - A packing slip shall be enclosed with all shipments, showing purchase order number, part number and quantity. Owner will not receive materials unless it is tagged or marked with Owner's purchase order number.
9. **Hazardous Materials** - All packaging, transportation and handling of hazardous materials shall be in accordance with applicable laws and regulations; Contractor shall be responsible for any non-compliance. All Contractors who supply hazardous materials shall provide Material Safety Data Sheets with the contract.
10. **Indemnification** - Contractor shall indemnify and hold harmless the Tribe, its officers, employees, agents and representatives, from and against any and all claims, of whatever nature, for injuries or losses, or damages arising out of Contractor's negligence, gross negligence, or intentional misconduct, or the negligence, gross negligence or intentional misconduct of Contractor's employee's, agents and representatives.
11. **Assignment** - Contractor may not assign or delegate its rights or duties in whole or in part under this agreement without the prior express written consent of the Tribe.
12. **Gratuities** - Contractor shall not offer nor give gratuities, in any form, to any employee or relative of an employee of the Tribe.

13. **Force Majeure** - Any delay in or failure of performance by either party shall not constitute default hereunder if and to the extent such delay or failure of performance is caused by occurrences beyond the control of the party, which are not within reasonable control of the party.
14. **Licensing** - Contractors may be required to have a vendor license issued by the Tribe. Some Contractors may be required to maintain a license as required by the Bad River Gaming Compact. Failure of Contractor to maintain required licenses or termination of required licenses and permits may result in removal of Contractor's name from the vendor list and immediate cancellation of the Contract.
15. **Contract Acceptance** - Any acceptance of the Contract by the Contractor, whether in writing or by performance, is limited to and shall be subject to these Conditions, or in any written amendment signed by Owner and binding upon Contractor. Any proposal for additional or different terms in any document provided by Contractor to change the terms of the Contract is rejected and shall not be effective.
16. **Acceptance by Owner** - Goods and/or services purchased under the Contract are subject to Owner's inspection and approval within a reasonable time, but not less than 60 days after delivery. Owner, at its option, may reject all of any portion of such goods or services which do not conform in every respect with the terms of the Contract, or require Contractor to provide replacement goods or re-perform services in conformity with the terms of the Contract at Contractor's cost. If Owner elects to accept nonconforming goods or services, Owner, in addition to its other remedies, shall be entitled to deduct a reasonable amount from the contract price thereof to compensate Owner for the nonconformity. Any acceptance by Owner shall not be deemed a waiver or settlement of any defect in such goods and/or services.
17. **Risk of Loss** - Until accepted by Owner as provided above, Contractor shall bear all risk of loss and damage, unless such loss results from the negligence of Owner.
18. **Change, Cancellation and Termination** - The Contract can be changed, terminated or canceled by Owner for any reason, including convenience upon prior written notification to Contractor. In the event of a change, Owner and Contractor will make a fair and equitable modification to their rights and obligations under the Contract, if such change results in an increase or decrease in costs to be

incurred or time needed to complete performance of the Contract. Termination or cancellation for convenience by Owner will entitle Contractor to payment for only those goods or services delivered, received and accepted and not subsequently rejected by Owner. Owner may immediately terminate the Contract without prejudice to any right or remedy, after giving Contractor notice of any breach by Contractor of its obligations hereunder.

19. **Taxes** - Except as otherwise expressly provided in the Contract, the contract price shall include all applicable Federal, State and local taxes of any kind. Goods and services purchased by Owner for its use on the Bad River Reservation are not subject to state or local sales, use or excise taxes. Owner will identify all goods and services which are not subject to Wisconsin Sales Tax.
20. **Use of Owner's Name** - Contractor agrees not to use the name of Owner or disclose the existence of the Contract in any advertising, promotion or other written or oral disclosure without the prior written consent of Owner.
21. **Confidentiality** - Confidential Information means any and all information and documents whether marked or unmarked as "Confidential", and without limitation, that the Tribe treats and regards as confidential and/or proprietary, and that is disclosed to the Recipient in writing, or if disclosed orally, is reduced to writing and delivered to the Recipient, within thirty (30) days after such oral disclosure. All information and documents belonging to the Tribe, and all copies of such information, shall be returned to the Tribe promptly upon completion of the project or services provided. All Confidential Information is provided "as is" and no representation or warranty as to accuracy or completeness is provided by the Tribe. Contractor shall not directly or indirectly use, disseminate, disclose or in any way reveal or use beyond the scope of authority granted by Owner all or any part of the confidential information which it will be exposed to and shall use such confidential information only to the extent specifically authorized by Owner. Upon cancellation or termination of the Contract for any reason whatsoever, Contractor shall turn over to Owner any and all copies it may have of confidential information. Contractor acknowledges that this provision shall survive the termination of the Contract. The confidentiality provisions of this Paragraph shall

apply to and be binding upon Contractor's officers, employees and representatives.

22. **Compliance with Laws** - Contractor shall comply with all laws and governmental rules, regulations and contracts applicable to the goods delivered and/or services rendered under the Contract including, but not limited to, obtaining all necessary licenses and permits including those which may be required by the Tribe for work performed within the reservation boundaries of the Tribe.
23. **Owner's Property** - Unless provided otherwise, all materials, including documents, drawings, specifications and tools, furnished or paid for by Owner shall remain the exclusive property of Owner unless otherwise specified in contract, agreement, etc. All documents, drawings, and specifications shall be considered confidential and not disclosed to any third party. All materials shall be returned to Owner upon Contractor's completion of its obligations under the Contract. Contractor assumes all liability for loss or damage of such materials caused by Contractor's negligence, excluding normal wear and tear.
24. **Insurance and Bonds – Insurance.** At all times during its performance hereunder, Contractor shall obtain and keep in force worker's compensation insurance for all of its employees within statutory limits and commercial general liability insurance, including coverage for product liability and completed operations, contractual liability and automobile liability for all owned, non-owned and hired vehicles used in carrying out the Contract with limits of not less than \$1,000,000 per occurrence. Owner reserves the right to require additional coverage or higher limits where warranted. Contractor shall provide Owner with certificate of insurance evidencing Contractor's compliance with the foregoing insurance provisions upon request. Owner's obligations under the Contract are conditioned upon Contractor's meeting the insurance requirements above.

Performance and Payment Bonds. Contractor shall furnish performance and payment Bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all Contractor's obligations under the Contract Documents. These bonds shall remain in effect at least through the Contractor's warranty period.

Licensed Insurers and Sureties. All insurance and bonds required by the Contract Documents to be purchased and maintained by Contractor shall be obtained from insurance or surety companies that

are duly licensed and authorized in the jurisdiction in which the Project is located to issue insurance policies or bonds for the coverages and limits so required.

25. **Independent Contractor** - Contractor is an independent contractor for all purposes of the Contract and its employees shall not be deemed to be employees or agents of the Owner. Contractor has not express or implied authority to bind the Owner by contract or otherwise.
26. **Waiver** - Waiver of a breach of any provision of the Contract shall not constitute waiver of future compliance with such provision nor shall it be construed as a waiver of any other breach.
27. **Severability** - If any provision of the Contract, including these Conditions, shall be declared illegal, void or otherwise unenforceable, the remaining provisions shall not be affected and will remain in full force and effect.
28. **Rights and Remedies** - The rights and remedies of Owner and Contractor set forth in the Contract are cumulative in addition to any other rights or remedies that they may have at law or in equity.
29. **Entire Agreement** - This Contract, together with any attachments or written amendments signed by Owner, constitutes the entire agreement between the parties.
30. **Sovereign Immunity** - Nothing in this Contract shall be construed to constitute a waiver, express or implied, of the sovereign immunity of the Owner.

