



**GENERAL CONDITIONS FOR PURCHASES OF MATERIAL & EQUIPMENT \$200,000 OR LESS AND NOT SPECIALLY ENGINEERED**

The General Conditions enumerated herein supplement the Purchase Order terms and conditions and, with the specifications noted in the Purchase Order, are incorporated into and become part of the Purchase Order agreement between Buyer and Seller. Seller's acceptance of these General Conditions shall manifest on the earliest of Seller's execution of the Purchase Order, receipt of payment from Buyer, and Seller's start of performance of work under the Purchase Order.

Wherever the term "Supplier," "Vendor", "Manufacturer" or "Fabricator" appears in the Purchase Order or accompanying documents, it shall be understood to refer to the Seller.

The term "Owner" shall be understood to refer the owner of the project to or for which the subject materials and equipment are being delivered, its successors and assigns.

The term "Buyer" shall be understood to refer to Washington Group International, Inc., an Ohio corporation, its successors and assigns.

**Compliance**

Seller shall comply with all laws, ordinances, rules and regulations applicable to the work. If specifications or drawings are at variance therewith, Seller shall promptly notify Buyer in writing and any necessary change shall be appropriately modified. Seller shall bear all costs for any work it reasonably should have known was contrary to laws, ordinances, rules or regulations.

**Responsibility**

Neither partial or final inspection, nor approval by Owner, Buyer or their representatives, shall relieve the Seller of responsibility to make the work and/or equipment comply with the Purchase Order requirements.

**Warranty**

Seller warrants that (i) all equipment, materials and components shall be new, unused and free from defects in design, workmanship and material, (ii) all work shall be performed in a good and workmanlike manner and shall strictly conform to requirements of the Purchase Order, and (iii) the work, material and/or equipment, when completed, will meet or exceed the performance and other requirements set forth in the Purchase Order. The Seller guarantees to repair, replace or otherwise correct any defect in design, workmanship and/or material appearing in the work, material, and/or equipment, and further guarantees to correct any further defects appearing in such repaired, replaced or otherwise corrected work, material and/or equipment.

**Services of Seller's Personnel**

Upon written request, Seller shall furnish services of qualified personnel to supervise installation and start-up and to instruct Owner's personnel in the operation and maintenance of any work, material and/or equipment at the rates set forth in the Purchase Order. If extended service is necessary due to faulty design or malfunction of Seller's work, material and/or equipment, Seller shall furnish such extended services of the qualified personnel free of charge until work, material and/or equipment meets Purchase Order requirements. In the event Seller furnishes services, Seller shall obtain and maintain during the performance of any services the insurance below with insurance companies with at least a Best's "A" rating. Seller shall furnish three (3) copies of the certificate(s) evidencing such insurance prior to commencing performance of the services.

(a) Worker's Compensations Insurance and Employer's Liability Insurance (including occupational disease) to cover statutory benefits and limits of the Worker's Compensation laws of any applicable jurisdiction in which the services are to be performed and Employers' Liability Insurance with limits of \$500,000 for trauma per accident; \$500,000 for disease per person and \$500,000 for disease, policy limit.

(b) Commercial General Liability Insurance written on the latest ISO occurrence form and including coverage for Contractual Liability and Products and Completed Operations (to remain in force for two (2) years

following acceptance of the work). The insurance required by this clause (b) shall have the following limits of liability: Third Party Bodily Injury and Property Damage Liability: \$1,000,000 combined single limit per occurrence and \$2,000,000 combined single limit general aggregate.

(c) Business Automobile Liability insurance covering all owned, leased and non-owned vehicles used in connection with the services, with not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.

The following endorsements shall be included in the above insurance coverages:

- (a) Thirty (30) days advance written notice in the event of cancellation, non-renewal or material change of any policy. Language referring to "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" shall be stricken from the certificate of insurance.
- (b) Buyer and Owner named as additional insureds (except on Workers' Compensation).
- (c) A waiver of subrogation in favor of Buyer and Owner.
- (d) Severability of Interest or Separation of Insureds.
- (e) Seller's insurance is primary and any insurance maintained by Buyer is considered excess and non-contributory

**Labor Harmony/Work Rules**

Seller shall not interfere with other entities on the jobsite without Buyer's written authorization. Seller shall immediately notify Buyer of foreseeable risk of interference and observe all jobsite and security requirements.

**Indemnification-Hold Harmless**

Seller shall indemnify and hold harmless Owner and Buyer, their respective parents, customers, subsidiaries, employees and other affiliates and the directors, officers, agents, employees, successors and assigns of each of the foregoing ("Indemnified Parties") from all claims, damages, losses and expenses including attorneys' fees arising out of any performance of work and/or supplying of any materials and/or equipment by Seller provided that any such claim, damages, loss or expense is attributable to (1) bodily injury, sickness, or death, or to injury to or destruction of tangible property including the loss of use, and/or (2) infringement of any intellectual property rights, and is caused in whole or in part by any act or omission, negligence or fault of the Seller and/or anyone directly or indirectly employed by the Seller. In all claims against Indemnified Parties by any employee of Seller, the indemnification obligation shall not be limited in the amount or type of damages, compensation or benefits payable by or for the Seller under Workers' Compensation acts or other employee benefit acts.

**Changes**

Buyer reserves the right to order Seller to perform extra work, change schedule delivery dates, and suspend or furnish extra material or equipment or to make changes altering, adding to, or deducting from the work and/or supplying of any materials and/or equipment hereunder without invalidating the purchase agreement. Changes shall be made in writing by the same level of authority as executed the Purchase Order. Seller shall include any adjustment of pertinent provisions of Purchase Order.

**Consequential Damages**

In no event shall Owner, Buyer, or any of their respective parents, affiliates, subsidiaries, representatives or any directors, officers, or employees of any of the foregoing be liable to Seller or any of its suppliers, whether based on any theory whatsoever for any consequential, special, incidental, indirect, exemplary, multiple or punitive damages. Seller hereby releases Owner, Buyer and each of their respective parents, affiliates, subsidiaries, representatives or any directors, officers and employees from any such liability.

**Payment**

Seller shall be responsible for payment of all sales, use, personal property and other taxes levied upon Seller and furnish Buyer with evidence that all relevant liens and claims have been waived to the



extent permitted by law. All invoices shall reference this Purchase Order number. Payment terms will be net forty-five (45) days. Buyer shall provide a corrected invoice or additional supporting documentation as necessary. Buyer may withhold payment of that invoiced portion disputed until the dispute has been resolved. Notwithstanding anything to the contrary in this Agreement, Buyer shall pay Seller the undisputed portion of any invoice only after Buyer receives corresponding payment from Owner.

**Termination**

Buyer may, without cause and without prejudice to any other right or remedy, elect to terminate the Purchase Order, effective in the manner specified in said notice. Seller shall not be entitled to any payments for anticipated profits on uncompleted portions of the work. No cancellation charges shall be payable if termination by Buyer is caused by Seller's actions, including without limitation breach.

**Integration**

The terms set forth herein represent the final expression and the purchase agreement supersedes all prior negotiations, representations or agreements. All amendments are to be signed by both parties.

**Governing Law**

This Purchase Order shall be governed by the laws of the State identified in the Purchase Order Form, excluding any provisions or principles thereof which would require the application of the laws of a different jurisdiction.