

TERMS AND CONDITIONS

GENERAL NOTE: The VENDOR shall hereinafter be called the "Seller" and the COUNTY OF LEHIGH shall hereinafter be called the "Buyer".

1. **ACCEPTANCE** – The Seller, by accepting this purchase order, agrees that all Terms and Conditions hereinafter stated and listed on the face side hereof, are parts of this order.
2. **DELIVERY / CANCELLATION** – Material ordered herein must be delivered at the time or times specified herein or in written releases issued by Buyer hereunder. Promptness of delivery is of the essence of this order. In the event of any late delivery, Buyer may, at its option, cancel this purchase order for default, partially cancel this purchase order; vary delivery terms hereunder, or use other material. Any losses sustained or costs incurred by the Buyer by reason of late delivery (without regard to which option Buyer elects) shall be paid to Buyer by Seller. Seller shall be excused (subject to Buyer's right to terminate this purchase order, in whole or in part, as provided under "Termination" below) for any failure to make, or delay in making, delivery as specified herein or in any release hereunder, if such failure or delay is caused by labor strike, accidents, fires, flood, invasion, civil commotion's, acts of God, government regulations or restrictions or any other causes beyond the Seller's reasonable control. Buyer shall be excused for any failure to accept or delay in accepting delivery as specified herein or in any release hereunder, if such failure or delay is due to any of the causes enumerated in the immediately preceding sentence. Any billing anticipating the delivery date specified herein or in any release hereunder may be re-dated by Buyer to agree herewith and such re-dating shall govern payment of such billing.
3. **QUALITY - RETURN OF UNSATISFACTORY MATERIALS** – All material delivered hereunder by Seller must conform to the specifications set forth herein (or incorporated herein by reference) and/or samples required to be furnished by Seller under this purchase order, and will be subject to Buyer's inspection within a reasonable time after delivery. Buyer may reject any material not conforming to such specifications and/or samples. Buyer shall advise Seller of such rejection by either written notice or return of the rejected material, at Seller's risk and expense within a reasonable time after such rejection. In the event of rejection by written notice, Buyer may thereafter either return the rejected material to Seller at Seller's risk and expense or hold the same for Seller at Seller's risk and expense.
4. **QUANTITY** – The quantity of material ordered or released hereunder must not be exceeded and Buyer shall not be liable for and may reject any material delivered in excess of that so ordered or released, unless otherwise approved by the Buyer.
5. **CARTAGE OR BOXING** – Unless otherwise provided, Seller shall bear all costs for cartage, boxing, pallets or containers required in connection with this purchase order.
6. **SAMPLES OR PROOFS** – If Seller is required to furnish samples or proofs hereunder, Seller shall not deliver any material specified herein until Buyer has approved in writing such samples or proofs.
7. **DEFAULT** – Upon the occurrence of any one of the following events, Buyer shall have the unrestricted right, upon written notice, to cancel this purchase order, and upon the delivery or mailing of such notice to Seller at its address shown herein, every obligation of the Buyer hereunder shall immediately terminate: (i) Seller's insolvency or commission of an act of bankruptcy, (ii) commencement of proceedings by, for or against Seller under any law relating to bankruptcy or the relief of debtors, (iii) determination by Buyer, in its sold judgement, that Seller's financial condition is such as to endanger its performance hereunder, or (iv) Seller's failure to comply with any of the provisions, terms and conditions of this purchase order, including without limitation, its failure to make timely deliveries or material specified hereunder. If Buyer cancels this purchase order as hereinabove provided, Seller shall compensate Buyer for all losses sustained by it by reason of such default and cancellation.
8. **TERMINATION** – Buyer may at any time, upon reasonable notice in writing, terminate this purchase order in whole or in part, even though Seller is not then in default. Such notice shall state the extent and effective date of termination and upon the mailing or delivery thereof to Seller, Seller will, in accordance with such notice, terminate work hereunder and under any orders and/or subcontracts outstanding hereunder, place no further orders or subcontracts hereunder, and take all steps necessary to protect material and/or property in Seller's possession in which Buyer has or may acquire an interest. Upon such termination, Buyer's obligation to Seller shall be limited to payment for (i) the material completed in accordance with the terms hereof and not previously paid for, (ii) the actual costs incurred by Seller which are properly allocable under recognized commercial accounting practices to the terminated portion of this contract, including Seller's obligations to subcontractors which are so allocable (but excluding any charge for interest or materials which may be diverted to other orders), plus (iii) a reasonable profit on work performed by Seller before termination and for which Buyer has not paid, provided, however, that the total payments which Buyer is obligated to make hereunder shall not exceed the purchase order price of material to which such termination applies. Termination by Buyer hereunder shall be without prejudice to any claims, which Buyer may have against Seller.
9. **WARRANTIES AND INDEMNIFICATION** – Seller warrants that (i) all material delivered hereunder shall conform to the specifications herein and in any samples approved by Buyer as herein provided, (ii) all material delivered hereunder will be of the highest quality and free from defects (including defects in design when design is Seller's responsibility), (iii) sale or use of material delivered hereunder, either alone or in combination with other materials, will not infringe or contribute to the infringement of any patents in the United States or any foreign country. Seller agrees to defend every suit which may be brought against Buyer or any person selling or using any of Buyer's products for any alleged infringement of any patent by reason of the sale or use of said material, either alone or in combination with other materials, and to pay all expenses and fees of counsel which shall be incurred in connection with such defense, together with all costs, damages and profits recoverable in every such suit. Seller agrees to indemnify and hold Buyer harmless against any and all liabilities whatsoever for damages and/or injuries which may be incurred by Buyer by reason of any defect in material (and/or design, if Seller's responsibility) delivered or furnished hereunder. Seller shall compensate Buyer for any damages to Buyer's property caused by negligence of Seller or any of its subcontractors in the performance of work hereunder.
10. **ASSIGNMENT OF ORDERS** – This purchase order is issued to Seller in reliance upon Seller's personal performance of the duties imposed. By accepting same, Seller agrees not to assign this order or delegate the performance of Seller's duties without the consent in writing of Buyer.
11. **CHANGES IN SPECIFICATIONS** – Buyer reserves the right at any time to make changes in specifications and drawings as to any material covered by this purchase order. Any difference in price or time for performance resulting from such changes shall be equitably adjusted and the contract shall be modified in writing accordingly.
12. **TAX DELINQUENCY** – If the Seller becomes delinquent on taxes owed the Buyer during the term of this purchase order, Seller shall be in breach of this purchase order and Buyer shall withhold Seller payments in lieu of taxes until taxes are paid in full.
13. **NON-DISCRIMINATION** - In carrying out the terms of this contract, both parties agree not to discriminate against any employee or client or other person on account of race, color, religion, gender, national origin, age, marital status, political affiliation, sexual orientation, gender identity or expression, or physical or mental disabilities as set forth in the Americans With Disabilities Act of 1990. Seller and Buyer shall comply with the Contract Compliance Regulations of the Pennsylvania Human Relations Commission, any pertinent Executive Order of the Governor and with all laws prohibiting discrimination in hiring or employment opportunities. The provisions of this section must also be included in any sub-contract Seller enters into to perform the scope of this contract.
14. **GOVERNING LAW** - The contract shall be governed by the laws of the Commonwealth of Pennsylvania including matters of construction, validity, and performance, and any action filed in connection with this contract shall be filed in the Court of Common Pleas of Lehigh County, Pennsylvania.
15. **AVAILABILITY OF APPROPRIATED FUNDS** - The Seller hereto agrees that any and all payments due from the Buyer as required under the terms of this agreement, are contingent upon the availability of appropriated funds.
16. **UNDUE INFLUENCE** - The Seller agrees not to hire any of the Buyer's Personnel who may exercise or has exercised discretion in the awarding, administration or continuance of this contract for up to and including one (1) year following the termination of the employee from Buyer's service. Failure to abide by this provision shall constitute a breach of this contract.