

Terms and Conditions – United States

This Purchase Order consists of the terms specified on the face of the Purchase Order, the Conditions of Purchase set forth herein, and any plans and specifications referenced herein (collectively, the "Order"). In the event of any conflict between the terms specified on the face of this Order and the Conditions of Purchase, the terms specified on the face of this Order shall prevail. In the event of any conflict between the terms specified in the plans and specifications referenced herein and the terms specified on the face of this Order, the terms specified on the face of this Order shall prevail. No modifications of the terms and conditions of this Order shall be valid and binding upon the Purchaser unless agreed to in writing signed by an officer or authorized employee of Purchaser (email is sufficient). No conditions stated by Vendor in accepting this Order shall be binding on Purchaser if in conflict with, inconsistent with or in addition to the terms and conditions of the Order, unless such conditions are expressly accepted in writing signed by an officer or authorized employee of Purchaser (email is sufficient). Subject to the foregoing, if any provisions comprising this Order are inconsistent or conflicting, the more demanding or stringent provision governing the scope, liabilities or obligations of Vendor relating to the performance of the Work shall govern. If this Order is presented to Vendor and Vendor commences performance of the Work under the Order, performance of the Work is sufficient to make the terms and conditions of the Order binding on Vendor.

1. PRICE

1.1 All prices are firm and there will be no increase in the price for any reason whatsoever unless otherwise specifically set forth herein or agreed to in writing by an officer or authorized employee of Purchaser. All materials, equipment, labor, services and/or supplies (collectively the "Work") delivered pursuant to this Order shall be paid for at the Order price, notwithstanding any attempts by the Vendor to increase the price.

1.2 The parties hereto are aware of the possibility of increases in the price of labor, materials and other items of cost. Nevertheless, no claims shall be made by the Vendor for an increase in the price of the Work. If the cost to the Vendor of any labor, materials or other items of cost involved in the furnishing of the Work called for by this Order increases for any reason whatsoever, it is agreed and understood that any and all risks of increase in the price of labor, materials and other items of cost have been contemplated by the Vendor and have been taken into consideration in arriving at the price set forth herein. It is further agreed that no claim for such increase shall be made even though it may be asserted by the Vendor, with or without cause, that the Vendor has been brought into a period of increased cost of labor, materials or other items of cost by reason of any delays or interferences of the Purchaser, the owner of the project to which this Order relates (the "Owner") or the general contractor of said project (the "General Contractor"), if other than Purchaser) or for any other cause whatsoever.

2. COMPLIANCE WITH SPECIFICATIONS, ETC.

All Work to be furnished hereunder shall be in strict accordance with the project plans and specifications contained or referenced in the Order, and to samples, drawings and designs approved or adopted by Purchaser and to the terms, conditions and specifications of the prime contract ("Prime Contract") between the Purchaser (or General Contractor, if applicable) and the Owner, the requirements of which Prime Contract relating to the Work including, but not limited to, provisions regarding alternative dispute resolution, arbitration notices of claim and delays and liquidated damages, are hereby incorporated and made a part of this Order.

2.1 Vendor shall prepare and submit for approval to Purchaser all shop drawings, cuts, diagrams and samples as may be required. When requested by the Purchaser or required under the Prime Contract, the Vendor shall conduct the necessary tests to furnish the necessary reports and obtain the necessary approvals requested by the Purchaser and the same shall be performed at the Vendor's sole cost and expense. The approval of any Vendor submittal shall not be deemed to authorize deviations, substitutions, or changes in the requirements of this Order.

2.2 When samples of materials are to be furnished to Purchaser in accordance with the terms hereof and the samples are not acceptable to the Purchaser, or the Owner

(or General Contractor, if applicable) or to the architect and/or engineer representing same, then the Purchaser may thereupon terminate the Order without obligation to make any payment hereunder, or at all, to the Vendor.

3. TITLE AND RISK OF LOSS

3.1 Vendor will pack, protect and deliver the Work in the most secure and appropriate manner at Vendor's sole cost and expense. All risks of loss of or damage to Work to be delivered by Vendor hereunder shall be upon Vendor, and title to said Work shall remain with Vendor until the Work is accepted by Owner or delivered to the destination designated by Purchaser, whichever shall be later.

4. TIME OF ESSENCE

4.1 Time is of the essence of this Order. Any drawing required to be submitted by Vendor for Purchaser's approval and any Work to be delivered by Vendor must be delivered or submitted by Vendor in strict accordance with the time stated in the Order or as otherwise requested by Purchaser. In addition to any other remedies of Purchaser herein if delivery has not been timely made or if Vendor has fallen behind schedule, Purchaser, upon written notification to Vendor, may require Vendor to work on an overtime or premium schedule, and further may require the Work to be shipped expeditiously either by special overland transportation and/or air freight from point of manufacture to the project site. In such event, Vendor shall be solely responsible for all additional overtime or premium costs or transportation expenses and all other expediting related expenses.

4.2 Vendor shall not be liable for failure to deliver, or for delays in delivery, occasioned by war, riots, floods, strikes by common carrier, or material default of the Purchaser. In any such event, the Vendor must give notice within two (2) days after the occurrence of the event (or such period under the Prime Contract, if shorter), failing which the Vendor shall not be entitled to the relief set out in this clause 4.2. To the extent provided to Purchaser under the Prime Contract (or other contract, if applicable), the time for delivery shall be extended for a period equal to the duration of the event or such period provided under the Prime Contract (or other contract, if applicable) if shorter. Such extension of time shall be the only remedy of the Vendor for any such delay. In no event shall the Purchaser be responsible or liable to the Vendor for any damages, costs or expenses whatsoever arising out of such delay, or any other delay whatsoever.

5. INSPECTIONS, TESTS, ETC

5.1 Purchaser shall have the right to inspect and test all Work under this Order at all times and places during manufacture. Vendor shall furnish, without additional charge, cost or expense, reasonable facilities and assistance for safe and convenient inspection and/or testing. Vendor shall provide advance notice to Purchaser prior to factory testing and advance notice to Purchaser prior to shipment, in each case at least one week earlier than such notice must be provided by Purchaser under the Prime Contract or other applicable contract.

5.2 All Work delivered shall be subject to inspection and testing by Purchaser after delivery of said Work to the location provided for in the Order. Purchaser shall have the right to reject and refuse acceptance of Work that is not in accordance with the requirements of this Order. Work rejected due to nonconformance with the requirements of this Order shall, at the Buyer's sole option, be (a) returned to Vendor at Vendor's sole expense, including transportation both ways, promptly upon notification of rejection and Vendor shall bear all risk on rejected Work; (b) held by Purchaser for an equitable reduction in Price; or (c) repaired at Vendor's sole expense. Payment for any Work shall not constitute acceptance. Failure of the Purchaser to detect any deficiencies or defects in the Work during the course of any inspection or testing carried out by Purchaser shall not relieve the Vendor of any of its obligations under this Order. Acceptance by Purchaser shall not constitute acceptance as to latent or hidden defects, which were discovered upon reasonable inspection.

6. SHIPPING

Shipping instructions, furnished by Purchaser shall be strictly complied with and shall be considered part of this Order. Vendor shall comply with shipping

instructions provided on the face of the Order. To the extent the delivery date is not expressly fixed on the face of the Order, Vendor shall give Purchaser twenty-four (24) hours' notice prior to the delivery of any Work. Risk of loss or damage to the Work shall be upon Vendor until the Work is physically delivered to Purchaser at the destination set forth on the face of the Order, or such other destination otherwise agreed to in writing.

7. CHANGES

7.1 Purchaser may, at any time by written notice to Vendor, (i) make changes in the shipping or packing instructions, (ii) increase or decrease the quantity of products ordered, (iii) change the drawing or specifications and (iv) make changes in the delivery schedule (any of which is a "Change Event").

7.2 Vendor shall proceed promptly to make such changes in accordance with the terms of such written notice. If such changes cause an increase or decrease in the cost of performance of this Order or in the time required for performance, an equitable adjustment shall be made in the Order price or the delivery schedule and this Order shall be amended in writing accordingly, to the extent that Purchaser obtains an extension of time or additional compensation under the Prime Contract (or other contract, if applicable).

7.3 Any claim for adjustment under this clause must be asserted within five (5) days from the date of the written notice causing the Change Event (or such period under the Prime Contract, or other applicable contract, if shorter). In the absence of such notification, Purchaser shall not be obligated to consider Vendor's claim for an equitable adjustment. Notwithstanding any dispute regarding any claim for adjustment, Vendor must continue performing all Work during the pendency of any such dispute.

8. WARRANTY

8.1 Notwithstanding Purchaser's inspection and acceptance of Work delivered, Vendor expressly guarantees and warrants that all Work furnished hereunder is merchantable, free from any defects (including latent defects) in design, materials and workmanship, and fully conforms to the plans and specifications of this Order and the requirements of the Prime Contract, including any drawings or samples approved by the Purchaser, and that the Work is suitable for the use intended and conforms to recognized commercial standards of quality and function. Purchaser's approval of Vendor's drawings or samples shall not release Vendor from the aforesaid guarantee and warranty obligations. The Vendor's guarantee and warranty shall extend for one year from the date of delivery, or such period as shall be set forth in the Prime Contract, whichever period shall be longer. Upon receiving written notification from the Purchaser that Work ordered hereunder is defective under Vendor's guarantee and warranty, Vendor shall replace such Work or correct the defect therein at no cost to the Purchaser, in the discretion of the Purchaser. Purchaser may at its option hold such Work at Vendor's expense for Vendor's disposition or shall return the defective Work, in which event all cost and expense of handling and freight charges incurred for the return of defective Work will be paid by Vendor. If defects, including latent defects, are discovered in the Work, whether during or after the warranty period referenced above, the Vendor will correct the defect or provide replacement equipment and materials promptly upon notification or instruction by Purchaser. Vendor will be responsible for all costs associated with any repairs or replacements under this section and will indemnify and save harmless the Purchaser and Owner from any resulting costs, losses, or damages. Other work removed or damaged as a result of or related to a breach of the guarantee or warranty herein shall also be repaired or replaced by the Vendor without additional payment by the Purchaser.

8.2 The Vendor has visited the project site and reviewed the drawings and specifications and Vendor guarantees and warrants that nothing that is reasonably foreseeable will prevent its performance of the Work.

8.3 Purchaser's rights and remedies under this section shall be in addition to any other rights and remedies that Purchaser may have under this Order or under applicable law.

8.4 These warranties shall survive inspection, acceptance, and payment of and for said Work. The provisions set forth in this Clause 8 shall survive the

termination, cancellation or expiration of this Order.

9. PURCHASER'S REMEDIES

9.1 Termination for Default -- Purchaser may terminate this Order or any part thereof by written notice of default under any of the following circumstances:

9.1.1 If Vendor refuses or fails to make deliveries or perform the Work within the time specified or extensions thereof agreed to in writing by Purchaser or otherwise fails to perform the Work timely, so as to endanger performance of this Order in accordance with its terms (as determined by Purchaser in its sole discretion);

9.1.2 If Vendor fails to comply with any provision of this Order and does not commence and continue correction of any such failure within a period of three (3) days (or such other period specified in the Prime Contract, if shorter) after notice from Purchaser specifying such failure; or

9.1.3 If Vendor becomes insolvent or is subject to any law relating to bankruptcy, insolvency or relief from its creditors.

9.1.4 In the event of such termination Purchaser may purchase any of the Work subject to this Order elsewhere or secure the performance of the Work from other sources and Vendor shall be liable to Purchaser for any loss, damage, liability or expense sustained by Purchaser as a result of having to acquire any of the Work elsewhere, including reasonable overhead, profit, attorneys' fees, and costs. Further, Vendor shall indemnify Purchaser for any liquidated damages that may be assessed against Purchaser as a result of Vendor's default. Purchaser shall have the right to withhold any payment to Vendor until the completion of the project and to offset against any amounts owed to Vendor for any loss, damage, liability or expense sustained by Purchaser or anticipated to be sustained by Purchaser in connection with said breach and/or termination.

9.2 Termination for Convenience - Purchaser may terminate this Order or any part thereof at any time, with three (3) days written notice to Vendor. In the event of such termination, Purchaser shall pay Vendor costs incurred by Vendor relating to Work already completed, delivered and accepted by the Owner. Vendor shall not be entitled to any other compensation whatsoever including, without limitation, any anticipatory or lost profits, costs incurred for Work not yet delivered and accepted by Owner or Purchaser, or other indirect or consequential damages pursuant hereto.

9.3 Other orders - Should there exist any other purchase orders or contracts between the Purchaser and Vendor, then, at the sole option of the Purchaser, (i) a breach of this Order may be considered a breach of any or all other purchase orders or contracts and (ii) a breach of any of those other orders or contracts may be considered a breach of this Order. In that event, the Purchaser shall have recourse against the Vendor as set forth in this Section 9 on any and all other purchase orders or contracts and this Order, and the Purchaser may apply any monies due from it under any of said purchase orders or contracts toward its damages sustained hereunder, or vice versa.

9.4 Notwithstanding anything else to the contrary set forth herein, the remedies set forth herein shall be in addition to any other remedies available to the Purchaser in law or equity.

10. NO WAIVER

Failure of Purchaser to insist upon strict performance of any of the terms and conditions herein shall not be deemed a waiver of any rights or remedies that Purchaser shall have and shall not be deemed a waiver of any subsequent default in the terms and conditions hereof. The delivery or receiving of any Work under this Order or payment therefore shall not be deemed a waiver of any rights by Purchaser for any prior failure by the Vendor to comply with any of the provisions of this Order.

11. COMPLIANCE WITH LAWS AND OTHER REGULATIONS; INDEMNIFICATION

11.1 By acceptance of this Order, Vendor warrants that it shall comply with all applicable union rules concerning the Work purchased, including the manufacture, handling and transportation of such Work and any objection by a union to the receipt or use of the Work shall constitute a proper basis for the Purchaser's rejection of the Work or the return of the Work and revocation of the sale, all at no cost to the Purchaser. Vendor further certifies that it

Terms and Conditions – United States



has complied with and will comply with all applicable federal, state, local and municipal laws, ordinances and regulations, specifically including, but not limited to, civil rights and equal opportunity provisions thereof, and the performance of the Work complies with applicable prevailing wage, worker safety and other applicable labor and employment laws, and Vendor will supply to the Purchaser any and all certifications or other evidence of such compliance as requested by Purchaser. Vendor shall cooperate with any requests and/or audit requirements of Purchaser and shall ensure that its subcontractors and suppliers shall also cooperate with any requests and/or audit requirements of Purchaser. All Work pursuant to the terms of this Order must comply with all applicable laws, regulations, ordinances and other codes, including any Buy America and Buy American requirements.

11.2 If Vendor is a disadvantaged business enterprise ("DBE"), minority business enterprise ("MBE"), women-owned business enterprise ("WBE") or other disadvantaged business, Vendor represents and covenants at all times during the term of its performance of its Work hereunder as follows: (i) it is currently certified in good standing as D/M/WBE or other disadvantaged business, as applicable, with respect to the scope of Work it will perform hereunder and it has provided the applicable current certification to Purchaser prior to the execution of this Order; (ii) it shall perform a commercially useful function as required by applicable law, regulation and the Prime Contract; and (iii) it shall not subcontract any portion of its scope of Work without (a) Purchaser's written consent and (b) unless the entity to which it subcontracts is currently certified in good standing in the same category of D/M/WBE or other disadvantaged business, as applicable, as Vendor with respect to the Work. No D/M/WBE or other disadvantaged business can subcontract more than seventy percent (70%) of its Work under this Order under any circumstance. Vendor shall cooperate with Purchaser's compliance efforts surrounding D/M/WBE and other disadvantaged business programs, including, without limitation, filling out solicitation questionnaires and invoice affidavits at the request of Purchaser, and causing any of its subcontractors and suppliers to do the same. Vendor hereby agrees that it shall cooperate with any requests Purchaser may make to vet its operations and those of its subcontractors and/or suppliers. Vendor hereby acknowledges and agrees that its failure to comply with Purchaser's compliance efforts can result in delayed payment for its invoices, including, without limitation, the fact that no payments will be processed without an accompanying invoice affidavit, all as determined by Purchaser in its discretion.

11.3 To the fullest extent permitted by law, Vendor assumes sole responsibility and liability for any and all damage or injury of any kind or nature whatsoever, including death, to all persons, whether employees of Purchaser or Vendor or otherwise, and to all property, where such damage or injury arises out of or relates to the acts or omissions of Vendor or its subcontractors, suppliers, agents or employees in the performance or delivery of the Work. To the fullest extent permitted by law, Vendor shall indemnify and save harmless and defend Purchaser, Owner, General Contractor (if applicable), and any other party Purchaser is required to indemnify and save harmless under the Prime Contract, and their officers, directors, agents, servants and employees (collectively the "Indemnified Parties") from and against any and all claims for damage to property (including the loss of use thereof) or injury to persons (including but not limited to death) and from and against any and all loss, cost, expense, liability, damage, penalties, fines or injury, including but not limited to legal and expert fees and disbursements related thereto or incurred in enforcing this paragraph, which the Indemnified Parties, or any of them, may sustain, suffer or incur, directly or indirectly to the extent arising out of or related to Vendor's or its subcontractors', suppliers', employees, or agents acts or omissions, regardless of whether such acts or omissions were the sole or concurrent cause of the damages. Vendor shall not be liable for damages caused by an Indemnified Party's sole act or omission.

11.4 Vendor and its insurers hereby agree to waive any claim of subrogation or right of recovery against Purchaser and all other Indemnified Parties. Vendor agrees that this indemnity and its insurance coverages shall be primary as to any claim for which this indemnity of such insurance coverages shall apply, to the extent of Vendor's own negligence. Vendor's obligations hereunder

shall not be limited by the provision of any worker's compensation act or applicable other insurance.

11.5 The indemnification obligation set forth herein shall apply to any claim for liquidated damages, claims related to late delivery and any other delay related claims imposed on Purchaser as a result of the acts or omissions of Vendor.

11.6 The indemnification obligation set forth herein shall survive the termination, cancellation or expiration of this Order.

12. TAXES

All applicable taxes, levies, fines, customs duties and fees including, without limitation, value added taxes, sales taxes and/or use taxes are included in the Order price, and are the sole and complete responsibility of Vendor, and the Vendor shall be responsible for remittance of the same.

13. PATENT, COPYRIGHT AND INTELLECTUAL PROPERTY INDEMNITY

Unless the Order is for Work manufactured or produced according to a design for which Purchaser or the Owner (or General Contractor, if applicable) are responsible, the Vendor agrees to indemnify and save harmless and defend the Purchaser from any claim, damages, costs, costs, expenses and liabilities on account of alleged violations or infringement of any existing or pending patent, copyright and/or intellectual property rights arising out of or in connection with this Order. The indemnification obligation set forth in the preceding sentence shall survive the completion, termination, cancellation or expiration of this Order. The Vendor agrees to pay all royalties and license fees on Work covered by this Order.

14. NO ASSIGNMENT; RESTRICTIONS ON SUBCONTRACTING

The Vendor shall not delegate any duties nor assign any rights or claims under this Order or for breach thereof, without prior written consent of the Purchaser and any such attempted delegation or assignment shall be void. The Vendor cannot utilize subcontractors or suppliers in connection with the Work without the written consent of Purchaser. If subcontractors or suppliers are approved by Purchaser, Vendor remains solely responsible for performance of the Work.

15. LAW GOVERNING

This Order shall be governed by and construed under the laws governing the Prime Contract or, if no governing law is specified in the Prime Contract, under the laws where the Work is delivered.

16. COMPLETE CONTRACT; NOTICE

The Order sets forth the entire agreement between the parties hereto and supersedes all communications, representations, and agreements, whether oral or written, between the parties hereto with respect to the subject matter hereof. Nothing in this Order shall be construed to create a contractual relationship between persons or entities other than Purchaser and Vendor. All notices hereunder shall be in writing and sent by an established overnight mail service next day delivery, certified mail, return receipt requested or by facsimile or email followed by regular mail to the address and/or fax number of the respective parties stated herein. Notice shall be deemed given the next business day when delivered via overnight mail or if sent by facsimile transmission and three (3) business days after being post-marked for certified mail.

17. MISCELLANEOUS

Notwithstanding anything else to the contrary set forth in this Order, Purchaser's total liability in contract, tort (including negligence or breach), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of this Order shall not exceed the Order price. Notwithstanding anything to the contrary set forth herein, Purchaser shall have no liability for lost or anticipatory profits or consequential, indirect, exemplary, punitive or other special damages, whether arising in an action in contract, tort or otherwise, even if Purchaser had notice of the possibility of such damages.

18. AUDIT

During the term of Vendor's performance of this Order and for ten years thereafter, Purchaser has the right to audit all of Vendor's records (excluding its cost information) in connection with this Order.

This audit right is applicable to Vendor's subcontractors and suppliers. This right shall survive the completion, termination, cancellation or expiration of this Order.

19. BINDING DISPUTE RESOLUTION

19.1 In the event of any claims or disputes between Vendor and Purchaser arising out of or relating to this Order, the claim or dispute shall be decided by binding arbitration or, at Purchaser's election, in accordance with the dispute resolution provisions of the Prime Contract. The arbitration proceedings shall be held in accordance with the Regular Track Procedures (Section "R") under the American Arbitration Association's Construction Arbitration Rules and Mediation Procedures ("CARMP"), except where such Procedures differ with those prescribed by this section. Such arbitration shall take place in the state where the Work is delivered. The arbitration hearings shall, under no circumstances, exceed ten days. The arbitration shall be conducted before and be decided by a single arbitrator.

19.2 Vendor and its suppliers and agents hereby agree to be joined as parties in any arbitration commenced arising out of or relating to the Work, this Order, or the Prime Contract, and shall not object to being joined as parties in any such proceeding.

19.3 Vendor, its suppliers, and agents shall be bound by any decisions or determinations made by an arbitrator under this provision, or under the Prime Contract, by the applicable authorized person, board, court, arbitration, or other tribunal, to the extent such decisions or determinations concern or relate to issues that are involved in any claim or dispute between Purchaser and Vendor.

20. INSURANCE

20.1 Vendor agrees to purchase and maintain, at its own cost and expense, insurance coverage, which (i) is consistent with standard industry practices for the supply or performance of the Work of the nature and value of such Work covered by this Order, (ii) is sufficient in amount, coverage and scope to protect Purchaser from any and all claims and losses, (iii) is primary and will not seek contribution from Purchaser, and (iv) names Purchaser, Owner and General Contractor, if applicable (and any such other parties designated by Purchaser), as additional insured(s). Such coverage shall include, but shall not be limited to, commercial general liability insurance, which policy shall include workers compensation coverage and all other insurance required by law. The policies hereunder shall not be written on a "claims made" basis. Any such insurance coverage shall not limit or otherwise restrict the right of Purchaser to full and complete indemnification hereunder. Vendor agrees to provide the Purchaser with a certificate of coverage and a copy of all applicable policies upon request. If Vendor fails to purchase and maintain the required insurance, Purchaser shall have the right, but not the obligation, to purchase and maintain the insurance for and in the name of Vendor and Vendor shall pay the cost thereof and shall furnish all necessary information to make effective and maintain such insurance.

20.2 In the event that Vendor or its employees or agents perform any Work on the project site, or any location that is owned or under the control of Purchaser, General Contractor, or Owner (the collectively the "Project Site") or is transporting Work to or from the Project Site, the coverage requirements applicable pursuant to Section 20.1 must include, at a minimum, the following coverages: (a) general liability insurance as published by ISO form CG 00 01 with limits of not less than \$2,000,000 per occurrence, an aggregate limit of not less than \$4,000,000, and a deductible not exceeding \$100,000. Commercial general liability aggregate limits carried by the Vendor shall be on a per project basis and shall include Bodily Injury, Property Damage, Products/Completed Operations, Personal Injury and Advertising Injury. Coverage under the policy must commence on or before the date of the commencement of Work on the Project Site and must remain in effect until the later of (i) 2 years from completion of the Work or (ii) the applicable statute of limitations and/or statute of repose, whichever is greater. Vendor's insurance shall include blanket contractual liability insurance including work within 50ft of railroad, if applicable to Vendor's Work under this Order; (b) commercial automobile liability insurance, with limits no less than \$2,000,000 combined single limit

bodily injury and property damage (each occurrence), covering all vehicles owned, leased, or used by the Vendor or its employees, from the date of the commencement of Work on the Project Site until 1 year from the date of substantial performance of the work; (c) worker's compensation in an amount not less than the statutory limits of the State in which the Work is performed; and (d) employer's liability insurance (bodily injury by accident – \$2 Million each accident; bodily injury by disease – \$2 Million policy limit; bodily injury by disease – \$2 Million each employee). Purchaser reserves the right to require umbrella and excess liability policies. If the price of this Order, including any changes to the Order, exceeds \$1 million Vendor shall provide umbrella insurance in the amount no less than \$10 million per occurrence and \$10 million aggregate. Further, if the price of this Order, including any changes, exceeds \$1 million, Vendor shall provide excess liability insurance in an amount no less than \$10 million per occurrence and \$10 million aggregate.

20.3 Vendor shall name Purchaser, General Contractor, if applicable, and Owner as additional insureds on each policy, except workers compensation, throughout the ongoing and completed operations period. Purchaser reserves the right to specifically require that Vendor name additional parties as additional insureds. Coverage as additional insured on the Commercial Automobile Liability Policy shall be provided by a policy endorsement providing coverage as broad as CA2048 as published by Insurance Services Office (ISO), or its equivalent. Coverage as additional insured on the Commercial General Liability policy shall be provided by a policy endorsement providing coverage as broad as a combination of forms CG2010 (07/04) and CG2037 (07/04), as published by the Insurance Services Office (ISO), or its equivalent. The endorsements will explicitly state that the additional insured coverage will be primary to and non-contributing with any other insurance available to an additional insured. Also, no endorsement will be added to Vendor's Commercial General Liability policy that will limit or otherwise inhibit the scope of coverage available to Purchaser and additional parties under the aforementioned ISO additional insured endorsements.

20.4 Vendor's insurance shall contain a waiver of subrogation in favor of Purchaser, the Owner and any other required parties.

21. SAFETY

Purchaser contracts with Vendor as an independent contractor to provide all labor, materials, equipment, and incidental services necessary or incidental to perform this Order, subject as an employer to all applicable unemployment compensation, occupational health and safety, or similar statutes. In the event that Vendor's employees, or agents are required to come onto a Project of Purchaser in connection with the performance of this Order, Vendor shall comply with all current safety requirements of Purchaser, as well as all laws as defined in Section 10.

22. JOINT DRAFTING

Purchaser and Vendor expressly agree that this Order was jointly drafted, and that they both had opportunity to negotiate terms and to obtain assistance of counsel in reviewing terms prior to execution. This Order shall be construed neither against nor in favor of either Party, but shall be construed in a neutral manner.

23. SEVERABILITY CLAUSE

If any portion of this Order is found to be invalid or unenforceable, the same shall not affect the validity or enforceability of the remainder of the Order.

24. AUTHORIZED PERSONNEL

The term "Authorized Personnel," as used in the Order Acknowledgment, shall be defined as follows: the President of RailWorks Corporation, an Executive Vice President of RailWorks Corporation, or a lawyer in RailWorks Corporation's Office of General Counsel.