

TERMS AND CONDITIONS

1. **ACCEPTANCE:** THIS ORDER EXPRESSLY LIMITS ACCEPTANCE TO TERMS STATED HEREIN, AND ANY ADDITIONAL OR DIFFERENT TERMS PROPOSED BY THE SELLER ARE REJECTED UNLESS EXPRESSLY AGREED TO IN WRITING BY AN AUTHORIZED REPRESENTATIVE OF EXPLORER PIPELINE COMPANY (EXPLORER). THIS ORDER IS SUBJECT TO IMMEDIATE ACCEPTANCE. UNLESS SO ACCEPTED, EXPLORER RESERVES THE RIGHT TO CANCEL THE ORDER WITHOUT PENALTY. ACCEPTANCE OF THIS ORDER WILL BE BY EITHER A SIGNED WRITTEN ACCEPTANCE OR ANY PERFORMANCE BY THE SELLER. IN THE EVENT OF ANY CONFLICT OR INCONSISTENCY OF ANY KIND WHATSOEVER BETWEEN THE TERMS STATED OR INCORPORATED HEREIN, THEN THE SPECIFICATIONS OF EXPLORER PIPELINE COMPANY SHALL TAKE PRECEDENCE AND BE CONTROLLING UNLESS EXPLORER PIPELINE COMPANY SHALL EXPRESSLY AGREE IN WRITING TO THE CONTRARY. IN THIS REGARD IT IS AGREED AND UNDERSTOOD THAT THE ISSUANCE OF A PURCHASE ORDER TO SELLER SHALL NOT BE DEEMED A WAIVER BY EXPLORER PIPELINE COMPANY OF ANY PART OF ITS SPECIFICATIONS, REGARDLESS OF WHETHER SUCH PURCHASE ORDER SHALL MAKE REFERENCE TO SELLER'S PROPOSAL, BUT SUCH WAIVER, IF ANY, CAN ONLY BE MADE BY SPECIAL SEPARATE WRITTEN AGREEMENT OF EXPLORER PIPELINE COMPANY REFERRING TO AND EXPRESSLY DESCRIBING THE PROVISIONS OF SAID SPECIFICATIONS WHICH IT AGREES TO WAIVE.
2. **GOVERNING LAW:** All questions concerning this order including contractual capacity, validity, performance, interpretation, or remedies for breach, shall be governed by the laws of Oklahoma.
3. **INSTRUCTIONS AND TRANSPORTATION:** Notice of shipment showing order number should be sent to destination the same day material is shipped. Itemized packing list showing order number must accompany each shipment. Seller shall be liable for excess charges for failure to ship and route cheapest way or as instructed.
4. **INSPECTIONS:** No substitutions to this order will be accepted without written approval from Explorer's Purchasing Agent. All material furnished must be as specified and will be subject to reasonable inspection and approval, notwithstanding prior payment. The place of inspection and approval shall be the delivery address, unless otherwise specified. Rejected goods, which are either defective or fail to comply with Explorer's specifications, will be held for Seller's instruction. Explorer's expenses incurred in connection with the rejected goods shall be the expense of the seller.
5. **TAXES, CHARGES, AND CONTRIBUTIONS:** Except as provided herein or by law, Seller shall pay all taxes, charges and contributions now or hereafter imposed by governmental authority on the price, commodity, sale or any other feature of this transaction, and Seller shall indemnify Explorer against any liability and expense by reason of Seller's failure to pay the same. If this order requires the performance of work for Explorer, Seller agrees to and does hereby accept full and exclusive liability for the payment of any and all taxes and contributions for unemployment insurance, for sickness and disability, and for old age retirement benefits, pensions and annuities now or hereafter imposed pursuant to any law or regulation now or hereafter enacted or adopted by any Governmental authority and which are measured by wages, salaries or other remuneration paid to person employed by Seller. Seller shall bill and Explorer shall pay all applicable sales or use taxes to seller in addition to amounts stated herein unless otherwise provided herein.
6. **WARRANTIES:** Any delivery pursuant to this order shall constitute a warranty that Seller has complied with all laws, rules, regulations, requirements and ordinances of Governmental authority, whether Federal, state or municipal, having jurisdiction over the production, manufacture or preparation of the goods or the rendition of the services or both, involved in such delivery and that such goods may be by Explorer lawfully bought, sold, used and transported in interstate and intrastate commerce. Seller further warrants that Seller has merchantable title to such goods free from liens or other encumbrances; that each and all of the articles herein described are free from defects in design, workmanship, and materials; that they conform to Explorer's specifications; and that they are fit for any ordinary or known particular purpose.
7. **HOLD HARMLESS:** Seller agrees to indemnify, defend and save harmless Explorer from and against all demands, claims, suits, costs, expenses, attorney's fees, damages and judgments based upon or incident to (a) any damage and loss to property and injury to and death of persons arising out of or in connection with Seller's operations under this order, (b) any infringement or claim of infringement of any trademark, copyright or patent or any combination thereof, in any manner related to the goods specified in this purchase order, (c) the asserted use of patented articles or machines or of owned or patented process or methods in the production of such goods, (d) the ordinary use or operation of such goods by Explorer, (e) the use or operation of such goods in accordance with Seller's direction, or (f) any right of others in such goods or in connection therewith including Seller's right to sell or otherwise to deal in same.
8. **FORCE MAJEURE:** Either Seller or Explorer shall be excused from performance of the obligations hereunder when and to the extent that such performance is delayed or prevented by any circumstances reasonably beyond control, or by fire, explosion, strike or labor dispute or any act of omission of any governmental authority.
9. **EQUAL EMPLOYMENT OPPORTUNITY & AFFIRMATIVE ACTION:** This purchase order should not be issued or accepted unless Seller has executed and has on file with Explorer a current Compliance Certificate regarding Seller's fair employment practice. In the event, however, that said certificate has not been supplied, Seller shall, nevertheless, be deemed to have accepted and agreed to comply with, insofar as applicable, the Equal Opportunity Clause contained in 41 C.F.R. 60-1.4, the Affirmative Action for Handicapped Workers Clause contained in 41 C.F.R. 60-741.4 and the Affirmative Action for Disabled Veterans and Veterans of Vietnam Era Clause contained in 41 C.F.R. 60-250.4.
10. **DRUG FREE WORKPLACE:** Seller agrees to the provisions provided for in the Drug Free Workplace Act 41 U.S.C.A Sect. 701 et. seq – requiring a drug free workplace.