

**ACCEPTANCE/AGREEMENT:** San Diego County Water Authority (Water Authority) reserves the right to reject any and all quotations, to waive any informalities, and, unless otherwise specified by Seller, to accept any item in a quotation. By accepting or filing this Purchase Order (P.O.), Seller agrees to the terms and conditions herein which shall prevail over any inconsistent provision in any form or other paper submitted by Seller. All shipments or services performed shall be deemed to have been made pursuant hereto. No other terms are acceptable. This P.O., including all specifications and drawings, shall constitute the entire agreement between the parties unless modified in writing by the Water Authority.

**WATER AUTHORITY'S PROPERTY:** Seller agrees that the information, tools, jigs, dies, or materials, and drawings, patterns, and specification supplied or paid for by the Water Authority shall be and remain Water Authority property and shall be held by Seller for the Water Authority unless directed otherwise. Seller shall account for such items and keep them protected, insured, and in good working conditions without expense to the Water Authority.

**DELIVERY:** The terms of delivery are as stated on the reverse side hereof. The obligation of Seller to meet the delivery dates, specifications, and quantities set forth herein is of the essence of this P.O. No boxing, packing, or cartage charge will be allowed unless authorized by this P.O. Deliveries are to be made both in quantities and at times specified herein or, if not, such quantities and times are specified pursuant to the Water Authority's written instruction. Items not delivered may be canceled without penalty to the Water Authority. Shipments in greater or lesser quantity than ordered may be returned at Seller's expense unless written authorization is issued by the Water Authority.

**PRICES:** The price which Seller charges in filling this P.O. shall not be higher than Seller's most recent quote or charge to the Water Authority for such materials, supplies, services and/or installations unless the Water Authority expressly agrees otherwise in writing. Notwithstanding the prices set forth in the P.O. the Water Authority shall receive the benefit of any general reduction in the price of any item(s) listed herein which may be made by Seller at any time prior to the last delivery of goods or services covered by this P.O.

**TERMINATION:** The Water Authority shall have the right to terminate this P.O. or any part thereof upon ten (10) days notice in writing to Seller.

- (1) Without Cause. The Water Authority may terminate all or any part of this P.O. without cause. Any claim by Seller for damages due to termination without cause must be submitted to the Water Authority within thirty (30) days after effective date of termination.
- (2) For Cause. If Seller fails to make any delivery in accordance with the agreed delivery date, delivery schedule, or otherwise fails to observe or comply with any of the other instructions, terms, conditions or warranties applicable to this P.O., the Water Authority may, in addition to any other right or remedy provided by this P.O. or by law, terminate all or any part of this P.O. in writing without any liability of the Water Authority with respect to Seller at any time during the term of this P.O. In the event of termination for cause, the Water Authority may purchase supplies or services elsewhere on such terms or in such manner as the Water Authority may deem appropriate and Seller shall be liable to the Water Authority for any cost and other expenses incurred by the Water Authority which is charged to the Water Authority.

**CHANGES:** The Water Authority shall have the right at any time by written notice via P.O. Change Order to Seller to make changes in the specifications, the quantity of items called for, delivery schedules, and requirements covering testing, packaging, or destination. Any claim by Seller for adjustment under this clause shall be deemed waived unless made in writing within (10) days after receipt by Seller of notice of such change. Price increases or extensions of time for delivery shall not be binding on the Water Authority unless evidenced by a P.O. Change Order issued by the Water Authority's Purchasing Manager.

**INSPECTION:** The Water Authority shall have the right to inspect and approve or reject any materials, supplies, services and/or installations upon arrival of notice of completion prior to payment without regard to the manner of shipment, completion, or any shipping or price terms contained in this P.O. All materials, supplies, services and/or installations must be furnished as specified.

- (1) Defective, damaged, and nonconforming materials and/or supplies may be returned for credit or refund, at Seller's expense. The Water Authority may charge Seller for all expenses of unpacking, examining, repacking and reshipping of such materials and/or supplies.
- (2) Defective, incorrect and nonconforming services and/or installations may be returned for credit or refund, at Seller's expense. All of the above notwithstanding prior payment by the Water Authority.
- (3) Seller's obligations to waive defects that exist.

**WARRANTY:** Seller expressly warrants that all materials, supplies, services and/or installations covered by this P.O. shall:

- (1) conform to the specifications, drawings, samples, or other descriptions specified by the Water Authority or if none are so specified, to Seller's standard specification;
- (2) be new and unless specified to the contrary on the face hereof, will be free from defects in material and workmanship and will be free of all liens and encumbrances and will conform to any affirmation of facts made on the container or label;
- (3) be adequately contained, packaged, marked, labeled and/or provided in compliance with all applicable federal and state laws and regulations (including materials deemed hazardous);
- (4) be performed within the rules and regulations of the Occupational Safety and Health Act of 1970 (as amended);
- (5) be produced or transferred or disposed of as required by federal and state laws and regulation under the conditions of the Toxic Substances Control Act; the Hazardous Materials Control and Hazardous Waste Regulations; and other toxic laws and programs. Seller further expressly agrees to protect, indemnify, and hold harmless the Water Authority, its employees and agents for any loss, damage, fine, liability, fee (including reasonable charges and fees) or expense arising in connection with or resulting from Seller's failure to furnish materials or supplies or perform services that conform with any warranty contained herein.
- (6) have good marketable title.
- (7) All Warranties to be provided under this P.O. shall be manufacturers' warranties.

**GOVERNING LAW:** This P.O. shall be governed by the laws of the State of California.

**INDEPENDENT CONTRACTOR, INSURANCE:** Seller certifies, by acceptance, that he/she is an independent contractor. Seller shall maintain such public liability insurance, including contractual liability, automobile and general public liability, (including non-owned automobile liability) Worker's Compensation, and employer's liability insurance as well adequately protect the Water Authority against such damage, liabilities, claims, losses, and expenses (including attorneys' fees). Seller agrees to submit certificates of insurance, evidencing its insurance coverage when requested by the Water Authority.

**EQUAL OPPORTUNITY CLAUSE:** Seller shall comply with all federal, state, and local laws prohibiting discrimination, including without limitation, laws prohibiting discrimination, because of race, color, national origin, religion, age, sex or handicap.

**FORCE MAJEURE:** The Water Authority may delay delivery or acceptance occasioned by causes beyond its control. Seller shall hold such materials, supplies, services and or installations at the direction of the Water Authority and shall deliver them when the cause affecting the delay has been removed. The Water Authority shall be responsible only for Seller's direct additional costs in holding the goods or delaying performance of this P.O. at the Water Authority's request. Seller shall also be excused if delivery is delayed by unforeseen events beyond its reasonable control, provided Seller notifies the Water Authority as soon as they occur. The Water Authority may cancel this P.O. if such delay exceeds thirty (30) days from the original delivery date. Seller shall use its best efforts to grant preference to this P.O. over those of other customers which were placed after this P.O.

**WATER AUTHORITY OF AGENT OR FACTOR:** Seller represents that, whenever it executes this P.O. on behalf of a third party as an agent or factor, it shall disclose the existence of the agency or factor relationship to the Water Authority. Seller shall be deemed to have the legal authority to enter into this P.O. with the Water Authority on behalf of the third party.

**INTERPRETATION OF CONTRACT DOCUMENTS:** In the event of a conflict between the terms of this P.O. and the attached specification with respect to any obligation of Seller, the provision which impose the greater obligations upon Seller shall prevail.

**INDEMNIFICATION:** Seller shall protect, defend, and indemnify and hold the Water Authority harmless against all damages, liability, claims, losses and expenses (including attorney's fees) arising out of, or resulting in any way from Seller's negligence in providing the goods or services purchased hereunder or from any act or omission of Seller, its agents, employees, or subcontractors.