

## ALSO ENERGY PURCHASE ORDER GENERAL TERMS AND CONDITIONS

1. REVOCABLE OFFER. Notwithstanding any other provision in this offer, this is not a firm offer and Buyer reserves the right to revoke it any time prior to acceptance.
2. REJECTION OF ADDITIONAL TERM OF ACCEPTANCE. Acceptance of this offer is limited to its terms, acceptances or confirmations which state additional or differing terms from this offer shall be operative as acceptances provided however, that all such additional or differing terms shall be deemed material alterations within the meaning of Section 4-2-207(2)(b) of the Uniform Commercial Code of the State of Colorado, and notice of objection to them pursuant to Section 4-2-207(2)(b) of the Uniform Commercial Code is hereby given.
3. PRICES. The acceptance of this order constitutes a warranty that the prices to be charged for articles or services ordered herein are not in excess of the price charged to other customers for similar quantities and delivery requirements.
4. INVOICES. Payment of Invoice shall not constitute acceptance of supplies and shall be subject to adjustment for errors, shortages, defects in supplies or other failure of Seller to meet the requirements of the order. Buyer may at any time set off any amount owed by Buyer to Seller against any amount owed by Seller or any of its affiliated companies to Buyer.
5. TAXES. The prices set forth in the Purchase Order include all applicable Federal, State and Local taxes. All such taxes shall be stated separately on Seller's invoice.
6. DELIVERY. Buyer shall have the right to demand all of the goods at one time or in portions from time to time within the time of delivery herein provided.
7. RISK OF LOSS IN ABSENCE OF BREACH. The risk of loss of the goods shall pass to Buyer as soon as the goods are shipped to Buyer at ship to address as designated.
8. WARRANTY.
  - 8.1. Seller warrants that all supplies delivered hereunder shall be-free from defect in workmanship, material, and manufacture, shall comply with the requirements of this contract, including any drawings or specifications incorporated herein or samples furnished by Seller, and, where design is Seller's responsibility, to be free from defects in design. Seller further warrants all supplies purchased hereunder shall be of merchantable quality and shall be fit and suitable for the purpose intended by Buyer. The foregoing warranties shall constitute conditions and are in addition to all other warranties, whether express or implied and shall survive any delivery, inspection, action, acceptance or payment by Buyer.
  - 8.2. If any supplies delivered hereunder do not meet the warranties specified herein or otherwise applicable, Buyer may, at its election,
    - 8.2.1.require the Seller to correct at no cost to Buyer any defective or nonconforming supplies by repair or replacement; or
    - 8.2.2.return such defective or nonconforming articles at Seller's expense to the Seller and recover from the Seller the order price thereof. The foregoing remedies are in addition to all other remedies at law or in equity or under this order and shall not be deemed to be exclusive. All warranties shall run to the Buyer and its customers.
  - 8.3. Buyer's approval of the Seller's material or design shall not relieve Seller of the warranties set forth in this clause, nor shall waiver by Buyer of any drawing or specification-requirement for one or more of the items constitute a waiver of such requirements for the remaining items to

## ALSO ENERGY PURCHASE ORDER GENERAL TERMS AND CONDITIONS

be delivered hereunder unless so stated by Buyer in writing. The provisions of this clause shall not limit or affect the rights of Buyer under the clause hereof entitled 'Inspection'.

9. CASUALTY TO IDENTIFIED GOODS. Seller shall not be excused from performing his obligations under this contract if the goods identified are destroyed. Substitute goods of equal quantity and quality will be tendered by Seller.
10. INSPECTION BY BUYER. The goods shall be inspected upon tender to Buyer. Failure to inspect within thirty (30) days after tender shall constitute a waiver of Buyer's rights of inspection and shall be equivalent to acceptance of the goods. If on inspection Buyer determines that the goods do not conform to the description in this contract, Buyer shall have the right to preserve and keep a small sample of the goods tendered for the purpose of having evidence of the tendered goods kind and quality.
11. CHANGES. The Buyer may at any time, by a written order and without notice to sureties or assignees, suspend performance hereunder increase or decrease the ordered quantities, or make changes within the general scope of this order in any one or more of the following:
  - 11.1. Applicable drawings, designs or specifications
  - 11.2. Method of shipment or packing; and/or
  - 11.3. Place of deliveryIf any such change causes increase or decrease in the cost of or the time required for performance of this order, an equitable adjustment shall be made in the order price or delivery scheduled or both and the order shall be modified in writing accordingly. No claim by Seller for adjustment hereunder shall be valid unless asserted within twenty (20) days from the date of receipt by the Seller of the notification of change, provided, however, that such period may be extended upon the written approval of the Buyer, However, nothing in this clause shall excuse the Seller from proceeding with the order as changed or amended.
12. DUTIES WITH RESPECT TO REJECTED GOODS. It is agreed that if Buyer rejects any of the goods sold pursuant to this Agreement, his only duty shall be to reasonably notify Seller of such rejection and hold the goods for the disposition of Seller, and it is agreed that under no circumstances shall Buyer be required to resell the rejected goods.
13. NO LIABILITY FOR FAILURE TO SPECIFY DEFECTS. It is agreed that if Buyer rejects any of the goods sold pursuant to this Agreement, his only duty shall be to reasonably notify Seller of such rejection and hold the goods for the disposition of Seller, and it is agreed that under no circumstances shall Buyer be required to resell the rejected goods.
14. PROHIBITION CURE OF IMPROPER TENDER. Seller understands that the specifications of goods must be fully met and that no tolerance is permitted in the event that a tender is made of goods that do not meet the specifications, this shall constitute a breach of this contract and Seller shall have no right to substitute a conforming tender.
15. TERMINATION. It shall be an essential condition of this contract that the goods agreed to be sold hereunder by Seller shall be of the quality represented by him. In the event that such goods or any part thereof shall fail to comply with such representations. Buyer shall have the right to reject such goods or to terminate this contract, at Buyers option, and on written notice to Seller.
16. RESERVATION OF RIGHTS. The failure of Buyer to object to the manner of performance of any of the terms herein shall not be considered a waiver, of any rights or-remedies, past, present, or future,

## ALSO ENERGY PURCHASE ORDER GENERAL TERMS AND CONDITIONS

and the fact that objection is not taken with respect to any performance which is not in compliance herewith shall not be construed as an acceptance of acquiescence in such performance, and Buyer reserves his right to insist upon strict compliance herewith at all times.

17. IDENTIFICATION OF GOODS. Identification of the within goods to the contract shall not occur until such time as the same are received by Buyer, and Seller agrees to bear all risk of loss and deterioration until the goods are actually received by Buyer.
18. IDENTIFICATION OF GOODS. If Buyer wrongfully rejects, or revokes acceptance of goods or fails to make a payment due on or before delivery or repudiates with goods covered by this contract, Seller shall have no right to identify any goods to the contract after he learns of the rejection, breach, or repudiation.
19. LIMITATIONS OF DAMAGES OR REMEDIES. In the event of a breach or repudiation of this contract by Seller, Buyer shall be entitled to recover as consequential damages, in addition to all other rights granted by the Uniform Commercial Code, any profit lost on a contract to resell the goods if Buyer is unable to cover.
20. PATENTS, ROYALTIES AND ENCUMBRANCES. All materials supplied must be free from liability of royalties, patent rights and mechanics' liens or other encumbrances, and seller agrees to indemnify the Buyer against all claims, demands, costs and action for actual or alleged infringements or patent rights in the use, sale or resale of said material or merchandise,
21. COMPLIANCE WITH LAWS. The Seller warrants that no law, rule or ordinance of the United States or a State of any other governmental agency has been violated in the manufacture or sale of the item or in the performance of services covered by this order, and will defend and hold Buyer harmless from loss, cost or damage as a result of any such actual or alleged violation.
22. NON-DISCLOSURE OF CONFIDENTIAL MATTER. Materials purchased hereunder with the Buyer's specifications or drawings shall not be quoted for sale to others without the Buyer's written authorization. Such specifications, drawings, samples, or other data furnished by the Buyer shall be treated as confidential information by Seller, shall remain Buyer's property and shall be returned to it upon request.
23. ASSIGNMENTS. No right or obligation under this order (including the right to receive moneys due hereunder) shall be assigned by Seller without the prior written consent of Buyer, and any purported assignment without such consent shall be void.
24. BUYER-FURNISHED PROPERTY. All tools, drawings, or other materials furnished by the Buyer for use in the performance of this order shall remain the property of the Buyer, shall be used by the Seller in the performance of this order only, in accordance with the requirements of the order relating to such use, and shall be returned to the Buyer when requested upon the completion or termination of the order to the extent not previously delivered to the Buyer. Seller agrees to exercise reasonable care in the safeguarding and preservation of all Buyer furnished property and assumes all responsibility for loss, damage or destruction while such property is within his possession or control.
25. NOTICE OF LABOR DISPUTES. Whenever an actual or potential labor dispute is delaying or threatens to delay the timely performance of this order, Seller will immediately notify the buyer and the Government representative designated by the Buyer of such dispute and furnish all relevant details. Seller will include a provision identical to the above in each subcontract hereunder and immediately upon receipt of any such notice pass it on to the-Buyer.

## ALSO ENERGY PURCHASE ORDER GENERAL TERMS AND CONDITIONS

26. **PATENT LICENSE.** The Seller, as part consideration for this purchase order and without further cost to the Buyer, hereby grants and agrees to grant to the Buyer and, to the extent requested by the Buyer, an irrevocable, nonexclusive, royalty-free right and license to use, sell, manufacture and cause to be manufactured products embodying any and all inventions, and discoveries made, conceived or actually reduced to practice in connection with the performance of this purchase order.
27. **APPLICABLE LAW.** This order shall be governed by, subject to, and construed in accordance with the laws of the State of Colorado. This order shall not be modified, supplemented, qualified or interpreted by any trade usage or prior course of dealing not made part of the order by its express terms.
28. **GOVERNING DOCUMENT.** Any conflict between the terms of any Purchase Order and these General Terms and Conditions shall be governed by the terms of the Purchase Order.