

HICO AMERICA SALES & TECHNOLOGY, INC.

STANDARD TERMS AND CONDITIONS OF PURCHASE

1. **Certain Definitions:** The term “*Company*” means HICO America Sales & Technology, Inc. or any company that is a subsidiary of, an affiliate of, or related to HICO America Sales & Technology, Inc. The term “*this Purchase Order*” means the Company’s purchase order or other agreement or contract to which these Standard Terms and Conditions of Purchase are attached or incorporated by reference, including, without limitation, any specifications and/or drawings or schematics attached thereto. The term “*Vendor*” means any individual, corporation or other entity who is to perform or provide the Work under this Purchase Order. The term “*Work*” means all items, materials, equipment, labor or other services that is the subject of this Purchase Order. The term “*Prime Contract*” means any agreement or contract between the Company and any Owner/GC for any project for which the Company is obtaining the Work from Vendor. The term “*Owner/GC*” means either the ultimate owner (“*Owner*”) or the general contractor (“*GC*”) of a project for which the Company has entered into a Prime Contract that requires the Company to obtain the Work from Vendor.
2. **Acceptance of Terms:** Vendor, by performing or providing the Works associated with this Purchase Order, by any performance hereunder and/or by written acknowledgement, accepts the offer contained therein and such acceptance of this offer is expressly limited to these Terms and Conditions (the “*Terms and Conditions*”). Any term and/or condition proposed by Vendor which is different from, conflicts with or adds to the Terms and Conditions shall be deemed to materially alter the Terms and Conditions and is hereby objected to and rejected by Company. This Purchase Order is not an acceptance of any offer of Vendor to sell, and under no circumstances shall any term and/or condition of Vendor’s sales documents become part of this Purchase Order. This Purchase Order may only be modified by a writing, signed by an authorized representative of Company and Vendor. Acceptance of this Purchase Order is expressly limited to its terms. The Company hereby expressly objects to and rejects any additional or different terms in response to these Terms and Conditions or this Purchase Order. Any trade usage or course of dealing conflicting with any term in this Purchase Order is expressly negated.
3. **Approval under Prime Contract:** Notwithstanding anything else to the contrary contained herein, this Purchase Order is contingent upon Vendor and the Work being approved by the Owner/GC under any applicable Prime Contract with the Company for which the Work is being obtained by Company. If a disqualification occurs under the Prime Contract because of any failure to comply with and strictly fulfill the obligations under this Purchase Order, said failure shall be deemed to be a breach of this Purchase Order by Vendor. Additionally, any other rights of disqualification by the Owner/GC under any applicable Prime Contract shall also render this Purchase Order null and void.
4. **Warranty:** Vendor warrants that all Work: (i) will conform to all specifications, instructions, drawings, data and samples, if any, set forth in this Purchase Order or any Prime Contract and agreed upon in writing by the Company and will perform as specified therein, (ii) will be new and not used or reconditioned, (iii) will be free from defects in design, material and workmanship, and (iv) will be merchantable and fit for the particular purpose for which such Work was intended. All warranties shall survive the acceptance of payment for the Work delivered hereunder and shall run for a period of time equal to the period of time stated in the Prime Contract, but in no event less than one (1) year from the date the project under the Prime Contract has been completed and accepted by the Owner/GC. These warranties will run to Company, its successors, assigns, customers, and users of its products. If Vendor breaches this warranty, Vendor, at Company’s option, will either: (i) repair the defective Work or bear the cost of repairing such defective Work, (ii) replace the defective Work, or (iii) refund the purchase price. If Company selects repair or replacement, any defects will be remedied without cost to Company, including but not limited to, the costs of removal, repair and replacement of the defective Work, and reinstallation of new Work. Repairs shall be done at Company’s convenience and at Company’s option on site unless the repairs are of such a nature as to require repair facilities that are not or cannot be made available on site. Repairs shall be done expeditiously, but in no event no later than 15 days from Company’s notification to Vendor of such defect. If Vendor fails to repair or replace any damaged or defective item within such time period, Company shall have the right to have this service performed by a third party and will invoice Vendor for these charges. The foregoing warranties shall apply to all repairs or replacements. All such defective Work that is so remedied will be similarly warranted as stated above. If the Work involves the sale of goods, this transaction will be governed by the Uniform Commercial Code, latest revision, as enacted by the Commonwealth of Pennsylvania, including all warranty protection (express or implied) and all buyer remedies. All expenses in connection with such repair or replacement including any freight, custom duties, and brokerage fees shall be for Vendor’s account. Vendor’s obligation to repair or replace shall extend to defects which were

revealed or should have been revealed on Company's examination prior to acceptance. These warranties shall survive any inspection, delivery, acceptance or payment by Company for the goods or services. The warranties set forth herein shall be in addition to any other remedies available to Company at law or in equity.

5. **Acceptance of Work:** All Work shall be received subject to Company's continuing right of inspection and rejection. Payment for all Work under this Purchase Order shall not be deemed to be an acceptance of any such Work and is without prejudice to Company's continuing right of inspection of any claims that Company may have against Vendor and shall not be deemed to be a waiver of any of Vendor's warranty obligations under this Purchase Order.

6. **Additional Provisions Regarding Prime Contract:** Notwithstanding anything to the contrary contained in this Purchase Order, to the extent that the Work being provided under this Purchase Order is related to a Prime Contract, then to the extent that the Prime Contract contains any provisions that impose a greater degree of liability, obligation or responsibility, or require a shorter time period for performance, upon Company or any of its subcontractors than what is contained in this Purchase Order, Vendor agrees to be bound by such provisions in the Prime Contract and that this Purchase Order shall be deemed to be modified to reflect such provision from the Prime Contract. A detailed list of the documents that comprise the Prime Contract, if any, are referenced and/or attached to this Purchase Order, and copies of such documents will be provided to Vendor.

7. **Price, Taxes, Shipping and Payment:** (a) Unless otherwise expressly stated herein, the price stated in this Purchase Order is inclusive of any and all sales, use, value added, excise, gross receipts or other taxes which may be assessed against this Purchase Order, the Work or the price and any and all import or export duties which may be payable as a result of, or in connection with, the Work. Vendor shall furnish to Company, upon request, all documentation with respect to any duties and all customs invoices, declaration and evidence of import costs as may be reasonably required for any portion of the goods and services that comprise the Work being provided under this Purchase Order.

(b) All packaging and transportation costs and charges relating to any goods or services that comprise the Work supplied under this Purchase Order are for Vendor's account unless otherwise expressly agreed upon in writing by the Company and Vendor.

(c) The time for payment of invoices or for accepting any discounts offered, if any, shall be as expressly set forth on the face of this Purchase Order and shall run from the date that complete and correct invoices are received by Company.

(d) Notwithstanding anything to the contrary contained in this Purchase Order, it is specifically acknowledged and agreed by Vendor that, to the extent that the Work under this Purchase Order is being obtained pursuant to an Prime Contract, Vendor is relying exclusively on upon the financial condition of the Owner/GC and not that of Company, with respect to Vendor's receipt of payment for the Work on the project covered by such Prime Contract. Vendor specifically acknowledges that the payment from the Owner to the GC and the subsequent payment from the GC to Company is an absolute condition precedent to the payment by Company to Vendor for the Work under this Purchase Order. In the event that Company does not receive payment from the GC for any application for payment in which Vendor has an interest, regardless of the reason for such nonpayment, then Company does not have any obligation to make payment to Vendor until Company receives any such payment from the GC or the Owner with respect to such application for payment, and Vendor specifically waives any claims against Company as a result of any such nonpayment.

8. **Breakdown of Lump Sum Pricing:** If this Purchase Order contains lump sum pricing, Vendor shall deliver to Company, for payment purposes only, a breakdown of each item cost, which shall reflect the reasonable value of the item of merchandise or service, including its proportionate share of the profit. No invoices involving any lump sum pricing shall be paid by Company until such breakdown is submitted and approved by Company.

9. **Submittals:** All submittals such as shop drawings, catalogs, samples, schematics and components and/or material lists or other data, information or specifications required by the applicable Prime Contract with respect to the Work being provided under this Purchase Order (collectively, the "Work Documents") shall be provided by Vendor in a complete and timely fashion. Vendor shall be responsible for (i) any delays incurred due to its failure to provide the Work Documents in a complete and timely fashion and (ii) any deviations from the plans and specifications that are not expressly approved in writing by Company and the Owner/GC or its representative. All deviations from the requirements under the Prime Contract documents must be conspicuously noted on the applicable Work Documents and by separate cover letter from Vendor stating the reasons for any such deviation(s) with reference to the applicable specific Prime Contract specification provision or drawing detail.

10. **Infringement:** Vendor warrants that all materials, goods and/or services furnished under this Purchase Order will not infringe upon any United States or foreign patent, trademark, copyright or other intellectual property right of any third party. Vendor agrees to indemnify and save harmless Company, its successors, assigns, customers and users of its products, and the respective owners,

shareholders, directors, managers, officers, employees, agents or representatives of any such parties (collectively referred to herein as the “*Company Indemnified Parties*”), from all claims or demands arising out of any alleged infringement of patents, copyrights, trademarks or other proprietary rights arising out of Company’s purchase, use or sale of the Work supplied under this Purchase Order, and to defend at Vendor’s expense, including reasonable attorneys’ fees, any and all suits or actions based on such claims or demands. This obligation of indemnity by Vendor shall survive the acceptance of payment for the Work under this Purchase Order. If in the course of any such claim, suit or proceeding, Company is prevented from using the goods or services, Vendor shall at its own expense and as soon as possible either obtain consent for Company to use the goods and services or replace the same with substantially equal but non-fringing goods and services. This provision shall not apply to any goods manufactured to Company’s detailed designs and specifications where such designs and specifications form the basis of any infringement, claim, action or proceedings.

11. Vendor’s Liability and Indemnification: Except to the extent that any injury or damage is due solely and directly to Company’s recklessness or willful misconduct, Vendor will save and hold all Company Indemnified Parties harmless from and against all liabilities, claims and demands, and damages on account of personal injuries, including death, property loss, or damage to Company or to others (including Vendor, employees and invitees of Vendor and of Company), or any liquidated damages imposed on Company allegedly arising out of or in any manner connected with the performance, or delay in performance, of such Work or any defect in the Work, or alleged to have been caused by the negligent or willful act or omission to act of Vendor, or a supplier, agent or subcontractor of Vendor, or employees or invitees of either of them, and Vendor will, at its own expense, defend the same, and will pay all charges of attorneys and all costs and other expenses arising out of these obligations of indemnification. This obligation of indemnity by Vendor shall survive the acceptance of payment for the Work under this Purchase Order.

12. Insurance: If Vendor, either as principal or by agent or employee, enters upon the property of Company in order to do any Work, Vendor agrees to maintain, and shall cause its subcontractors to maintain, as applicable, the following types of insurance coverage: (a) Worker’s Compensation Insurance or qualification as a self-insurer to satisfy the laws of the state in which the Work will be performed; (b) Employers’ Liability Insurance for Bodily Injury per accident with limits of not less than \$100,000 and Bodily Injury by Disease with limits of not less than \$100,000 per policy; (c) Commercial General Liability Insurance for personal injury and property damage, including contractual liability insurance, with combined limits of not less than \$5,000,000 per occurrence; and (d)

Automobile Liability Insurance for personal injury and property damage with combined limits of not less than \$2,000,000 per occurrence. Vendor’s Worker’s Compensation insurer or Vendor, if self-insured, agrees to waive all rights of subrogation against Company except for claims caused by Company’s sole negligence. Also, Vendor will name Company as an additional insured on its Commercial General Liability and Automobile Liability policies. Vendor’s insurance will be primary without right of contribution of any other insurance carried by or on behalf of Company. Upon Company’s request, Vendor will provide Company with written certification, reasonably acceptable to Company, of Vendor’s compliance with the requirements listed in this Section 12. The requirements in this Section 12 are separate and distinct from any other obligations of Vendor under this Purchase Order. All such insurance policies shall provide that in the event of cancellation thereof, written notice of such cancellation shall be given to Company at least ten (10) days prior to the effective date of such cancellation. Vendor, additionally, agrees to name Company as an additional insured party on its Commercial Liability policy.

13. Termination for Convenience: Company may terminate this Purchase Order, in whole or in part, at any time by giving written notice to Vendor. After receiving written notice of termination, Vendor will immediately cease the Work indicated in the notice of termination. In the event of such a termination, payment for costs incurred by Vendor will be negotiated by Company and Vendor in good faith on the basis of Vendor’s actual costs plus a reasonable profit for the Work completed as of the termination date. In the event of termination for convenience by Company, Vendor shall not be entitled to payment for any part goods that are part of the Work that have not yet been released for manufacture by Company or on which manufacture has not yet actually commenced. Any goods that are part of the Work that are delivered or in transit shall be paid for at their unit value as prescribed on the face of this Purchase Order, or if no unit value is stated, by the Company and Vendor agreeing in good faith on such goods pro rata portion of the stated lump sum value. If any such goods are in the process of being manufactured and said goods constitute a standard product of Vendor, Vendor shall not be entitled to payment for such goods, but shall be entitled to a reasonable restocking charge, not to exceed seven percent (7%) of the value of the goods had they been delivered prior to the termination for convenience by Company. If the goods are in the process of being manufactured and are not a standard product of Vendor, the Company and Vendor shall attempt in good faith to reach a mutual agreement on the value of the partial performance with respect to such goods within thirty (30) days from the date of any such termination for convenience by Company. Notwithstanding anything to the contrary contained herein, in no event shall Vendor be entitled to any anticipated or expected profits on unperformed portions

of the Work. Any termination by Company for breach or default under Section 25 that is found to have been wrongfully made shall be deemed to be a termination for convenience under this Section 13.

14. Liens: Vendor guarantees that no lien, encumbrance or security interest will be filed by anyone against Company, Owner, GC, Company's property, Owner's property, or the Work for materials or labor or both furnished under this Purchase Order, and will defend and hold Company, its customers and users of its products, including the Owner/GC and its representatives, harmless from any such liens, encumbrances or security interests and will pay all attorneys' fees and all other costs and expenses arising from such liens, encumbrances or security interests.

15. Independent Contractor: Company and Vendor are each independent contractors. This Purchase Order does not create any relationship of joint venturers, partners, agents, servants, employees, fiduciaries or representatives by or between Company or Vendor. Neither Company nor Vendor shall have the authority to incur or make, or will incur or make any agreements, obligations of any kind, representations or warranties in the name of or on behalf of the other party nor represent that the parties' relationship is other than that of independent contractors.

16. Assignment: This Purchase Order, the Work, as a whole, covered by this Purchase Order and amounts payable by Company to Vendor under this Purchase Order are not assignable by Vendor without the prior written consent of Company.

17. No Violation of Law: Vendor warrants that the materials, goods and/or services furnished under this Purchase Order have been, or will be, manufactured and sold in strict compliance with all applicable Federal, state and local laws, rules, regulations and orders, including, without limitation, with respect to antidiscrimination, fair labor practices and minimum wage and hour statutes.

18. Environment, Health, Safety and Security: If Vendor, either as principal or by agent or employee, enters upon the property of Company, Vendor agrees to comply, and shall cause its employees, agents and subcontractors to comply, with Company's rules and regulations including its environmental, health, safety and security rules and regulations.

19. Hazardous and Dangerous Goods and Materials: For any goods or materials furnished in accordance with this Purchase Order which are defined as hazardous or dangerous under applicable law, Vendor will provide Company with hazardous warning and safe handling information in the form of a material safety data sheet (MSDS) and appropriate labeling for such goods or materials.

20. Equal Employment Opportunity: Unless this Purchase Order is exempted by law, Vendor will comply with Executive Order 11246, the Rehabilitation Act of 1973, the Vietnam Era Veteran's Readjustment Assistance Act of 1974, the Americans with Disabilities Act, as they have been or will be amended from time to time, and regulations implementing such statutes; and any similar state and local laws and ordinances, and the regulations implementing the same.

21. Changes: Company may, at any time, in writing, make changes to the general scope, drawings and/or specifications of this Purchase Order, including as required by the Owner/GC under any applicable Prime Contract. In such event, Company shall have the right by written order to Vendor to make appropriate changes in any part of the Work Documents, require additional goods, materials, products or services, or omit all or any portions of the requirements covered by this Purchase Order. If any such change causes an increase or decrease in the cost of or time required for the performance of any Work under this Purchase Order, an equitable adjustment will be made to the price or delivery schedule, or both, and this Purchase Order will be modified in writing accordingly; *provided, however*, that any such adjustment shall be expressly conditioned upon the approval and acceptance thereof by the Owner/GC and the adjustment of the Prime Contract in incorporate the adjustment in value or time made to this Purchase Order. In the event that the adjustment is not approved or accepted by the Owner/GC, the Vendor shall have the right at its own expense to dispute the decision of the Owner/GC in accordance with the applicable "Changes," "Disputes," or similar provisions of the Prime Contract; *provided, however*, that nothing shall excuse the Vendor from proceeding to provide or supply the goods, products or services as changed by the Owner/GC pending any dispute resolution. All changes involving the increases or decreases in the Purchase Order of scope of Work or pricing, or changes in the dates of delivery shall be deemed to accepted by Vendor unless objected to in writing by Vendor within the time allotted in the Prime Contract to dispute said changes or within thirty (30) days after receipt of notice of any such changes, whichever is shorter.

22. Electronic Commerce: At Company's request, Company and Vendor will facilitate business transactions by electronically transmitting data. Any data digitally signed pursuant to this section and electronically transmitted will be as legally sufficient as a written, signed, paper document exchanged between the parties, notwithstanding any legal requirement that the data be in writing or signed. Use of the digital identification will be deemed for all purposes to constitute a "signature" and will have the same effect as a signature on a written document.

23. Inspections: Company and its representatives shall have the right, at any time during the performance of the Work, to access any of Vendor's plant(s), during normal business hours and upon at least two (2) days prior notice to Vendor, for the purpose of (i) inspecting material and the Work, whether completed or in progress, (ii) performing any final inspections (iii) and to the extent applicable, rejecting any non-conforming aspects, components or part of the Work. Company may reject and return at Vendor's expense, including transportation and handling costs, all or any aspect, component or part of the Work that do not conform to the Purchase Order specifications. Inspection of, or the opportunity to inspect, the goods or services that is the Work by Company prior to delivery shall not constitute a waiver of Vendor's obligation to warranty the Work or the related products and services or Company's rights against Vendor hereunder. Any such inspection shall not constitute acceptance of the inspected Work.

24. Force Majeure: The occurrence of an event, whether foreseen or unforeseen, shall be considered an event of force majeure under this Purchase Order if: (a) the event prevents the performance of a party, in whole or in part, of that party's obligations under this Purchase Order; (b) is beyond the reasonable control of the party seeking protection and not the fault of the non-performing party; and (c) the non-performing party has been unable to avoid the event through the exercise of reasonable diligence. In furtherance and without limitation of the preceding definition, the following events shall be specifically excluded as events of force majeure under this Purchase Order: (i) changes in market conditions; (ii) unavailability of materials, supplies or labor; (iii) poor business judgment or estimates; or (iv) unanticipated engineering or technical difficulties. Upon the occurrence of an event of force majeure, the non-performing party shall notify the other parties of such occurrence in writing, specifying in reasonable detail the event of force majeure, and upon such occurrence, the obligations of all the parties shall be suspended until such event of force majeure shall have terminated. Company may terminate this Purchase Order without any liability or penalty if by reason of any such event of force majeure, performance by Vendor is prevented for more than thirty (30) consecutive days. If an event of force majeure compels Vendor to allocate deliveries, Vendor will make such allocation in a way that ensures Company at least the same proportion of Vendor's total output as was purchased by Company prior to the occurrence of the event of force majeure.

25. Breach; Remedies: If Vendor (i) refuses or fails to make deliveries of any goods and/or services that comprise the Work specified under this Purchase Order or in any shipping release issued to Vendor within the time frame specified therein, (ii) fails to perform any provision of this Purchase Order and does not cure such failure within ten (10) days (or such shorter period of time as Company may determine, if commercially reasonable under the

circumstances) after receipt of verbal or written notice from Company specifying such failure, (iii) Vendor admits in writing to its inability to pay its debts as they become due, commences a bankruptcy, insolvency, receivership, or similar proceeding, or makes a general assignment for the benefit of creditors, or (iv) Vendor becomes a debtor in a bankruptcy, insolvency, receivership, or similar proceeding commenced by a third party that is not dismissed within thirty (30) days after commencement, then Company shall have the right upon written notice, without liability or penalty, to: (a) terminate this Purchase Order, in whole or in part, and Vendor shall be liable to Company for all damages, losses and liability incurred by Company, whether directly or indirectly, and including any consequential damages, resulting from Vendor's breach, including any damages or losses incurred by Company under the Prime Contract with respect to any such breach by Vendor; (b) obtain the Work ordered herein from another source, with any excess cost resulting therefrom chargeable to, and payable by, Vendor; and/or (c) setoff or reduce all claims for money due or to become due from Company to Vendor to the extent Company is damaged by Vendor's failure to perform. The remedies of Company herein provided are cumulative and in addition to any other remedies available to Company at law or in equity. Additionally, in the event of (i) any bankruptcy, insolvency, receivership or similar proceeding is initiated by Vendor, (ii) any bankruptcy, insolvency, receivership or similar proceeding is initiated against Vendor by a third party that is not dismissed within thirty (30) days of commencement, or (iii) any claims are filed against Company or its surety or any notices or levies involving tax delinquencies being served upon Company by reason of Vendor's non-payment of any such items, then Company shall have the right to withhold any unpaid balances due to Vendor under this Purchase Order and to apply such sums to any such items to insure complete delivery of the Work and shall be further entitled to reimbursement from Vendor for any and all damages, losses and expenses, including reasonable attorneys' fees incurred by Company as a result of any such event.

26. Delivery: (a) The risk of loss and/or damage shall remain with Vendor until final acceptance and inspection of all services or materials by Company. Unless otherwise specified on this Purchase Order, all deliveries shall be F.O.B. Destination, with all charges to be paid by Vendor, in such manner as Company may require, except as may otherwise be expressly set forth in this Purchase Order. Vendor shall not divide the Work in separate shipments without Company's prior written consent, and Company shall not be required to accept excess or partial shipments. Vendor acknowledges that time and quantity are of the essence under this Purchase Order, and that times of delivery specified on the reverse side hereof or in any other documents between Vendor and Company to which these Terms and Conditions are incorporated or referenced, are the times of delivery to Company's

designated place of delivery. If a tender of conforming services or goods is not made by the delivery date, Vendor shall have no right to make a later conforming tender, unless expressly agreed to in writing by Company in its sole discretion.

(b) All services, materials or goods shall be received subject to Company's right of inspection and rejection. Defective materials or goods, or materials or goods not in accordance with specifications, will be held for Vendor's instruction at Vendor's risk and if Vendor so directs, will be returned to Vendor at Vendor's expense. If inspection discloses that part of the services, materials or goods received are not in accordance with Company's specifications, Company shall have the right to cancel any unshipped portion of the order. Payment for services, materials or goods covered by this Purchase Order prior to inspection shall not constitute acceptance thereof and is without prejudice to any and all claims that Company may have against Vendor. Any inspection, acceptance and/or failure to find a defect shall in no way waive any warranties made by Vendor under this Purchase Order.

(c) Notwithstanding anything else to the contrary contained in this Purchase Order, (i) Vendor shall only be entitled to an extension of time to perform the Work covered by this Purchase Order with respect to any allowable force majeure event as noted herein, for the same causes for which an extension of time is allowable, and only to the extent actually allowed to Company by the Owner/GC or its representative under the terms of any applicable Prime Contract; (ii) the decision of the Owner/GC or its representative, with regard to allowance of any delay or the assessment of liquidated damages with respect to such delay, shall be binding upon and chargeable to Vendor, subject only to the dispute procedures provided in the Prime Contract, (iii) the Company shall not be liable to Vendor for any unforeseeable delays occurring beyond Company's control or for any delays caused by the Owner/GC or its representative, subcontractors or other suppliers and vendors with respect to the project that is the subject of the applicable Prime Contract (collectively "*Third Party Delays*"), (iv) the Vendor shall only have the right to seek reimbursement for any damages for any Third Party Delays directly from the Owner/GC at Vendor's own expense in accordance with any applicable provisions in the Prime Contract, and (v) Vendor's exclusive remedy for any delay caused by Company shall be limited to an extension of time for such delivery of the Work under this Purchase Order.

(d) The goods and services that comprise the Work furnished under this Purchase Order shall be subject to expediting by Company or its representatives. Company's representatives shall be allowed reasonable access to Vendor's facilities and those of its suppliers and contractors for expediting purposes. Vendor shall supply schedules and progress reports for Company's use in

expediting at Company's request. If such expediting is required due to delays by Vendor or its contractors, such expediting shall be at Vendor's sole cost and expense. If such expediting is at Company's convenience, such expediting shall be at Company's sole cost and expense.

27. Confidentiality: All information, blueprints, drawings, specifications and data furnished by Company to Vendor, or prepared by Vendor and paid for by Company, shall be and remain the property of Company and shall be considered proprietary. Vendor shall keep confidential all such information, blueprints, drawings, specifications and data, and such shall not be disclosed to others or used for any purpose other than as contemplated in this Purchase Order, unless expressly consented to in writing by Company, or such disclosure is otherwise expressly permitted in Company's Non-Disclosure Agreement (NDA) executed by Vendor, the terms of which are incorporated herein. Vendor shall return to Company all such information, blueprints, drawings, specifications and data upon request.

28. Additional Transportation Terms and Conditions: All transportation must be conducted within the heavy haul regulations and laws of the issuing state. Any price increases resulting from weather or any other Force Majeure event shall be to the account of Vendor. Any price increase not included in the original Purchase Order must be approved by an authorized representative of Company in writing or by e-mail. Daily updates must be provided to Company regarding project status. All Purchase Order pricing shall remain firm unless stated otherwise in the Purchase Order. To the extent applicable, a Marine Survey will be conducted at the port of entry, and any damages to the goods shall be noted and reported to Company within twenty four (24) hours of arrival at the port of entry. Upon the finding of any such damages, no further transportation shall ensue until further instruction is provided by Company. Failure to notify Company of any damages will result in Vendor being fully responsible for payment for any such damages. A jobsite survey must be performed in the presence of the customer to insure that safe delivery is achievable. Any apparent or obvious jobsite civil improvement required to safely deliver the goods that is discovered during site survey, must be sent to Company in writing immediately. Mobilization of equipment shall not occur until the goods arrive at the site specified by Company. Mobilization of equipment before the goods arrive at the specified site must be authorized in writing by an authorized representative of Company.

29. Additional Installation Terms and Conditions: Failure to properly arrange/coordinate delivery or delays of such delivery caused by Vendor will result in demurrage charges to Vendor's account, and such charges will be deducted from any additional demurrage paid or owed by Company and caused by (i) Vendor's failure to perform its obligations hereunder in accordance with the schedule set forth on the Purchase Order or otherwise agreed upon by

the parties in writing; (ii) Vendor equipment failures; (iii) Vendor's lack of sufficient manpower to complete the work; or (iv) damages caused to Company materials by Vendor, will be charged to Vendor. Any changes to the Purchase Order must be agreed to by Company in writing.

30. Additional Terms and Conditions for Oil Supply

Vendors: Failure to deliver oil at the requested time may result in additional charges to Company which will be deducted from Vendor invoice(s). Early delivery of oil which results in demurrage charges to Company will be deducted from any Vendor invoice prior to payment. If Vendor commits to supply and deliver oil and receives a written Purchase Order from Company and fails to deliver within the agreed upon timeframe, Vendor will be responsible for any additional charges as a result of Company procuring the oil from another Vendor or otherwise.

31. Entire Agreement: This Purchase Order along with these Terms and Conditions set forth the entire agreement between Company and Vendor with regard to the purchase of Work and supersede all prior agreements and understandings, whether oral or written, between the parties hereto with respect to the subject matter thereof. Company objects to any additional or conflicting terms and conditions in Vendor's acceptance of this Purchase Order. Any changes or amendments to the terms and conditions in this Purchase Order must be agreed to in writing by Company.

32. Severability: If any provision of this Purchase Order shall be deemed by a court of competent jurisdiction as invalid, illegal or unenforceable, the remainder of the provisions of this Purchase Order shall not be affected thereby, and each provision not declared invalid or unenforceable shall be valid and enforced to the fullest extent permitted by law.

33. Notices: All notices required under this Purchase Order or the Prime Contract shall be sent to the address of the applicable party as set forth on the face of this Purchase Order, and, as applicable, to the Owner or GC address location as set forth in this Purchase Order or the Prime Contract. Any notices required from Vendor by the various provisions of the Prime Contract shall be due in the designated office of the Company in one-half (1/2) of the time specified for such notice in the Prime Contract so that Company will have sufficient time to review and forward its notice within the required period under the Prime Contract. Failure of Vendor to forward notices in a timely manner as required by the applicable equitable adjustment provisions of the Prime Contract shall operate as a waiver by Vendor of its rights to any such adjustment if the Owner/GC rejects any such claim.

34. Governing Law: The Company and Vendor agree that this Purchase Order shall be construed and interpreted

according to the internal laws of the Commonwealth of Pennsylvania, excluding those provisions relating to choice or conflict of law and excluding the United Nations Convention on Contracts for the International Sale of Goods. Each of Company and Vendor hereby agrees that any suit, action or other proceeding of any type whatsoever arising out of this Purchase Order or any of the transactions contemplated hereby shall be heard solely in the federal or state courts located in Allegheny County, Commonwealth of Pennsylvania and any other court in the United States of America competent to hear appeals from such courts, and the parties hereby irrevocably submit to the subject matter and personal jurisdictions of such courts for such purposes. Notwithstanding the foregoing, Vendor agrees that Company may seek injunctive relief in any court of competent jurisdiction.

35. Miscellaneous: Any delay in Company's exercise of its rights hereunder shall not constitute a waiver of such rights. Sections 3, 4, 6, 10, 11, 13, 14, 17, 25, 27, 28, 29, 30 and 34 shall survive any termination or expiration of this Agreement.