

**TERMS AND CONDITIONS OF THIS CONTRACT**

**1. DEFAULT**

Time is of the essence of this Order. Failure of Vendor to make progress or to deliver the items ordered strictly within the time specified and in accordance with the specifications shall entitle Buyer, in addition to any other rights or remedies, to cancel this order and to charge Vendor with procurement costs. No variation in the delivery date, price, quantity, specifications or other terms of this order will be effective without prior notification of and approval by Buyer. The acceptance by Buyer of late performance with or without objection or reservation shall not waive the right to claim damage for such breach nor constitute a waiver of the requirements for the timely performance of any obligation remaining to be performed by Vendor. In the event of a breach by Vendor of any of the provisions of this contract, Buyer reserves the right to cancel and terminate this contract forthwith upon giving oral or written notice to Vendor.

**2. TERMINATION FOR CONVENIENCE**

Termination under this clause is for convenience; it is thus distinct from default action which might be taken under another clause, and from any default action. Accordingly, Buyer may terminate work under this Order, in whole or in part, at any time by notice. Such notice shall state the extent and effective date of such termination. Upon receipt thereof, Vendor shall, as and to the extent directed by Buyer, stop work under this Order. If this Order is so terminated, Vendor shall be paid in accordance with the terms of the Order for materials or supplies delivered and accepted or services performed and accepted.

**3. CHANGES**

Buyer may at any time by written notice, make changes within the general scope of this Order in any one or more of the following: (1) drawings, designs, or specifications; (2) method of shipping or packing; (3) place of delivery; (4) delivery schedule. Should any such change increase or decrease the cost of, or the time required for performance of this Order, proper adjustment shall be made in price or delivery schedule or both. No claim by Vendor for such adjustment will be valid unless received by Buyer within 30 days from the date of such change, or a longer period authorized by Buyer in writing. Nothing contained in the clause shall relieve the Vendor from proceeding without delay in the performance of this Order as changed.

**4. LABOR DISPUTES**

Whenever an actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Vendor shall immediately give notice thereof to the Buyer.

**5. WARRANTIES**

Vendor warrants articles supplied under this Order conform to specifications herein and are fit for the purpose for which such goods are ordinarily employed; except, if stated in a Special Condition, the material must then fit that particular purpose. Vendor warrants and represents that all goods and materials delivered herein are free and clear of all liens, claims or encumbrances of any kind. All warrants shall survive both delivery and payment.

**6. PACKING AND SHIPPING**

All invoices, packing lists, packages, and other written documents affecting this order shall contain the applicable order number. Packing lists shall be enclosed in each and every box or package shipped pursuant to this Order, indicating the content therein. Invoices will not be processed for payment until all items invoiced are received.

No charges will be allowed for special handling, packing, wrapping, containers, etc., unless otherwise specified herein. Unless otherwise specified, all goods are to be shipped prepaid, FOB Destination. Where specific authorization is granted to ship goods FOB Shipping Point, Vendor agrees to prepay all shipping charges, to route cheapest common carrier, and to bill Buyer as a separate item on the invoice for said charges, less federal transportation tax. Each invoice for shipping charges shall contain the original or a copy of the bill indicating that the payment for shipping has been made. It is also agreed that Buyer reserves the right to refuse COD Shipments.

Regardless of FOB Point, Vendor agrees to bear all risks of loss, injury, or destruction of goods and materials ordered herein which occur prior to delivery, and such loss, injury or destruction shall not release Vendor from any obligation hereunder.

**7. INSPECTION AND REJECTION**

Buyer may inspect prior to shipment. Such inspection does not relieve Vendor from responsibility of furnishing material strictly in accordance with specifications. All goods received are subject to inspection for a reasonable period of time, not less than 30 days from the date of receipt. Neither payment nor acceptance of the goods shall constitute a waiver of the right to reject after such inspection. Any rejection of goods or material resulting because of nonconformity to the terms, conditions, and specifications of this order, whether held by Buyer or returned, will be at Vendor's risk and expense. Failure of Vendor to replace or correct rejected items constitutes default.

**8. INDEMNIFICATION AND INSURANCE**

Vendor shall protect, indemnify, and hold Buyer harmless from and against any damage, cost, or liability for any or all injuries to persons or property arising from acts of omissions of Vendor, his employees, agents, or subcontractors, howsoever caused, including Buyer's contributing negligence. Vendor will maintain, and upon request, submit satisfactory evidence of, such broad form primary and non-contributing comprehensive public liability insurance as will protect Vendor and Buyer, as additional insured, from the foregoing risks in limits (unless higher limits specifically require) not less than \$100,000/\$300,000 bodily injury and \$100,000 property damage. Vendor shall maintain proper workman's compensation, and shall verify the coverage by public liability and workman's compensation of subcontractors.

**9. TAXES**

Unless otherwise indicated, Buyer agrees to pay all State of California sales or use tax. No charge by Vendor shall be made for federal excise taxes, and Buyer agrees to furnish Vendor, upon request, with an exemption certificate.

**10. PAYMENT**

All payments to Vendor shall be remitted by mail. In the event that Buyer is entitled to a cash discount, the period of computations will commence on the date of delivery, or receipt of a correctly completed invoice, whichever is later. If an adjustment in payment is necessary due to damage, the cash discount period shall commence on the date final approval for payment is authorized. If a discount is made part of the contract, but the invoice does not reflect the existence of a cash discount, Buyer is entitled to a cash discount with the period commencing on the date it is determined by Buyer that a cash discount applies. The provision of monies due under this contract shall only be assignable with prior written consent of Buyer. If price is not stated on this order, it is agreed that the goods shall be billed at the price last quoted or paid, or the prevailing market price, whichever is lower.

**11. HOLD HARMLESS**

Vendor agrees to protect and save harmless Buyer against all claims for patent, trademark, copyright, or franchising infringement arising from the purchase, installation, or use of material ordered on this order, and to assume all expense and damage arising from such claims. Vendor further agrees to indemnify Buyer against any loss, cost, liability or damage by reason of Vendor's violation of or failure to comply with any applicable law, executive orders or regulations.

**12. ADVERTISING AND PUBLICITY**

Without prior written consent of Buyer, Vendor shall not publish the fact that Buyer has placed this order with Vendor, and shall not otherwise publicize the relationship established by this order.

**13. OSHA**

Vendor agrees that all items furnished under this order conform to all applicable Federal Occupational Safety and Health Act of 1970 (OSHA) standards.

**14. ACCEPTANCE**

This order expressly limits acceptance to the Terms and Conditions stated herein. All additional or different terms proposed by Vendor are objected to and are hereby rejected, unless otherwise provided in writing by Buyer's Purchasing Department.

**15. SEVERABILITY**

The provisions of this Agreement shall be deemed severable and if any portion shall be held invalid, illegal or unenforceable for any reason, the remainder of this Agreement shall be effective and binding upon the parties.

**16. GOVERNING LAW**

The validity, interpretation and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to conflicts of laws. All parties to this agreement agree to submit to the exclusive jurisdiction of any competent court of jurisdiction in Los Angeles County, California for the resolution of all disputes arising from or related to this agreement.

**17. ATTORNEY'S FEE**

If either party institutes legal action against the other party for breach of any of these Terms and Conditions or for any reason relating to the Purchase Order, the prevailing party shall be entitled to reimbursement from the other party of all reasonable expenses thus incurred including reasonable attorney's fees.