

PURCHASE ORDER - TERMS AND CONDITIONS



1. ACCEPTANCE

The purchase order (PO), including its terms and all attachments thereto, when executed by the Vendor shall constitute the entire agreement between CTI and Associates ("CTI") and the Vendor. No additional or conflicting terms or conditions, including but not limited to statements on Vendor's delivery/receiving documentation or verbal or written statements made by the Vendor shall apply. The earlier of the Vendor's written acceptance of the PO, or the commencement of performance, or the shipment of any of the goods ordered hereunder shall constitute acceptance of this PO by the Vendor. Changes to the PO will not be binding upon the parties unless made in writing by CTI's Procurement Representative and accepted by the Vendor in the form of a modification to the PO.

2. PROPRIETARY INFORMATION, CONFIDENTIALITY, ADVERTISING

Vendor shall consider all information furnished by CTI to be confidential and shall not disclose any such information to any other person, entity, or use such information itself for any purpose other than performing this PO. Vendor shall not advertise or publish the fact that Vendor is under contract to CTI to provide goods or services nor shall any information relating to the PO be disclosed without CTI's written permission.

3. PATENT INFRINGEMENT

To the fullest extent permitted by law, Vendor hereby indemnifies and shall defend and hold harmless CTI, and its subsidiaries, agents, employees, and Client from and against any and all claims, damages, losses, and expenses, including but not limited to reasonable attorney's fees arising out of, or in connection with, any claim, whether rightful or otherwise, that any concepts, equipment, products, or process or any part thereof specified by Vendor under this PO infringes any patent, copyright, trademark, or licensing agreement. If use of any part of such equipment, material, or process is limited or prohibited, Vendor shall, at its sole expense, procure the necessary licenses to use the infringing equipment, material, or process in order to perform the scope of work of this agreement. Vendor shall have the right at its expense to obtain necessary licenses to use the infringing concepts, products, or processes, in order to avoid such claims or actions; or with CTI's prior written approval to substitute at its sole expense non-infringing concepts, products, or processes, or to modify such infringing concepts, products, and processes so they become non-infringing, provided that such substituted and modified concepts, products, and processes shall meet all the requirements and be subject to all provisions of this PO.

Regarding software, CTI shall have permanent, assignable, nonexclusive, royalty-free license to use any concept, product, or process, patentable or otherwise, furnished, or supplied to CTI by Vendor or its employees, or otherwise developed or first reduced to practice by Vendor or its employees in the performance of work ordered under this PO. All materials prepared or developed by Vendor or its employees in the performance of the work hereunder including documents, calculations, maps, sketches, notes, reports, data, models, and samples, shall become the property of CTI when prepared, whether delivered to CTI or not, and be delivered to CTI upon request, and, in any event, upon termination of this PO.

4. WARRANTY

The Vendor warrants:

- a. **The goods delivered will be free of claims for copyright, trademark, proprietary right, or patent infringements or the like.**
- b. **The Vendor will deliver to CTI goods and/or services free of all liens, claims, and encumbrances whatsoever.**
- c. **The goods will conform to the PO terms and conditions and any drawings, specifications, and other descriptions furnished to or by CTI, and will be free from defects in design, materials, or workmanship, and will perform the service required of it in accordance with the specifications and/or performance data specified.**
- d. **The goods will be merchantable and suitable for their intended purpose.**
- e. **If there are no specific descriptions, plans, specifications, or samples, and to the extent that they are not explicit, all goods shall be new, of the latest design or model conforming to CTI's requirements, and of the best quality unless otherwise specified. The foregoing warranties shall survive acceptance and inspection of the goods and shall extend over a period of 12 months from the date of start of the acceptance, use, or operation of the goods or 24 months from date of shipment, whichever occurs first, and shall apply to all parts, accessories, or components manufactured by others and supplied by vendor as a component of the goods. This warranty shall run to CTI, its assignees or successors, and clients in interest.**

Except as otherwise provided herein, the Vendor shall promptly repair, replace, or rework at his own expense, "Free On Board" (FOB) common carrier from the Owner's site to the manufacturer's facility and return, any goods or systems or components, which prove to be defective under normal and proper use, or otherwise fail to meet the warranties set forth above, during the warranty period. The warranty shall be extended for goods which are repaired or replaced under this warranty, for 12 months beyond the date the goods were repaired or replaced.

CTI shall provide prompt written notice upon its discovery of defective good(s) or services to the Vendor. The Vendor shall promptly proceed to correct the defect(s) or advise CTI of a date satisfactory to CTI when the corrections will be completed. If the Vendor fails to respond to CTI's notice of defect within 5 working days of such notice, CTI shall have the discretionary right to have the goods corrected by other means, Vendor shall reimburse CTI for the cost of such correction, and/or CTI can offset the cost of such corrected action against other debts owed to the Vendor by CTI under this or any other agreements between CTI and Vendor. CTI shall notify the Vendor, in writing, of the estimated cost of the proposed correction to be undertaken by CTI. Such action and correction of the defect or defects by CTI, or mutual agreement between CTI and the Vendor that CTI will make corrections, shall not relieve the Vendor of its responsibilities under this PO and to pay for the costs of correcting said defects.

5. TERMINATION FOR CAUSE

CTI shall notify the Vendor by e-mail or in writing and provide a reasonable opportunity to cure any action or inaction that causes the Vendor to be in default of the terms of this PO. CTI may terminate this PO in whole or in part without prejudicing or limiting any other rights or remedies that CTI may have if:

- 5.2 **The Vendor fails to cure the default action to CTI's satisfaction or is otherwise in breach of the terms and conditions of the PO.**
- 5.3 **The Vendor becomes insolvent or ceases to conduct its operations in the normal course of business, fails to meet its obligations as they become due, makes a general assignment for the benefit of its creditors, or enters voluntary or involuntary bankruptcy or receivership proceedings.**

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5.4 **The Vendor has made an assignment or sublet any part of the PO without the consent required under Article 19 herein. Upon Termination for cause:**

- a. **CTI may take possession of drawings, technical data, and the goods or Services, or portions thereof, completed or in preparation by the Vendor and supplies purchased by the Vendor for the purposes of this PO up to the effective date of such termination.**
- b. **CTI shall be entitled to complete the preparation of the drawings, technical data, and goods possessed under item (a) above and to procure the balance of the PO by whatever means CTI considers expedient.**
- c. **The Vendor at its expense shall ensure that all work and goods completed by Vendor up to and for 7 calendar days after the date of termination are protected, safely stored, and covered to avoid weather damage and pilfering.**
- d. **CTI shall be liable to the Vendor for the value of all Work and goods completed by Vendor and accepted by CTI in accordance with the terms of the PO up to the date of termination, less the value for any and all damages sustained by CTI by reason of the default which gave rise to the termination.**

6. TERMINATION FOR CONVENIENCE

CTI may at any time terminate the PO in whole or in part by written notice to the Vendor. Upon receipt of such notice the Vendor shall cease all operations except as may be directed by CTI to complete and deliver any portions defined in such notice. No other action on the part of CTI or any reduction of the quantities of any items ordered shall be considered or interpreted in any way as evidence of the intent to terminate or the termination of the PO. The amount payable to the Vendor in the event of termination for convenience shall be based on the sum of the percent of the PO (or individual line items if applicable) performed or completed by the Vendor multiplied by the PO amount (or individual line item amounts if applicable) or if CTI is unable to reasonably establish the percentage completion (of individual line items if applicable) to be based on the Vendor's actual direct out-of-pocket costs incurred up to the effective date of termination and reasonably attributable to the PO, including also any agreed and specified cancellation charges, together with a reasonable allowance for overhead and profit on the work performed. Vendor shall provide proof of the incurred costs that it may claim if requested by CTI in the form of receipts or inventoried material used, etc.

Credit shall be allowed CTI for the disposal or retention value of inventory obtained in respect to the PO and not incorporated in the goods completed or partially completed at the effective date of termination. Billings or notes of credit for such inventory shall evidence the disposal or retention value. If the goods are standard stock merchandise, CTI may cancel any portions not shipped at the effective date of termination without further obligation to the Vendor except to make payment for the goods already delivered or in transit, and cancellation charges. The total amount determined as above shall be subject to deductions and refunds for amounts previously paid by CTI in accordance with the PO.

7. SUBSTITUTION

The Vendor is not permitted to substitute goods or any part thereof for that specified in the PO unless authorized in writing by CTI.

8. DELIVERY

Time is of the essence in the completion of this PO, and if delivery of items or rendering of services is not completed by the time promised, CTI reserves the right, without liability, in addition to its other rights and remedies under law, to terminate this PO, as to items not yet shipped or services not yet rendered for default.

The Vendor shall notify CTI of each shipment and provide such information, as carrier's name, routing, etc. Unless otherwise set forth on the face page of this PO, movement of heavy equipment or bulky material requires an advance notice from Vendor to CTI of at least 10 working days before shipment to ensure proper unloading arrangements at the destination. Failure of Vendor to do so shall absolve CTI from demurrage or other charges. The Vendor shall be responsible for proper and adequate transport, packing, and crating of all equipment/materials in accordance with the best commercial standards and practice of packing for transportation. All items shall be packed to prevent damage by transport, vibration, moisture, humidity, dust, temperature, corrosion (external and internal), and other hazards prevalent during loading, road transportation, unloading, and final delivery to the job site. All flanged connections shall have bolted-on wood blind flanges. All thread-end connections shall be capped. All other openings in equipment shall be protected by temporary closures. It is the responsibility of the Vendor to determine that shipment will clear all tunnels, over-passes, bridges, etc., and that all shipments will conform to all Government restrictions affecting land transport to the project site. Should the Vendor fail to meet these standards and minimum requirements, he/she shall be subject to back charges for any resulting corrective cost. Shipment of goods under this order is Vendor's guarantee of full compliance with all applicable provisions of federal, state, and municipal laws, and Vendor agrees to hold CTI harmless from all liability resulting from failure of such compliance.

9. FORCE MAJEURE

Fires, floods, acts of God, strikes, lockouts, accidents, or other causes beyond the reasonable control of the parties, which prevent Vendor from delivering, or CTI from receiving, and of the goods covered by this PO shall suspend deliveries until the cause is removed; provided, however, that if Vendor is so prevented from delivering goods to CTI, CTI shall have the right to terminate this PO for convenience under Article 6 hereof.

10. MATERIAL EXPEDITING, INSPECTIONS, AND TESTS

CTI shall have the right to expedite and inspect all goods furnished hereunder at all reasonable times and places before, during, and after manufacture. THIS RIGHT TO INSPECT SHALL INCLUDE A COMPREHENSIVE SHIPPING INSPECTION TO VERIFY QUANTITIES, COMPLETENESS, ETC., OF INDIVIDUAL SHIPMENTS BEFORE PACKING AND CRATING.

Vendor shall provide a detailed shipping list/bill of material itemizing all parts, components, and accessories with the shipment, for the purpose of the shipping inspection. Inspection, witnessing of test, or failure to inspect by CTI shall not relieve the Vendor of responsibility or liability with respect to compliance of the goods with the PO and attachments thereto, nor be interpreted in any way to imply acceptance thereof by CTI. Vendors shall permit and cause their Sub-vendors to permit the right of access of expediting and inspection personnel. If requested, the Vendor shall furnish CTI with one un-priced copy of POs to Sub-vendors. These POs shall refer to CTI's PO number, item number, and equipment number; show the promised delivery date; and bind the Sub-vendor to other relevant PO requirements including CTI's right to expedite the Sub-vendor. Whenever the Vendor encounters delays in receiving information or in obtaining parts, materials, or information from Sub-vendors, the Vendor shall so advise promptly.

11. CHANGES

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CTI shall have the right at any time to make changes in drawings, designs, specifications, materials, packaging time and place of delivery, and method of transportation. Vendor shall notify CTI immediately if changes to the PO affect delivery or the price of the goods. An equitable adjustment shall be made, and this agreement shall be modified by change order in writing.

12. LIMITATIONS OF CTI LIABILITY

In no event shall CTI be liable for anticipated profits or for incidental or consequential damages. Whenever property of CTI is in possession of the Vendor for fabrication or other purpose of the PO, the Vendor shall be considered to be the Insurer thereof and shall be responsible for the property until its delivery at the destination according to CTI's instructions. When the terms of the PO call for progress payments, these payments shall be used by the Vendor to purchase material and parts to be incorporated in the goods under the PO call for progress payments, and the Vendor shall mark such material and parts clearly as CTI 's property and keep it at all times segregated from other goods, material, and parts that may be in the Vendor's factory or warehouse, until its delivery to the required destination.

13. INDEMNITY

Vendor shall indemnify and hold harmless CTI and its subsidiaries, agents, employees, Clients, and representatives of each, against any and all claims, demands, and causes of action for injury to, or death of, persons and loss of or damage to property arising from Vendor's negligence in provision of this Purchase Order and rental agreement that are the subject of the PO or Vendor's failure to comply with its obligations under the terms and conditions stated in the PO.

14. WORK ON PREMISES

For any work conducted on the premises of CTI, including delivery and pick up rental equipment, Vendor shall take all necessary precautions to prevent the occurrence of any injury to persons or property during the course of such work and, except and to the extent that any such injury is due solely and directly to the negligence or willful misconduct of CTI, shall indemnify CTI against all loss and expenses that may result in any way from any act or omission of the Vendor, its agents, employees, or subcontractors. Vendor shall maintain such public liability, property damage, employee's liability, and Workers' Compensation insurance required by CTI from said risks, and from any claims under any Workers' Compensation acts, whether such risks arise in contract or in tort, or any combination thereof.

15. BUY AMERICA ACT Not Applicable Applicable

If the PO exceeds \$2,500, the Vendor, unless otherwise stated in the body of this PO, shall deliver to CTI only domestic end products, goods, or supplies manufactured in the United States or in the fabrication of equipment required under the terms of this PO.

16. INVOICES AND PAYMENT

Invoices shall be made out and submitted as stipulated on the PO, shall show the PO number and item equipment number, as well as a suitable description to properly identify each article. All prices shall agree with those shown on the PO. Failure by the Vendor to comply with these requirements will result in the return of invoices to the vendor for correction. Vendor's invoices shall be submitted to Prime Contractor on or before the twenty-fifth (25th) calendar day before the end of the month which payment is being requested. If invoices are received after such time, payment will be delayed beyond timeframe stated on face of PO.

Payment will be made in accordance with the terms stated on the face page of this purchase. Payment terms shall be computed from date of CTI's receipt of a proper and complete invoice(s) for goods accepted by CTI. Final payment is subject to receipt of all goods, and satisfactory evidence that all other conditions, instructions, and work defined in the PO documents have been fulfilled, including the supply of drawings and technical data, as specified.

The acceptance by the Supplier of final payment under this PO shall constitute as a full release and waiver by Supplier, its Owners or agents or its affiliates of any and all past, current or material-man lien(s) or claims of any nature against CTI or the Owner for material or equipment supplied to CTI under this agreement.

17. INSURANCES

In accordance with Exhibit A, attached. If Exhibit A is not attached to this Purchase Order insurance requirements are limited to those required for admittance to Federal Government Installation.

18. TITLE AND RISK OF LOSS

Vendor warrants full, clear, and unrestricted title to CTI for goods furnished by Vendor in performance of this PO, free and clear of any and all liens, restrictions, reservations, security interests, and encumbrances. All goods furnished by Vendor shall become the property of CTI upon payment or upon delivery, whichever occurs earlier. Notwithstanding the foregoing, Vendor shall be responsible for and shall bear any and all risk of loss or damage to the goods furnished until delivery thereof to CTI in accordance with shipping terms of this PO. All drawings, specifications, data, and information supplied by the Vendor pursuant to the PO shall become the property of CTI. These items may be reproduced or used by CTI in any way for construction or plant maintenance purpose in connection with the project for which the goods are being purchased, at CTI's discretion.

19. FREIGHT COSTS FOR PARTIAL SHIPMENTS

In addition to any of the foregoing conditions, the Vendor shall be liable and responsible for the payment of all freight and handling charges associated with any unauthorized partial shipments, shortages, incorrect equipment, or any other deficiency in the goods supplied and attributable to error or oversight on part of Vendor. CTI reserves the right to select the appropriate method of such shipment.

20. ASSIGNMENT

Neither the PO, nor any moneys payable thereunder, nor any claim against CTI arising directly or indirectly out of, or in connection with the PO shall be assigned or sublet in whole or in part without the prior written consent of CTI.

21. EQUAL EMPLOYMENT OPPORTUNITY

The Vendor agrees to comply with the applicable provisions of all federal and state laws regulating Equal Employment Opportunity (EEO), including seven paragraphs in Section 202 of Executive Order 11246, as amended ad 41 Code of Federal Regulations (CFR), Part 60-1. This commitment to EEO shall be effective as of the date of this PO.

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22. WAIVER

CTI's failure to insist on the Vendor's performance of any of the terms and conditions herein, to exercise any right or privilege, or CTI's waiver of any breach by Vendor hereunder shall not thereafter waive any other terms, conditions, or privileges, whether of the same or similar type.

23. ENTIRE AGREEMENTS

This PO and any documents referred to on the face hereof constitute the entire agreement between the parties and no prior or additional or conflicting terms and conditions, including but not limited to, trade customs or verbal or written statements including any e-mails shall apply.

24. SUSPECT/COUNTERFEIT ITEMS FOR US DEPARTMENT ENERGY PROJECTS Not Applicable Applicable

24.1 Definitions

- a. "Suspect material" as used in this clause, means any material or item that is not known to conform to established U.S. Company or industry-accepted specifications and national consensus standards.
- b. "Counterfeit material" as used in this clause, means any suspect material or item that is a copy or substitute without legal right or authority to do so, or one whose material, performance, or characteristics are knowingly misrepresented by the vendor, supplier, distributor, or manufacturer.

24.2 Vendor shall not use or provide suspect or counterfeit materials or parts as part of the end item for delivery, including any fasteners (Grade 5, Grade 8, Grade 8.2, ASTM A325, bolts, studs, cap screws, washers, nuts, etc.), electrical components (circuit breakers, relays, fuses, transformers, etc.), piping components or mechanical piping components (pipe valves, fittings, nipples, flanges, couplings, plugs, spacers, and nozzles, etc.) valves, metal framing (plate fittings, post base, beam clamp channel, spring clips, square washers), wire rope, lifting materials (shackles, hooks, slings, cables, forklifts, hoists, etc.), welding material (rods, wire, flux, etc.) on any equipment, assemblies, components, or facilities under this contract. Any suspect or counterfeit material provided by the Vendor to CTI is subject to seizure and will not be returned to the Vendor. The Vendor shall replace any and all suspect or counterfeit material at no additional charge to CTI.

24.3 Fasteners

- a. SAE Grades 5, 8 and 8.2 and ASTM Grade A325 fasteners, identified at <http://energy.gov/ehss/downloads/headmark-list-suspect-counterfeit-fasteners-1992> entitled Suspect Fastener Headmark List, cannot be introduced into DOE facilities. Therefore, such fasteners shall not be provided as deliverable end items or incorporated into deliverable end items under this contract.
- b. Any fasteners delivered under this contract shall be subject to the requirements of the Fastener Quality Act ("the Act"), Public Law 101-592, Title 15, United States Code (U.S.C.), Chapter 80, and those requirements as stated in this contract. No fastener, as defined in the Act and regulations issued thereunder by the Secretary of Commerce, shall be supplied to CTI, regardless of lot size.
- c. Nothing in this clause shall prohibit CTI from requiring in this PO, the inspection and testing of a greater number of fasteners from a lot than is specified in the applicable standards or specifications to which the manufacturer represents the fasteners to have been manufactured or in the applicable sampling procedures specified by the Secretary of Commerce.

24.4 Electrical Equipment, Items, and Components

- a. All electrical equipment, items and components shall exhibit manufacturers' labels and identification. Specifically, the labeling of voltage and current values for equipment and the marking of purged and pressurized enclosures with an asphyxiation hazard warning where the protective gas is other than air.
- b. Electrical equipment, items or components must be approved by a nationally recognized testing laboratory (NRTL) (e.g., UL, CSA, FMRS, or MET). Equipment approved by an NRTL shall bear written evidence by listing or labeling that it has received certification from the NRTL. If no certification is available, the manufacturer shall provide any test data, design documentation, etc., which certifies the equipment to be free of electrical hazards as recognized by the National Electric Code and OSHA. This documentation may include, where applicable, references to UL Standard 508 and ANSI C Series Standards.
- c. Molded case circuit breakers, that upon inspection gives the appearance of or display evidence of, being used, refurbished, or reconditioned, may be rejected by Company on the basis of appearance without testing.
- d. Electro-mechanical equipment, where electrical and mechanical components are combined into one system, shall follow requirements in this Article.
- e. All electrical equipment used in Class I and Class II hazardous (classified) locations shall follow protection techniques outlined in NFPA 496.

24.5 Mechanical Equipment, Items and Components

- a. All mechanical equipment, systems and components shall exhibit manufacturers' labels and identification.
- b. All mechanical equipment, which has electrical components, is to meet the requirements of (d) above.

24.6 Packaging and Labeling

- a. Reference to fasteners shall conform to the following format: Size; Style; Grade; and Specifications (i.e., 1/2 x 20 x 6", hex head, cap screws, grade 8, per specification SAE-J429).
- b. All bolts shall be marked with the grade and manufacturers head markings (suspect or counterfeit fasteners are those identified in <http://energy.gov/ehss/downloads/headmark-list-suspect-counterfeit-fasteners-1992> entitled Suspect Fastener Headmark List, Suspect Fastener Headmark List).
- c. All fasteners shall be separately boxed by lot number, with no mixing of lots.

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- d. The manufacturer's lot numbers shall be listed on the packing list as part of the descriptive information.
- e. Each individual box shall be marked with the lot number.

24.7 Reporting of Suspect/Counterfeit Materials and Investigation

- a. CTI investigates incidents of suspect or counterfeit materials. The Vendor shall cooperate with such investigations by providing evidence, documentation, or information as may be requested by CTI in conducting the investigation.
- b. CTI will report to the Office of Inspector General (OIG) any suspect/counterfeit material that is discovered during receipt, maintenance, testing, inspection or use and when there is reason to believe that a fraudulent act occurred during the manufacture, shipping, testing, or certification of the suspect/counterfeit material.
- c. Evidence of deliberate misrepresentation of any item(s) and/or component(s) or provision of any item specifically prohibited under this contract, may result in an investigation by the OIG.

24.8 Unauthorized Substitution

- a. All equipment and material furnished shall be the exact item as described in this PO/contract. CTI will not accept any substitutions unless specifically approved in writing by the CTI's Procurement Representative. Equipment or material for which unauthorized substitution is made shall be considered suspect/counterfeit.

25. POs FOR COMMERCIAL ITEMS **Not Applicable** **Applicable**

If this PO is for commercial items as defined at Federal Acquisition Regulations (FAR) Clause 52.202-1, the following FAR clauses apply to this PO and, therefore, are incorporated herein by reference:

(Note: The FAR provisions listed below shall apply to Vendor's Sub-vendors and is the responsibility of the Vendor to include these provisions in its lower-tier POs or subcontracts required by Vendor to fulfill the terms of this PO.)

52.219-8, Utilization of Small Business Concerns (Sep 2023) (15 U.S.C. 637(d)(2) and (3), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$500,000 \$1,000,000, for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

52.222-26, Equal Opportunity (Sep 2016) (E.O. 11246)

52.222-35, Equal Opportunity for Veterans (June 2020) (38 U.S.C. 4212(a)) 52.222-36, Equal Opportunity for Workers with Disabilities (Jun. 2020) (29 U.S.C 793).

52.247-64, Preference for Privately Owned U.S. Flag Commercial Vessels (Nov. 2021) (46 U.S.C. Appx 1241 and 10 U.S.C. 2631).

Federal Government Flow-Down Clauses: If noted on the face page of this PO, the FAR and, if applicable, FAR supplement, clauses set forth in the attachment titled "Government Flow-down Clauses" are applicable to this PO.