

Eco-Tech Purchase Order

Attachment A - Terms And Conditions

- 1. General** – This purchase order, properly signed by authorized representative of Purchaser, constitutes the entire agreement between the parties relating to the material specified herein and all negotiations, understanding and agreements prior to the date of this order are merged herein and superseded hereby. Acceptance of this purchase order is expressly limited to the terms of this order. The Contract Documents are hereby incorporated and made a part hereof insofar as they apply to the material supplied hereunder.
- 2. Submittals** – Neither review of nor approval of submittals shall relieve Vendor of its obligation to furnish material in strict accordance with the Contract Documents. Vendor shall identify each and every variance between any submittal and the requirements of the Contract Documents at the time of transmission. No modification, revision or other notation on a submittal that changes or modifies the Contract Documents shall be valid (even if the drawing or Submittal is approved) unless there is a Change Order issued approving same.
- 3. Materials and Workmanship** – The material supplied hereunder shall be manufactured using only the kind, make and quality of materials set forth in the Contract Documents. All material supplied hereunder shall be manufactured in a first class, efficient, expeditious, good, proper, and workmanlike manner. **Fabrication is only authorized to begin once written notice is issued by Purchaser.**
- 4. Inspection, Expediting and Acceptance** – Vendor shall provide all shop inspections required during manufacture to ensure compliance with the Contract Documents. All material shall be subject to final inspection and acceptance by Purchaser, Engineer, Owner, and Contractor at the Jobsite.
- 5. Drawings** – Vendor shall prepare all necessary drawings relating to the manufacture and installation of the material, including necessary details for the design of proper supporting structures. Vendor acknowledges that prompt transmittal of approval and certified drawings and operating manuals to Purchaser is of primary importance in enabling Purchaser to fulfill his schedule commitments to Contractor and/or Owner. Vendor therefore agrees that these items shall be furnished in the required quantities and types and in strict compliance with schedules contained herein, and that failure by Vendor to so perform shall constitute a material breach of this order.
- 6. Delivery** – Time is of the essence. Shipment and delivery is to be in strict accordance with the instructions contained herein. Delivery later than the specified arrival date shall constitute a material breach of this order unless excused by acts of God, acts of civil or military authority, governmental priorities, fires, acts of a public enemy, floods, epidemic, war, riot, or like occurrences, provided such occurrences are beyond the control, and without the fault, of the Vendor. The Vendor will not be liable for delays caused by the Purchaser. Vendor shall promptly notify Purchaser in writing of any event which may prevent Vendor's timely delivery.
- 7. Changes to Order** – Purchaser shall have the right to make changes to this order, including but not limited to, changes in (a) quantity, (b) Engineers's drawings and specifications, and (c) method of packing or shipments. Should any changes affect any prices contained herein, Vendor shall, before proceeding, notify Purchaser of any price changes and receive Purchaser's agreement thereto. No modification, alteration or amendment to this order shall be effective unless in a written change order signed by purchaser and acknowledged by Vendor. Any change not so authorized shall not be paid for by Purchaser.
- 8. Warranty** – In addition to any other warranties expressly set forth in the Contract Documents, Vendor warrants the material supplied hereunder to be of the kind, make and quality described herein, free of defects in design, workmanship and materials and shall fully conform to and perform in accordance with the Contract Documents, for a period of one (1) year from date of Owner acceptance, or for such other period of time or from such other date specified in the Contract Documents or required by applicable law.
- 9. Taxes** – All taxes and other contributions to governmental agencies levied directly on the Vendor, its subcontractors or suppliers, shall be included in the purchase price. Unless otherwise specifically changed herein, taxes levied on the sale or use of material shall be stated separately.
- 10. Liability of the Vendor** – In exchange for ten dollars (\$10.00) and other good and valuable consideration, receipt of which is acknowledged by execution of this order, Vendor agrees to defend, indemnify and hold harmless Purchaser, Engineer, Owner, and Contractor and their representatives, agents and employees, from and against any all demands, claims, suits, cost, expense or liability (including, without limitation, attorney's fees) attributable to any bodily injury, personal injury, sickness, disease or death, or to damage to or destruction of property (including loss of use thereof) caused in whole or in part by, arising out of or resulting from (a) any negligence of Vendor in performing its obligations under this order; or (d) any failure of Vendor to perform any obligation under this order.
- 11. Payments** – Payment terms are ninety percent (90%) net thirty (30) days, ten percent (10%) upon final acceptance by Owner. Purchaser shall make a payment to Vendor equal to the price of material furnished less (a) all previous payments and (b) all charges or backcharges for services, materials, equipment and other items furnished by or otherwise chargeable by Purchaser to Vendor. **All invoices must reference Purchase Order Number before consideration for payment.**
- 12. Cancellation or Termination by Purchaser** – If Vendor fails to perform timely any of its obligations under this order, Purchaser shall have the right to notify Vendor, in writing, of Vendor's default. If Vendor fails to cure the default within seven (7) days after its receipt of said notice, then Purchaser may, at its option and without waiving or releasing and without prejudice to any rights or remedies available to Purchaser under this order or applicable law, terminate Vendor's right to proceed and to receive payment under this order. In such event, Purchaser shall be entitled to any and all remedies available under this order or as provided by law or equity. Purchaser, by written notice, may cancel this order in whole or in part for Purchaser's convenience.
- 13. Liquidated Damages** – Vendor shall be responsible for all liquidated damages assessed as a result for failure to perform as outlined in this agreement.