

STANDARD TERMS AND CONDITIONS

If Seller and Company have a signed General Services Agreement ("GSA") on file then said document shall be applicable to the subject matter of this order, and said GSA is incorporated by reference in this order as if fully set forth herein. Additionally, in the event of a conflict between the terms and conditions set forth in that GSA and this order, the terms and conditions set forth in the GSA shall prevail and control.

1. **Billing Instructions:** A separate itemized invoice shall be submitted to the "Bill To" address shown on the face of the purchase order for each lot of material shipped or delivered. Invoicing must show purchase order number, line item number and Company item identification number on the invoice and all papers and packages relating to this order.
2. **Surcharges:** All charges must be pre-approved and referenced within the purchase order or contract. Unapproved charges will not be accepted and will cause the invoice to be rejected and returned. This includes, but is not limited to, surcharges, packing charges, core charges, deposits, and/or any other added costs.
3. **Payment Terms:** Unless otherwise agreed, payment terms are net 30 days on receipt of properly submitted invoice. Any cash discount terms must be shown on the invoice. Unless agreed upon in advance, COD order will not be accepted.
4. **Title and Freight:** All goods will be FOB Destination unless agreed to in advance and such changes shall be shown on the Purchase Order. Freight must be transported as listed on the front of the purchase order. Freight that is prepaid and added to the invoice must be substantiated by attaching to the invoice, original transportation bills receipted to the carrier. No charges for packing, package or drayage will be accepted, except on express agreement to such charges.
5. **Quality:** All material furnished must be the best of their respective kinds. We reserve the right to reject any and all material received which does not conform to our specifications, or, if not so specified, which does not conform to standard specifications. Material received in excess of quantity ordered and/or at higher price than quoted, will not be accepted unless shipment has been authorized by Company. Seller expressly warrants that the goods and/or services shall:
 - a. Comply strictly with the provisions of the order and all specifications, drawings, and exhibits referred to in the order or thereafter furnished by Company;
 - b. Be new, merchantable, and of the most suitable grade in accordance with the highest industry standards and specifications;
 - c. Be fit for Company's intended purposes;
 - d. Be in full compliance with all applicable laws, ordinances, regulations, codes, and facility rules, including those relating to safety; and
 - e. Be free from any patent, copyright, or trademark claims, infringements or rights of others. All such warranties shall extend for a reasonable time, but in no case less than eighteen (18) months after delivery or twelve (12) months after the start of regular use by Company, whichever occurs first.
6. **Force Majeure:** Neither party shall be liable to the other for any damages for any failure to perform or for any delays or interruptions beyond that party's reasonable control in performing any of its obligations under this Agreement due to acts of God, fires, floods, earthquakes, riots, war, acts of terrorism, civil insurrection, acts of the public enemy, or acts or failures to act of civil or military authority, unless the time to perform is expressly guaranteed. Contractor shall advise Company immediately of any anticipated and actual failure, delay, or interruption and the cause and estimated duration of such event. Any

such failure, delay, or interruption, even though existing on the date of this Agreement or on the date of the start of the Work, shall require Contractor to within five (5) days submit a recovery plan detailing the manner in which the failure, delay, or interruption shall be remedied and the revised schedule. Contractor shall diligently proceed with the Work notwithstanding the occurrence thereof. This Article shall apply only to the part of the Work directly affected by the particular failure, delay, or interruption, and shall not apply to the Work as a whole or any other unaffected part thereof.

7. **Indemnification:** The Seller shall be responsible for and shall defend, indemnify, and save harmless Big Rivers Electric Corporation from any and all damage, loss, claim, demand, suit, liability, fine, penalty, or forfeiture of every kind and nature, including professional fees and court costs of defending against the same and payment of any settlement or judgment therefore, by reason of:
 - 1.) Injuries or deaths to persons
 - 2.) Damages to or destruction of real, personal, or intangible properties
 - 3.) Violations of any other rights asserted against Big Rivers Electric Corporation, including patents, trademarks, trade names, copyrights, contract rights, and easements
 - 4.) Violations of governmental laws, regulations, or orders whether suffered directly by Big Rivers Electric Corporation itself, or indirectly by reason of claims, demands, or suits against it, resulting or alleged to have resulted from acts of omissions of Seller, its employees, agents, business invitees, or other representatives or from their presence on the premises of Big Rivers Electric Corporation, either solely or in occurrence with any alleged joint negligence of Big Rivers Electric Corporation,Big Rivers Electric Corporation shall be liable for its sole negligence and to the extent of its concurrent negligence. Indemnification of Big Rivers Electric Corporation includes its officers, employees, and agents.
8. **Warranties:** The Seller warrants that all material on this order conforms to all applicable state and federal laws and regulations with respect to the manufacturer, procurement, sale, and use of such material and Seller agrees to indemnify and save harmless the Company from all claims arising by reason of any violation of said laws or regulations in connection therewith.
 - a. It is agreed by the Seller that any right, cause of action, or remedy under the warranties or undertakings assumed or imposed upon the Seller under this order shall extend without exception to the Company or upon whose behalf this order is issued by the Company, as the interest of such company shall appear.
9. **Status of Seller:** The Seller agrees that the relationship established by this order constitutes him an independent contractor, and that no tax, assessment or legal liability of the Seller, or of his agents or employees, becomes by reason of this order an obligation of the Company; Seller further agrees that in the event any sales tax is levied on the sale of any of the material furnished on this order in the state of origin or shipment such sales tax shall be borne by the Seller and that should any use tax be levied or applicable on the use of such material by the Company such tax will be handled by the Company with the taxing authorities in the state of such use and shall not be in any way included in the invoice of the Seller.
10. **Health & Safety:** Seller and Seller's subcontractors are responsible to ensure that their employees comply with Kentucky occupational safety & health laws relating to equipment & operational practices as well as the Company's safety program. Failure to comply with these laws and programs may constitute cause for corrective action ranging from Notice to Correct the unsafe condition or act to removal of personnel from the premises.

11. **Safety:** In the case of entry by the Seller, or of any of the Seller's agents or employees, upon the property or premises of the Company, for the purpose of construction, erection, inspection or delivery under this order, the Seller agrees to provide all necessary and sufficient safeguards and to take all proper precautions, against the occurrence of accidents, injuries or damages to any person or property and to be responsible for and to indemnify and save harmless the Company from all loss or damage and any or all claims arising by reason of accidents, injuries or damage to any persons or property in connection with such work, except such as may be the sole and direct result of negligence on the part of the Company, and from all fines, penalties or loss incurred by reason of the violation of any law, regulation, or ordinance; and further agrees to defend at the Seller's expense any and all suits or actions civil or criminal arising out of such claims or matters.
12. **Insurance:** Seller shall furnish certificates of insurance, in the name of the Big Rivers Electric Corporation, evidencing insurance coverage of the following types of minimum amounts:
- a. Workman's compensation and employers liability insurance covering all employees who perform any of the obligations under the contract or Purchase Order, in the amounts required by law. If any employer or employee is not subject to the workers compensation laws of the governing state, then insurance shall be obtained voluntarily to provide coverage to the same extent as though the employer or employee were subject to such laws.
 - b. Comprehensive general liability insurance covering all operation under the contract or Purchase Order: bodily injury - \$1,000,000 each occurrence and aggregate; property damage - \$1,000,000 each occurrence and aggregate. A combined single limit of \$1,000,000 for bodily injury and property damage liability is acceptable. The insurance may be in a policy or policies of insurance. A primary policy and an excess policy including the umbrella or catastrophe form is acceptable. Coverage should include contractual liability, broad form property damage liability, owner's and contractor's protective (independent contractor's) liability, products and completed operations hazard, explosion, collapse, and underground property damage hazard.
 - c. Automotive liability insurance on all motor vehicles used in conjunction with the contract or Purchase Order, whether owned, nonowned, or hired; bodily injury - \$1,000,000 each person and \$1,000,000 each occurrence; property damage \$1,000,000 each occurrence. A combined single limit of \$1,000,000 for bodily injury and property damage liability is acceptable. The insurance may be in a policy or policies of insurance. A primary policy and an excess policy including the umbrella or catastrophe form is acceptable.
- Certificates evidencing the insurance coverages must be furnished before the commencement of work. The certificates must include a provision that no change in, or cancellation of, any policy listed in the certificates will be made without thirty (30) days written notice to Big Rivers Electric Corporation. If any work to be performed under this contract or Purchase Order is sublet, the contractor will be required to furnish proof of insurance from all subcontractors evidencing equal to or better coverage.

The Seller shall cause its insurer to waive all subrogation rights against the Company, except with regard to Worker's Compensation, and evidence thereof satisfactory in form and substance to Company shall be exhibited in the Certificate of Insurance. Seller's liability shall not be limited to its insurance coverage. The Company shall be added as an Additional Insured under the Seller's Commercial General Liability, Auto Liability and Excess Liability policies.

13. **Conflict of Interest:** In the event any employee of the Company holds a financial interest in the Seller, whether the Seller is individual, corporate or otherwise, Seller will disclose such interest upon the face of this order. Failure of the Seller to make such disclosure shall relieve this company of any obligations under this purchase order. The company reserves the right to reject any such order at any time after the issuance hereof.
14. **Confidentiality:** The specifications, drawings, designs, manufacturing data and other information transmitted to the Seller by the Company in connection with the performance of this purchase order are the property of the Company and are disclosed in confidence upon the condition that they are not to be reproduced or copied or used for furnishing information or equipment to other, or for any other purpose detrimental to the interest of the Company.
15. **OSHA Compliance:** The Seller warrants that the goods to be furnished hereunder comply with the requirements of the Occupational Safety and Health Act of 1970, as amended.
16. **NAFTA:** Where made aware of it's application by buyer, the Seller warrants that the goods furnished hereunder enable buyer to comply with the REA 'Buy American' clause which requires buyer, to the extent practicable and reasonable, to use in the expenditure of REA funds only unmanufactured articles, materials, and supplies mined or produced in the U.S., Mexico, or Canada and only manufactured articles, materials, and supplies manufactured in the U.S., Mexico, or Canada substantially all from articles, materials, or supplies mined, produced, or manufactured in the U.S., Mexico, or Canada.
17. **Time is of the essence:** If any goods are not delivered or services performed within the specified times, or within a reasonable time if no time is specified, then the Company may terminate the order by notice to the Seller in addition to exercising all other rights and remedies available to the Company under applicable law. All materials and work are subject to the Company's acceptance. Payment shall not constitute acceptance.
18. **Changes to the order:** The Company reserves the right at any time to change the specifications, quantity ordered, and/or delivery date. Such changes may result in adjustments in the price or delivery schedule in accordance with the pricing and delivery structure of the order.
19. **Termination:** The Company shall have the right at any time with or without cause to terminate the order by written, telegraphic, or electronic notice to the Seller. In case of the Seller's default, the Company shall have all rights and remedies available under applicable law. In no case shall the Company be liable for special, incidental or consequential damages. The Company shall not have any liability for such termination except as follows:
 - a. In case of termination of an order for goods specially manufactured for the Company, if the Seller is not in default, then the Company shall be liable for actual costs incurred by the Seller prior to the notice of termination pursuant to the order up to the price of the goods.
 - b. In case of termination of an order for services, if the Seller is not in default, the Company shall be liable for payment for services performed prior to the notice of termination.
 - c. In case of termination of an order for goods not specially manufactured for the Company, if the Seller is not in default, the Company shall not have any liability for termination of the order. Company shall have the right to return any goods purchased from the Seller as long as such goods have not been specially manufactured for Company and are being stocked by the Seller at the time the Company returns the goods.

20. **EEO Compliance:** To the extent applicable, the Seller shall comply with all of the following Equal Employment Opportunity provisions, which are incorporated herein by reference:
- a. Equal Opportunity regulations set forth in 41CFR 60-1.4(a) and (c) prohibiting discrimination against any employee or applicant for employment because of race, color, religion, sex, or national origin;
 - b. Vietnam Era Veterans Readjustment Assistance Act regulations set forth in 41 CFR 60-250.4 relating to the employment and advancement of disabled veterans and veterans of the Vietnam era;
 - c. Rehabilitation Act regulations set forth in 41 CFR 60-741.4 relating to the employment and advancement of qualified disabled employees and applicants for employment;
 - d. Clause known as "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals" set forth in 15 USC 637(d)(3); and
 - e. The subcontracting plan requirements of 15 USC 637(d).
21. **Independent Contractor:** Nothing herein shall be deemed to constitute the Seller, or any of the Sellers' employees or agents, to be the agent, representative or employee of the Company. The Seller shall be an independent contractor and shall have sole responsibility for and control over the details and means of performance.
22. **Assignment:** The Seller shall not assign its rights or obligations hereunder wholly or in part, voluntarily, by operation of law, or otherwise without first obtaining the written consent of the Company. Subject to the foregoing, the provisions hereof shall be binding upon the successors and assigns of the parties hereto.
23. **Governing Law:** The transactions and agreements between the Seller and the Company shall be governed by the subject to the law and jurisdiction of the Commonwealth of Kentucky.
24. **MSDS:** As required under the OSHA Hazard Communication Standard (29 CFR 1910.1200) and certain other Applicable Laws, Contractor or its subcontractors shall provide Material Safety Data Sheets ("MSDS") covering any hazardous substances and materials furnished under or otherwise associated with the Work under this Agreement. Contractor and its subcontractors shall provide Company with either copies of the applicable MSDS or copies of a document certifying that no MSDS are required under any Applicable Laws in effect at the worksite. **No asbestos or lead containing materials shall be incorporated into any Work performed by Contractor or otherwise left on the Work site without the prior written approval of Company.** Contractor and its subcontractors shall be solely responsible for determining if any chemical or material furnished, used, applied, or stored or Work performed under this Agreement is subject to any Applicable Laws.
25. **Sales Tax:** The invoicing regarding this order requires individual totals for labor and materials for the calculation of Kentucky sales tax & use tax requirement.
- Do not bill Kentucky Sales Tax:** Blanket Direct Pay Authorization maintained under 103 KAR 31:030, Permit # 108814.
26. **Binding Effect:** This purchase order, together with any written instructions issued hereunder and any attachments hereto, contains the complete and final agreement between the Company and the Seller and any agreement that purports to modify the terms and conditions hereof shall not be binding upon the Company unless made in writing and signed by the Company's authorized representative.