

GENERAL TERMS AND CONDITIONS FOR GOODS

1. DEFINITIONS

“Buyer” means Salt River Project Agricultural Improvement and Power District, a political subdivision of the State of Arizona, or Salt River Valley Water Users’ Association, a corporation organized under the laws of the Territory of Arizona, as applicable. “Items” means any or all of the goods, products, materials, supplies and equipment to be provided under the Purchase Order, whether or not specifically identified as such on the Purchase Order or in the Request for Proposal. “Proposal” means the written offer, if any, of Seller to provide the Items. “Purchase Order” means the document issued by Buyer to Seller, identified as such, together with these General Terms and Conditions for Goods and any instructions, addenda, schedules or other materials delivered concurrently with the Purchase Order, and all amendments thereto. “Request for Proposal” means any document, including drawings and designs, or letters, issued by Buyer that describe the Items. “Seller” means the party providing the Items, as identified in the Purchase Order.

2. ACCEPTANCE OF PURCHASE ORDER

Buyer’s issuance of a Purchase Order shall constitute an offer to enter into a contract with Seller on the terms and conditions set forth in the Purchase Order. Acceptance of the offer extended by the Purchase Order must be made on, and is expressly limited to, the exact terms and conditions contained in the Purchase Order. If Seller submits a counteroffer or any deviations from or exceptions to the Purchase Order, then Seller shall not begin performance unless and until the counteroffer, deviations or exceptions have been agreed to in writing by Buyer. If Seller begins performance without Buyer’s written agreement to the counteroffer, deviations or exceptions, Seller shall be deemed to have accepted the terms of the Purchase Order. Buyer’s acceptance of or payment for Items delivered shall be subject to all of the provisions of the Purchase Order and only those provisions, and shall not constitute a contractual acceptance of any additional or different terms and conditions proposed by Seller. If a Proposal is referenced in the Purchase Order, the Proposal is incorporated into the Purchase Order only to specify and describe the Items and to set forth the prices to be charged by Seller for the Items, and only to the extent that such descriptions and prices are consistent (a) with the Purchase Order, and (b) with the Request for Proposal, except to the extent that Buyer has agreed in writing to any deviations or exceptions to the Request for Proposal. If a Request for Proposal is referenced in the Purchase Order, the Request for Proposal is incorporated into the Purchase Order, except to the extent that Buyer has agreed in writing to any deviations or exceptions to the Request for Proposal. No inconsistent terms in the Proposal shall be incorporated into the Contract unless Buyer specifically identifies and agrees in writing to such inconsistent provisions.

3. PRECEDENCE OF DOCUMENTS

The order of precedence of documents shall be: first, these General Terms and Conditions for Goods, second, the Purchase Order; and third, the Request for Proposal.

4. ETHICS POLICY

By accepting the Purchase Order, Seller agrees to do business in accordance with Buyer’s business ethics policy, which provides that members of Buyer’s governing bodies, its officers and employees and their family members shall not accept any gift or benefit offered in an attempt to influence a purchasing decision. Seller’s offering or giving of such “gifts”, whether or not made with intent to obtain special consideration, shall be a material breach of contract entitling Buyer to cancel any contracts with Seller, including the Purchase Order. Seller agrees to report the solicitation of gifts or any item of value by anyone representing Buyer to Buyer’s Corporate Audit Services Department at the following address: Salt River Project, P.O. Box 52025, ISB444, Phoenix, Arizona 85072-2025.

5. PRICES; INVOICES; PAYMENT

Buyer shall compensate Seller based on the prices stated in the Purchase Order, except as may be otherwise provided, qualified, or limited herein. Seller agrees to provide correct and complete invoices at the time of shipment of the Items, or as frequently as otherwise agreed, to Buyer’s Accounts Payable Department at the address indicated on the Purchase Order. Invoices shall reference the Purchase Order number, shall describe the Items, and shall state separately all taxes, transportation charges, and prices of Items, as applicable. The time for payment of invoices, as specified on the Purchase Order, or for accepting any prompt payment discounts offered, shall run from the date that Buyer receives a correct invoice.

6. TAXES

Buyer will reimburse Seller for any lawfully imposed federal, state, tribal and local excise, sales, transaction privilege, gross receipts or other similar taxes (but not net income or franchise taxes) levied on Seller as a result of the Purchase Order (“Taxes”); provided, however, Buyer shall not be liable to Seller for any amounts billed to Buyer for Taxes later than six months after the date of the original underlying invoice, other than Taxes assessed as the result of the disallowance of a claim of exemption made by Seller as Buyer’s agent. The foregoing provisions regarding reimbursement of Taxes shall not apply if the Purchase Order uses lump-sum or fixed pricing, which shall be inclusive of all Taxes. If any Items are identified by Buyer as exempt from state and local privilege and use tax, then as to those Items, Buyer will furnish to Seller an exemption certificate, and Seller shall not bill to Buyer any such tax computed on the price of Items identified as exempt. The cost of any services (labor), the price of the

Items and all Taxes shall be stated separately on Seller's invoices to Buyer. If, subsequent to invoicing, Seller is assessed Taxes as the result of the disallowance of a claim of exemption made by Seller as Buyer's agent, Seller shall give Buyer notice of the disallowance, shall give Buyer the opportunity to contest the tax imposed as a result of the disallowance of Buyer's claim of exemption, and shall take such interim steps as may be necessary to avoid prejudicing the right of either party to resist the tax claim, and shall promptly advise Buyer of the steps taken. If Buyer gives Seller timely written notice that Buyer wishes to contest the tax, Seller, if permitted by law, shall not pay the tax except under protest, and shall (a) subrogate Buyer to all rights that Seller may have with respect to any action or proceeding relating to such tax, or (b) permit Buyer to control the manner of resisting the tax or asserting claims or actions for refund and interest arising therefrom. Seller shall cooperate, at Buyer's expense, in any proceeding undertaken by Buyer or at Buyer's direction to challenge the tax. Seller's failure to comply with the terms of this Section shall relieve Buyer of any obligation to reimburse Seller for the tax finally determined to be payable.

7. CHANGES

At any time, by written notice to Seller and without notice to sureties or assignees, if any, Buyer may make changes in the Items, or the time, manner, method or place of delivery or quantity to be delivered. If such change increases or decreases the cost or time required for performance, an equitable adjustment shall be made in the price or time for performance, as applicable. Any claim for adjustment under this Section must be asserted by written notice to Buyer within 30 days after written notice of the change, or the claim is waived.

8. EXPEDITING

At Buyer's option, the Items furnished under the Purchase Order shall be subject to expediting. If requested, Seller shall (a) supply schedules and progress reports for Buyer's use in expediting, and (b) arrange, at times convenient to it, reasonable access to Seller's plants and, if applicable, those of Seller's major suppliers by Buyer's personnel for expediting purposes.

9. TIME OF THE ESSENCE

Time is of the essence of the Purchase Order.

10. FORCE MAJEURE

If any delay in Seller's performance is caused by a Force Majeure Event (as defined below) the time for performance shall be extended for the period of such occurrence. As used herein, "Force Majeure Event" means acts of God; explosion; fire; flood; drought; epidemic; earthquake; riot; insurrection; blockade; war or other hostilities; strike, lockout or other industrial disturbance; act or restraint of governmental authority whether valid or invalid; action or non-action by any such authority which causes the lapse of necessary governmental authorizations, permits, licenses, certificates

or approvals; that is reasonably beyond the control of Seller and that Seller is not able to overcome by the exercise of reasonable diligence. Seller shall notify Buyer within 10 days of the occurrence of a Force Majeure Event, and the failure of Seller to so notify Buyer will be deemed a waiver of any claim for an extension of time for performance by Seller. During the period of Seller's delay or failure to perform, Buyer may purchase Items from other sources and reduce its schedules and/or releases to Seller by such quantities, without any liability to Seller. If price escalation is provided for in the Purchase Order, the date that such escalation is to occur shall be extended to account for any delay in time of performance whether or not attributable to a Force Majeure Event.

11. DEFAULT

If Seller defaults in its performance, Buyer shall be entitled to cancel all or any part of the Purchase Order.

12. CANCELLATION

At its discretion, Buyer may cancel all or any part of the Purchase Order at any time (including during a Force Majeure Event) by written notice to Seller, and Buyer shall pay Seller an amount based on the price of Items delivered to and accepted by Buyer that is consistent with the pricing set forth in the Purchase Order, plus Seller's cost of non-standard materials on hand specifically for the purpose of fabricating Items pursuant to the Purchase Order, work-in-process and Items completed but not shipped. If so instructed by Buyer, Seller shall deliver such non-standard materials, work-in-process and completed Items to Buyer or Buyer's assignee. Buyer will make no payments for Items, work-in-process, or materials fabricated or procured by Seller in amounts in excess of those authorized in Buyer's delivery releases. Any unapplied payments made by Buyer for Items shall be credited against the amount due to Seller, and any payment in excess of the amount due to Seller shall be refunded to Buyer. Any claim for adjustment not asserted by Seller by written notice to Buyer within 30 days after the notice of cancellation will be deemed waived.

13. WAIVER

The waiver by either party of any breach or failure to performance in accordance with the Purchase Order, or the failure of a party to exercise or any delay in exercising any rights or remedies, or the failure of a party to notify the other properly in the event of a breach shall not be construed as a waiver of any other term or condition herein, or of any subsequent or continuing breach of the same or any other term or condition. Buyer's use or acceptance of any Item delivered pursuant to the Purchase Order shall not be construed as a waiver of any rights of Buyer arising out of Seller's prior or subsequent failure to comply with any of the terms and conditions of the Purchase Order.

14. INSPECTION; REJECTION; ACCEPTANCE

Buyer shall have the right to inspect and test any Items furnished hereunder at any time during manufacture and

prior to shipment, and shall make a final inspection within a reasonable time after Buyer's receipt of the Items. Such tests and inspections shall be as specified by Buyer and shall be held at a time and in a manner acceptable to Buyer. If Buyer rejects any Item prior to acceptance, Buyer shall give Seller notice of the rejection, including instructions relating to replacement of the Items or a refund, and Seller shall bear the risk of loss for rejected Items after such notice. If so requested by Seller, rejected Items may be returned to Seller at Seller's expense. If so requested by Buyer (a) Seller shall replace the rejected Items with non-defective Items at no cost to Buyer, or (b) refund to Buyer the amount paid by Buyer for the rejected Items. If Buyer requests a refund, it shall be remitted to Buyer within 10 days after Seller's receipt of Buyer's notice of rejection. Buyer reserves the right to use monies owed, but unpaid, to Seller for rejected Items as a credit against future or existing obligations of Buyer to Seller. Notwithstanding any prior inspections or tests, successful completion of Buyer's final inspection, as determined solely by Buyer, shall constitute acceptance of the Items ("Acceptance"). Payment of the Purchase Order price, or any part thereof, shall not constitute Buyer's Acceptance or release Seller from its responsibility to fully perform its obligations under the Purchase Order.

15. TITLE; RISK OF LOSS

The risk of loss and damage with respect to the Items, or any part thereof, shall remain with Seller until title passes. Title passes as prescribed by the shipping instructions or, if not so prescribed, upon Acceptance.

16. WARRANTY

Seller warrants that the Items shall fully conform to the description thereof set forth in the Purchase Order and, if applicable, the Request for Proposal, shall be free from defects in design, material, workmanship, inspection and packaging, shall be suitable for the purposes intended, whether expressed or reasonably implied, and shall be of the best quality. If, within one year after the date of Acceptance, or during any longer warranty period agreed to in writing between Buyer and Seller, the Items or any part thereof do not conform to these warranties, notwithstanding Buyer's Acceptance, prior inspections or prior knowledge of the non-conformity, or its substantiality or ease of discovery, and Buyer so notifies Seller within a reasonable time after discovery of the non-conformity, Seller shall, at its sole expense, promptly correct such non-conformity by replacing the non-conforming Items with conforming Items or refunding the purchase price for the non-conforming Items. Buyer reserves the right to use monies owed, but unpaid, to Seller for non-conforming Items as a credit against future or existing obligations of Buyer to Seller. Seller warrants and shall forever defend that it has and is transferring good title to the Items. Seller's liability shall extend to all damages proximately caused by the breach of any warranty. All warranties provided in the Purchase Order shall be assignable by Buyer.

17. RIGHT TO USE ITEMS REQUIRING CORRECTIONS

If Buyer discovers that the Items or any part thereof requires correction, Buyer shall nevertheless have the right to use the Items or part thereof until such time as it is convenient to Buyer for such Items to be removed from service for correction. Buyer's right to use the completed Items may be limited in such manner or degree as Seller may specify in writing as being reasonably necessary to protect the Items until corrections can be made.

18. DELIVERY; PACKING; SHIPMENT

Unless otherwise specified by Buyer in writing, all Items shall be delivered with freight prepaid and allowed, F.O.B. destination. If the Purchase Order contains specific shipping instructions, Seller shall not deviate from such instructions without Buyer's prior written consent. Seller accepts responsibility for and shall pay back charges for any costs resulting from Seller's use of an Air Freight Forwarder or unauthorized common carrier. Seller shall not charge for boxing, crating, packaging, loading, or for transportation costs other than as provided in the Purchase Order. Seller shall pay any premium transportation costs incurred to enable Seller to meet scheduled deliveries unless Buyer otherwise agrees in writing. Items shall be packed to prevent damages from weather and transportation, taking into account the transportation means to be used. A packing list shall accompany each shipment showing Buyer's Purchase Order number, listing only the Items covered by the Purchase Order and the number of containers in which such Items are packed. Buyer's count or weight shall be final and conclusive if the shipment is not accompanied by a packing list. Shipping receipts, original bills of lading, express receipts, and air bills shall be sent to Buyer on the date the Items are shipped.

19. INDEMNITY

Seller shall indemnify and hold harmless (and, upon notice so requiring from Buyer, also defend) Buyer and members of its governing bodies, its officers, agents and employees (the "Indemnified Parties"), for, from and against any and all claims, demands, suits, costs of defense, reasonable attorneys' fees, witness fees of any type, losses, damages, expenses, fines penalties and liabilities (collectively, "Losses") for injury to or death of any person or persons, including injury to or death of employees of Buyer or of Seller, or damage to property, including damage to property of Buyer or of Seller, to which the Indemnified Parties may be put or subjected by reason of any act or omission on the part of Seller, any subcontractor or supplier of Seller, or any of the directors, officers, partners, agents, servants or employees of Seller, or of its subcontractors or suppliers. Seller's obligations under this Section shall extend to indemnify and hold harmless (and, upon notice so requiring from Buyer, also defend) the Indemnified Parties where they are allegedly concurrently negligent with Seller, its directors, officers, partners, agents, servants or employees in causing or contributing to the liability causing event, but shall not extend to any liability that has been judicially determined

to have been caused by the sole negligence of Buyer. Seller shall also indemnify and hold harmless (and, upon notice so requiring from Buyer, also defend) the Indemnified Parties for, from and against any and all Losses for contractual claims arising out of Seller's agreements with third parties.

20. PATENTS; COPYRIGHTS

If any Items supplied by Seller as part of the Purchase Order are produced or manufactured to designs not originated by Buyer, Seller warrants that the sale and use of such Items will not infringe any patent or copyright or constitute the unlawful use of trade secrets. Seller shall indemnify, defend and hold harmless the Indemnified Parties against all Losses for actual or alleged infringement of any United States or foreign patent or copyright, or for claims arising from unlawful use of trade secrets, related to the sale and use of the Items. If the sale or use of all or any part of the Items is held to constitute an infringement of any patent or copyright or the unlawful use of trade secrets, and the use of any or all of them is enjoined, Seller shall immediately, at its own expense, either procure for Buyer a license for continued use of any such Items, replace them with substantially equal but non-infringing Items, modify them such that they become non-infringing, or remove them and refund the purchase price and pay all costs incurred by Buyer in connection with the removal and replacement of the Items.

21. AUDIT

Buyer shall have the right, at its own expense, to designate its own employee representatives, independent contractors or agents to audit and to examine, inspect and copy Seller's written policies and procedures, subcontract files (including proposals of successful and unsuccessful bidders), all documents, books, records, data compilations on any storage media, computer programs or other evidence (collectively, "Seller's Records") deemed necessary by Buyer to substantiate any of Seller's invoices and to audit for compliance with the terms and conditions of the Purchase Order. Any such audit shall be undertaken at reasonable times. Seller shall fully cooperate with any such audits, and Buyer or its designee shall be afforded access to all of Seller's Records. Seller shall provide Buyer with adequate and appropriate workspace in which to conduct its audits. The right to audit shall extend for a period of three years following the date of final payment by Buyer hereunder, during which period Buyer shall complete any audit that it deems appropriate. Unless a longer period is required by law, Seller shall preserve all of Seller's Records supporting Seller's invoices and compliance with the terms of the Purchase Order until the later of (a) completion of any audits and resolution of all disputes arising therefrom, or (b) three years following the date of final payment by Buyer hereunder. Buyer shall notify Seller in writing if, as a result of an audit, Buyer determines that Seller's Records do not support one or more of Seller's invoices. Seller shall respond to such notification within 30 days, and the parties shall use good faith efforts to resolve the

disagreement, if any. Upon resolution of any disagreement in favor of Buyer, the amount, with interest thereon at the rate of 1.5% per month, compounded monthly (or the maximum interest permitted by law, if any, whichever is less), computed from the due date of the questioned invoice to the date of reimbursement to Buyer shall be, at Buyer's option, either (a) paid to Buyer by Seller within 30 days or (b) setoff against any amount owed by Buyer to Seller, with any excess not setoff refunded to Buyer as provided in (a) above. Seller shall require all subcontractors and material suppliers to comply with the provisions of this Section by insertion of the requirements of this Section in a written agreement between Seller and the subcontractor or material supplier.

22. INDEPENDENT CONTRACTOR; NO THIRD PARTY BENEFICIARIES

Seller shall have the status of an independent contractor and is not a co-venturer, agent, employee or representative of Buyer. There are no third party beneficiaries of the Purchase Order.

23. CONFIDENTIALITY

Seller shall retain in confidence and not divulge or allow to be divulged to third parties, intentionally or through Seller's negligence or that of Seller's agents or employees, information relating to Buyer's operations that Seller obtains in connection with the Purchase Order or information that Seller has identified as proprietary or confidential. Seller shall not refer to Buyer in any advertising or publication without Buyer's prior written consent.

24. SURETY BONDS

If requested by Buyer, Seller shall furnish a performance bond as security for the faithful performance of all of Seller's obligations under the Purchase Order. Such bond shall be in an amount at least equal to the Purchase Order price, be written by a surety approved by Buyer, be accompanied by a certified copy of such surety's agent's authority to act, and contain a waiver of all rights under A.R.S. 12-1641.

25. COMPLIANCE WITH LAWS; EQUAL OPPORTUNITY

Seller shall comply with applicable federal, state, tribal and local laws, rules, regulations, executive orders, permits and other authorizations. Seller warrants that all Items supplied hereunder have been sold, produced, delivered and furnished in strict compliance with all applicable federal, state, tribal and local laws, rules, regulations, executive orders, permits and other authorizations to which the Items and Seller are subject. Upon request, Seller shall execute and deliver to Buyer such documents as may be required by Buyer to effect or evidence compliance with such laws, rules, regulations, executive orders, permits and other authorizations. To the extent applicable, the Equal Opportunity Clause provided for in the Regulations issued pursuant to Executive Order 11246; the Affirmative Action Clause for Handicapped

Workers provided for in the Regulations issued pursuant to the Rehabilitation Act of 1973; and the Affirmative Action Clause for Disabled Veterans and Veterans of the Vietnam era provided for in the Regulations issued pursuant to the Vietnam Veterans Adjustment Act of 1974, are hereby incorporated by reference as though fully written herein. The provisions of this Section shall be included in every subcontract unless exempted therefrom.

26. PROVISION OF MATERIAL SAFETY DATA SHEETS

If Seller is providing any chemical substance, Seller shall furnish a Material Safety Data Sheet (MSDS) with each shipment for every chemical purchased hereunder in a format that complies with federal and state OSHA regulations. Prior to providing substitute chemicals or chemicals with changes in composition, Seller shall provide two weeks written notice to Buyer and shall not ship such Items without Buyer's prior written authorization.

27. COSTS; FEES

Should either party sue to enforce its rights hereunder, the prevailing party shall be entitled to reimbursement from the other party of reasonable attorneys' fees and litigation costs and expenses, including witness fees of any kind, in an amount to be determined by the court.

28. ASSIGNMENT

Except as otherwise provided in the Purchase Order, neither party shall assign or delegate performance under the Purchase Order, nor assign any interest in it without the prior written consent of the other party.

29. ENTIRE AGREEMENT; AMENDMENT

The Purchase Order constitutes the entire agreement between the parties with respect to the subject matter hereof, and no understandings or obligations not therein expressly set forth therein shall be binding upon them. No amendment of the Purchase Order shall be valid unless it is in writing, makes specific reference by Purchase Order Number, to the Purchase Order being amended, and is signed by duly authorized representatives of both parties. The Purchase Order shall not be modified, amended or altered by Seller's preprinted forms. No verbal agreements or conversations with any officer, agent or employee of Buyer or Seller shall affect or modify any of the terms or obligations set forth in the Purchase Order.

30. SEVERABILITY OF PROVISIONS

If any part of the Purchase Order is unenforceable, such unenforceability shall not extend beyond the part affected. Unless otherwise agreed to by the parties, the unaffected part of the Purchase Order shall continue in full force and effect and shall be binding upon the parties hereto.

31. NOTICES

Any notice, demand or request provided for in the Purchase Order, or served, given, or made in connection with it, shall be in writing and shall be delivered in person, by courier service providing next-day delivery, by email or

facsimile or sent by United States mail, postage prepaid, to the person and to the address specified below:

To Buyer: The original shall be delivered to the address and attention of the Authorized Procurement Agent shown on the Purchase Order. A copy shall be delivered to: Salt River Project Manager of Procurement Services, CUN200 1511 N. Project Drive Tempe, Arizona 85281-1206.

To Seller: At the address shown on the Purchase Order.

If sent by mail, notices shall be effective three business days after deposit in the mail. If hand-delivered or sent by email or facsimile, notices shall be effective upon delivery.

32. GOVERNING LAW; UCC TO APPLY; JURISDICTION AND VENUE

The Purchase Order shall be governed by and construed in accordance with the laws of the State of Arizona, without regard to conflicts of law principles. Except as otherwise provided in statutes pertaining to Buyer, Seller and Buyer shall each have all remedies afforded by the Uniform Commercial Code, as adopted by the State of Arizona. All remedies provided for in this Purchase Order shall be cumulative and shall be in addition to all other remedies available to either party at law or in equity. Buyer and Seller agree that any action, suit, or proceeding arising out of or relating to this Purchase Order shall be initiated and prosecuted in a state or federal court of competent jurisdiction located in Maricopa County, Arizona, and the parties irrevocably submit to the jurisdiction and venue of such court.

33. SURVIVAL OF TERMS

Cancellation, expiration, or termination of this Purchase Order shall not relieve the parties of obligations that by their nature should survive such cancellation, expiration, or termination, including audit rights, confidentiality, warranties, remedies, or indemnities.

34. WAIVER OF RIGHT TO JURY TRIAL

To the fullest extent permitted by law, each party irrevocably waives any and all rights to a trial by jury, and covenants and agrees that it will not request a trial by jury, with respect to any legal proceeding arising out of or relating to this Purchase Order.

35. CONSTRUCTION

If a question of interpretation arises, the Purchase Order shall be construed as if drafted jointly by the parties, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of the Purchase Order. Any reference to any statute shall be deemed to refer to the statute, as amended, and to all rules and regulations promulgated thereunder, as amended, unless the context requires otherwise. The word "include" or "including" means include or including, without limitation.