



PURCHASE ORDER TERMS AND CONDITIONS

1. PURCHASE AND SALE: These Terms and Conditions govern the purchase and sale of the goods or services identified on the Purchase Order to which they are attached or incorporated. These Terms and Conditions and the Purchase Order are the complete agreement between the parties to this transaction. Any prior negotiations or course of dealing between the Parties may not be used to vary the terms hereof. The issuer of the Purchase Order ("Buyer") and the seller/vendor whose name is indicated on the front of the Purchase Order ("Seller") are the "Parties" to this transaction. THE PURCHASE ORDER IS EXPRESSLY LIMITED TO, AND EXPRESSLY MADE CONDITIONAL ON, SELLER'S ACCEPTANCE OF THESE TERMS AND CONDITIONS. BUYER OBJECTS TO ANY DIFFERENT OR ADDITIONAL TERMS. The payment terms and total price are set forth on the Purchase Order. Unless otherwise specified on the Purchase Order, such price shall be final and shall include all costs of shipping, insurance, assembly, testing, installation, training, and all state, local, and federal sales, use, excise or similar taxes, licenses, duties, assessments and levies, and importation costs and taxes or custom bonds, and any other costs, each of which shall be separately itemized. Invoices shall indicate the Purchase Order number. Seller represents and warrants that the prices charged for the goods or services hereunder are not less favorable to those currently charged to other customers for the same goods or services. NO INCREASE OF THE PRICE, CHANGE IN SCHEDULE OR CHANGE IN THE GOODS OR SERVICES TO BE PROVIDED IS PERMITTED UNLESS AGREED IN WRITING BY BUYER IN ADVANCE OF SELLER'S PERFORMANCE.

2. CONFIDENTIALITY: All information disclosed to Seller in the performance of this Purchase Order, including but not limited to any and all information concerning Buyer, Buyer's agent, or their affiliates (or respective employees, agents, managers, directors, officers, advisors, accountants, agents, lenders, owners, or other representatives), projects, commercial agreement terms and conditions, and other business arrangements and relationships shall be held strictly confidential. Such information shall not be disclosed by Seller or its employees, agents, representatives, or subcontractors (collectively, its "Personnel") to any person or entity other than the designated representatives of Buyer without Buyer's express prior written permission, unless such information is publicly available independent of Seller's performance of this Purchase Order or disclosure is required by law.

3. SITE CONDITIONS: To the extent Seller will be performing services, Seller acknowledges that it has satisfied itself as to the nature of the site for the performance of such services, including conditions relating to the following: transportation, access, material handling, storage, and disposal, labor availability and quality, weather, ground conditions, surface and subsurface materials: equipment and facilities, and all other matters which can in any way affect the services or the cost thereof. Failure by Seller to acquaint itself with all available information concerning the site shall not relieve it of the responsibility for properly estimating the difficulty, timing, or cost of performing the services. Seller confirms that the description of the work is sufficient to enable Seller to perform the services free from delay, defects in quality, and workmanship, and at the price set forth on the Purchase Order. Whenever Seller has knowledge that any actual or potential labor dispute is delaying or threatens to delay timely performance, Seller shall immediately give Buyer written notice with all relevant information. Seller shall insert the substance of this clause in any subcontract hereunder as to which a labor dispute may delay timely performance.

4. SITE REQUIREMENTS: If Seller's Personnel must perform services at a facility owned or operated by Buyer, Seller shall cause its Personnel to abide by all health and safety rules, practices and procedures provided by Buyer. Seller shall cause its Personnel to cooperate with all site security procedures and restrictions, including the display of ID badges, controlled personal and vehicle access to the site, wearing of appropriate ANSI classification, high-visibility clothing, and searches of persons and vehicles on site. If any of Seller's Personnel are suspected of being under the influence or having in their possession alcohol, illegal drugs, or weapons, or otherwise in violation of any other site rules and regulations, Seller, on Buyer's request, shall immediately remove such Personnel from the site. Seller shall provide Buyer with safety data sheets before bringing hazardous materials onto the site. Seller shall keep its work and storage areas clean, and shall properly dispose of all waste, including hazardous waste. Upon completion of the services, Seller shall remove all Seller tools, equipment, and materials, and leave the work and premises in a condition acceptable to Buyer as determined by Buyer in its sole discretion. Should Seller fail within a reasonable time to comply with any of the foregoing but in no event later than 10 days from written request therefor, Buyer may perform the clean-up at Seller's expense.

5. PACKING AND SHIPMENT: Unless otherwise specified on the Purchase Order, delivery costs shall be included in the price set forth on the Purchase Order. Goods shall be suitably packed to avoid damage during transportation. Seller's name, Buyer's name, Buyer's Address, and Buyer's Purchase Order number must be plainly marked on all invoices, packages, bills of lading and shipping orders. A packing list shall accompany each shipment showing Buyer's name and Purchase Order number, account number, description of materials, container numbers, and total number of containers. Buyer's count or weight shall be final and conclusive if shipment is

not accompanied by a packing list. If the mode of transportation or carrier is specified on the Purchase Order, Seller shall not deviate from the specified mode without written approval from Buyer.

6. DELIVERY, TITLE, AND RISK OF LOSS: Unless otherwise specified on the Purchase Order, Seller shall be solely responsible for delivery of any goods to the destination identified on the Purchase Order. Time is of the essence, and delivery shall be strictly in accordance with the delivery schedule set forth on the Purchase Order. If Seller fails to meet the specified delivery schedule with the result that Buyer elects to call upon Seller for express shipments, Seller shall pay the difference between the freight and express rates. Title to, and risk of loss for, the goods pass to Buyer upon Buyer's receipt of the goods. Prior thereto, Seller bears the risk of loss with respect to its products and shall maintain insurance on the goods.

7. INSPECTION AND ACCEPTANCE: Buyer has the right to receive from Seller samples of and reports regarding raw materials incorporated into any goods. Buyer may visit the Seller's facilities to inspect quality assurance systems, manufacturing processes and the goods prior to shipment. Any goods delivered or services performed are subject to final inspection and acceptance at destination by Buyer, notwithstanding prior payment, or inspection. Unless otherwise specified in the Purchase Order, payment shall not be due until following Buyer's inspection and acceptance. In any event, payment shall not constitute acceptance. Buyer, without limitation of its other rights, may reject any goods or services that contain defective materials or workmanship or do not conform to Buyer's specifications. Rejected goods may, at Buyer's option, be returned to Seller at Seller's risk and expense. No replacement of defective materials shall be made unless specified in writing by Buyer. Acceptance of any goods or services shall not be deemed to alter or affect Seller's warranty obligations or Buyer's rights.

8. WARRANTY: Seller warrants title to all goods hereunder and that its transfer is rightful and free from any security interest or other encumbrance. For a period of one year from the date of acceptance in writing by Buyer, Seller warrants to Buyer that all goods and materials provided by Seller shall be: (i) new, unless Buyer gives prior written approval otherwise; (ii) in conformity with the requirements of this Purchase Order; (iii) of merchantable quality; (iv) free from defects in materials and workmanship; and (v) fit and sufficient for any purpose intended or required by Buyer and disclosed to Seller. For a period of one year from the date of acceptance in writing by Buyer, Seller warrants to Buyer that any services performed shall be free from defect or failure due to faulty workmanship. In the case of defects that could not be discovered by visual inspection, the one-year warranty period shall commence upon the date of first use of the goods or services. The warranty period for replaced or repaired goods or re-performed services shall be one year following the date the replacement, repair or re-performance is

accepted in writing by Buyer. All warranties shall run to Buyer, and its successors and assigns. Seller shall bear all costs arising from any warranty work, including the removal, replacement, testing and reinstallation of equipment, transportation charges, sales taxes, duties, import, excise, and other taxes and all other costs incurred as the result of a breach of warranty. Should Seller fail or be unable to affect the necessary repairs, replacements and tests within the reasonable time specified by Buyer, Buyer may perform or cause to be performed the necessary work at Seller's expense.

9. INDEMNITY: Seller shall defend and indemnify Buyer, its affiliates, and its and such affiliates' agents, employees, officers, directors, managers, members, shareholders, owners, agents, and any other representatives (collectively, "Buyer Indemnitees"), from and against any and all claims, actions, liabilities, damages, losses, costs, and expenses, including attorney's fees and expert witness fees (collectively, "Claims") caused by either the (i) violation of or failure to comply with any law or regulation, or (ii) breach, misconduct, or negligence of Seller, Seller's Personnel or anyone directly or indirectly employed by them or anyone for whose acts they may be liable. To the extent necessary to give full effect to these indemnities, Seller expressly waives all immunity and limitation of liability under any applicable law or industrial insurance act. Seller shall further defend and indemnify Buyer Indemnitees from and against all Claims for actual or alleged infringement of all letters patent, trademarks, copyright, or corresponding rights pertaining to goods provided under the Purchase Order, unless such goods are produced in accordance with designs or specifications furnished by Buyer. If any goods or services provided hereunder are the subject of any order enjoining or restricting their use due to actual or alleged infringement, Seller shall, at its own expense, either procure for Buyer the right to use such goods or services or provide substitute goods or services of substantially the same quality, specifications, and value which are not infringing.

10. LIQUIDATED DAMAGES: Counterparty acknowledges that (i) Company will suffer actual and substantial damages, which may be difficult to calculate, if Counterparty fails to complete the Services as required under this Agreement by the dates set forth in this Agreement; (ii) the liquidated damages are a reasonable estimate of actual damages that Company would incur as a result of any delay resulting from Counterparty's failure to complete the Services in accordance with this Purchase Order; (iii) liquidated damages are not a penalty; (iv) Company will not be required to prove it incurred actual damages in order to assess liquidated damages against Counterparty; and (v) Counterparty's obligations to pay the liquidated damages will not affect, waive, or modify any warranty obligations or any other obligations to Company under this Agreement.

11. INSURANCE: Seller shall maintain insurance with minimum limits as follows: (a) worker's compensation coverage as required by law, and employer's liability insurance with a limit of \$ 1,000,000; (b) commercial general liability insurance with a limit of \$1,000,000 per occurrence; (c) business automobile insurance with a limit of \$1,000,000 per accident. Minimums are increased to \$10,000,000 for (b) commercial general liability and (c) business automobile insurance if providing services or access to Dairyland's warehouse, substation or powerplant location(s). The minimum limits of insurance can be reached by combining primary and additional umbrella/excess policy limits. Insurance is to be maintained on an occurrence basis, be placed with insurers rated "A- VII" or better by A.M. Best's rating service and contain a separation of insured clause. If providing engineering or design services, Seller shall maintain professional liability insurance with a limit of \$2,000,000, which may be on a claims-made insurance form. Buyer Indemnitees shall be additional insured on a primary and non-contributory basis with respect to all Seller liability policies for on-going and completed operations. All Seller insurance policies shall include a waiver of subrogation in favor of Buyer Indemnitees. Before beginning work, Seller shall furnish Buyer with insurance certificates evidencing that Seller has complied with the foregoing insurance requirements. Seller shall provide written notice to Buyer at least thirty (30) days prior to termination, cancellation, non-renewal, or reduction of coverage in any policy. In no event will Seller's obligation to maintain insurance limit or diminish Seller's obligations or liability to Buyer.

12. DESIGNS, MATERIALS, EQUIPMENT: (a) Seller shall not use any designs, tools, patterns, drawings, materials or any other information or equipment furnished by Buyer in the manufacture or design of any goods or performance of any services for other purchasers. All special dies, tools, patterns, jigs, fixtures or any information or drawings supplied or paid for by Buyer are Buyer's property. Upon completion or termination of this Purchase Order, Seller shall return such items to Buyer in good condition, reasonable wear excepted. Seller shall bear risk of loss for Buyer's property in Seller's possession. (b) If Buyer furnishes any material for fabrication hereunder, Seller agrees (i) not to substitute any other material in such fabrication without Buyer's written consent, (ii) that title to such material shall not be affected by incorporation into any other property; and (iii) that all material furnished by Buyer (except that which becomes normal industrial waste or is replaced at Seller's expense) will be returned in the form of parts or held as unused material for Buyer disposition. (c) Buyer may provide to Seller certain tools, safety equipment and other equipment owned or rented by Buyer. Seller understands and agrees that such tools and equipment are provided on an "AS IS", "WHERE IS" and "WITH ALL FAULTS" basis. SELLER EXPRESSLY ASSUMES ANY AND ALL LIABILITY ARISING FROM OR OUT OF ITS USE OF SUCH TOOLS AND EQUIPMENT AND SHALL FULLY INDEMNIFY AND DEFEND BUYER INDEMNITEES FROM ANY LOSS OR COST ARISING FROM SUCH USE. Seller shall return such tools and equipment to Buyer in good working order, normal wear and tear excepted. In the event of loss, theft or damage of any tools and equipment, Seller will replace or repair the

tools and equipment at Seller's expense, or reimburse Buyer for their replacement cost, at Buyer's option.

13. PERFORMANCE: Counterparty agrees to provide all Services in accordance with this Agreement, all applicable laws, and the standard of care and degree of judgment, diligence, and skill exercised by and generally accepted as appropriate by nationally recognized manufacturers, suppliers, and professionals who provide services like the Services procured under this Agreement.

14. CHANGES: By written notice Buyer may at any time make changes in the services or goods, including, without limitation, changes to specifications, shipping instructions, quantities, or delivery schedules. Should any such change increase or decrease the cost of, or the time required for, performance, then Seller shall notify Buyer in writing prior to proceeding with such change and Buyer and Seller shall negotiate in good faith an equitable adjustment in the price or schedule.

15. SUSPENSION, TERMINATION FOR CONVENIENCE OF BUYER: By written notice Buyer may at any time suspend or terminate this Purchase Order for its convenience. Should such a suspension or termination for convenience occur, then Buyer shall, as Seller's sole remedy, reimburse Seller for its actual direct net costs incurred for materials purchased and the work performed by Seller up to and including the date of termination or suspension, and in the event of suspension, pre-approved and reasonable costs of demobilization, stand-by, and re-mobilization, all subject to Buyer's audit. Any claims for payment by Seller must be made within ten (10) days of Buyer's written notice of suspension or termination for convenience.

16. FORCE MAJEURE: Neither party shall be considered in default of its obligations hereunder to the extent that performance of such obligations is delayed or prevented by Force Majeure, provided that the affected party shall take reasonable steps to mitigate the impact of the Force Majeure. Force Majeure shall not be the basis for a request for additional compensation. In the event of a Force Majeure, the required completion date for performance hereunder shall be extended for a reasonable period not to exceed the time lost by reason of the Force Majeure. For the purpose of this provision, Force Majeure means any extraordinary act, event or circumstance beyond the reasonable control of either party and which could not be prevented by the exercise of reasonable diligence of the party affected thereby, including, but not limited to: any national or general strikes (but excluding strikes relating solely to the work force of Seller or a subcontractor of Seller), fires, riots, acts of God, acts of the public enemy, floods, acts of terrorism, rebellion or sabotage, quarantines, blockades, other unavoidable transportation

accidents or embargoes, and war (declared or not). The term Force Majeure does not include seasonal weather conditions, inadequate construction forces, general economic conditions, changes in the costs of goods or services, or Seller's failure to supply sufficient equipment, materials, or other items to ensure that performance is completed in accordance with the Purchase Order.

17. **BREACH:** Seller shall be in breach if (i) Seller fails to perform any of its obligations hereunder, including any Seller warranties, and fails to cure in a manner acceptable to Buyer within a five (5) day-period after notice of such failure (unless otherwise extended by Buyer in its sole discretion), or (ii) becomes insolvent, files a voluntary petition in bankruptcy, executes an assignment for the benefit of its creditors, has an involuntary petition in bankruptcy filed against it or has a receiver or trustee appointed for it.

18. **REMEDIES:** The rights and remedies of the Buyer provided in this Purchase Order shall be in addition to any other rights and remedies provided by law or equity. Buyer's failure to enforce at any time any of the provisions of this Purchase Order or exercise any right thereunder shall not waive such provisions or affect the validity of this Purchase Order or Buyer's right thereafter to enforce every provision or exercise any right thereunder. In the event of breach, Buyer has the right at its election to do any or all of the following: (i) reject any goods, and either dispose of the goods or return them to Seller at Seller's expense, (ii) demand the immediate delivery of conforming goods or services; (iii) cover the breach through purchase of replacement goods or services from a third party; and (iv) terminate, in whole or in part, the Purchase Order. If Buyer elects to cover the breach by the purchase of goods or services from a third party, Seller shall pay Buyer the difference, if greater, between the Purchase Order price and the cost of cover from the third party. Seller acknowledges that delivery or performance pursuant to the schedule stated in the Purchase Order is essential for Buyer to meet its contractual duties to third parties, and, therefore, if an amount for liquidated damages is stated on the Purchase Order, Seller will pay Buyer such liquidated damages as a result of a failure by Seller to meet such schedule, as it may be changed pursuant to Section 12 hereof. If an amount for liquidated damages is stated in the Purchase Order, Seller acknowledges that (i) Buyer's actual damages in the event of such a delay would be difficult to calculate precisely, and (ii) such liquidated damages are reasonable under the circumstances. Upon termination of the Purchase Order, all obligations, duties, and liabilities of each party shall cease except that such termination shall not affect (i) any of the rights, duties, obligations, or liabilities of the parties accrued prior to the effective date of termination, and (ii) Seller's obligations set forth in sections 2, 8, 9, 10, 11, 16, 17, 19, 20, and 21.

19. **GOVERNING LAW:** Seller and Buyer agree that this Purchase Order is made and executed in the state of Wisconsin and shall be interpreted under the laws of that state without regard to its choice of law principles. The parties submit to the exclusive jurisdiction of the Circuit Court for La Crosse County, Wisconsin, expressly waiving the jurisdiction of any other court.

20. **COMPLIANCE WITH LAW:** Seller's performance shall comply with all applicable federal, state, and local codes, laws, orders, and regulations (including, without limitation Section 889 of the National Defense Authorization Act which imposes certain restrictions on the procurement and use of certain telecommunications equipment, software, and services from manufacturers owned, controlled, or connected to the Government of the People's Republic of China (PRC)). Seller shall have verified work authorization for Seller's Personnel performing services on Buyer's site, and, upon request, provide Buyer copies of completed I-9 Forms.

21. **LIEN RELEASES:** Seller shall keep Buyer's premises free of all mechanics and supplier's liens. If Seller's Personnel files a lien or claim against Buyer, Buyer may withhold payment to Seller of any invoice in an amount equal to the lien or claim until such as time as the lien or claim is released or withdrawn. Partial or final payments shall not become due and payable to Seller until Seller delivers to Buyer partial or final lien releases, in a form satisfactory to Buyer. Final payment to Seller shall not relieve Seller of its obligation to discharge any lien filed before or after Seller is paid for its services. SELLER IS STRICTLY LIABLE FOR AND SHALL, WITHOUT LIMIT AND AT ITS OWN COST, INDEMNIFY, DEFEND AND HOLD HARMLESS BUYER INDEMNITEES FROM AND AGAINST ALL LIABILITY FOR LIENS ARISING OUT OF SELLER'S PERFORMANCE.

22. **INDEPENDENT CONTRACTOR:** Seller shall provide services only as an independent contractor. No labor relationship between Buyer and Seller's Personnel shall result from Seller's performance. Seller shall be solely liable for any payment or other obligations imposed by law upon Seller as the employer of any employees or subcontractors hired by Seller to perform services. Seller shall not subcontract or assign the Purchase Order, in whole or in part, without the prior written consent of Buyer, which may be withheld in Buyer's sole discretion.

23. **LIMITATION OF LIABILITY:** Except for Seller's third-party indemnity obligations hereunder, neither party shall be liable (whether in contract, tort, negligence, strict liability, statutory liability or otherwise) to the other for incidental, consequential, or indirect damages including lost profits, lost revenue(s), or lost goodwill, whether the possibility of such damages has been disclosed or could have been reasonably foreseen.

24. **SEVERABILITY:** If a court of competent jurisdiction finds any of these terms and conditions invalid, void, or unenforceable, the remaining provisions shall remain enforceable to the fullest extent permitted by law.

25. **INTEGRATION:** The purchase order, these terms and conditions, and any attachments to the purchase order contain the entire agreement between the Parties with respect to this subject matter and supersedes all prior proposals, agreements, representations, and understandings.

26. **SURVIVAL:** Any of these terms and conditions which are intended to survive the termination or expiration of the agreement between the Parties, including but not limited to confidentiality and indemnity, will survive termination or expiration of the agreement.

27. **“BUY AMERICAN”/BULK ELECTRIC EXECUTIVE ORDER:** (i) Seller, in performance of the Work, shall ensure that all materials and equipment comply with the “Buy American” provisions of the Rural Electrification Act of 1938, as amended by the North American Free Trade Agreement Implementation Act. (ii) Seller, to the best of its knowledge, is not owned by, controlled by, or subject to jurisdiction or direction of a “foreign adversary,” where the term “foreign adversary” has the meaning set forth in the Executive Order on Securing the United States Bulk-Power System, issued on May 1, 2020 (“Bulk Electric Executive Order”) and any rules or regulations issued pursuant to the Bulk Electric Executive Order.

28. **EQUAL OPPORTUNITY:** During the performance of this purchase order, Seller agrees as follows: (i) The Seller shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Seller shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment, or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Seller agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause. (ii) The Seller shall, in all solicitations or advertisements for employees placed by or on behalf of the Seller, state that all qualified applicants shall receive consideration for employment without regard to race, color, religion, sex or national origin. (iii) The Seller shall send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers’ representative of the Seller’s commitments under this section and shall post copies of the notice in conspicuous places

available to employees and applicants for employment. (iv) The Seller shall comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor. (v) The Seller shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and shall permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders. (vi) In the event of the Seller's noncompliance with the non-discrimination clauses of this purchase order or with any of the said rules, regulations or orders, this purchase order may be canceled, terminated or suspended in whole or in part and the Seller may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in said Executive Order or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law. (vii) The Seller shall include the provisions of paragraphs (i) through (vii) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246, dated September 24, 1965, so that such provisions shall be binding upon each subcontractor or vendor. The Seller shall take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event a Seller becomes involved in, or is threatened with, litigation with a subcontractor or vendor because of such direction by the agency, the Seller may request the United States to enter such litigation to protect the interests of the United States.

29. COMPLIANCE WITH COPELAND "ANTI-KICKBACK" ACT: (i) Seller shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this purchase order. (ii) Subcontracts. Seller or subcontractor shall insert in any subcontracts the clause above and such other clauses as the Rural Utilities Service may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Seller shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all these purchase order clauses. (iii) Breach. A breach of the purchase order clauses above may be grounds for termination of the purchase order, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12. **30. DEBARMENT CERTIFICATION AND LOBBYING CERTIFICATION:** Seller shall comply with 7 CFR § 1710.125 and 2 CFR Part 418. The Parties acknowledge their understanding that those regulations only require such certifications as to Subcontractors for subcontracts specific to this Project and exceeding \$100,000.