

Palm Beach County
Public Safety Department
Consumer Affairs Division
MVP Program
Standard Terms and Conditions

SECTION 1 - UNDERSTANDING

For the purposes of these terms and conditions, Palm Beach County shall be referred to as "COUNTY", and the MVP Program applicant shall be referred to as the "COMPANY".

The purpose of the MVP Program is to assist consumers in making informed decisions when searching for the best company with which to do business. It is understood that the Palm Beach County Board of County Commissioners through its Consumer Affairs Division and the MVP Program does not rate or recommend any company, product or service.

The term MEMBER does not denote a business relationship or partnership between the COUNTY and the COMPANY. The COUNTY is not and shall not be a partner or business associate as it relates to the COMPANY's business dealings or transactions with third parties. The COUNTY is not and shall not be held liable for any claims or actions arising against COMPANY by a third-party. The COMPANY's status as an MVP member does not imply a preferred ranking for procurement purposes in Palm Beach County.

SECTION 2 - COUNTY

A. The COUNTY through its Consumer Affairs Division agrees to provide:

1. A certificate to the COMPANY for display at its place of business, showing that the COMPANY meets all the requirements and conditions and is an "MEMBER" of the County's MVP Program.
2. A distinctive MVP logo decal for display at the place of business on a glass door or window.
3. A listing on the Palm Beach County Consumer Affairs website showing that the COMPANY is a member of the MVP program.
4. Authorization to use the MVP logo in business marketing efforts.
5. An extended Consumer Affairs "Business Information Report" including the business profile for the MVP COMPANY listing all consumer contacts in the Consumer Affairs Tracking system (CATS).
6. The MVP logo to be used on the official website of the member provided the COMPANY provides the specific hyperlink to the Consumer Affairs website when the MVP logo is "clicked" or used by any "visitor".
7. At least 1 hour of customer service training provided to the MVP COMPANY for in-house staff each year, as requested by the COMPANY and scheduled with the Consumer Affairs Division. The training must take place within Palm Beach County and is limited to one (1) hour of training for each location of a COMPANY with multiple locations (to a maximum of ten [10] hours each year).
8. Notice by the Consumer Affairs Division to the MVP COMPANY of upcoming changes to county consumer protection ordinances under the jurisdiction of the Consumer Affairs Division.

B. The COMPANY shall:

1. Maintain all Business Tax Receipts, licenses, certificates, and approvals required to conduct business, and agree to comply with all applicable local, state and federal laws relating to consumer protection and/or unfair and deceptive trade practices.
2. Agree to provide a business profile, including corporate status, identification of all officers and/or owner(s), beginning operation date, and other relevant information requested by the COUNTY, including but not limited to the specific name or names of persons in the business who will serve as the point-of-contact for the COUNTY and consumers when a dispute is submitted. The business agrees to also provide the direct mailing address, fax number, phone number(s) and e-mail address of such persons.
3. Agree to conduct its business in a reputable and ethical manner, providing the COUNTY with supporting documents and information concerning consumer

disputes within twenty (20) days after being contacted by the COUNTY. The COMPANY agrees to make a good faith effort to resolve disputes in a fair and considerate manner. If agreed by the COUNTY, the COMPANY may request an extension of time in order for the COMPANY to provide the written response.

4. Agree, when requested by the COUNTY or disputing consumer, to face-to-face informal mediation with the consumer if the normal mediation procedure was unsuccessful in resolving a dispute with a value larger than \$500. Typically, such mediation and negotiations will occur at the office of the Consumer Affairs Division located in West Palm Beach, Florida -- unless COUNTY, COMPANY and consumer agree to meet at another specified location. If no mutually agreeable solution is reached between the consumer and the COMPANY at the end of this process, the Consumer Affairs Division may issue recommendations to the COMPANY and/or consumer. The recommendation is non-binding on either party, is not a legal interpretation of law and does not compel either party to take action.
5. Agree to immediately relinquish all MVP seals, posters, and certificates to the COUNTY and further agrees to stop/eliminate all public conveyances that the COMPANY is part of the MVP program, should the COUNTY determine that the COMPANY has not abided by the requirements of the Agreement and these standard terms and conditions. The COUNTY will provide written notice of such action to the COMPANY. Any COMPANY which disputes such action by the COUNTY may appeal such action to the Consumer Affairs Hearing Board/Special Master within thirty (30) days of the written notice and after payment of a One Hundred Dollar (\$100.00) non-refundable administrative fee. Such administrative hearing shall be had in accordance with the procedures provided for the Consumer Affairs Hearing Board in Palm Beach County Ordinance No. 77-10, Sections 11 and 12, as amended.
6. Agrees to maintain records of the disputes filed with Consumer Affairs Division for 4 years from closure date of the dispute.

SECTION 3 – FAILURE TO COMPLY

If the COMPANY fails to comply with any these terms or conditions or the requirements listed below, the County may deny, suspend, revoke, or terminate the Agreement and/or disallow future participation in the program. The COMPANY may appeal such action as set forth in Section 2.B.5 above.

The Consumer Affairs Division reserves the right to terminate or deny a COMPANY from the Agreement and these standard terms and conditions for cause including, but not limited to the following reasons:

- A. Any action taken by the COUNTY where the business was found to be in violation of any of the ordinances administered by the Consumer Affairs Division, or any other applicable federal, state, or local laws.
- B. Any felony conviction or adjudication withheld where principals of the business had action taken against them by a government entity where the issue concerns a matter directly related to an unfair or deceptive business practice as defined by Florida Statute 502.201.
- C. Failure of the COMPANY to provide a written response to a dispute forwarded by the COUNTY within the specified time frame of these standard terms and conditions.
- D. Failure to timely provide information when the ownership of the company has changed hands.
- E. Failure to provide true and accurate information on the application and/or supporting documents.
- F. COMPANY is on or is added to the State of Florida convicted vendor list per Florida Statute 287.132-133.
- G. After the first year's acceptance and participation in the MVP Program, future participation in the MVP Program by the COMPANY will be prohibited or denied if the number of consumer disputes registered with the COUNTY against the COMPANY over the preceding year is higher than the average number of consumer disputes on record with the COUNTY for other similar types of businesses as determined by the COUNTY.
- H. Failure to maintain adequate insurance as required by Section 7.
- I. Any failure of COMPANY to comply with all other terms as set forth within the Agreement and standard terms and conditions.

SECTION 4 – TERM

The term of the Agreement shall be as set forth in the MVP Program Application/Agreement. It is further understood that the Agreement may be extended annually upon proof of compliance with all terms stated in Section 2,B. of these standard terms and conditions and payment of the annual subscription fee(s). The renewal shall be effective only after having been reduced to writing in a duly executed amendment to the Agreement.

SECTION 5 – PRICES AND PAYMENT

The COMPANY is obligated to pay the current rate and price schedule which is available from the COUNTY. Upon renewal of the Agreement, the MVP Member is obligated to pay the then current rate and price schedule which is available from the COUNTY. The COMPANY agrees to pay the yearly non-refundable subscription in advance by check, money order made payable to the “Board of County Commissioners”, or credit card (Master Card or Visa). Cash is not accepted.

SECTION 6 – NOTICE AND CONTACT

All notices provided under or pursuant to the Agreement and these terms and conditions shall be in writing, delivered either by hand or by first class, certified mail, return receipt requested, to the representatives identified below at the address set forth below:

For COUNTY:	Dennis Moore, Director Consumer Affairs 50 S. Military Trail Suite 201 West Palm Beach, FL 33415
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For COMPANY:	As per completed application
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SECTION 7 – INDEPENDENT CONTRACTOR

The COMPANY is, and shall be, in the performance of all activities under this Contract as Independent CONTRACTOR, and not an employee, agent, or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to this Contract shall at all times, and in all places, be subject to the COMPANY’s sole direction, supervision, and control. The COMPANY shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the COMPANY’s relationship and the relationship of its employees to the COUNTY shall be that of an Independent CONTRACTOR and not as employees or agents of the COUNTY.

The COMPANY does not have the power or authority to bind the COUNTY in any promise, Agreement or representation.

SECTION 8 - INSURANCE

- A. COMPANY shall, at its sole expense, agree to maintain in full force and effect at all times during the life of the Agreement, insurance coverages and limits (including endorsements), as described herein. The requirements contained herein, as well as COUNTY’s review or acceptance of insurance maintained by COMPANY are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by COMPANY under the contract.
- B. **Commercial General Liability:** COMPANY shall maintain Commercial General Liability at a limit of liability not less than five-hundred thousand (\$500,000) Per Occurrence Combined Single Limit for Bodily Injury, Personal Injury and Property Damage Liability. Coverage shall not contain any endorsement excluding Contractual Liability or Cross Liability unless granted in writing by County’s Risk Management Department. COMPANY shall provide this coverage on a primary basis. Company, to the extent permitted by the insurer, hereby waives any and all rights of Subrogation against the COUNTY, its officers, employees and agents.
- C. **Certificate(s) of Insurance:** Prior to execution of the Agreement, COMPANY shall deliver to the County Representative as listed in Section 5 above, a Certificate(s) of Insurance evidencing that all types and amounts of insurance coverages required by this Contract have been obtained and are in full force and effect. Such Certificate(s) of Insurance shall include a minimum ten (10) day endeavor to notify due to cancellation or non-renewal of coverage.

SECTION 9 – INDEMNIFICATION/LIABILITY

The COMPANY shall be solely responsible to parties with whom it shall deal in carrying out the terms of the Agreement and standard terms and conditions, and shall save the COUNTY, the Department, and the Division harmless against all claims of whatever nature by third parties arising out of this Agreement.

The COMPANY shall protect, defend, reimburse, indemnify and hold the COUNTY, its agents, employees and elected officers harmless from and against all claims, liability, expense, loss,

cost, damages or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising during and as a result of their performance of the terms of the Agreement and standard terms and conditions or due to acts or omissions of the COMPANY.

Any liability to the COUNTY shall not exceed the value of the cost for becoming a MEMBER of the MVP Program.

SECTION 10 – GENERAL TERMS AND CONDITIONS

COUNTY reserves the right to unilaterally cancel the Agreement and these terms and conditions for refusal by the COMPANY to allow COUNTY access to all documents, papers, letters, or other material.

The COMPANY is not to imply, state, or in any way give the impression that this Agreement or being a member of the MVP Program is an endorsement by the COUNTY, that it is perpetual, or that being a member is active when the membership has been revoked.

The COMPANY is prohibited from using the MVP Program member relationship to provide any benefit or advantage when or if the COMPANY sells products or provides services to the COUNTY.

SECTION 11 – INVALIDITY OF CLAUSES

The validity of any portion, article, section, paragraph, provision, clause, or any portion thereof of these standard terms and conditions and the Agreement shall have no effect upon the validity of any other part or portion hereof.

SECTION 12 - VENUE

The Agreement and these standard terms and conditions shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the Agreement and these standard terms and conditions shall be brought in a court of competent jurisdiction in Palm Beach County, Florida.

SECTION 13 – ATTORNEY'S FEES

Any costs or expenses (including reasonable attorney's fees whether at the trial or appellate level or otherwise) associated with the enforcement of the Agreement and these terms and conditions shall be borne by the respective parties, however, this clause pertains only to the parties to this Agreement.

SECTION 14 – NON-DISCRIMINATION

No person shall be excluded from participating in or be subject to discrimination in the performance of the Agreement and these terms and conditions on account of race, creed, color, sex, religion, national origin, sexual orientation, disability, gender identity and expression.

ARTICLE 15 – SUCCESSORS AND ASSIGNS

The Agreement and these standard terms and conditions shall be binding upon and inure to the benefit of the respective parties and their successors.