

PURCHASE ORDER GENERAL TERMS AND CONDITIONS

A. PACKAGING, SHIPPING AND INVOICING INSTRUCTIONS

1. Receiving Documentation must be included with all Purchase Order deliverables.
2. All Receiving Documentation and shipping notices must include reference to the Purchase Order number and any applicable item number(s).
3. Each invoice must include the Purchase Order number and any applicable item number, receipted expense bill, and description shown on this Purchase Order. Delays in receiving invoices and errors or omissions on invoices shall be just cause for Buyer's withholding of payment, without loss of cash discount privilege.

B. DEFINITIONS

"Buyer" means the entity to which Seller is providing Materials, Services or Work Product under the Order.

"Materials" means all equipment, parts, materials, supplies, software, and other goods Seller has agreed to supply to Buyer under the Order.

"Premises" means the site where Materials and Work Product are delivered or Services are performed, not including Seller's site from which it performs remote Services.

"Purchase Order" or "Order" means (i) the document setting forth the Materials, Services or Work Product to be provided by Seller to Buyer, (ii) these General Terms and Conditions, and (iii) any other document expressly referenced in the Purchase Order.

"Receiving Documentation" means the documents that are provided by Seller to Buyer that itemize or describe the Materials, Services, or Work Product being provided under this Order. Examples include itemized packing slips for Materials or completion report/timesheet for Services and Work Product.

"Seller" means the entity providing Materials or performing Services under the Order.

"Services" means all services Seller has agreed to perform for Buyer under the Order.

"Work Product" means all applicable drawings, documentation, and specifications that result from Services performed by Seller under this Order.

C. OTHER TERMS AND CONDITIONS

1. **ANTI-KICKBACK.** Seller represents that no unrecited consideration, kickbacks, fees, payments, gifts, entertainment, or things of value were given to or requested by any Buyer employee as an inducement to enter into or continue this Order, and that Seller further agrees to immediately report any such request, demand, or occurrence relating to any Buyer employee or this Order to: Corporate Ethics Officer, P.O. Box 321, Oklahoma City, Oklahoma 73101-0321; Telephone: 405-553-3000, 877-TELL-OGE or 877-835-5643. Seller shall adhere to Buyer's Expected Ethical Conduct Standards as defined in Buyer's Form 9000048 which is available at: <http://www.oge.com/about/DoingBusinessWithOGE/Pages/SupplierCertification.aspx>
2. **APPLICABLE LAW.** This Order will be governed by and construed in accordance with the laws of the state of Oklahoma without regard to its principles regarding conflicts of laws. Exclusive jurisdiction and venue for any action arising hereunder will be in Oklahoma County, Oklahoma, whether in Federal or State Court.
3. **ASSIGNMENT.** This Order may not be assigned, in whole or in part, without Buyer's prior written consent.
4. **AUDIT RIGHTS.** Buyer or its designated representative shall have the right, upon reasonable notice, to inspect, audit and copy Seller's and its subcontractor's books, records, accounts, correspondence and all other associated documents ("Documents") howsoever stored, pertaining in any way to this Order during normal business hours for a period of thirty-six

(36) months from the end of the calendar year in which this Order was effective. Seller agrees to maintain and cause its subcontractors to maintain such Documents for a period of thirty-six (36) months from the end of the calendar year in which such costs were invoiced.

- 5. CHANGES TO ORDER.** No modifications, changes or substitutions of Materials, Services or Work Product or extra charges of any kind or change in or cancellation of or waiver of or exception to any of the terms or conditions of this Order will be recognized unless authorized by Buyer in writing. Buyer may direct, in writing, changes, including additions to or deletions from the quantities of Materials, Work Product or Services originally ordered, or in the specifications or drawings. Unless otherwise agreed to by the parties, if any such change causes an increase or decrease in the cost of, or the time required for performance hereunder, an equitable adjustment shall be made in the price and/or delivery schedule. Any claims for adjustment shall be asserted by Seller no later than thirty (30) days from the date of Seller's receipt of notice of such change. Nothing contained herein shall excuse Seller from proceeding with a change directed by Buyer prior to negotiation of any adjustment. Notwithstanding the foregoing, mutually agreeable adjustments for any changes under this Order may be made by a written Order revision from one party which is confirmed in writing by the other party.
- 6. COMPLETE AGREEMENT; TERMS AND CONDITIONS; ACCEPTANCE.** This Order, as Buyer's offer to Seller, including all applicable terms, conditions and specifications, shall constitute the sole and exclusive agreement between the parties. This Order supersedes all other writings and is expressly conditioned on Seller's agreement to the conditions hereof, and nothing shall be construed to be an acceptance of any terms of Seller. None of these terms and conditions may be added to, modified, superseded or otherwise altered except by a written instrument signed by an authorized representative of Buyer and delivered by Buyer to Seller. Delivery of Materials, Services or Work Product to Buyer from Seller shall be deemed to be only upon the terms and conditions contained in this Order, notwithstanding any terms and conditions that may be contained in any acknowledgment, invoice or other form of Seller and notwithstanding Buyer's act of accepting or paying for any shipment or similar act of Buyer. This Order shall be accepted by Seller by delivery of Materials, Work Product or Services, commencement of work upon Materials, Work Product or Services, written acknowledgement of Seller, or any other conduct of Seller which recognizes the existence of an agreement pertaining to the subject matter hereof.
- 7. COMPLIANCE WITH LAWS.** Seller warrants that the Materials, Services or Work Product shall be performed, produced, priced, sold and delivered in strict compliance with all applicable laws, rules and regulations.
- 8. CONFIDENTIALITY.** This Order and all plans, drawings, designs and specifications which may be supplied by Buyer to Seller shall remain the property of Buyer and any information derived there from or otherwise communicated to the Seller in connection with this Order shall be regarded by Seller as strictly confidential and shall not, without the prior written consent of Buyer, be disclosed to any third party or made use of by Seller. All sales information regarding this Order is also considered confidential information and may not be shared with unaffiliated third parties without the mutual consent of both parties, which may be granted or withheld in either's sole discretion.
- 9. DELIVERY.** Seller agrees to provide for delivery of the Materials, Work Product or Services on the date(s) and to the address set forth in the Order. Seller shall bear all costs of shipping, transportation and packing unless otherwise provided in this Order. On all Materials delivered in error, or in excess of the quantity shown on Order, Buyer reserves the right to return the Materials at Seller's expense. Buyer's count shall be final and conclusive on any shipment not accompanied by the packing slip.
- 10. EQUAL OPPORTUNITY.** *By accepting this Purchase Order, the Seller certifies that it will not discriminate on the basis of race, color, national origin, sex, religion, age, disability, veteran status or in any way otherwise prohibited by law and will indemnify Buyer against any claims arising from such unlawful discrimination by Seller.* Unless exempted by Federal law, the following provisions are incorporated herein by reference: subsections one (1) through seven (7) of Section 202 of Executive Order 11246, as amended; 41 C.F.R. 60.250-4 (a) through (m) (Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era); 41 C.F.R. 60.741-4 (a) through (f) (Affirmative Action for Handicapped Workers); 41 C.F.R. 52.222-3 (convict labor); 41 C.F.R. 252.222-4 (Contract Work Hours and Safety Standards Act); and 41 C.F.R. 52.223-6 (Drug-Free Workplace). Seller shall make its records for audit, inspection and copying pursuant to the terms of Section 4 hereof in order to ensure compliance with this provision.
- 11. FORCE MAJEURE.** Neither party shall be in breach of the Order to the extent that any delay or default in performance is due to Force Majeure. The term "Force Majeure" will mean any cause which is not within the control of the party claiming force majeure and which, by the exercise of due diligence, such party is unable to prevent or overcome, including but not limited to, flood, fire, tornado, governmental order, insurrections, riots and wars. Within seven (7) days of the commencement of an event of Force Majeure, the party affected thereby will provide the other party with written notice of the event. Any event of Force Majeure shall not affect Buyer's right of termination as set forth in Section 20 hereof.
- 12. INDEMNITY.** *Seller shall defend, hold harmless and indemnify Buyer, its affiliates and its and their respective employees, officers and directors from and against all claims, demands, losses or damages, costs or expenses (including attorneys' fees and other expenses incident thereto) on account of damage to any property or injury, including death, to any persons (including any employee of Seller or Buyer) that occurs or is alleged to have occurred in connection with the performance of this Order by Seller. Seller intends for the foregoing defense, hold harmless, and indemnity obligations to apply regardless of cause and regardless of the theory of recovery, including strict liability and the negligence of the indemnified parties. Seller assumes all risks of damage or injury to Seller's own property or personnel, from whatever cause.*

- 13. INFRINGEMENT.** *Seller shall hold harmless, defend and indemnify Buyer, its affiliates and its and their respective employees, officers and directors from and against all claims, demands, losses or damages, costs or expenses (including attorneys' fees and other expenses incident thereto) arising out of any infringement, or any alleged infringement, of any intellectual property rights, including rights arising under any patent, copyright, trademark, license and trade secret, in connection with any Material, Work Products, or Services, except to the extent any infringement resulted from designs provided by Buyer to Seller.* Without limiting the foregoing, the Seller shall, at its own expense (i) procure for the Buyer an irrevocable royalty-free license or right to continue using such Materials, Work Product or Services (ii) with Buyer's prior written approval, replace the infringing Material, Work Product, or Services with substantially equal but non-infringing Materials, Work Product or Services or (iii) with Buyer's prior written authorization, modify the infringing Materials, Work Product or Services so it becomes non-infringing; provided that no such replacement or modification shall in any way amend or relieve Seller of its warranties and guarantees set forth in this Order.
- 14. LIENS.** Seller will pay any and all amounts owed to its subcontractors and suppliers as and when due. Seller will ensure that its subcontractors and suppliers do not file any liens, claims, security interests, or other encumbrances against any property owned or otherwise occupied by Buyer. Within ten (10) days of receipt of notice from Buyer that one of Seller's subcontractors or suppliers has filed a lien, claim, security interest, or other encumbrance against any property owned or otherwise occupied by Buyer, Seller will clear such lien, claim, security interest, or other encumbrance by payment or by bond. Provided that Buyer is paying Seller in compliance with this Purchase Order, Seller will not file any liens, claims, or other encumbrances against any property owned or otherwise occupied by Buyer. If Seller files a lien, claim, security interest, or other encumbrance against any property owned or otherwise occupied by Buyer, Seller will clear such lien, claim, security interest, or other encumbrance of record within ten (10) days of receipt of payment of the amount due from Buyer.
- 15. NONWAIVER.** No waiver by any party of any condition, or of any breach of any provision contained in this Order, in any one or more instances, will be deemed to be or construed as a further or continuing waiver of any such condition or breach or waiver of any other condition or of any breach of any other provision.
- 16. PRICE & PAYMENT.** The prices specified in the Purchase Order shall include all charges and expenses in connection with the packing and shipping of the Materials to Buyer. No additional charges of any kind will be allowed unless specifically agreed to in writing in advance. Payment will be made as set forth in this Order; however payment may be withheld or portions thereof may be deducted or setoffs may be made against Seller if Seller does not perform in accordance with this Order. The time for payment of invoices and acceptance of any applicable discounts shall be based on the date when the invoice is received and stamped by OGE Accounts Payable, and all pertinent information is correct on the invoice.
All invoices are to be sent to the following address: OGE Accounts Payable, P.O. Box 25230, Oklahoma City, OK 73125 or email address APVendorInvoices@oge.com.
- 17. QUALITY STANDARDS AND WARRANTIES.** Seller warrants (i) title to the Materials or Work Product, free and clear of all liens and encumbrances and (ii) that Materials, Work Product and Services will be in exact accordance with this Order, the specifications, drawings, samples or other descriptions furnished or adopted by Buyer and will be fit and sufficient for the purpose intended, merchantable, of good material, design and workmanship, free from defect and be new and of best quality, unless otherwise specified. Such warranty shall survive delivery and shall not be deemed waived either by reason of Buyer's acceptance of the Materials, Work Product or Services or by payment for them. The Materials, Work Product or Services shall be subject to Buyer's right of inspection and rejection at any reasonable time before or during the manufacturing process or provision of Service and within forty-five (45) days after delivery to destination or completion. Materials, Work Product or Services other than those specified shall not be submitted without Buyer's written authorization. Rejected Material and Services or Work Product may be returned or re-performed at Seller's expense. The making or failure to make any inspection, approval, payment or acceptance of the Materials, Work Product or Services shall in no way impair Buyer's right to reject or revoke acceptance of non-conforming Materials, Work Product or Services or to avail itself of any other remedies to which Buyer may be entitled, notwithstanding Buyer's knowledge, the substantiality, or the ease of discovery of any non-conformity. If any time prior to one (1) year from the date of completion of any Services, or the earlier of one (1) year from the date of installation or eighteen(18) months from receipt of any Materials or Work Product if the Materials, Work Product or Services, or any part thereof, do not conform to these warranties or the specifications, Seller shall promptly correct such nonconformity to the satisfaction of Buyer at Seller's sole expense; failing which, Buyer may proceed to make corrections or accomplish Seller's work by the most expeditious means available, and the costs of cover or correction shall be for Seller's account. Seller's liability hereunder shall extend to all damages proximately caused by the breach of any of the foregoing warranties, including incidental damages such as removal, inspection, costs of return, warehousing and reinstallation. These warranties are in addition to, and shall not be construed as restricting or limiting any warranties of Seller, express or implied, or which are provided by law or exist by operation of law.
- 18. RELATIONSHIP OF THE PARTIES.** Seller is an independent contractor. This Purchase Order does not create a partnership or joint venture between Seller and Buyer. Seller is not an agent of Buyer, and Seller has no authority to act on behalf of Buyer. Except as otherwise provided in this Purchase Order, Seller will provide any and all labor, supervision, materials, and equipment necessary to provide the Materials, Services or Work Product as set forth in this Order, and Seller will obtain any and all permits and authorizations required by applicable law to provide such Materials, Services or Work Product. Seller will control the means and manner of the providing of the Materials, Services or Work Product. Seller's personnel will not be considered employees of Buyer, and Buyer will not provide Seller's personnel with wages, salaries, or benefits.

- 19. TAXES AND DUTIES.** Seller shall be responsible for and pay directly, all corporate and individual taxes measured by net income or profit imposed by any governmental authority on Seller, its employees or subcontractors due to the execution of any agreement or the performance of or payment for work hereunder. Unless otherwise agreed in writing or prohibited by law, the price set forth in this Order shall include and Seller shall pay any federal, state or local tax, sales tax or other tax required to be imposed on the Materials, Services or Work Product.
- 20. TERMINATION.** Buyer may, at its option, cancel any unfulfilled Order, in which event Buyer's only obligation shall be to pay for Materials shipped or Work Product or Services performed prior to the receipt cancellation; provided, however, that if this Order covers Materials manufactured to Buyer's specifications, upon receipt of notice of cancellation, Seller shall stop all performance except as otherwise directed by Buyer, and if Seller is not in breach of this Order, Buyer shall pay Seller's actual, direct, unavoidable and reasonable costs resulting from such termination, not to exceed the total price of the Materials, Work Product or Services stated in this Order. Upon such payment, title to any Materials or Work Product, including uncompleted Materials or Work Product, shall pass to Buyer. In the event of default by Seller in the performance of any obligation hereunder, including time of delivery, or in the event it becomes apparent that delivery cannot be accomplished within the time specified, Buyer may, at its option, cancel this Order entirely, without penalty or liability (except for Materials received and accepted.) All provisions necessarily requiring survival beyond any termination of this Order, including, but not limited to, those relating to audit, choice of law, confidentiality, indemnity, title and warranty shall survive any such termination.
- 21. TIME IS OF THE ESSENCE.** Seller understands that time is of the essence with respect to its performance under this Purchase Order, and Seller will strictly comply with any timing requirements stated in this Purchase Order.
- 22. TITLE AND RISK OF LOSS.** Except as otherwise provided, the Materials or Work Product shall become Buyer's property upon payment therefore or upon acceptance of delivery, whichever occurs earlier. Notwithstanding the foregoing, Seller shall be responsible for and shall bear any and all risk of loss of or damages to the Materials or Work Product until delivery thereof in accordance with the delivery and shipping provisions of the Order. Upon such acceptance of delivery, risk of loss or damage shall pass to Buyer provided that any loss or damage, whenever occurring, which results from Seller's improper packing or crating shall be borne by Seller.
- 23. WORK ON BUYER'S PREMISES; INSURANCE.** If Seller performs any work on Buyer's Premises, Seller will comply with all safety and security rules and requirements of Buyer and take all precautions required to prevent injury to persons and property during such installations or work. All work performed on Buyer's Premises shall be coordinated with the Buyer. Seller shall obtain and maintain in full force and effect during the term of this Order all insurance required by Buyer as defined in OGE Energy Corp Insurance Requirements Buyer's Form 9000047. Seller will perform the Services in a manner that causes a minimum of interference to the operations of Buyer at Buyer's Premises. Seller shall adhere to Buyer's Personal Protective Equipment (PPE) requirements as defined in Buyer's Form 7.1 and ensure that Seller has provided the information required on Buyer's Contractor Safety Information Form 7.2. Seller will adhere to Buyer's Security ID requirements as defined in Buyer's Form 9000050. Forms 9000047, 7.1, 7.2, and 9000050 are available at:
<http://www.oge.com/about/DoingBusinessWithOGE/Pages/SupplierCertification.aspx>