

TERMS AND CONDITIONS

1. **Acceptance of Contract:** Seller shall be bound by this contract and its specifications terms and conditions when it delivers any of the items ordered or renders any at the services ordered herein by Buyer unless a written amendment to this Purchase Order has been signed by Buyer. All specifications, drawings and data submitted to Seller with this order are hereby incorporated herein and made a part hereof. All rights not expressly granted to Seller under this Purchase Order are reserved by the Buyer.
2. **Shipments; Export Control:** All shipments must be made as specified in this Purchase Order in standard commercial containers capable of safe delivery to the Buyer at the lowest lawful transportation (FOB) and insurance rates (CIF). Commodity descriptions which produce the lowest lawful freight charges must be shown on bills of lading. Packing slips must be included in all packages. The original bill of lading must be mailed with the invoice or the date of shipment. If the shipments contain products or technology that are subject to governmental restrictions on (i) exports from other countries in which such products and technology included therein may be produced or located; (ii) exports from abroad of derivative products, thereof; and (iii) the importation and/or use of such products and technology included outside of the United States, Seller shall comply with all Export Laws and policies to the extent such policies. Diversion contrary to U.S. law or other Export laws is expressly prohibited.
3. **Changes:** The Buyer reserves the right at any time to make changes in any one or more of the following: (a) Specifications, drawings and data incorporated in this contract where the items to be furnished are to be specially manufactured for Buyer; (b) Methods of shipment or packing; (c) Place of delivery; (d) Time of delivery. If any such change causes an increase or decrease in the cost or the time required for performance of this contract, an equitable adjustment shall be made in the contract price or delivery schedule, or both. Any claim by Seller for adjustment under this clause shall be deemed waived unless asserted in writing within ten (10) days from receipt by Seller of the change. Price increases or extensions of time for delivery shall not be binding on Buyer unless evidenced by an amendment to the Purchase Order signed by Buyer.
4. **Delivery:** Time is of the essence in this contract, and if delivery of items or rendering of services is not completed by the time promised, the Buyer reserves the right without liability, in addition to its other rights and remedies, to terminate this contract by notice effective when received by Seller, as to stated items not yet shipped or services not yet rendered, and to purchase substitute items or services elsewhere and charge the Seller with any loss incurred. Any provisions herein for delivery of articles or the rendering of services by installments shall not be construed as making the obligations of Seller severable. Shipments sent C.O.D. without Buyers consent will not be accepted and will be at Sellers risk.
5. **Representations, Warranties and Inspections:** Seller represents and warrants to the Buyer that: (1) Seller is an entity duly organized, validly existing and in good standing under applicable law; (b) this Purchase Order is a genuine, legal, valid and binding obligations of Seller, enforceable against Seller in accordance with its terms; (c) this Purchase Order has been duly authorized, executed and delivered by Seller; (d) each signatory to this Purchase Order on behalf of the Seller has authority to bind Seller to this Purchase Order; and (e) Seller has read and accepted the terms and conditions of the Purchase Order. Seller expressly warrants that all items will conform to applicable specifications, drawings and samples, that they will be free from defects in material and workmanship, and that they will be fit for their intended use. The items and all parts, material, work and workmanship entering into performance of this contract shall be subject to inspection, tests and count by Buyer at all reasonable times and places, whether during or after manufacture or delivery. If in any way any item or part shall be defective or shall not conform to the provisions of this order or with its standard specifications if no specifications are set forth herein. Buyer, in addition to any other rights and remedies it may have, may revoke its acceptance of or may reject any or all the items. Upon such revocation or rejection, Buyer may return at Sellers expense any or all the items or require prompt correction or replacement at Sellers expense.
6. **Default; Remedies:** A default under this Purchase Order shall be deemed to occur if Seller or any other person responsible for Sellers obligations shall do any of the following: (i) breach any representation or warranty or fail to perform any obligation in the Purchase Order; (ii) misstate or fail to state a material fact in any of the statements or other documents or information submitted at any time by Seller to Buyer; (iii) become insolvent or bankrupt or make an assignment for the benefit of creditors, or a trustee or receiver is appointed for Seller or for a substantial part of its assets, or bankruptcy, reorganization or insolvency proceedings are instituted by or against Seller; (iii) convey, sell, transfer or assign substantially all of Sellers assets or cease doing business as a going concern, or cease to be in good standing or file a statement of intent to dissolve; or (iv) consolidate with, merge with or into, or convey or lease all of substantially all of its assets as an entirety to any person(s) or engage in any other form of reorganization, including sale or exchange of all or a controlling interest in the outstanding shares of the Seller, or there is a change in the legal structure of Seller, in each case, which results, in the reasonable opinion of the Buyer, in a material adverse change in Sellers ability to perform its obligations under this Purchase Order. In the event of a Default, Seller acknowledges and agrees that Buyer may: (a) recover or retain (as liquidated damages and not as a penalty) all unpaid payments and other sums due and following under this Purchase Order; (b) pursue all rights, if any, provided under the Purchase Order with Seller; and (c) pursue all rights or remedies available at law or in equity.
7. **Buyers Premises:** If this order requires performance by Seller in whole or in part, upon Buyers premises, Seller will indemnify and hold harmless Buyer from any and all loss, damage, injury, liability, claim, suit costs and expenses (including reasonable attorney's fees) of any nature arising, or claimed to arise, out of such performance by Seller.
8. **Property Furnished to Seller by Buyer:** Unless otherwise agreed in writing, any property furnished to the Seller by the Buyer, or specifically paid for by the Buyer, for use in the performance of this contract, shall be and remain the property of the Buyer, shall be subject to removal upon the Buyers instruction, shall be used only in filling orders from the Buyer, shall be held at the Sellers risk, and shall be kept insured by the Seller at the Sellers expense while in its custody or control in any amount equal to the replacement cost thereof, with loss payable to the Buyer. Copies of policies or certificates or such insurance will be furnished to Buyer upon request.

- 9. Patents; Licenses:** Seller warrants that the use or sale of the material in the form, state and condition as delivered hereunder does not infringe any claim of any U.S. patent covering the material itself or its method of manufacture, and Seller agrees to defend at its own expense and to pay all costs and damages awarded in any suit against Munich Reinsurance America, Inc., its assigns, agents and customers alleging such infringement. Seller does not warrant against infringement by reason of the use of such materials in combination with other materials or in the operation of any patented process. If applicable, Seller grants to Buyer an exclusive perpetual license to use the material in the form, state and condition as delivered hereunder.
- 10. Price:** The Buyer shall not be billed at prices higher than stated on this Purchase Order unless authorized by an amendment to the Purchase Order signed by Buyer. Seller represents that the price charged for the items or services covered by this Order is the lowest price charged by the Seller to buyers of a class similar to Buyer under conditions similar to those specified in this Order and that prices comply with applicable government regulations in effect at time of quotation, sale or delivery.
- 11. Payment Terms:** Invoice payments will be remitted within 60 days after the postmarked date of correct invoices received or the date of delivery and acceptance of goods ordered, whichever is later, unless more favorable terms are incorporated in the Purchase Order or invoice. Cash discount of two (2%) percent of the invoiced amount will be applied to correct invoices that are paid within fourteen (14) days from either of the aforementioned dates, whichever is later.
- 12. Termination:** Buyer may, at any time, terminate this Order in whole or in part by written or telegraphic notice, or verbal notice confirmed in writing. Upon termination for convenience of Buyer, proper settlement for expended goods or services will be settled upon. If, however, termination is occasioned by Sellers breach of any condition hereof, including breach of warranty, or by Sellers delay, except delay due to considerations beyond the Sellers control and without Sellers fault or negligence. Seller shall not be entitled to any claim of cost or to any profit referred to in said condition, and Buyer shall have against Seller all remedies provided by law and equity.
- 13. Confidentiality:** Each party acknowledges that, in connection with the Purchase Order, it may receive, obtain, become aware of or have access to certain confidential and proprietary information (as a #Receiving Party#), which is the property of the other party or has been disclosed to such other party by a third party in confidence (such other party being the #Disclosing Party#). The Receiving Party recognizes that such information is a valuable and unique asset of the Disclosing Party and agrees to maintain the confidentiality of such information for five (5) years following the effective date of the Purchase Order pursuant to which such disclosure was made and shall cause its personnel to do likewise. Notwithstanding the foregoing sentence, any information subject to state, federal, or other similar laws, shall be maintained by the Receiving Party in compliance with such laws for as long as such laws require. The Receiving Party shall use reasonable care to safeguard such information and to prevent the unauthorized use or disclosure thereof, which care shall not be less than that used by the Receiving Party to protect its own confidential and proprietary information, including implementing and maintaining information system security measures and controls to protect the confidentiality of the Confidential Information that shall, at minimum, comply with reasonable best practices for the relevant industry. The Receiving Party shall use all Confidential Material received from the Disclosing Party solely for the purpose of facilitating the performance of the Services being provided under this Purchase Order. The Receiving Party agrees that, except as permitted hereunder or as authorized in writing by the Disclosing Party, it, and any of its personnel to whom Confidential Materials have been disclosed, will not, at any time during the Term of this Purchase Order, either directly or indirectly, disclose the Confidential Material to any third party whatsoever, or permit any third party whatsoever to examine and/or make copies of any Confidential Material, except to third parties who have a need to know such Confidential Material solely for the purpose of facilitating the performance of the Purchase Order hereunder and who have agreed to be bound by the confidentiality obligations described herein. The Receiving Party acknowledges and agrees that the unauthorized disclosure or use of any Confidential Material may give rise to irreparable injury to the Disclosing Party, or, to the owner of such information, for which there may be no adequate remedy at law. In such circumstance, the Receiving Party agrees that the Disclosing Party, or the owner of such information may, in addition to all other remedies that may be available to it, seek injunctive relief, without the necessity of posting bond or other security, and the Receiving Party shall not object to any application for such injunctive relief on the basis that an adequate remedy at law is available. Following the expiration of the five (5) year period described hereinabove, the Receiving Party will destroy the Confidential Material.
- The obligations of confidentiality stated herein shall not apply to any information that: (1) is or becomes available to the public, other than as a result of an impermissible disclosure by the Receiving Party, (2) was or becomes available lawfully to the Receiving Party from a source other than the Disclosing Party, which, to the Receiving Parties knowledge, is not subject to a confidentiality obligation, (3) was developed independently by the Receiving Party prior to disclosure by the Disclosing Party, as demonstrated by the Receiving Parties records, or, (4) is required to be disclosed by law, regulation, court or regulatory agency action. The provisions of this Section 13 shall survive termination of this Purchase Order.
- 14. Assignment:** Seller shall not assign this Order in whole or in part without prior consent of Buyer. Seller shall not assign any monies due or to become due hereunder without prior written consent. No contractual relation between any third party shall be created as a result of this Purchase Order.
- 15. Notices:** The parties agree that any notices or communications required under this Purchase Order shall be made in writing and shall be sent via a) hand delivery; b) certified or registered mail, return receipt requested; c) facsimile, proof of which shall be in the form of a transmission report; or d) e-mail, proof of which shall be in the form of an electronic confirmation of delivery. Such notices shall be directed to the attention of the Principal Contacts identified on the first page hereof. Each party may designate such other or additional persons as contacts as may be necessary during the Term of this Purchase Order.
- 16. Indemnification.** Each party (an "Indemnifying Party"), on behalf of itself and its successors and assigns, hereby agrees to defend, indemnify and hold the other, its affiliates and subsidiaries, as well as their officers, directors and employees (the "Indemnified Parties"), harmless against all liability, including, but not limited to, claims for damages, losses, fines, penalties, payments, remuneration and reasonable costs and expenses of whatsoever kind, including, but not limited to, fees and disbursements of counsel, which are asserted by a third party against any of the Indemnified Parties resulting from the Indemnifying Parties conduct or omissions in connection with this Purchase Order. The provisions of this Indemnification Section shall survive termination of this Purchase Order.

17. Restrictions on Solicitation. During the Term of this Purchase Order, Provider agrees that it shall not, either directly or indirectly, solicit for employment any employee of Company without the written consent of Company. The restrictions on solicitation contained in this paragraph shall not apply to employees who: (i) respond to a general solicitation, advertisement, or web posting that is not specifically directed to such employees; or (ii) are directed to the soliciting party by search firms, employment agencies or similar entities, provided that such firms, agencies or similar entities were not retained to solicit such employees by the soliciting party.

18. Advertising. Neither party shall reproduce or use the names, logos, service marks or trademarks of the other party in advertising, marketing material, or otherwise without the express written permission of such other.

19. Force Majeure. Neither party shall be liable for failing to perform its obligations hereunder if such failure is the result of fire, weather related catastrophes, acts of God, embargo, strike, war, governmental rule or regulation, or, any other circumstance beyond a party's reasonable control that prevents such party from performing its obligations in accordance with the terms contained herein.

20. Compliance with Laws: Seller represents and warrants that the goods sold, or services rendered pursuant to this contract are manufactured, produced and sold, or rendered, in conformity with all applicable laws, ordinances, orders, directions, rules and regulations of the Federal, State, County and City governments pertaining thereto, including, but not limited to, full compliance with the, requirements of the Fair Labor Standards Act, the Occupational Safety and Health Act of 1970, and Title VII of the Civil Rights Act of 1964, the Rehabilitation Act of 1973; the Vietnam Era Veterans Readjustment Assistance Act of 1975; the Older Workers Benefit Protection Act; the New Jersey Law Against Discrimination; the New Jersey Conscientious Employee Protection Act; the New Jersey Civil Rights Act; the Civil Rights Acts of 1866, 1871, 1964 and 1991; the Human Rights Laws of the State and City of New York; Title VII of the Civil Rights Act; the Equal Pay Act of 1963; the Age Discrimination in Employment Act; the Immigration Reform and Control Act of 1986; Public Law 95-507; the Americans With Disabilities Act; the Employee Retirement Income Security, except as it relates to vested pension benefits; the Wagner Act or the Fair Labor Standards Act; State and Federal Family and Medical Leave Acts; as each of any of the foregoing laws have been or may be amended from time to time and/or any other state, federal, or local statute, ordinance, executive order, regulation, or common law principle relating to employment, the payment of wages and benefits, or discrimination in employment, and Seller agrees to hold Buyer harmless from loss, cost or damage by reason of any actual or alleged violation thereof.

21. Governing Law. This Purchase Order shall be governed by and construed in accordance with the laws of the State of New Jersey. In the event that any portion or provision of this Purchase Order should be declared void or unenforceable, such declaration shall not affect the remaining provisions of this Purchase Order, all of which shall remain fully effective and enforceable.

22. No Waiver. The failure of either party to enforce any rights granted under this Purchase Order or to take action against the other party in the event of breach shall not be deemed a waiver by that party as to subsequent enforcement of rights or subsequent actions in the event of future breaches.

23. Entire Agreement. This Purchase Order constitutes the entire agreement between the parties and supersedes all prior understandings or agreements, whether oral or written, concerning the subject matter hereof. This Purchase Order may not be released, discharged, changed, amended, or modified, except by an instrument in writing signed by a duly authorized representative of each party.

24. No Construction Against Drafter. The parties represent that they have read and understand the terms and conditions of this Purchase Order and acknowledge and agree that any construction of this Purchase Order shall not be made against the drafter of the Purchase Order.

25. Inconsistencies. The parties agree that in the event there is any inconsistency or discrepancy between the terms of this Purchase Order and the terms of any other order, the terms of this Purchase Order shall govern.