

TERMS & CONDITIONS

1. A separate itemized invoice (IN DUPLICATE) shall be submitted by vendor (also referred to herein as seller) for each lot of material shipped or delivered on account of this purchase order (also referred to herein as order). Except for lump sum work, seller shall furnish to purchaser within four (4) days of each week's end a verified time sheet certified to purchaser on such forms as purchaser may require listing all hours expended and equipment and material used each day during the prior week in the performance of any obligations of seller under the order.
2. F.O.B. point and cash discount terms must be shown on all vendor invoices.
3. Transportation shall be F.O.B destination freight collect. Vendor shall comply with all shipping instructions set forth on the order, including the use of any shipper or carrier specified and any timing requirement specified by Southern Illinois Power Cooperative (also referred to herein as SIPC or purchaser). Vendor shall retain risk of loss for and title to articles and materials shipped under this order until received by SIPC at the destination specified in the order notwithstanding vendor's compliance with such shipping instructions. Charges for prepaid transportation must be substantiated by vendor, by attaching to the invoice original transportation bills received by the carrier.
4. No charges for packing, package or drayage will be accepted, except on express written agreement by SIPC to such charges.
5. Seller expressly warrants that all the materials and articles covered by this order or other description or specification furnished by purchaser will be in exact accordance with such order, description or specification and free from defects in material and/or workmanship, and merchantable and fit for their intended purpose. Such warranty shall survive delivery, and shall not be deemed waived either by reason of purchaser's acceptance of said materials or articles or by payment.
6. Acceptance of all or any part of the material and articles shall not be deemed to be a waiver of purchaser's right either to cancel or return all or any part thereof because of failure to conform to purchaser's order or other description or specification furnished by purchaser or because of defects, latent or patent, or other breach of warranty or to make any claim for damages. All materials and articles shall be received subject to purchaser's right of inspection and rejection. Defective materials and articles not in accordance with purchaser's order or other description or specification will be held for seller's instructions at seller's risk and expense, and if seller so directs, will be returned at seller's expense. If inspection discloses that part of the articles or materials received are not in accordance with purchaser's order or other description or specification, purchaser shall have the right to cancel any unshipped portion of the order. Payment for articles or materials under this order prior to inspection shall not constitute acceptance and is without prejudice to any and all claims that purchaser may have against seller.
7. Time is of the essence for this order.
8. Drafts against the purchaser will not be honored, nor C.O.D. shipments accepted.
9. Strikes, fires, accidents or other causes beyond the control of the purchaser, which shall affect the purchaser's ability to receive or use the material ordered, shall constitute at purchaser's discretion valid ground for cancellation or suspension of this order or shipment under this order, upon notification to seller by facsimile, email or letter, and without penalty to the purchaser, except that cancellation or suspension for such causes may not be made without reimbursement to the seller for expenditures actually made by seller for labor and materials upon the authority of this order and prior to the receipt of such notice from purchaser.
10. Seller shall indemnify, defend and hold harmless purchaser from and against all claims, losses, costs, damages, and expenses, including all expenses, cost, and attorneys' fees, as a result of or in connection with any claims or actions based upon infringement or alleged infringement of any patent or copyright and arising out of use of the equipment or materials furnished under this order by seller, or out of the processes or actions employed by, or on behalf of, seller in connection with the fabrication of equipment or performance of the order. Purchaser shall have the right to participate in the defense of any such suit through counsel of its own choosing. If seller's performance of any obligation under the order is held to constitute infringement and its use is enjoined, seller shall promptly and at its own expense: (1) procure for purchaser the right to continue using said equipment, material or any other performance of seller under the order; or (2) replace same with noninfringing equipment, material, or any other performance of seller under the order satisfactory to purchaser.
11. Seller warrants that all materials and goods sold or provided to purchaser or the performance of any other obligation of seller under this order conform to all applicable state and federal laws and regulations and purchasers safety procedures with respect to the manufacturer, procurement, sale and use of such material and seller shall indemnify and save harmless the purchaser from all claims arising by reason of any violation of said laws or regulations in connection therewith. Seller shall give all required notices, shall procure all necessary municipal and other governmental permits, licenses, authorizations and inspections necessary for performance of any obligation of seller under the order, and shall pay all fees and charges in connection therewith. In the event seller should violate the requirements of any such license or permit or cause same to be violated, seller shall promptly inform purchaser

thereof, including all particulars of the violation, and shall reimburse purchaser for any civil fine or penalty or other cost and all costs, expenses, and attorney's fees which purchaser may incur as a result of such violation. Seller shall cooperate fully with purchaser in the investigation and correction of any such violation.

12. Seller shall, at the time of any request for a partial or final payment, furnish purchaser with a verified certificate showing names of any subcontractors, manufacturers, or suppliers to seller for any material or product delivered to purchaser and the amount payable to each and shall furnish waivers of lien or other evidence in form and substance acceptable to purchaser that any subcontractors, manufacturers, or suppliers to seller for any material or product furnished herein have been paid in full or in sufficient amount to justify to seller the requested payment, and shall in all other respects comply and cause all subcontractors and suppliers to seller to comply with the requirements of any applicable materialman and mechanic lien laws. Acceptance by seller of final payment due herein shall constitute a waiver of all claims against purchaser under this order. Seller waives for seller, seller's successors in interest and assigns, and for all subcontractors, manufacturers, and suppliers of seller, their successors in interest and assigns, any and all claim or right of lien upon purchaser's property or any part thereof as a result of the furnishing of labor or material under the terms of this order, or any amendment or supplement thereto. In the event that any mechanic or materialman's lien is filed against purchaser's property for any material or product furnished to purchaser, seller shall take all steps necessary to release said lien or satisfy said claim, and shall indemnify and defend purchaser against any suits or demands including any attorney's fees, costs, or expenses of purchaser in defending against any lien or claim. In the event that any such lien is filed or claim made, purchaser may withhold payment of any amount otherwise due seller under this order in an amount equal to the total amount of all such liens or claims including all costs, expenses, and any attorney's fees connected therewith and shall not be required to pay to seller the amount so withheld until evidence, satisfactory to purchaser, has been provided by the seller that said lien or claim has been fully satisfied or withdrawn and released.

13. The relationship established by this order constitutes an independent contract, and no tax, assessment or legal liability of the seller, or of his agents or employees, becomes by reason of this order an obligation of the purchaser.

14. In the event any sales or use tax is levied on the sale of any of the material furnished on this order in the state of origin or shipment, such tax shall be borne by the seller and should any use tax be levied or applicable on the use of such material by the purchaser such tax will be handled by the purchaser with the taxing authorities in the state of such use and shall not be in any way included in the invoice of the seller. Seller shall, at the time of request for final payment, furnish purchaser with a verified certificate showing payment in full of any sales or use tax of the seller due as a result of any transaction referenced in the order.

15. In case of entry by the seller, or of any of the seller's agents or employees, upon the property or premises of the purchaser, for the purpose of construction, erection, inspection or delivery under this order, the seller shall provide all necessary and sufficient safeguards and take all proper precautions, against the occurrence of accidents, injuries, or damages to any persons or property and shall be responsible for and indemnify and save harmless the purchaser, its directors, officers, employees, and agents from and against any and all loss or damage including all expenses, costs, and attorney's fees as a result of any claim, demand, cost or judgment arising out of or in any way connected with this order or by reason of accidents, injuries, or damage to any persons or property in connection with such entry or work, except such as may be the sole and direct result of negligence on the part of the purchaser including but not limited to any and all fines, penalties or loss incurred by reason of the violation of any law, regulation or ordinance; and shall defend at the seller's expense any and all suits or actions, civil or criminal, arising out of such claims or matters and shall procure and carry such insurance of employees as may be required by any workman's compensation act or other law, regulation, or ordinance, which may apply in the premises.

16. Seller shall, prior to and all times during the performance of any obligations to purchaser under this order, furnish to purchaser a certificate of insurance from a company satisfactory to purchaser certifying to and naming the purchaser as the certificate holder and additional insured with the following minimum insurance liability limits: a) \$1,000,000 per occurrence and aggregate combined single limits for bodily injury and property damage for general liability, b) \$1,000,000 per occurrence combined single limit for bodily injury and property damage for automobile liability, and c) the maximum statutory benefits of any applicable Worker's Compensation Law. All required insurance carried by seller shall provide that such insurance is primary insurance, and shall be so endorsed. Any other insurance carried by the purchaser shall be excess and not contributing with respect to the insurance required hereunder. The acceptance by purchaser of any certificates will not relieve the seller of any responsibility of compliance with the provisions of this section, and the purchaser will not be deemed to imply or warrant compliance by acceptance of any certificates. Seller shall, upon written request by the purchaser, furnish copies of such policies certified by the authorized representatives of the insurer.

17. Any right, cause of action, or remedy of or by purchaser under the warranties or undertakings assumed or imposed upon the seller under this order shall extend without exception to any party affiliated with the purchaser or upon whose behalf this order is issued by the purchaser, as the interest of such party shall appear.

18. Interpretation of the terms of this order shall be governed by the laws of Illinois.

19. In the event any employee of purchaser holds a financial interest in the seller, other than the ownership of stock in a publicly traded corporation, whether the seller be an individual, a corporation or otherwise, seller shall disclose such interest upon the face of this order. Failure of the seller to make such disclosure shall relieve purchaser of any obligations under this purchase order. Purchaser reserves the right to reject any such order at any time after issuance hereof.

20. This order may not be modified or terminated orally, and no modification or termination nor any claimed waiver or any of the provisions hereof shall be binding unless in writing and signed by the party against whom such modification, termination or waiver is sought to be enforced.

SOUTHERN ILLINOIS POWER COOPERATIVE IS AN EQUAL OPPORTUNITY EMPLOYER AND IS A GOVERNMENT CONTRACTOR FALLING WITHIN THE REQUIREMENTS OF EXECUTIVE ORDER 11246, SECTION 503 OF THE REHABILITATION ACT, 38 USC 2012 OF THE VETERANS READJUSTMENT ACT