

PURCHASE ORDER TERMS AND CONDITIONS

- 1.1 **Acceptance and Entirety.** Acceptance of this Purchase Order by Seller is expressly limited to these terms and any additional or different terms included in Seller's quotation or acceptance are expressly rejected. Any of Seller's written acceptance of this Order, the shipment of any article, or the commencement of performance hereunder shall constitute acceptance of this Order. This Order, when accepted by Seller, shall constitute the entire agreement with reference to its subject matter and shall not be altered, amended, supplemented, or canceled without Buyer's written consent. Time is of the essence in the performance of this Order.
- 1.2 **Quality and Quantity.** All articles sold, and materials and work supplied hereunder, shall (a) be of good material and workmanship, free from any defect, and of the best grade for the intended purpose, (b) conform to the specifications, drawings, samples, or other data or descriptions furnished or adopted by Buyer, (c) be merchantable and fit and sufficient for the purpose intended, and (d) at all times be subject to Buyer's final inspection. Buyer's count will be accepted as final and conclusive on all shipments not accompanied by a packing slip. Substitutions will not be permitted except on written authorization of Buyer. Material delivered in error or any excess of quantity will be returned at Seller's expense.
- 1.3 **Inspection.** Inspections and tests will be made as required by specifications made part of this Order. Copies of all test reports, test data, etc., in number of copies as specified shall be mailed by Seller to Buyer at its home office address shown on this Order. Unless job site inspection is specified, all items of this Order are subject to inspection by the Buyer at all reasonable times and places, before, during, and after manufacturing. Seller shall advise Buyer at least ten (10) days in advance of the time when any items will be ready for inspection. No such inspection, or failure to inspect, will relieve Seller of any responsibility with respect to any item.
- 1.4 **Changes.** Seller shall make no changes or alterations in the materials or work or perform additional work without Buyer's specific written consent. Buyer may order changes in the materials or work or require additional materials or work at any time and Seller shall comply therewith provided, however, that in the event such changes result in a change in the price of the Order or the time required to perform, the same shall be presented to Buyer in writing within thirty (30) days from the date the change is ordered or it will be deemed waived.
- 1.5 **Defects.** Materials or work delivered pursuant to this Order are warranted for a period of twenty-four (24) months from delivery. If, in Buyer's opinion, during this period any article, material, or work fails to conform to specifications or is otherwise defective, Seller shall promptly, and at Seller's sole expense, remove and repair or replace the same. All costs incident to the repair/replacement, including, but not limited to, transportation costs, will be for Seller's account.
- 1.6 **Taxes.** Unless otherwise provided herein or required by law, Seller assumes exclusive liability for, and shall pay before delinquency, all sales, use, duties, VAT, excise, payroll, FICA, unemployment, and other taxes, charges, or contributions of any kind now or hereinafter imposed on, with respect to, or measured by the articles sold or materials or work supplied hereunder or the wages, salaries, or other remunerations paid to persons employed in connection with the performance of this Order.
- 1.7 **Compliance with Laws.** Seller warrants that the articles sold and materials and work supplied hereunder, and every other activity connected herewith, have been produced, manufactured, or performed in compliance with all applicable laws, ordinances, rules, and regulations, whether federal, state, or local and Seller will defend and hold Buyer, its affiliates, and Buyer's customers harmless from loss, cost, or damage as a result of any such actual or alleged violation. Seller shall not use, and shall not allow to be used, any cassiterite, columbite-tantalite, gold, wolframite, or the derivatives tantalum, tin, or tungsten ("Conflict Minerals") that originated in Angola, Burundi, Central African Republic, the Republic of Congo, Rwanda, South Sudan, Tanzania, Uganda, or Zambia in the production of any Goods. If Seller uses a Conflict Mineral in the production of any Goods, Seller shall immediately provide Buyer with a valid and verifiable certificate of origin of the Conflict Mineral used. Seller shall be able to demonstrate that it undertook a reasonable country of origin inquiry and due diligence process in order to provide the certificate of origin. If applicable, Seller shall comply with the federal government's "E-Verify" program.
- 1.8 **Ownership.** All plans, drawings, designs, and specifications supplied by Buyer shall remain the property of Buyer and shall be held in strict confidence by Seller. Seller shall not disclose the same to any third party or make use thereof for any purpose other than in connection with its performance of this Order. Seller shall be responsible for the breach of this confidentiality provision by any of its employees, agents, or advisors. All plans, drawings, designs, and specifications referred to on the face of this Order shall be deemed an integral part of the Order as fully as if set out therein.
- 1.9 **Indemnification.** Seller shall release, indemnify, defend, and hold Buyer harmless from and against any and all losses, damages, claims, suits, liabilities, fines, penalties, and expenses (including reasonable attorney's fees and litigation costs) (collectively "Claims") resulting from or arising in connection with any claim or suit brought by or on behalf of any person or entity to the extent the same arises out of, relates to, or is connected with Seller's performance of this Order and alleges: (a) infringement of any copyright, trademark, trade name, trade secret, patent, or other third party proprietary rights relating to the manufacture, sale, use, or disposition of any article sold or materials or work supplied hereunder, (b) a failure to pay taxes, charges, or contributions pursuant to Section 1.6, (c) bodily injury, illness, or death of any person, (d) physical damage, loss, or loss of use of any tangible property, (e) damage to or caused by defective materials or materials delivered in error, and/or (f) breach of this Purchase Order. Buyer shall have the right, at its option, to participate in the defense of any such Claim at its cost and without relieving Seller of any obligations hereunder.
- 1.10 **Insurance.** Seller agrees to procure and keep in force at its sole cost and expense, the following policies of insurance, with underwriters licensed to do business in the state of the United States or country wherein the Work is to be performed (as applicable):
- A. Commercial General Liability Insurance, including contractual liability and non-gradual pollution, with minimum limits of U.S. \$1,000,000 per occurrence, covering bodily injury and property damage with a \$2,000,000 General Aggregate.
 - B. Employer's Liability Insurance and Worker's Compensation Insurance or similar statutory social insurance, as required by Governmental Requirement at the locations where the Work will be performed, including, where applicable, Alternate Employer Endorsement, and if applicable, Maritime Coverage including coverage for liability under the Jones Act, General Maritime Law and United States Longshore and Harbor Worker's Endorsements. The Employer's Liability policy shall provide for minimum limits of U.S. \$1,000,000 per accident.
 - C. Commercial Automobile Liability Insurance covering owned, non-owned and hired vehicles as per the law of the country where the work is performed covering bodily injury and property damage shall provide for minimum limits of U.S. \$1,000,000 per accident.
 - D. Umbrella / Excess Liability Insurance including contractual liability and non-gradual pollution, with minimum limits of U.S. \$3,000,000 per occurrence, covering bodily injury and property damage with a \$3,000,000 General Aggregate.
 - E. Fidelity Insurance with a limit of not less than U.S. \$100,000, per claim
 - F. Network Security / Privacy Liability with a limit of not less than a limit of \$5,000,000
 - G. Pollution Liability with a limit of not less than \$5,000,000 per claim with a \$5,000,000 General Aggregate.
 - H. Cargo Shipment or Transit, a value of the Invoice value of the shipment, plus freight plus 10% but not less than not less than \$1,000,000.
 - I. If the Work involves Transportation services, Pollution Liability Insurance with a limit of not less than \$15,000,000, per claim with a \$15,000,000 General Aggregate.

- J. If the Work involves engineering, procurement, architectural or other professional services, Professional Liability Insurance with a limit of not less than U.S. \$1,000,000, per claim with a \$1,000,000 General Aggregate.
- K. If the Work involves construction installations, Builder Risk / Installation coverage shall be procured to the value of work Seller installs
- L. If the performance requires the use of aircraft owned or leased by either Party (including helicopters), that Party shall carry, or require the owners of such aircraft to carry All Risk Hull Insurance in an amount equal to the full replacement value of the aircraft, and Aviation Liability Insurance, including Passenger Legal Liability, with a limit not less than U.S. \$10,000,000 covering bodily injury and property damage.
- M. If the performance of this Agreement requires the use of watercraft owned or leased shall carry or require the owners of such watercraft to carry Hull and Machinery (including Collision Liability) Insurance in an amount not less than the full replacement value of the watercraft, and Protection and Indemnity Insurance including excess collision liability in the amount of not less than U.S. \$25,000,000. This insurance shall provide that a claim "in rem" shall be treated as a claim against the employer. N. Any insurance required by a Governmental Requirement.

The above insurance coverages and limits may be insured through primary or excess layers of insurance. The insurance shall be primary to and non-contributing with any other insurance. The insurance required above shall provide for waiver of subrogation in favor of the Buyer. All insurance provided, except for Worker's Compensation and Employer's Liability or other similar statutory social insurance, and Professional Liability shall include the Buyer as an additional insured.

Insurance coverage required shall be additional security for Seller's liability and shall not limit such liability; nor shall such requirements be considered the ultimate amount or types of insurance Seller should carry.

Prior to the commencement of the Work under each relevant Commercial Terms and at any time thereafter upon Buyer's request, Seller shall provide Buyer with a certificate of insurance evidencing the required insurance is in force and effect. Such certificate(s) of insurance shall name "Buyer and its Affiliate(s)" as the certificate holder, as applicable. Seller agrees that it will not cancel, reduce, restrict, or materially change the required insurance coverages in a negative way without giving Buyer thirty (30) days' advance written notice. Any required renewal certificates will be issued within 30 days of the expiration of any of the above required insurance. If Buyer requests verification of insurance evidenced in the certificates of insurance from Seller's insurance agent or broker, Seller shall cause such verification to be promptly furnished to Buyer. Buyer's failure to request, or respond to, any deficient insurance certificate received by Buyer shall not constitute a waiver of Buyer's rights or Seller's insuring obligations. No insurance certificate or other evidence of insurance will serve to amend the insurance requirements herein without consent of Buyer. Should Seller fail to provide or maintain any such insurance coverage, Buyer shall have the right, but not the obligation, upon ten (10) days' prior written notice to Seller, to procure any such insurance coverage and to deduct the cost thereof from any amounts due and payable to Seller or, if there are no such amounts due and payable, Seller shall reimburse Buyer for such costs on demand.

Seller shall require each subcontractor utilized by Seller to carry and pay for insurance in amounts deemed necessary by Seller. Any deficiency in the subcontractor's insurance coverage will be the responsibility of Seller. When requested by Buyer, Seller shall furnish, or cause to be furnished to Buyer, certificates of insurance evidencing insurance coverages carried by the subcontractors. Seller shall cause its employees operating their personal automobiles in the performance of the Work to secure the appropriate insurance during such performance. Any lack of or deficiency in such employee's coverage will be the responsibility of Seller.

- 1.11 **Equal Employment Opportunity.** Seller shall, to the extent they apply, abide by (1) the requirements of 41 CFR §§ 60-1.4(a), 60-4.3, 60-300.5(a), and 60-741.5(a), which prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, national origin and require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability; and (2) all the provisions set forth in 29 CFR Part 471, Appendix A to Subpart A (Executive Order 13496). Seller shall post in conspicuous places, available to employees and applicants for employment, all notices required by federal, state, and local law. Seller will, in all solicitations or advertisement for employees placed by or on behalf of Seller, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, age, national origin, ancestry, disability, handicap or veteran status or any other basis prohibited by applicable federal, state, or local law.
- 1.12 **Assignment.** Neither this Order nor any claim against Buyer resulting from or arising in connection herewith shall be assignable by Seller or by operation of law, nor shall Seller subcontract any of its obligations hereunder, without the prior written consent of Buyer. If Seller assigns monies due or to become due under this Order, Buyer shall be entitled to assert against the assignee all rights, claims, and defenses of every type, including, without limitation, rights of set-off, recoupment, and counterclaim that Buyer could assert against Seller, whether such rights, claims, or defenses are acquired prior or subsequent to such assignment.
- 1.13 **Default.** If Seller or any subcontractor shall breach any provision hereof or become insolvent, enter voluntary or involuntary bankruptcy or receivership proceedings, or make an assignment for the benefit of creditors, Buyer shall have the right (without limiting any other rights or remedies which it may have hereunder or by operation of law) to terminate this Order by written notice to Seller whereupon Buyer shall be relieved of all further obligation hereunder except the obligation to pay the reasonable value of Seller's prior performance and Seller shall be liable to Buyer for all costs incurred by Buyer in completing or procuring the completion of performance which are in excess of the Order price specified herein as well as all other damages incurred by Buyer.
- 1.14 **Offset.** Buyer shall have the right to withhold payments due to Seller hereunder and apply the same to any obligations owed Buyer by Seller in connection with this Order.
- 1.15 **Disputes.** Seller agrees that, except in the case of termination of this Order, Seller shall proceed diligently with the performance and/or manufacture hereunder regardless of the pendency of any dispute. Except as otherwise specifically provided, all disputes or differences of a technical nature shall be settled in accordance with the terms of the specifications of this specific project and, when no such specifications are applicable, the decision of the Chief Engineer of the Buyer or his duly authorized representative shall be final and conclusive upon the parties hereto.
- 1.16 **Force Majeure.** A party shall be relieved of its obligations under this Order when, and to the extent, that performance is delayed, prevented, or rendered impossible due to Acts of God, fire, explosion, war, riots, strikes, labor disputes, or changes in governmental laws, orders, or regulations. In the event Seller believes that articles, material, or work will not be supplied as scheduled, it shall give prompt written notice to Buyer. If the failure or delay to make timely delivery impairs Buyer's ability to meet its business needs, or if the articles, material, or work are not supplied within ten days of the scheduled date, Buyer may, at its option and without liability to Seller, cancel, by written notice to seller, the affected portions of this Order.
- 1.17 **Packaging.** No allowance will be made for packing, crating, or storage unless specifically stated herein.
- 1.18 **Attorney's Fees.** The prevailing party in any legal proceeding brought by or against that party to enforce or defend any provision or term of this Order shall be entitled to recover against the non-prevailing party its reasonable attorney's fees and costs of litigation.
- 1.19 **Governing Law.** This Order shall be governed by the laws of the State of Texas without regard to its conflicts of laws provisions. Any proceeding arising hereunder shall be brought exclusively in Harris County, Texas and each of the parties waives any and all objections it may have to the jurisdiction of the state and federal courts seated therein.

- 1.20 **Specially Designated Nationals and Blocked Person List.** Seller represents that neither it nor any of its subcontractors nor any of their respective owners are (a) on the Specially Designated National and Blocked Persons list published by the Office of Foreign Assets Control of the U.S. Department of the Treasury or (b) subject to sanctions under the laws of any governmental authority.
- 1.21 **Personal Information.** Seller shall not sell, retain, use, or disclose personal information received hereunder, as defined under applicable law, for any purpose other than for the specific purpose of performing the services specified in this Agreement, including retaining, using, or disclosing such personal information for a commercial purpose other than providing the services specified in this Agreement. Seller shall not combine such personal information with personal information received in other contexts. Seller shall comply with all applicable laws relating to the collection, maintenance and transfer of such personal information including, without limitation maintaining reasonable safeguards, consistent with industry best practices, for the protection of such personal information, and cooperating with Buyer in responding to consumer rights requests. To the extent Seller can no longer process personal information in compliance with, or that such personal information is disclosed in violation of, this Section, including without limitation in connection with a breach of security, theft or loss of personal information, Seller shall immediately notify Buyer. Seller shall grant Buyer the right to take reasonable steps to ensure compliance with this Section and to remediate any non-compliance, including by conducting mutually agreed upon audits (such agreement not to be unreasonably withheld), or through requiring that Seller stop processing Buyer personal information and, at Buyer's discretion, return or securely delete such information.
- When this Order provides for performance of any work, the following conditions shall also apply:**
- 1.22 **Performance.** Seller shall: (a) diligently perform all work required hereunder in a good and workmanlike manner, (b) furnish all labor, supervision, machinery, materials, equipment and supplies necessary therefor and (c) if permitted to subcontract, be fully responsible for all work and services performed by subcontractors.
- 1.23 **Independent Contractor.** Seller is an independent contractor and shall conduct all business in Seller's name and not as an agent or representative of Buyer.
- 1.24 **Use of Premises.** Seller shall perform all work in such a manner as to cause a minimum of interference with Buyer's operations and the operations of Buyer's other contractors on the premises. Seller shall take all necessary precautions (including those required by Buyer's safety regulations) to protect the premises and all persons and property thereon from damage or injury. Upon completion of the work, Seller shall leave the premises broom clean and free of all tools, equipment, waste materials, and rubbish.
- 1.25 **Payment of Bills and Liens.** Seller shall promptly pay all indebtedness for labor, materials, tools, and equipment used in the performance of the Order. Before Seller shall be entitled to receive final payment, Seller shall furnish evidence satisfactory to Buyer of the full payment of such indebtedness. Seller shall not permit any lien or charge to attach to the work, the premises upon which the work is being performed, or any of Buyer's property. If any lien shall attach, Seller shall immediately procure its release. Notwithstanding any obligation of Buyer to make final payment to Seller as provided herein, Buyer shall be entitled to withhold funds (a) in an amount necessary to satisfy claims filed or asserted by laborers or materialmen, or at Buyer's election, Buyer may condition such payment on the Seller's posting, at Seller's cost and expense, a bond to satisfy such claims and (b) if this Order relates to a construction project or materials and/or supplies to be incorporated into a construction project, in an amount equal to 10% of the total consideration to be paid to seller for at least thirty (30) days after actual completion of such construction project.
- 1.26 **Permits and Royalties.** Seller shall secure and maintain in effect all permits and licenses necessary for its performance of the Order. In the event any royalties are required for Seller to perform the work, Seller shall be responsible for payment of the same.