

Purchase Order Terms and Conditions

1. Acceptance. This order becomes the exclusive agreement between the parties, subject to the terms and conditions herein. Acceptance of this order must be in strict accordance with its terms, including these terms and conditions. Any additional or different terms or conditions expressed in the acceptance shall be void and of no effect unless accepted in writing by the Authority. No changes in, modifications of, or revisions to, this order shall be valid unless in writing and signed by the Contracting Officer.
2. Definitions. As used herein, "Authority" means the Dallas Area Rapid Transit Authority, and "Seller" means the party identified on the face of this order. The "Contracting Officer" means the person executing this order on behalf of the Authority, his duly appointed successor, and his authorized representative acting within the limits of his authority. "Delivery" shall mean completion if this order is for supplies, services or construction.
3. Delivery. Time and rate of deliveries are of the essence of this order. Seller's failure to deliver at the time and rate specified shall be the basis for rejection and default termination by the Authority.
4. Changes. The Contracting Officer shall have the right, without notice to sureties, to make changes in this order by a notice in writing to the Seller. If such changes cause an increase or decrease in Seller's cost of or time required for performance, an equitable adjustment shall be made in the contract price or delivery schedule, or both. Any claim for equitable adjustment must be asserted by the Seller within 30 days from the date of receipt of the change order. Failure to agree on any adjustment shall be resolved under the Disputes Clause hereof, and nothing contained in this clause shall relieve the Seller from proceeding without delay in the performance of this order as changed.
5. Inspection and Acceptance. Inspection and acceptance will be at destination, unless otherwise provided. Until delivery and acceptance, and after any rejections, risk of loss will be on the Seller unless the loss results from negligence of the Authority. Notwithstanding any requirements for inspection and test by the Authority contained elsewhere in this order, except where specialized inspections or tests are specified for performance solely by the Authority, the Seller shall perform or have performed the inspections and tests required to substantiate that the supplies, services, and construction provided under this order conform to the drawings, specifications, and other requirements listed herein, including, if applicable, the technical requirements for the manufacturers' part numbers specified herein.
6. Disputes. Except as otherwise provided in this order, any dispute concerning a question of fact or law arising under or related to this order which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy

thereof to the Seller. The decision of the Contracting Officer shall be final and conclusive unless, within 30 days from the date of receipt of such copy, the Seller mails or otherwise furnishes a written appeal addressed to the Authority. The decision of the Authority or its duly authorized representative on such appeal shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal of the Contracting Officer's decision, the Seller shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending the final resolution of a dispute hereunder, the Seller shall proceed diligently with the performance of the order and in accordance with the Contracting Officer's decision (which, if and to the extent modified on appeal, shall be deemed a change under the Changes Clause).

7. Variation in Quantity. No variation in the quantity of any item called for by this order will be accepted unless such variation has been caused by conditions of loading, shipping, or packing; or allowances to manufacturing processes; and then only to the extent, if any, specified elsewhere in this order.

8. Payments. Invoices shall be submitted in triplicate (one copy shall be marked 'Original'), unless otherwise specified, and shall contain the following information: purchase order number; item number; purchase order description of supplies, services, or construction; sizes; quantities; unit prices; and extended totals. Unless otherwise specified, payment will be made on partial deliveries accepted by the Authority when the amount due on such deliveries so warrants.

Invoices will be paid 30 days from receipt of the invoice or 30 days from receipt of the order, whichever is later, unless other payment terms have been agreed upon in writing.

9. Discounts. In connection with any discount offered for prompt payment, time will be computed from date of delivery of the supplies to the carrier, when acceptance is at the point of origin, or from the date of delivery at destination or port of embarkation when delivery and acceptance are at either of these points, or from the date the correct invoice or voucher is received in the office specified by the Authority, if the latter is later than the date of delivery. Payment is deemed to be made for the purpose of earning the discount on the date of mailing of the check by the Authority.

10. Commercial Warranty. The Seller agrees that the supplies, services, or construction furnished under this purchase order (i) are of merchantable quality and suitable for their intended use or purpose, (ii) comply with any and all product descriptions or specifications referenced in this order, and (iii) are further covered by the most favorable commercial warranties the Seller gives to any customer for such supplies or services. The Seller further agrees that the rights and remedies provided herein are in addition to and do not limit, any rights afforded to the Authority by any other provision of this order or by law.

11. Termination for Default. The Contracting Officer may by written notice terminate this order, in whole or in part, for failure of the Seller to perform any of the provisions hereof within the time periods specified. In such event, the Seller shall be liable for damages, including the excess cost of reprocurring similar supplies or services or completing construction; provided that, if (i) it is determined for any reason that the Seller was not in default, or (ii) the Seller's failure to perform is without his and his subcontractor's control, fault, or negligence, the termination shall be deemed to be a termination for convenience under paragraph 12. As used in this provision, the term "subcontractor" and "subcontractors" means subcontractors, vendors, and suppliers at any level.

12. Termination for Convenience. The Contracting Officer may, by written notice, terminate this order, in whole or in part, when it is in the best interest of the Authority. In the event of such termination, the Authority shall be liable only for payment in accordance with the payment provision of this purchase order for supplies delivered, or services or construction completed, prior to the effective date of the termination and which are accepted by the Authority.

13. Federal, State, and Local Taxes. The price of this order includes all applicable federal, state, and local taxes and duties. The Authority is exempt from Texas state and local sales and use taxes, and any such taxes included on any invoice or voucher received by the Authority shall be deducted from the amount of the invoice or voucher for purposes of payment.

14. Assignment. The Seller shall not assign the whole or any part of this order, or any monies due or to become due hereunder, without the prior written consent of the Contracting Officer.

15. Equal Opportunity. During the performance of this order, the Seller agrees that it will afford equal opportunity to all employees and applicants for employment without regard to race, color, religion, sex, handicapping conditions, or national origin. The Seller agrees to post in conspicuous places available to employees and applicants for employment, notices setting forth the Seller's commitment to the requirements of this provision. The Seller further agrees to use its best efforts to afford equal opportunity for employment to subcontractors, vendors, and suppliers owned and controlled by ethnic minorities or women.

16. Interest of Public Officials. The Seller represents and warrants that no employee official, or member of the Board (Executive Committee) at the Authority is or will be pecuniarily interested or benefited directly or indirectly in this order. The Seller further represents and warrants that it has not offered or given gratuities (in the form of entertainment, gifts, or otherwise) to any employee official or member at the Board (Executive Committee) of the Authority with a view toward securing favorable treatment in the awarding, amending, or evaluating the performance of this order. For breach of any

representation or warranty in this clause, the Authority shall have the right to annul this order without liability and/or have recourse to any other remedy it may have at law.

17. Governing Law. The rights, obligations, and remedies of the parties shall be governed by the laws of the State of Texas. Venue for any action shall lie in Dallas County, Texas. If any provision of the order is found to be invalid or unenforceable the remaining provisions shall not be impaired.

18. Certifications. The Seller hereby certifies that it is not a company identified on the Texas Comptroller's list of companies known to have contracts with, or provide supplies or services to, a foreign organization designated as a Foreign Terrorist Organization by the U.S. Secretary of State. Seller further certifies and verifies that neither Seller, nor any affiliate, subsidiary, or parent company of Seller, if any (the "Seller Companies"), boycotts Israel, and Seller agrees that Seller and Seller Companies will not boycott Israel during the term of this Agreement. For purposes of this Agreement, the term "boycott" shall mean and include terminating business activities or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with Israel, or with a person or entity doing business in Israel or in an Israeli controlled territory.