

**PLEASE READ: U.S. WATER SERVICES, INC. TERMS & CONDITIONS ("TERMS")**

Terms are incorporated in all orders for purchase of goods and services ("PO") sold or provided by Seller hereunder. Terms will govern all purchases made by Buyer until new terms are (i) provided by Buyer to Seller, or (ii) specifically agreed in a writing signed by both parties.

1. **ACCEPTANCE.** Seller accepts this PO upon Seller giving verbal, written or electronic acknowledgement of, or initiates performance under, a PO. In any event, Seller's failure to reject this PO in writing within 2 business days will be deemed Seller's acceptance. All goods and services will be delivered to Buyer in strict compliance with all quantities, pricing, packaging, standards, samples, drawings, descriptions, specifications and other requirements provided by Buyer or approved in writing by Buyer (the "Requirements"). Seller's acceptance is limited to PO's Requirements and Terms. No additional or conflicting terms or conditions in any Seller acknowledgement, acceptance, confirmation, invoice, bid, proposal, or other document is binding on Buyer, unless Buyer specifically approves in writing. Trade usage, dealing or custom and past performance are superseded by this PO.

2. **QUANTITY.** Seller will provide the specified quantity at the specified price. Any excess shipped may be held or returned to Seller at Seller's expense and risk.

3. **PACKING, LABELING & LOADING.** All goods supplied by Seller will be packaged, labeled, crated, stored and loaded onboard a carrier, as specified in the PO, in strict compliance with all applicable Federal, state and local laws, rules and regulations. Upon request, Seller will provide then-current and complete Material Safety Data Sheets (MSDS) for each chemical supplied. Seller will package goods to ensure insurance coverage is not voided by insufficient packaging.

4. **DELIVERY.** Seller will deliver goods and services at the time period stated in the PO, unless Buyer specifies a longer, or parties agree to a shorter, time period. If any delivery date(s) will not be met, Seller must immediately inform Buyer in writing of the revised delivery date(s), subject to Buyer's acceptance. If deliveries are not made as Buyer requires, Buyer may (i) request Seller ship the items by expedited delivery (the cost of which will be borne by

Seller), or (ii) terminate this PO in whole or in part and purchase comparable items elsewhere (in which case Seller will reimburse Buyer for any resulting loss and additional costs). Unless otherwise stated in this PO or agreed in writing, (a) all goods are sold and shipped DDP Buyer's-designated location (according to INCOTERMS 2010), and (ii) Seller will insure goods until Buyer obtains possession.

5. **INSPECTION.** All goods and services will be subject to Buyer's inspection and rejection at any time. Buyer may charge Seller all expenses of unpacking, examining, repackaging, storing and reshipping any rejected goods and services. Buyer's right to reject will extend to goods and services sold to Buyer hereunder which are returned by Buyer's customers at any time for any reason entitling Buyer to reject. Buyer will have access at all reasonable times to Seller's facilities for the purpose of inspecting, testing and expediting the goods and services. No review, approval, inspection, receipt, acknowledgment, testing and/or expediting (or failure to do so) will relieve Seller of its obligations or be deemed acceptance by Buyer.

6. **NOTICE OF DEFECTS.** Upon becoming aware of a defect, Seller will notify Buyer in writing describing the defect, safety risk(s) and directions for correcting it.

**7. PRICING & PAYMENT.**

7.1 Goods and services will be delivered to Buyer at the price(s) stated in the PO. Buyer is not responsible or liable for (i) any payments, fees, costs or expenses except those specified in the PO; or (ii) any amount in excess of the total, aggregate amount specified in the PO.

7.2 Seller guarantees the price charged to Buyer is the lowest price given to Seller's customers for similar quantities of goods and services. If Seller offers a lower price to another buyer for similar quantities of the same goods and/or services, the price charged to Buyer will be automatically reduced to the lower price and Seller will provide a credit or refund to Buyer, as specified by Buyer.

7.3 Seller will invoice Buyer in an accurate and timely manner. In no event will Buyer be obligated to pay for goods or services invoiced more than 90 days after Seller's delivery or performance.

7.4 Unless PO states differently or otherwise agreed upon in writing by the parties: (a)

payment will be due **Net 45** days after Buyer's receipt of accurate, itemized invoice; and (b) payments will be in U.S. Dollars. In any event, payment by Buyer will not: (a) be deemed acceptance; (b) constitute waiver of any of Buyer's rights; or (c) terminate any of Seller's warranties.

7.5 In addition to any other rights or remedies, at any time Buyer may (a) refuse or limit approval of any invoice for payment, and may reduce or withhold monies or payments to Seller, due to Seller's errors, defects or non-compliance until such time as Buyer reasonably deems Seller has cured such errors, defects or non-compliance; (b) offset any debt or other financial obligation which Seller owes Buyer against amounts due or which become due Seller; and/or (c) withhold monies otherwise due Seller in amounts as Buyer determines necessary to protect Buyer against loss due to outstanding liens or claims.

7.6 Except for state sales tax (which will be separately itemized on each invoice) required to be paid by Buyer, prices include all applicable Federal, state and local taxes, charges and fees (including without limitation VAT and GST), unless otherwise stated in this PO or agreed in writing. Prices will not include any taxes which Buyer has furnished a valid exemption certificate. If any tax is thereafter refunded to Seller, Seller will promptly pay Buyer such refund amount.

7.7 Seller will keep complete and accurate books and records regarding the goods and services. During the PO term and 5 years thereafter, Buyer may audit, and Seller will provide access to, Seller's premises, personnel, books, records, information, data, systems, processes and procedures relating to the goods or services provided by Seller to verify compliance with this PO. If any error or deficiency is identified by an audit or otherwise, Seller will take prompt action to correct such error or deficiency and, if applicable, refund Buyer for overpayments.

8. **LIENS.** Seller's goods and services will be free and clear of all liens and encumbrances. If at any time Seller incurs any indebtedness that has or will become a lien upon goods or services or any part thereof may become a claim against Buyer, Seller will immediately pay such claim or cause such lien to be released and discharged at Seller's expense. Seller will furnish Buyer written

proof of payment of all labor, goods, material and other charges relating to the cost of goods and services, which proof will be in the form of waiver of lien or right of lien.

#### **9. CHANGE, CANCELLATION & TERMINATION.**

9.1 Seller may not change any Requirements without Buyer's prior written consent. Upon written notice, Buyer may change an Order prior to shipment of goods or performance of services. If any change causes an increase or decrease in the cost of, or time for the performance for, goods or services, parties will make an equitable adjustment in the contract price and/or delivery date(s). Any Seller claims against Buyer for adjustment must be made in writing no more than 5 days of receipt of such change. All adjustments must be approved in writing by Buyer.

9.2 Upon written notice, Buyer may immediately terminate this PO, in whole or in part, at any time without cause and without liability except, unless the termination is due to Seller's breach, Buyer will pay Seller the reasonable pro-rata cost of approved and accepted goods and services actually and properly performed according to this PO before Seller's receipt of Buyer's termination notice. Such amount will be reduced to the extent Seller may be able to repurpose or resell goods and/or services and will not exceed the aggregate commitment specified in this PO. Seller will use best efforts to mitigate termination costs, charges, damages and expenses that may be assessed Buyer. Any Seller claims under this section must be asserted in writing in detail within 5 days of receipt of Buyer's termination notice. Final adjusted price must be approved in writing by Buyer.

9.3 Buyer may immediately terminate this Purchase Order, or any part thereof, without liability by written notice to Seller if Seller defaults for any reason including, without limitation: (a) Seller fails to comply with any term of this PO (including without limitation failure to meet Requirements or deliver or perform in a timely manner); (b) any material adverse change involving Seller which Buyer in good faith believes may impair the likelihood Buyer will receive timely and full performance; or (c) in the event of suspension of Seller's business, insolvency, institution of bankruptcy or liquidation proceedings by or against Seller, appointment of

a trustee or receiver for Seller's property or business, or any assignment, reorganization, or arrangement for the benefit of creditors. Seller will promptly notify Buyer of any such events.

9.4 Upon request or receipt of termination notice, Seller will, to the extent specified, stop work and take all action necessary to protect all goods, materials, equipment and property (including without limitation raw materials, designs, drawings, formula, compositions, tools, code and documents) ("Buyer Property") in Seller's care, custody, control or possession in which Buyer has or may acquire an interest. Upon request, Seller will (i) promptly return all Buyer Property and information, and (ii) deliver to Buyer all goods ordered and services in process.

10. **WARRANTIES.** In addition to all warranties, rights and remedies available to Buyer at law or in equity, Seller warrants: (a) goods and services will be free of any claims by third parties and Seller will convey clear title thereto to Buyer; (b) goods and services will strictly comply with Terms and the Requirements; (c) goods and services will be: (i) merchantable, (ii) new and free from defects in design, manufacture, processing, materials and workmanship, and (iii) suitable for the use intended by Buyer and its customer(s) and end-users; (d) services will be performed in a workmanlike and professional manner; (e) all weights, measures, and sizes are accurate and conform to applicable state and Federal standards; (f) Seller and its goods and services will comply with all applicable Federal, state, provincial and local laws, rules, regulations and standards and with sound environmental, health and safety practices; (g) Seller has the expertise, and resources to perform its obligations; and (i) code, firmware and computer and electronic equipment provided hereunder will be (i) unaffected in its performance or functionality by date changes, and (ii) free of any back door, computer virus, time bomb, or any other code, routine, equipment or instruction that may be used to modify, delete, damage, or disable, or permit unauthorized access to, any software, computer, equipment, data files or other electronically stored information operated or maintained by Buyer or its customer(s); and (j) no goods or services infringe, violate or misappropriate any third party patent, copyright,

trade secret, trade name, trademark, service mark or other intellectual property or proprietary right.

#### **11. REMEDIES.**

11.1 In addition to all available rights and remedies, if any goods or services (i) are not supplied, or (ii) are found to be defective or not in conformity with the requirements of this PO in any way (including warranties), Buyer may terminate the PO and/or reject the affected goods or services, in whole or in part, and, at its option and sole discretion: (a) hold or return affected goods at Seller's expense and risk; (b) require Seller, at its expense, to promptly remove, replace, remedy and/or take such action necessary to cure affected goods; (c) require Seller, at its own expense, to re-perform, the affected services; (d) require Seller to grant a full refund to Buyer for the affected good(s) and/or service(s); and/or (e) obtain substitutes and offset, or require Seller to reimburse Buyer for, all additional costs associated with substitutes.

11.2 In emergencies or if Seller fails to comply with Buyer's option(s), Buyer may remedy such defects or replace affected goods and services, and Seller will reimburse Buyer upon demand for any losses and costs to do so. Seller will use best efforts to mitigate any damages or losses to Buyer under this PO.

11.3 Buyer's acceptance of delivery, inspection, or payment for any Good or Service does not waive any of Seller's warranties or other obligations. Seller will use its best efforts to assist Buyer in investigation of, and corrective action for, Buyer or its customer complaints related to the goods and/or services.

#### **12. COMPLIANCE.**

12.1 Seller represents and warrants it and its activities, goods and services will comply with all applicable Federal, state, provincial, regional, territorial and local laws, rules, regulations, ordinances and orders and directives of any government. Any provision which is required to be part of this PO by virtue of any law, rule, regulation or order is incorporated herein by reference.

12.2 Seller, at its expense, agrees all goods (including without limitation chemicals) provided by Seller will be handled, used, stored, and disposed of properly and safely. Properly means

in compliance of law. Safely means safe for Seller, Buyer and its customers' and end-users as well as the environment. Seller understands the goods and materials may be of a toxic or otherwise hazardous nature. Seller warrants each good and material is in compliance with, or exempt from, chemical control laws.

12.3 Seller, at its expense, will ensure its goods (including equipment, components, chemicals and substances) and packaging will comply with all E.U. Directives and Regulations (including without limitation RoHS, REACH and WEEE). 12.4 Seller will comply with all country of origin marking requirements. On non-U.S. made goods, every level of packaging will be marked. Seller will declare the Customs country of origin of each line item, either on the invoice or on a separate certificate of origin. If and when issuing special certificates of origin for Free Trade Agreements ("FTA") or Trade Promotion Agreements ("TPA") (e.g., GSP, AGOA, etc.), Seller will identify qualifying products by part number to ensure acceptance of their certificates at destination, and will retain the supporting documentation for 7 years. Seller will provide an annual list of parts with their respective origins and FTA/TPA qualification to simplify origin data management. **Seller will notify Buyer in writing if any Good (or component, item or technology) bears any export classification other than EAR-99.** Seller warrants it and its personnel are not listed on any U.S. government restricted parties List.

12.5 Upon request, Seller will provide Buyer all reasonable certifications, guarantees, reports, registration numbers, records and other documents regarding compliance with laws, rules and regulations (including without limitation RoHS, WEEE, and REACH certifications).

12.6 [If applicable,] **This contractor and subcontractor shall abide by the requirements of 41 CFR 60-1.4(a) (as amended by E.O. 13665 regarding pay transparency), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime**

**contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.**

13. **CONFIDENTIALITY** "Confidential Information" means all proprietary, confidential or non-public information and materials of Buyer (regardless of medium or form and whether or not designated or marked as confidential) pertaining to Buyer or its customer(s) or end-user(s) business. During the term of this PO and forever thereafter, Seller will: (a) keep all Buyer Confidential Information secret; (b) use Buyer's Confidential Information only as necessary to perform its obligations to Buyer; (c) ensure Seller's employees, agents and permitted contractors comply with these confidentiality obligations; and (d) not reproduce or disclose Buyer's Confidential Information to any third party without Buyer's prior written consent. Upon Buyer's request, Seller will promptly return and destroy (and certify in writing) all material embodying Buyer's Confidential Information (in all forms and medium). In addition, any information which Seller may disclose to Buyer with respect to the design, manufacture, sale or use of the goods or services will be deemed to have been disclosed as a part of the consideration for the PO, and Seller will not assert any claim against Buyer due to Buyer's use or disclosure thereof. Except upon Buyer's written consent, Seller will not (i) disclose or publish any information, case studies, conclusions or developments from its work hereunder; or (ii) use Buyer or its customer's or end-user's names or marks.

14. **INSURANCE**. At its own expense, Seller will maintain at least \$1,000,000 per occurrence coverage of the following insurance: (a) Commercial General Liability; (c) Employers Liability; and (d) Auto Liability. In addition, Seller will at all time maintain Workers' Compensation in amounts required by law. If Seller provides professional services, Seller will maintain errors and omissions coverage with at least \$1,000,000. If Seller has care, custody, control or possession of any good, material, chemical, equipment or other property of Buyer or its customer(s), Seller will maintain insurance on such property against all insurable risks, listing U.S. Water Services, Inc. and affiliates as 'loss payee'. Each policy will be procured from a company with a Best Rating

of A- or better. U.S. Water Services, Inc. and affiliates will be listed as an additional insured on all general liability, auto liability and excess liability policies. All policies will include a waiver of subrogation in favor of Buyer. Upon Buyer's request, Seller will provide insurance certificates evidencing coverages herein.

15. **INDEMNIFICATION**. To the fullest extent permitted by law, Seller will indemnify, defend and hold harmless Buyer, its customers, and their respective affiliates, directors officers, employees, agents and successors and assigns from and against any judgment, claim, action, liability, damage, loss, suit, proceeding, demand, lien, penalty, fine, cost (including without limitation attorney's fees, consultant fees, expert fees, litigation expenses and court costs) and all other expenses of any nature arising out of or related to: (a) Seller's noncompliance with this PO (b) any act, error or omission of Seller; (b) Seller's breach of warranty; (c) any actual or alleged infringement, violation or misappropriation of any third party patent, copyright, trade secret, name, mark or other intellectual property or proprietary right by Seller in connection with provision of goods, materials and/or services; (d) any death or injury to any person caused by Seller; (e) any damage to or destruction of property (including loss of use) caused by Seller; or (f) any violation by Seller or its activities, goods, materials or services (or manufacture, possession, use or sale) of any governmental law, rule, regulation, ordinance or order. Buyer may participate in defense of any claim. No claim may be settled without Buyer's prior written consent.

16. **FORCE MAJEURE**. If a party cannot perform for any reason beyond its reasonable control ("Force Majeure Event"), such party will be excused from performing to such extent prevented or delayed. Affected party will promptly inform the other in writing of a Force Majeure Event. Force Majeure Event will not include: (a) any labor dispute; (b) non-performance by Seller's supplier, vendor or contractor; (c) Seller's economic distress; or (c) any delay, cause, act, condition or circumstance preventable by Seller. If Seller is unable to perform due to Force Majeure Event, Buyer may terminate the PO without liability upon written notice.

17. **LIMITATION OF LIABILITY**. **BUYER WILL**

NOT BE RESPONSIBLE OR LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL, CONTINGENT, CONSEQUENTIAL OR PUNITIVE DAMAGES OR LOSSES (INCLUDING BUT NOT LIMITED TO, COST OF OVERHEAD OR LOSS OF REVENUE OR PROFITS) UNDER THIS PO, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY ON WHICH THE DAMAGES ARE SOUGHT.

**18. OWNERSHIP, INTELLECTUAL PROPERTY & WORK PRODUCT.**

18.1 Buyer owns all Buyer Property provided by Buyer to Seller or for which Buyer reimburses Seller. Seller bears all risk of loss or damage to Buyer's Property while in Seller's care, custody, control and/or possession.

18.2 By accepting this PO, Buyer owns, without limit, reservation or encumbrance and not subject to the rights of any third party, all goods, materials, equipment, programs, code, products and deliverables (and the ideas embodied therein) resulting from this PO ("Work Product"). To the extent Work Product is created, Seller hereby agrees Work Product will be a work "made for hire" upon creation wherever located, and Work Product will be the sole and exclusive property of Buyer. In the event any Work Product created by Seller does not qualify as work "made for hire," Seller hereby assigns, transfers and releases to Buyer, upon creation, all right, title and interest in and to such Work Product and all intellectual property and proprietary rights therein. Seller will do and sign everything required by Buyer to establish and protect Buyer's rights in such Work Product.

18.3 By accepting this PO, all right, title, and interest throughout the world in and to every invention, innovation, improvement, discovery, Work Product and other intellectual property that is conceived, developed or produced, whether or not reduced to practice, by Seller, either solely or jointly with others, during the course of, in connection with, or related to this PO ("Inventions") will be the sole and exclusive property of Buyer and are hereby vested and assigned by Seller to Buyer. Buyer will have exclusive, unlimited and unrestricted ownership rights in and to Inventions. Buyer may keep such Inventions confidential or apply for patent or copyright protection. In either instance, Seller will

do and sign everything Buyer requires to establish and protect Buyer's rights in Inventions.

18.4 Buyer may remove or cover Seller's name, logo, mark, label and any product name and proprietary rights notice placed or embedded on or in any goods or services, and packaging thereto, and replace with Buyer or another's name, logo, mark, label and/or proprietary notice on, as well as rebrand with alternate product name for, Seller's goods and services, and/or packaging thereto.

18.5 Unless otherwise agreed in writing, title to the goods and materials and risk of loss will remain with Seller until delivery and acceptance (pending right to inspect) by Buyer at Buyer's specified destination. However, the risk of loss of, or damage to, goods and materials which fail to conform to this PO as to give a right of rejection will remain with Seller until cure or acceptance.

19. **GOVERNING LAW.** PO will be governed by the laws of the State of Minnesota, excluding its conflicts of law provisions. UN Convention on Contracts for the International Sale of Goods will not apply. Parties irrevocably submit to exclusive venue and personal jurisdiction in Federal and state court of competent jurisdiction in Hennepin County, Minnesota for any dispute. Prevailing party will be entitled to recover reasonable attorneys' fees and costs.

20. **MISCELLANEOUS.** TIME IS OF THE ESSENCE FOR PERFORMANCE OF BUYER'S OBLIGATIONS. Buyer and Seller are independent contractors. Seller may not assign or subcontract this PO, without Buyer's prior written consent. Seller remains responsible and liable for its contractors and suppliers. Unless otherwise stated, for purposes of this PO, Seller includes, and will ensure compliance of this PO by, its employees, agents, representatives, contractors, vendors, suppliers and licensors. If any provision of this PO is invalid, remainder of this PO will not be affected. The rights and remedies of Buyer herein will be cumulative, in addition to any other rights and remedies provided by law or equity. All these Terms (including without limitation warranties, insurance, indemnification and confidentiality) will (i) survive expiration, termination, cancellation, completion and end of this PO; and (ii) be fully enforceable thereafter to the full extent

necessary to protect the party in whose favor they run. This PO (together with attachments, if any) constitutes the final, complete and entire agreement between the parties and supersedes and replaces all prior oral and written agreements and understandings between the parties with respect to subject matter hereof.