

2.3a

TERMS AND CONDITIONS

Whether this instrument is a PURCHASE ORDER providing only for the sale and purchase of merchandise or material, or as a CONTRACT constituting an agreement for labor and material to be supplied to Purchaser by a Seller is governed by the entries on FORM 2.3. Hereafter set forth are the terms and conditions of governing each transaction.

PURCHASE ORDER

Purchaser reserves the right to countermand or cancel this order, or any part thereof, if delivery is not made on the date specified or if there is a suspension or interruption of the work on the project due to fire, earthquake, casualty, labor dispute or any other case beyond its control.

Material purchased is subject to inspection and will require approval of governing agencies and authorized persons of Purchaser and Purchaser reserves the right to reject the merchandise purchased by reason of damage or defects, in which event it will be held subject to seller's instructions and returned or repaired at seller's expense. No payment will be made for rejected material.

Payment will be made to Seller after delivery and acceptance acknowledged in writing by Purchaser and upon receipt of invoices reflecting proper order number. No charge will be allowed for packing, crating, drayage or storage unless stated herein. This purchase order is non-assignable by seller.

Seller expressly warrants that all the material covered by this order will conform to the description furnished or specified by buyer and will be merchantable, of good material and workmanship and free from defect. Seller expressly warrants that all the material covered by this order, which is the product of the seller, will be fit and sufficient for the purposes intended. If at any time seller has reason to believe that deliveries will not be made as scheduled, written notice setting forth the cause of the anticipated delay will be given immediately by buyer.

Seller guarantees that the material hereby ordered and its sale or use will not infringe any United States or foreign Letters Patent, and seller agrees to defend, protect and save buyer harmless against all suits at law or in equity and from all damages, claims and demands for actual or alleged infringements of any Patent by reason or the sale or use of the material hereby ordered. In the event Buyer must defend any such claim, demand, or suit. Seller agrees to indemnify Buyer for all attorney's fees and costs thereby incurred. In accepting this order seller shall be deemed to represent that the goods to be furnished hereunder were or will be produced in compliance with the requirements of the Fair Labor Standards Act of 1938, as amended. Seller warrants and represents that it is an equal opportunity employer. This purchase order is to be construed according to the laws of the State of the Project location.

SAMPLE CONTRACT

This contract is to be construed according to the laws of the of the State of the Project location. This contract is non-assignable by seller and shall be void in the event of such assignment unless approved in writing by Purchaser. This contract constitutes Seller's offer. It becomes a binding contract on the terms set forth herein, including those on page 1 hereof. No modification of this contract shall be effective unless agreed to in writing signed by an authorized representative of Purchaser.

The contract documents, consisting of but not limited to plans, drawings, specifications or other instructions, are identified on page 1 hereof, Seller agrees that he is familiar with the contract documents, the location of the job site and the conditions under which the work is to be performed, and he enters into this agreement based upon his investigation of a such matters as is so well relying upon any opinions or representations of Purchaser. This agreement constitutes the entire understanding of the parties. The Contract Documents are incorporated into this agreement by reference.

INDEMNITY Seller agrees to indemnify and save harmless the Purchaser and their agents and employees, and any other party designated by the project specifications, from any and all liability, claims, loss, damages or injuries to any person or to property, including injuries to Seller's employees, and all expenses of investigating and defending against the same: (a) arising from, or connected with the performance of, or failure to perform, the work or other obligations of this contract; (b) caused or claimed to be caused by the independent negligence of the Seller or the concurrent negligence of the Seller with the active or passive negligence of the Purchaser or any other party.

INSURANCE To procure, pay for and maintain at all times during the performance of work under this contract, insurance under forms and through companies and agencies acceptable to Purchaser as follows:

1. Worker's Compensation Insurance as required by law.
2. Comprehensive General Liability Insurance including owned and non-owned auto, contractor's protective, blanket contractual, broad form property damage, and products and completed operations liability coverage, with minimum limits of \$1,000,000.00 per occurrence for personal injury claims and \$500,000.00 per occurrence for property damage claims, unless higher limits are required by project documents. The blanket contractual liability insurance coverage shall recognize and insure the indemnity provision above.
3. The Seller shall furnish to Purchaser prior to commencement of work at the project site or within three (3) days after signing this contract, whichever should first occur, certificates of the insurance coverage, insuring programs, and labels and which confirm that the policies have been endorsed to provide that Purchaser is named as additional insured for the project under Seller's Comprehensive General Liability policy. All insurance policies shall have a cancellation clause making it mandatory that thirty (30) days written notice be given Contractor before reduction or cancellation in coverage. All required insurance certificates naming Purchaser as additional insured and labor and/or material lien releases shall have been received by Purchaser before any payment is made to Seller.

Seller shall do all work in a first-class and workmanlike manner and to the entire satisfaction of the Purchaser. Seller shall conform in all respects to the provisions of any regulation, ordinance or local authority that may be applicable to the work and shall indemnify Purchaser against all penalties by reason of any failure by Seller to so conform.

Seller agrees to promptly begin said work as soon as notified by Purchaser and will conduct the work continuously and with diligence and in strict accordance with Purchaser's directions or with any time schedule it may provide. In case of Seller's failure to successfully perform the work covered by this contract as directed, Purchaser may supply labor and material to carry on the work and deduct the cost of same from any monies due, or which will become due the Seller. **ATTENTION IS HEREBY DIRECTED TO THE FACT THAT TIME IS OF THE ESSENCE IN THIS CONTRACT.**

Should the Seller fail to employ sufficient competent help to complete the work in the given time, the Purchaser may, after giving forty-eight hours written notice, by letter or e-mail to the last known address of the Seller, employ help to complete the work and charge the same to the Seller's account and/or charge Subcontractor any penalties due to their failure to complete on given due date. If the cost of completing said work exceeds the contract price, the Seller herein agrees to reimburse the Purchaser for any sums over and above the contract price. If the cost of completing the work does not exceed the contract price, any excess shall be paid to the Seller.

Seller agrees to clean-up and remove from project all of his surplus materials and debris remaining after the performance of the work in this contract and as directed by Purchaser; or if not done within three (3) days, Purchaser may remove same and charge actual cost of removal to Seller's account.

All change orders or "extras". If any, or any deviation from the Contract Documents shall be authorized and valid only if approved in writing by Purchaser. Neither party may waive this provision by acts or conduct. Seller guarantees Purchaser against any loss or damage arising from any defect in materials or workmanship furnished under this contract for a period of one year from the date of completion of the project. Seller agrees to comply with all terms and conditions of any construction labor agreement now in existence at the location of the project, and any revision or extension thereof. Unless otherwise provided herein, the stated contract price will be paid in installments as progress payments. Purchaser shall have the right to withhold from the Seller any payments if it fails to present satisfactory evidence that all current bills for labor and materials, or other liabilities, have been paid in connection with this contract. Purchaser shall be entitled to hold Seller's final payment until after final acceptance by Purchaser and until the Seller shall have completed its work to the full satisfaction of Purchaser. No payment made during the progress of the work shall be construed as an approval or acceptance of defective work or improper materials.

In the event legal action is instituted by either party hereto, the prevailing party shall be entitled to reasonable attorney's fees and costs. The Purchaser and Seller for themselves, their agents, personal representatives, and authorized assigns hereby agree to the full performance of the covenants and agreements of this contract

Purchase and download a working version today