

Terms and Conditions

1. **ACCEPTANCE:** Acceptance of this Purchase Order (PO), whether by written acknowledgement or performance by the Seller shall be upon the terms and conditions set forth herein, no other terms or conditions shall be binding upon the Henry County Water Authority (HCWA) unless written approval thereof specifically referring to such other terms and conditions shall have been given to the Seller.
2. **INVOICES:** Seller shall submit separate invoices for each shipment. Each invoice shall be itemized and show discount, quantity shipped, ship date, unit price, extended price and PO number. Unless otherwise specified on the face of this PO or a mutually executed two-party agreement HCWA's payment terms are net 30 days from the later of date of receipt of the invoice or date of receipt of the product.
3. **ORDER CHANGES:** HCWA shall have the right to make changes to quantities and delivery dates of the items on this PO. All changes shall be in writing. Changes made thirty (30) days or more prior to the delivery date to standard products stocked by the Seller shall be accepted without penalty to HCWA. Changes made within thirty (30) days of the due date, or changes to custom / non-standard product may be subject to change fees. Any change fee proposed by the Seller must be based actual cost for labor and materials already committed to producing the items described herein.
4. **SHIPPING:** Seller shall plainly indicate the PO number on all bills of lading, invoices, freight bills, packing lists and packages. Each package shall contain a memorandum showing the Seller's name, contents of the package and PO number. Any materials covered by OSHA Hazardous Communication Standard must be accompanied with the applicable Materials Safety Data Sheet (MSDS).
5. **Partial SHIPMENTS / LATE SHIPMENTS:** Seller shall notify HCWA at least three (3) business days prior to any partial or shipments. All partial shipments shall be indicated on all packaging list and invoices. Seller shall only invoice for the portion of the order shipped. HCWA reserves the right to cancel any late or backordered quantities without penalty.
6. **DELIVERY:** Unless otherwise specified Seller shall deliver all articles to HCWA's premises free of all freight, handling, transport and other similar charges. FOB: DESTINATION. The risk of loss and damage to the goods which are the subject of this order shall be and remain the Seller's until the goods are delivered to the destination set out on the order and accepted by HCWA or their agent.
7. **TERMINATION:** HCWA may terminate all or any part of this PO with or without cause. HCWA will pay reasonable cancellation fees if the product is custom or non-standard or the termination is within thirty (30) days of the delivery date. If the Seller is late HCWA may terminate without penalty.
8. **DECLINE IN PRICES:** HCWA shall be protected in the event of declining prices on the undelivered portion of this PO. If prices decline for items ordered, Seller may elect to meet price reductions of offer vendors or its own lower prices to other purchasers; but if Seller should refuse to do so, HCWA shall have the right to cancel any or all of the balance due on this PO without cost to HCWA.
9. **FORCE MAJEURE:** Neither Seller nor HCWA shall be liable for nonperformance due to causes beyond reasonable control. Where only a part of Seller's capacity to perform is excused under this paragraph, Seller must allocate production and deliveries among the various customers then under contract for similar goods during the period. The allocation must be made in a fair and equitable manner. Where either Seller or HCWA claims an excuse for nonperformance under this paragraph, it must give notice in writing to the other party. Seller shall not be obligated to seller nor HCWA obligated to purchase, at a later date, that portion of the goods that Seller is unable to deliver or HCWA is unable

to receive or use due to an excused cause. Seller shall not tender goods after the expiration of the terms specified in this PO without consent of HCWA.

10. **WARRANTY:** Seller warrants that all articles and services covered by this PO will conform to drawings, specifications, or samples and will be merchantable and of good material design and workmanship free from all defects, and suitable for the use intended. All articles will be subject to HCWA's inspection and rejection at the place of delivery. Defective articles may be returned to the Seller for full credit or replacement at the Sellers risk and expense, including transportation charges both ways: but no defective articles shall be replaced without formal replacement order signed by the HCWA.
11. **ASSIGNMENT:** Neither party shall assign the rights and obligations under this PO without the prior written consent of the other.
12. **INDEMNITY:** Seller agrees to defend, indemnify, and hold the HCWA and all of its officers, agents, employees, and elected officials whole and harmless against any and all claims for damages, costs, and expenses of persons or property that may arise out of, or be occasioned by, or from any negligent act, or omission of the Seller, or any agent, servant, or employee of the Seller in the execution of the performance of this agreement, without regard to whether such persons are under the direction of HCWA agents or employees.
13. **THIRD PARTY INFRINGEMENT:** Seller hereby represents and warrants that it has the legal right to use, sell or license any and all products, services or software used or sold in conjunction with this PO and that no product, service or software infringes on any copyright, patent or trademark of any third party. In the event any product, service or software provided in connection with this PO is found to violate or infringe on the patent, copyright or trademark of any third party, Seller further indemnifies and holds harmless HCWA, its boards, employees and contractors. Seller shall pay any claims, including reasonable attorney's fees charges in connection with such an infringement. This paragraph survives the expiration, termination or cancellation of this PO.
14. **COMPLIANCE WITH APPLICABLE LAWS:** By acceptance hereof, Seller warrants: (a) that all of the goods, merchandise, and materials delivered and services rendered hereunder will have been produced and provided in compliance with all requirements of the Fair Labor Standards Act of 1938 as amended and (b) that all goods, materials and equipment delivered hereunder shall comply with the applicable federal standards prescribed by the Occupational Safety and Health Act of 1970 or as amended; (c) that Seller will comply with all applicable laws, rules, and regulations of federal, state and local governments and agencies, thereof, including but not limited to Executive Orders 11246, 11701, and Section 503 of Public law 9.-112. The Rehabilitation Act of 1973, the provisions of the Americans with Disabilities Act, Transient Employer Law and Excessive Unemployment Law which are hereby incorporated by reference unless this Purchase Order is exempt pursuant to said Executive Orders or Acts and the regulations issued thereunder. (d) The execution of this order does not and will not violate the provisions of section 45-10-20 Et. Seq. of the Official Code of Georgia annotated.
15. **GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT:** Where this PO involves the physical performance of services on HCWA property, right of ways or easements, pursuant to the Georgia Security and Immigration Compliance Act of 2001, as amended, the Seller understands and agrees that compliance with the requirements of O.C.G.A. Section 13-10-91 and Georgia Department of Labor Rule 300-i0-l-.02 are conditions of this PO. The Seller further agrees that such compliance shall be attested by the Contractor through execution of the contractor affidavit

required by Georgia Department of Labor Rule 300-10-1-.07, or a substantially similar contractor affidavit. The Seller's fully executed affidavit shall be forwarded to HCWA upon receipt of this PO and is incorporated into this PO by reference herein. The Seller further understands and agrees that, in the event the Seller employs or contracts with any subcontractor(s) in connection with this PO, the Seller shall secure from each such subcontractor an attestation of the subcontractor's compliance with O.C.G.A Section 13-10-91 and Georgia Department of Labor Rule 300-10-1-.02 by causing each such subcontractor to execute the subcontractor affidavit required by the Georgia Department of Labor Rule 300-10-1-.08, or a substantially similar contractor affidavit. The Seller further understands and agrees that the Seller shall require the executed subcontractor affidavit to become a part of the agreement between the Seller and each such subcontractor. The Seller agrees to maintain records of each such subcontractor attestation required hereunder for inspection by HCWA at any time.

16. TAXES: Items and/or services in this order are exempt from Federal Excise Tax (number 58-1111-865). Also, items and/or services in this order are exempt from Georgia Sales and Use Tax and the Georgia Department of Revenue requires no exemption number be given for State of Georgia agencies purchases supported by official purchase orders.
17. REVIEW OF RECORDS: During the term of the PO and for three (3) years thereafter, HCWA shall have the right to review Seller's records only for the purposes of verifying claims for payment and compliance with the terms and conditions of the PO. Seller agrees to maintain records which substantiate all charges and to retain records related to this PO for at least three (3) years after final payment.
18. GOVERNING LAW AND CONSENT TO JURISDICTION: This PO is governed by and construed according to the laws of the State of Georgia without giving effect to the principles of conflicts of laws. The presiding Judge of the Superior Court of Henry County, Georgia shall have jurisdiction over any litigation arising out of this PO.
19. OWNERSHIP OF WORK PRODUCT: Any plans, drawings, specifications, reports or other work product generated in conjunction with this PO are the Property of HCWA.
20. HEADINGS: Headings are provided as a convenience to reading this PO and are not part of the agreement. In no way are they to be construed or interpreted as part of the agreement.
21. CONFLICTING TERMS: Any conflict between the terms of this PO and a mutually executed two-party agreement between the parties shall be governed by the mutually executed agreement.
22. SOLICITATIONS BY HCWA: If this PO is issued pursuant to an Invitation to Bid (ITB), Request for Quotation (RFQ), Request for Proposal (RFP), or any other formal or informal solicitation or procurement issued by HCWA the terms and conditions of the procurement are incorporated herein by reference. The terms of the solicitation shall prevail in the event of a conflict with the terms of this PO.