

1. APPLICABLE TERMS

These Standard Terms and Conditions of Purchase for Goods and Services (“Terms and Conditions”) apply to all orders placed and purchases made by RedGuard, LLC, (“REDGUARD”) for goods, material, and equipment purchased from Seller (collectively, “Goods”) or services to be performed by Seller (“Services”) on or after January 1, 2012. REDGUARD will not be bound by the purchase order issued by REDGUARD (“Purchase Order”) until REDGUARD has received the acknowledgment copy of this Purchase Order signed by Seller. These Terms and Conditions are hereby incorporated in all Purchase Orders by reference. Seller will be bound by the Terms and Conditions, and any specific terms on the face of the Purchase Order, when it signs and returns the acknowledgment copy of the Purchase Order, delivers any of the goods ordered by REDGUARD, or initiates any services ordered by REDGUARD.

Seller hereby accepts and agrees to these Terms and Conditions, and any specific terms on the face of the Purchase Order, and waives any conflicting or additional provisions contained in Seller's forms. Any provision, printed or otherwise, contained in any acceptance, confirmation, or acknowledgment issued by Seller that is inconsistent with, different from, or in addition to these Terms and Conditions is hereby expressly rejected by REDGUARD and will not be considered as part of the agreement between Seller and REDGUARD.

2. PRICE & PAYMENT

Unless otherwise specified in the Purchase Order, all prices quoted to REDGUARD are firm and will not be subject to change. REDGUARD will provide a sales tax exemption certificate to the Seller with respect to any Goods or Services purchased and no sales tax will be included in the price. All other taxes and duties arising from the sale of the Goods or performance of Services to REDGUARD will be included in the price and will be separately identified on Seller's quotation.

Invoices will be payable within thirty (30) days of Goods delivery and/or accepted completion of the Services rendered, as well as receipt of a correct and complete invoice by REDGUARD. Unless otherwise requested by REDGUARD, invoices will cover only one Purchase Order and include the Purchase Order number. If the invoice is subject to a cash discount, the discount period will be calculated from the date the invoice is received by REDGUARD. When required by REDGUARD and as a prerequisite for payment, the Subcontractor agrees to cooperate with REDGUARD to provide, in a form satisfactory to REDGUARD, partial lien or claim waivers and affidavits from the Subcontractor, its Subcontractors, and suppliers for any completed portions of the Work. Upon completion of all Work on the Project, the Subcontractor agrees to provide final lien waivers releasing all claims against the Project.

3. WARRANTIES

Goods – Seller represents and warrants that all Goods sold to REDGUARD under this Purchase Order will (a) be new and of merchantable quality, not used, rebuilt, or made of refurbished materials unless expressly approved by REDGUARD in writing; (b) be free from all defects in design, workmanship, and materials, and be fit for the particular purpose for which they are intended; (c) meet all specifications and requirements of the Purchase Order; (d) conform to any sample or any specifications, drawings, or other description furnished to or adopted by REDGUARD; (e) be produced, fabricated, manufactured, sold, and delivered in compliance with all applicable state and federal laws; and (f) be free of all liens, claims, security interests, and encumbrances. Seller will assign to REDGUARD any manufacturer's or other warranties applicable to the goods and will cooperate with and assist REDGUARD in the enforcement of any warranties passed through to REDGUARD, provided Seller will remain responsible for meeting and fulfilling all warranties under the Purchase Order. Seller will provide all necessary permits, certificates, material safety data sheets, and other documentation required with respect to the Goods or as may be specifically required by REDGUARD. Should any failure to conform to this warranty be discovered within eighteen (18) months from the date of initial operation and use, or within twenty-four

(24) months from the date of delivery, whichever occurs later, Seller will, as directed by REDGUARD, promptly repair or replace the defective Goods. These remedies will not constitute the sole remedies of REDGUARD but will be in addition to any rights or remedies available under applicable law.

Services – Seller will perform all Services as an independent contractor and will have sole responsibility for all payroll taxes, contributions payable under any applicable local, state, or federal law, workers' compensation, and employee benefits associated with any of Seller's employees providing the Services. Seller represents and warrants that (a) all Services will be performed in a good, safe, and workmanlike manner, in conformity with the highest industry standards, methods, and practices, including applicable environmental, health and safety laws, and that the Services will be free from defects in workmanship and be performed in strict compliance with all requirements of the Purchase Order; and (b) all Goods, if any, used in the performance of the Services will meet the warranty requirements stated above and will be free of all liens, claims, security interests, and encumbrances. Seller will, at its sole cost and expense, correct, re-perform, replace, repair, or otherwise remedy, as directed by REDGUARD, any Services or Goods that fail to conform to the foregoing warranty, and any resulting damage or corrective services caused as a result. These remedies will not constitute the sole remedies of REDGUARD but will be in addition to any rights or remedies available under applicable law.

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TOLL FREE	PHONE	MIDWEST OFFICE	GULF COAST OFFICE	SITE

4. DELIVERY, SHIPPING TERMS, INSPECTION & PASSAGE OF TITLE

The shipping terms, risk of loss, and date of delivery will be specified in the Purchase Order. Should Seller fail to complete delivery of the Goods by the date specified, REDGUARD may, at its sole option and without any liability to Seller, refuse to accept and pay for any such Goods. The seller will provide written notice immediately to REDGUARD if any delay is foreseeable. REDGUARD will not be required to make any payment to Seller for any Goods shipped by Seller in advance of the specified shipping date until the date specified in the Purchase Order. Seller will pay all excess charges resulting from its failure to ship and route the delivery by the least expensive way or as instructed by REDGUARD and will reimburse REDGUARD for any excess charges paid by REDGUARD.

All Goods will be subject to inspection or verification by REDGUARD or its authorized representative at any time during the period of manufacture, prior to shipment, and at the delivery point, notwithstanding any prior payment, inspection, or delivery terms. REDGUARD and its authorized representatives will be permitted during normal business hours to have access to and visit Seller's facilities or the facilities of any subcontractor or vendor, to inspect the Goods and to verify and determine whether the required standards of quality and workmanship are being met by Seller. Inspection by REDGUARD or its authorized representative, failure of REDGUARD or its representative to make an adequate inspection, or acceptance by REDGUARD will in no event limit or discharge Seller of its obligations to comply with the Terms and Conditions and the specific terms of the Purchase Order. PAYMENT FOR ANY GOODS OR SERVICES BY REDGUARD WILL NOT BE DEEMED ACCEPTANCE. ALL RISK OF LOSS OR DAMAGE TO THE GOODS WILL REMAIN THE SELLER'S SOLE RESPONSIBILITY UNTIL THE GOODS ARE DELIVERED TO AND ACCEPTED BY REDGUARD AT THE DELIVERY POINT SPECIFIED IN THE PURCHASE ORDER UNLESS OTHERWISE AGREED IN WRITING BY REDGUARD AND SELLER.

Title to the Goods will pass to REDGUARD no later than the time of delivery provided that the passage of title will not prejudice either the right of REDGUARD to reject nonconforming Goods or any other right REDGUARD may otherwise have. In those cases where advances or progress payments have been made, title, but not risk of loss or damage, will pass to REDGUARD as soon as the Goods are identified to the Purchase Order. All Goods so identified will be adequately marked and recorded as being the property of REDGUARD.

Each package will be numbered and labeled with the Purchase Order number, contain an itemized packing list, and material safety data sheet, if applicable, and be properly packaged against damage and deterioration. No charges of any kind, including charges for inspection, packaging, crating, freight, express, or cartage will be allowed unless expressly specified on the face of the Purchase Order. Unless otherwise provided in the Purchase Order, all containers and packing supplied by Seller will be considered as non-returnable and the cost of the containers and packing will be included in the price.

5. FORCE MAJEURE

In the event of any act, delay, or failure to act by a federal, state, or local government, war conditions, civil unrest or political disturbances, fire, flood, or other natural disasters, an act of terrorism, labor or manufacturing troubles in any fabrication facility, or any other circumstances beyond the control of Seller or REDGUARD, should prevent, curtail, or delay the performance by Seller or REDGUARD of the provisions of the Purchase Order, then such non-performance or delay will not be considered a breach of the Purchase Order provisions and the affected party will be excused while such condition or circumstances and their consequences prevail, and the affected party's time to perform will be extended accordingly.

6. PATENT INFRINGEMENT

Seller represents and warrants that the Goods and Services, including the use of any process or method, will not infringe any United States or other corresponding foreign patent. Seller will defend, indemnify, and hold harmless REDGUARD and its customers, and their respective affiliates, subsidiaries, officers, directors, agents, and employees, from and against all liability, claims, damages, costs, losses, and expenses, including reasonable attorney fees and court costs, related to or arising out of any infringement or alleged infringement of any patent rights with respect to the Goods and Services, including the use of any process or method by Seller, except for claims directly arising out of the use of any designs or drawings provided by REDGUARD to Seller.

7. CONFIDENTIALITY & OWNERSHIP OF INTELLECTUAL PROPERTY

Confidentiality and Nonuse – Seller acknowledges it has previously executed a Confidentiality and Nonuse Agreement (“Confidentiality Agreement”) with REDGUARD. Any cause of action arising out of or related to the Confidentiality Agreement will be exclusively adjudicated pursuant to the specific provisions of the Confidentiality Agreement. Nothing contained in these Terms and Conditions or the Purchase Order is intended in any way to modify, revise, or revoke any of the terms of the Confidentiality Agreement.

Ownership of Intellectual Property – Where development forms a part of the Goods to be provided or Services to be performed by Seller, the ownership of any invention, design, trade secret, or copyright arising from such development will be transferred to and become the sole property of REDGUARD. All written information, drawings, documents, materials, and other works subject to copyright protection prepared by Seller under the Purchase Order, or that relate directly to, or involve the use of Confidential Information, will be deemed “works made for hire” and the same will be the sole and exclusive property of REDGUARD, including any copyrights or other intellectual property rights associated with such works. Consultant

will take all action necessary to convey all rights, titles, and interest in such works to REDGUARD. Seller will promptly disclose, grant, and assign to REDGUARD all rights, titles, and interests in and to any such invention, design, trade secret, or copyright. Seller will take all action necessary to convey all rights, titles, and interests in such works to REDGUARD and will assist REDGUARD in the filing and prosecution of patent applications or copyright filings. REDGUARD will reimburse Consultant for any out-of-pocket expenses associated with such assistance.

8. INDEMNIFICATION

Seller will defend, indemnify and hold harmless REDGUARD and its customers, and their respective affiliates, subsidiaries, officers, directors, agents, and employees, from and against all liability, claims, damages, costs, losses, and expenses, including reasonable attorney fees and court costs, of any kind or nature from any party related to or arising out of (a) any breach of the Terms and Conditions and any specific terms of the Purchase Order; and (b) death, personal injury, or property damage resulting from any breach of warranty, defect, repair, or replacement with respect to any Goods provided and Services performed by Seller, except to the extent attributable to the gross negligence or willful misconduct of REDGUARD.

9. INSURANCE

Unless otherwise specified in the Purchase Order, for all Purchase Orders for Goods and/or Services in excess of

\$5,000.00, Seller will maintain the following insurance coverage: (a) Comprehensive General Liability in the minimum amount of \$1,000,000.00 per occurrence for bodily injury and property damage, including products liability, completed operations liability, and contractual liability covering Seller's indemnification obligations; (b) Professional Liability in the minimum amount of \$1,000,000.00 per occurrence; (c) Workers' Compensation with limits as required by applicable state law; (d) Employer's Liability in the minimum amount of \$1,000,000.00 per occurrence; and (e) Automobile Liability in the minimum amount of \$1,000,000.00 per occurrence. All policies will provide for a blanket waiver of subrogation. All policies other than the Workers' Compensation policy will name REDGUARD as an additional insured. Prior to shipment of Goods or performance of Services pursuant to a Purchase Order, Seller will provide REDGUARD with a certificate of insurance evidencing the coverage required, including the waiver of subrogation and naming of REDGUARD as an additional insured, and will provide for a minimum of thirty (30) days advance written notice to REDGUARD of any cancellation or change in coverage. The required coverage will be primary and noncontributing to any insurance maintained by REDGUARD, and will not serve in any way to limit Seller's liability to REDGUARD.

10. CONSEQUENTIAL DAMAGES

IN NO EVENT, WILL REDGUARD OR THE SELLER BE RESPONSIBLE FOR ANY LOST PROFITS OR OTHER ECONOMIC LOSS, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND, WHETHER ARISING UNDER WARRANTY, CONTRACT, NEGLIGENCE, GROSS NEGLIGENCE, STRICT LIABILITY, INDEMNIFICATION, OR ANY OTHER CAUSE OR COMBINATION OF CAUSES WHATSOEVER.

11. CHOICE OF LAW, ARBITRATION & VENUE

All disputes concerning the validity, interpretation and application of these Terms and Conditions and the Purchase Order will be governed by, interpreted under, construed and enforced in accordance with the laws of the State of Kansas, applicable to agreements made and to be performed wholly within the State of Kansas, without REDGUARD to other principles and choice of law, except to the extent the laws of United States shall apply. The parties disclaim any applicability of the United Nations Convention on the International Sale of Goods.

In the event of any dispute, controversy, claim, or disagreement arising out of or relating to the Purchase Order, or the breach thereof by either party, the parties will use their reasonable commercial efforts to resolve the matter as quickly as possible. To this effect, they will consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties. If the parties do not reach a solution within sixty (60) days, then upon written notice by either party to the other, the dispute, controversy, claim, or disagreement will be resolved and settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules (including the Optional Rules for Emergency Measures of Protection). A reasoned written award will be required and will be made within nine months of the filing of the notice to arbitrate and the arbitrator(s) will agree to comply with this schedule before accepting the appointment. The arbitrator(s) will have no authority to award consequential damages (as disclaimed in Section 10) or punitive damages to either party but will have the authority to award the payment of attorney fees and costs to the prevailing party. The award rendered will be final and binding on the parties. Judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The arbitration will be conducted in the English language in Wichita, Kansas, in accordance with the United States Arbitration Act. Seller expressly agrees it will not bring any claim, action, suit, or other legal proceeding pertaining to the Purchase Order, the Goods, and/or Services in any other forum or venue.

Any notice of dispute, controversy, claim, or disagreement or the submission of such dispute, controversy, claim, or disagreement to arbitration may be served upon the parties as provided for notices in Section 14. Delivery by mail service will have the same force and effect as personal service within the State of Kansas.

12. TERMINATION

Termination for Convenience – REDGUARD may terminate the Purchase Order at any time by written notice to Seller, as specified in the notice. Payment for delivered Goods or Services performed at the time of termination will be made at the price specified in the Purchase Order. Any Goods that were not made-to-order or custom and designed and fabricated may be returned to Seller and a full refund will be provided to REDGUARD, less any standard restocking charge.

Termination for Default – REDGUARD may terminate this Purchase Order in whole or part by written notice of default to Seller, without any liability to Seller, if: (a) Seller fails to deliver or perform within the time specified or any written extension granted by REDGUARD; (b) Seller fails to make progress, which in the reasonable judgment of REDGUARD, endangers performance of the Purchase Order in accordance with its terms; (c) Seller fails to comply with any Terms and Conditions or any specific terms of the Purchase Order; or (d) a petition for bankruptcy is filed by or against Seller, a general assignment for the benefit of Seller's creditors is entered into, a receiver is appointed with respect to the insolvency of Seller. Notice of termination will be effective as specified in the notice.

13. NON-ASSIGNABILITY

Neither party may assign their rights and obligations under any Purchase Order issued by REDGUARD without the prior written consent of the other party.

14. NOTICES

Any consent, agreement, or notice required or permitted to be given or made by one of the parties to the other party will be in writing and in the English language and will be delivered in person, by registered or certified mail, electronic mail, or by Federal Express (or other recognized international courier service requiring a signature upon receipt). Such notice will be effective upon receipt. Addresses and designated contact names will be set forth in the Purchase Order and such addresses and designated contact names may be modified from time to time, by written notice to the other party, given in an aforesaid manner.

15. SEVERABILITY

It is intended that each provision of these Terms and Conditions and the specific terms of the Purchase Order will be viewed as separate and divisible and that in the event any provision is held to be invalid, the remaining provisions will continue in full force and effect.

16. BINDING OF SUCCESSORS

The Purchase Order will be binding upon and inure to the benefit of the parties hereto and their heirs, successors, administrators, and assigns as herein provided.

17. MODIFICATION & WAIVER

No change, modification, or waiver to any terms or scope of any order will be binding and valid unless it is accepted in writing and signed by both parties. No waiver of any of the provisions of these Terms and Conditions or the specific terms of the Purchase Order will be deemed or constitute, waiver of any other provision, whether or not similar, nor will any waiver constitute a continuing waiver.

18. PRIOR AGREEMENTS

The Purchase Order supersedes and replaces all prior agreements, representations and warranties, written or oral, with respect to the Goods or Services purchased under the Purchase Order. No course of dealing and no usage of trade will be relevant to determine the meaning of the Purchase Order even though the accepting or acquiescing party has knowledge of the performance and opportunity to object.

Rev 1- February 2020