

## **GENERAL TERMS AND CONDITIONS**

### **1. AGREEMENT**

This purchase order ("PO") may be used by Company as an offer or acceptance for goods and/or services as described herein (the "Work"). If this PO is used as an offer, it is expressly limited to the terms here in and constitutes notice of objection to any additional or different terms. If this PO is used as an acceptance, the PO is expressly conditioned on Supplier's assent to any additional or different terms contained in the PO. This PO consists of, and is expressly limited to and made conditional upon, Supplier's acceptance of the terms, conditions, specifications, or documents referenced on the face and back hereof. This PO constitutes the entire agreement of the parties and shall not be modified, altered, or amended. Changes, deviations or substitutions in the design, process, configuration or material of the Work shall not be made, except as approved in writing and signed by a duly authorized Company representative. Supplier shall promptly notify Company prior to proceeding with Work if it is unable to comply with the PO exactly as written. In the event of any conflict among these General Terms and Conditions, technical specifications, and special or supplemental terms and conditions referenced in this PO, the following shall govern in this order: (a) special/supplemental terms and conditions, (b) these General Terms and Conditions and (c) the technical specifications. In the event of any conflict between this PO and any proposal of Supplier, this PO shall govern. By performing any Work pursuant to this PO, Supplier agrees to these General Terms and Conditions.

### **2. SALES TAX**

Pursuant to an applicable exemption certificate provided by Company, no sales or use taxes shall be billed to Company on Company's purchases from Supplier.

### **3. EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION/EMPLOYEE PROTECTION**

**Supplier is in compliance with all of the laws and Executive Orders prohibiting discrimination, including, but not limited to, Title VII of the Civil Rights Act of 1964 as amended, the Age Discrimination in Employment Act, the Americans With Disabilities Act, and their state law counterparts. Supplier and its subcontractors shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a) (for construction contractors, 41 CFR §60-4.3(a)).**

**Accordingly, Supplier agrees not to discriminate against qualified individuals based on their status as protected veterans or individuals with disabilities, and not to discriminate against individuals based on their race, color, religion, sex, national origin, sexual orientation or gender identity. Moreover, Supplier and its subcontractors shall take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, sexual orientation, gender identity, protected veteran status or disability. Supplier also agrees to comply with the provisions of 29 C.F.R. Part 471, Appendix A to Subpart A, as applicable.** Supplier shall be familiar with Section 210, "Employee Protection," of the Energy Reorganization Act of 1974, 42 USC 5851, as amended; Title 10 of the CFR Section 50.7, "Protection of Employees Who Provide Information"; 29 CFR Part 24; and all state law counterparts. Supplier shall become familiar, and comply in every way, with Company's requirements regarding Safety Conscious Work Environment. Supplier shall implement a program and develop procedures to advise all employees that they are entitled and encouraged to raise safety concerns to Supplier's management, to the Company, and to the Nuclear Regulatory Commission, (NRC), without fear of discharge or other discrimination. In the event any allegation is made to the Supplier by an employee of discriminatory acts prohibited by the Whistleblower Provisions, or there is any indication that an employee intends to, or has sought, a remedy under the Whistleblower Provisions before the Department of Labor or NRC, Supplier shall notify the Company both verbally and by written notice within two (2) business days

thereof. In the event of any dispute between Supplier and its employee about compensation, terms, conditions, or privileges of employment, Supplier agrees that it will not permit a provision in a settlement agreement arising out of such dispute that in any manner hinders or discourages an employee from notifying the NRC of any matter within the scope of its regulatory authority. Supplier further agrees that, prior to signing, it will submit any settlement agreement arising out of a dispute that directly affects safe plant operation or the Company's responsibilities as a NRC licensee to Company for review.

#### **4. PROPRIETARY INTERESTS**

All Work shall constitute works made for hire, and the ownership of such Work, including all copyrights, patents or other intellectual property rights shall be vested in Company. All Work provided hereunder shall not violate or infringe on any patent, copyright, trademark, or proprietary interest. If the use of any Work, or any part thereof, shall be held to constitute an infringement and its use be enjoined in any suit or proceeding, Supplier shall, at its sole expense, either procure for Company the right to continue using the Work, replace it with non-infringing items, or so modify it that it becomes non-infringing. All substituted items shall be equal to or better than the items replaced in quality and performance.

#### **5. COMPLIANCE WITH LAWS/CORPORATE SAFETY RULES, STANDARDS, and BACKGROUND CHECKS**

Supplier shall comply with, and shall cause all subcontractors and others for whom Supplier is responsible, to comply with all applicable laws, regulations and Company policies and procedures that pertain to all Work provided hereunder, including, but not limited to, environmental mandates. Supplier shall comply with Company's safety rules and respond to all safety related data requests. **Hazard Communication Program:** Company may store and/or use materials that are defined as "hazardous chemicals" under the OSHA Hazard Communication Standard (29 CFR 1910.1200) at the location where Supplier is performing the Work and will make available to Supplier its "Hazard Communication Program", pursuant to 29 CFR 1910.1200(e) upon request. Prior to initiating any Work, Supplier should contact the designated Safety Coordinator for the specific work location and implement the "Hazard Communication Program" required by 29 CFR 1910.1200(e). Supplier must notify Company of all "hazardous chemicals", including petroleum products, that may be brought onsite, and shall immediately notify Company of any discharges of those hazardous substances at Company's site. This notice shall not relieve Supplier of its other obligations under applicable laws. **Standards of Integrity:** As applicable to Supplier in performing the Work, Supplier and its employees shall adhere at all times to the provisions contained in Company's Standards of Integrity that can be found on its website, [www.pseg.com/integrity](http://www.pseg.com/integrity) or in booklet form upon request. **Background Checks:** Prior to the start of any Work, Supplier shall complete all background checks required by Company as referenced by this PO on all employees, agents or subcontractors of Supplier who may have access to Company's or its customer's: (i) property/facilities; (ii) electronic systems or computer networks; (iii) information resource; or (iv) Confidential Information without Company escort or uninterrupted oversight ("Unescorted Access"). Background checks shall be deemed valid for seven (7) years.

#### **6. INSPECTION**

All Work supplied under this PO will be subject to Company's inspection. If any Work does not conform to this PO, it may be rejected. Nonconforming goods may, at Supplier's sole risk and expense, at Company's option, be returned to Supplier or held by Company for a reasonable time. The provisions of this paragraph shall not affect Supplier's obligations hereunder.

#### **7. TITLE/OWNERSHIP**

Unless otherwise agreed to by Company, all purchases are made on an FOB Destination or Delivered, Duty Paid (DDP) basis. Title of goods shall pass upon the earlier of payment or delivery.

#### **8. WARRANTY**

Whether or not Supplier is a merchant of the Work provided by it, Supplier warrants that: (a) the Work furnished hereunder will (1) fully conform to this PO and the specifications, drawings, samples supplied by Company, (2) be free from any defects in design, workmanship, performance, material, and title and fit for the purpose intended, (3) be merchantable, (4) meet or exceed the safety standards established under the Occupational Safety and Health Act (Public Law 91-596) and the regulations implementing it; (5) comply with applicable laws; (6) not violate any intellectual property rights; and (7) for safety-related Work, the Work will be of the best quality consistent with Supplier's quality control program. Supplier acknowledges that it is aware of the purpose intended for the Work to be provided under this PO. If within two years from the date of placing any goods into the service for which they were purchased, or acceptance of any services, whichever is later, the goods or services do not conform to the above warranties and Company so notifies Supplier, Supplier shall promptly correct such nonconformity at Supplier's sole expense, including costs of transportation to any other location designated by Supplier and approved by Company as necessary for repair or replacement, and return transportation costs to the original location. The correction of such nonconformity shall in turn be warranted for two full years from the date of correction. Further, the warranty on conforming Work affected by the repairs or replacement shall be similarly extended. The conditions of any subsequent acceptance tests shall be set by Company. Supplier shall be notified of, and may be represented at all tests that may be made. Supplier's liability hereunder shall extend to all damages caused by the breach of said warranties.

#### **9. INDEMNIFICATION**

Supplier shall defend, hold harmless, and indemnify Company, including its successors, agents and employees, against any claims, liens, lien claims, suits, proceedings, judgments, losses, damages, injuries, penalties, costs, fines, or expenses, including attorneys' fees, arising out of, connected with, or related to any: breach of warranty or contract; the use, possession, or provision of any Work under this PO; or for any violation or alleged violation of an applicable law, copyright, patent, or proprietary interest by Supplier or by any officer, agent, employee, or subcontractor of Supplier.

#### **10. LIMITATION OF LIABILITY**

THE COMPANY'S TOTAL LIABILITY TO THE SUPPLIER FOR ALL CLAIMS OR SUITS OF ANY KIND (WHETHER BASED UPON CONTRACT, TORT, INCLUDING NEGLIGENCE, WARRANTY, STRICT LIABILITY OR OTHERWISE) FOR ANY LOSSES, DAMAGES, COST OR EXPENSES OF ANY KIND ARISING OUT OF, RESULTING FROM OR RELATED TO THE PERFORMANCE OR BREACH OF THIS PO SHALL NOT EXCEED THE PRICE OF THE PO. THE COMPANY SHALL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL LOSSES, DAMAGES, COSTS OR EXPENSES.

#### **11. INSURANCE**

Prior to the start of Work, Supplier shall at its own expense, procure and maintain in effect until final completion and acceptance of the Work, the following minimum insurance with insurance companies having ratings of A-/VII or better in the Best Key Rating Insurance Guide: (a) Workers' Compensation insurance as required by the state in which the Work is to be performed and Employer's Liability insurance with limits of \$1,000,000 per occurrence; (b) Commercial General Liability insurance (occurrence form only) providing coverage for premises, bodily injury, property damage, explosion, collapse, and underground hazards (if applicable), personal injury,

blanket contractual liability, (covering Suppliers obligations under this PO), products and completed operations for not less than 3 years from the date Company accepts the Work, coverage for independent contractors and broad form property damage coverage with limits of \$1,000,000 for each occurrence with an annual aggregate of \$3,000,000; (c) Commercial Automobile Liability insurance providing coverage for all owned, non-owned, and hired automobiles used by the Supplier in the performance of the Work with a combined single limit of \$1,000,000 for each occurrence of bodily injury and property damage; (d) Excess or Umbrella Liability insurance with a limit of \$3,000,000 for each occurrence with an annual aggregate of \$3,000,000. This limit applies in excess of each of the coverage set forth in (a), (b) and (c) above. All above-stated insurance policies, with the exception of Workers' Compensation, shall name the Company, its successors and assigns, as additional insured; be primary to any other insurance or self-insurance maintained by the Company; and provide for a waiver of all rights of subrogation against the Company by Supplier and its insurers. The Commercial General Liability insurance shall contain a standard cross-liability provision. Prior to the start of any Work, Supplier shall deliver to the Company's Procurement representative evidence of the required insurance coverage in the form of Certificates of Insurance (Accord Form) indicating that coverage afforded under the policies will not be canceled, allowed to expire, or limits reduced in any manner, until at least 30 days prior written notice has been given to Company. The Insurance provided above shall not relieve or release Supplier, its agents, subcontractors and invitees from, or limit liability for, any obligations under this PO.

#### **12. FORCE MAJEURE**

Time is of the essence for the Supplier's performance of the Work. However, the parties shall not be liable for delays in receipt or delivery due to causes beyond their reasonable control, such as acts of God, acts of civil or military authorities, governmental priorities, fires, floods, epidemics, war, or riot. In the event of any such delay, the new date of delivery of the Work may be mutually agreed upon, but it shall only be extended by a period of time directly related to that specific cause. Company shall not be liable for any increased costs, including price escalation, beyond the original delivery date, due to causes beyond either party's reasonable control.

#### **13. TERMINATION**

Without prejudice to any of its rights or remedies, Company may terminate all or any part of this PO without any liability or obligation whatsoever in the event that Supplier defaults, fails to provide goods or services on time, provides nonconforming or defective goods or services, fails to provide Company, upon request, with adequate assurance of future performance, or otherwise breaches any of the provisions of this PO. Company may also terminate all or any part of this PO for its convenience upon written notice to Supplier, in which case Supplier shall be paid the percentage of the PO price reflecting the percentage of Work provided to Company prior to notice of termination, plus its necessary, reasonable and verifiable expenses that may be incurred as a direct result of the termination, less the disposal or retention value of termination inventory. In the event of such termination, Supplier shall immediately stop all Work hereunder and immediately cause any of its suppliers and subcontractors to cease Work. Company shall not be liable or obligated in any way for Work provided after receipt of notice of termination or for any costs incurred by Supplier's suppliers or subcontractors that could have been avoided. The foregoing shall constitute Company's entire liability or obligation and Supplier's exclusive remedy for such termination. Any request for payments arising out of the termination under this paragraph must be made in writing within 30 days after the date of the termination notice, and Supplier shall include with detailed documentation supporting the request for payment.

#### **14. RIGHT TO RECORDS**

Company shall at times have access to the Work and to all books, vouchers, memoranda, and other records relative to the Work that are in Supplier's possession or control. Supplier shall preserve these records for 2 years after the final payment, during which Company will complete any audit that may be desired. If discrepancies or questions arise, the records shall be preserved until an agreement is reached. Company reserves the right to recover from Supplier any over-billing plus interest at the fed rate, costs of audit and professional fees expended to recover such over-billing. In addition, if any of the services hereunder are performed on a time/material basis, such as, but not limited to, technical direction of installation, Supplier shall keep detailed accounts of all costs necessary for proper financial management with a system of accounts satisfactory to Company. Supplier shall keep daily time sheets for each employee, including name, employee number, classification, number of hours worked, and description of work done. Company shall have the right, but not the obligation, to approve these sheets daily.

#### **15. ADVERTISING/EXPEDITING**

Supplier or its agents shall not use Company's name, photographs, logo, trademark, or other identifying characteristics or that of any of its subsidiaries or affiliates without Company's prior written approval. The Work furnished under this PO shall be subject to expediting by Company, or its agents' personnel shall be allowed reasonable access to Supplier's plants and those of its suppliers for expediting purposes. Supplier shall supply schedules and progress reports as required by Company.

#### **16. PRICES/DISCOUNTS**

The prices for the Work provided hereunder are not less favorable than those currently extended to any other customer for the same or similar goods in the same or similar manner and/or quantities. All discounts applicable to this PO will be computed from the date the Work is received, or from the date that a correct invoice is received, whichever is later.

#### **17. ASSIGNMENT**

Supplier shall not assign this PO in whole or in part to any other entity.

#### **18. WAIVERS/WITHHOLDING OF PAYMENTS**

Company's failure to insist upon strict performance of any provision of this PO by Supplier, or to take advantage of any of its rights hereunder, shall not be construed as a waiver by Company of any such provision or the relinquishment of any of its rights and remedies. All claims for money due or that become due from Company shall be subject to set-off by Company by reason of any claim arising out of this PO or any other transaction with Supplier. Supplier shall immediately cause any liens or lien claims filed against Company's property by any of its subcontractors or suppliers of any tier to be discharged. Company shall have the right to withhold and deduct the amount of any such lien or lien claim from the amount due Supplier and, at Company's option, pay the lien claimant directly. Company will not be obligated to pay on an invoice received more than 45 days after completion of the work.

#### **19. DISPUTES**

Notwithstanding the existence of a dispute between the parties, the Supplier shall proceed with the Work as directed by Company.

#### **20. CONFIDENTIAL INFORMATION/IDENTITY THEFT NOTIFICATION**

Any information or data, whether in oral, written, or physical form concerning the Company, its employees, customers or any product of the Company's expenditure of time, effort, money, or creativity, which are: a) obtained from or provided by Company to Supplier; b) developed, compiled or prepared by Supplier for Company; or, c) identified by the Company as confidential or proprietary shall be treated and maintained by Supplier as the Company's confidential and proprietary information and shall not in any manner be used or disclosed, in whole or in part,

without the Company's prior written permission. If Supplier becomes aware of a disclosure of Company employee or customer personally identifiable information, Supplier shall immediately notify Company and take steps to mitigate such disclosure in accordance with applicable law or company policies.

**21. GOVERNING LAW**

This PO shall be governed by, and construed in accordance with, the laws of the State of New Jersey. Any claims or suits shall be filed and litigated in New Jersey. THE PARTIES EXPRESSLY WAIVE THEIR RIGHT TO A TRIAL BY JURY.

**22. SURVIVAL**

All provisions for limitation or protection against loss or liability of the Company, including all warranties, protections and indemnities shall survive termination, suspension or cancellation of this PO.

**23. SUBCONTRACTORS**

Supplier shall bind any subcontractor it uses in connection with the Work to the terms and conditions of this PO.

RV 05/2016