

## **PURCHASE ORDER TERMS AND CONDITIONS**

This purchase order is subject to the following terms and conditions. The terms and conditions herein set forth constitute an offer by Purchaser and may be accepted only on the exact terms set forth. Any different or additional terms in Vendor's acceptance of this offer are hereby objected to. Shipment and/or delivery by Vendor of any of the goods covered hereby, or performance of services hereunder, shall in all cases constitute an unqualified acceptance of all the terms and conditions of this purchase order by Vendor. Notwithstanding the foregoing, these Terms and Conditions shall not apply to purchase orders issued by Purchaser pursuant to Purchaser's Master Service Contract or Master Work Agreement, Professional Services Contract or Professional Services Agreement, Special Projects Contract or Agreement Between Owner and Contractor or Work Agreement (Short Form).

1. The correct Purchase Order Number must be shown on all shipping documents. Purchaser may defer payment for any goods shipped without correct order numbers shown thereon, until shipments have been properly coded.

2. Vendor shall indemnify, defend and save harmless Purchaser from and against all costs, claims, damages or expenses whatsoever arising out of claims or suits for infringement of patent or patent rights, trademark rights, copyrights or other intellectual property rights claimed to govern Vendor's processes, products, items, equipment, apparatus, or appliances. Purchaser shall give Vendor reasonable notice of any such claim or suit and Vendor shall undertake at its own expense the defense of any and all such claims or suits. Purchaser shall provide, at Vendor's expense, such assistance in defending such claim or suit as may reasonably be requested by Vendor. If the use of such item is enjoined, Vendor shall, at its sole expense, and subject to Purchaser's sole discretion, procure the right to continue use of the item, modify the item to render it noninfringing, replace the item with a noninfringing item, or remove the item completely and refund the purchase price plus all related transportation, installation and dismantling costs.

3. By accepting this purchase order, Vendor warrants, in addition to all other warranties, that: (a) all goods to be furnished hereunder shall be new, unless otherwise specified, free from defect in design, materials, workmanship and title, shall conform to Purchaser's specifications, drawings, and data, and shall be fit for the use intended by Purchaser; and (b) any services or work performed by Vendor shall be performed in a good and workmanlike manner and shall conform to any applicable specifications. Said warranties shall be in addition to any other warranties given to Purchaser by Vendor and in addition to any implied warranties arising thereunder. All warranties hereunder shall extend for a period of one year from the date of final acceptance by Purchaser of all the work of which the goods or services supplied hereunder are a part. Vendor agrees to indemnify, defend and hold harmless Purchaser against all losses, damages, costs or expenses arising from the breach of such warranties. All warranties shall survive any inspection, delivery, acceptance, or payment.

4. Time is of the essence in the performance of this purchase order, and if delivery of goods or rendering of services is not completed within the time promised, Purchaser reserves the right without liability, in addition to its other rights and remedies, to terminate this contract, by notice, effective when received by Vendor, as to stated goods not yet shipped or services not yet rendered, and to purchase substitute goods or services elsewhere and charge Vendor with any loss or additional cost incurred. Vendor shall not be liable for damages and costs resulting from delay caused by any unforeseen occurrence beyond the control and without the fault of Vendor, provided, however, that Vendor notifies Purchaser in writing within 48 hours subsequent to the commencement of the occurrence.

5. Vendor shall not assign, sublet, or otherwise dispose of the whole or any part of this purchase order, nor shall Vendor assign any money due or to become due hereunder without the previous written consent of Purchaser. Any attempt by Vendor to so assign or dispose of any interest herein shall constitute a material breach of this contract. Purchaser may at any time and without notice assign its right, interest and obligations herein to an affiliate of Purchaser.

6. Before any payment hereunder shall become due, Purchaser, at its option, may require Vendor to furnish satisfactory evidence of the payment of all accounts for labor and materials pertaining to Vendor's performance hereunder, and provided further that before any payment hereunder shall become due Vendor shall, if required by Purchaser, procure and furnish to Purchaser a full and complete release of liens from all persons furnishing labor and materials toward the performance hereof or, at the option of Purchaser a satisfactory surety bond indemnifying Purchaser against any claims based thereon. Vendor hereby waives all types and forms of liens for labor, services, supplies, equipment, and/or materials furnished hereunder.

7. Vendor shall within ten (10) days from date of notice furnish, at the option of Purchaser, a performance and payment bond or a surety bond, whichever is applicable, duly executed with a surety company approved by Purchaser and in form, contents, and amount acceptable to Purchaser. The cost of said bond shall be borne by Purchaser.

8. It is agreed that no payment made on account of this purchase order shall be conclusive evidence of delivery and acceptance of the items hereunder either wholly or in part or construed as acceptance of defective or improper goods.

9. Purchaser shall have the right to make changes in this purchase order. If such changes affect the price or the delivery date specified herein, Vendor shall, before proceeding, secure approval, in writing, of any change in price or date of delivery.

10. Purchaser shall not accept billing for any changes in the order or for any goods shipped in excess of that called for in the purchase order without Purchaser's written consent prior to such modifications. The prices on this purchase order are firm and not subject to escalation unless expressly noted on this purchase order.

11. Should Vendor breach or be in default of any provision of this purchase order, and should Purchaser employ an attorney to enforce any provision hereof, or to collect damages for such breach or

default, Vendor agrees to pay Purchaser such attorney's fees and litigation expenses as Purchaser may incur with respect thereto.

12. Vendor shall defend, indemnify, and save Purchaser harmless from all claims and liability for injuries to, and/or death of, any and all persons and for loss of and/or damage to property to the extent caused by the negligence or willful acts of Vendor in connection with the subject matter of this purchase order.

13. Vendor agrees that the goods supplied hereunder shall comply with any and all federal, state, or local safety laws, rules, or regulations in effect at the time of shipment or, if the goods are supplied pursuant to a lease arrangement, throughout the duration of the lease. In the event Purchaser is fined, assessed or required to make expenditures to correct an unsafe condition by reason of Vendor's failure to comply with this provision, Vendor shall reimburse and indemnify Purchaser for all such costs.

14. Waiver of Vendor's breach or default in any one particular hereunder shall not affect Purchaser's rights with respect to other different or continuing breaches or defaults by Vendor. No waiver of any right or privilege of Purchaser will occur upon Purchaser's failure to insist on performance of any term, condition, or instruction, or failure to exercise any right or privilege or its waiver of any breach. All waivers must be in writing and signed by Purchaser in order to be effective.

15. The terms and conditions of this purchase order shall be construed and interpreted under, and all respective rights and duties of the parties shall be governed by, the laws of the State of Mississippi without reference to its conflicts of law principles.

16. All negotiations and agreements prior to the date of this purchase order are merged herein and superseded hereby there being no agreements or understandings other than those written or specified herein. In the event of conflict between any proposal of Vendor specifically referred to herein and this purchase order, and as to all matters or points not expressly covered by such proposal, the terms and conditions of this purchase order shall govern. No custom or usage of any trade at variance with the terms and conditions of this purchase order shall be binding.

17. Vendor certifies that goods covered by this purchase order were produced in compliance with all applicable requirements of the Fair Labor Standards Act, as amended, and of regulations and orders of the United States Department of Labor issued thereunder. Vendor is required to implement the provisions of the OSHA hazard communication standard, 29 CFR 19910.1200, the so-called "Right To Know" law, which became effective May 25, 1986. When furnishing any material considered a physical or health hazard as defined by the standard, Vendor will furnish the required Material Safety Data Sheet (MSDS), together with appropriate labels and employee training or instruction material for that substance. MSDS must reference the proper purchase order number.

18. Purchaser reserves the right, at any time and for its convenience, to terminate this purchase order in whole or in part by written notice to Vendor. Immediately upon receipt of such notice, Vendor shall stop all performance hereunder except as otherwise directed by Purchaser. If Vendor is not in default of any of its obligations hereunder at the time of such termination, Purchaser shall pay to Vendor, as Vendor's sole and exclusive remedy, an amount equal to: (a) reasonable and documented costs incurred

by Vendor prior to termination, plus (b) the reasonable cost, if any, incurred by Vendor in winding up the work, provided, however, that the above amounts plus prior payments shall in no event exceed the amount of this purchase order. If Vendor is in default of any of its obligations hereunder at the time of termination, Vendor shall not be entitled to any further payments from Purchaser, and Purchaser may retain any monies owed to Vendor for work completed prior to termination of this purchase order to offset anticipated additional expenses incurred in completion of performance or other damages incurred by Purchaser as a result of Vendor's default. Purchaser may terminate this purchase order by written notice to Vendor upon the occurrence of any of the following events of default: (a) Vendor files for bankruptcy or an involuntary bankruptcy proceeding is commenced against Vendor; (b) Vendor makes a general assignment for the benefit of its creditors; (c) if any receiver is appointed for Vendor's business; or (d) Vendor is in default of any provision or requirement of this purchase order. Upon termination, Purchaser may complete the performance of this purchase order by any reasonable means, and Vendor shall be responsible for any additional costs incurred by Purchaser in accomplishing this completion. Upon request by Purchaser, Vendor will deliver or assign to Purchaser any work in progress at the time of termination.

19. Nothing contained herein or in any documents connected herewith shall be construed as limiting Purchaser's other rights and remedies at law or in equity.

20. Vendor agrees to comply with all local, state, and federal laws, orders, regulations, and ordinances regarding discrimination in employment against any individual on the basis of race, color, religion, sex, age, or national origin. In particular, Vendor agrees to comply with all provisions of Title 7 of the Civil Rights Act of 1964, as amended, and all applicable Executive Orders including, but not limited to, Executive Order No. 11246.

21. Vendor agrees that should Purchaser elect to implement this purchase order (or any related agreement or modification thereto) using an electronic signature, the following terms and conditions shall apply: (a) Purchaser's and Vendor's electronic signature shall be as established in that certain agreement between Purchaser and Vendor setting the parameters for the use of electronic commerce, which agreement is incorporated herein by reference; and (b) Vendor agrees that Purchaser may use an electronic signature to provide notice as required under this purchase order. Notice shall be deemed "sent" on the day Purchaser affixes its electronic signature or transmits the electronic signatures (as recorded by Purchaser's information system(s), whichever occurs later. Notwithstanding any contrary provision, Purchaser shall not be liable for any system down-time or other problems with or related to any communications system(s) or equipment, however same arises.

22. Purchaser without waiver or limitation of any rights or remedies of Purchaser shall be entitled from time to time to deduct from any amounts due or owing by Purchaser to Vendor in connection with this purchase order (or any other purchase order or contract with Purchaser) any and all amounts owed by Vendor to Purchaser.

23. In the event any provision, or any portion of any provision of this purchase order shall be held to be invalid, void or otherwise unenforceable, such holding shall not affect the remaining part or portions of that provision, or any other provision hereof.