

Purchase Order Terms and Conditions

1. These terms and conditions together with the terms and conditions on the face of the Purchase Order, and any specifications, drawings, instructions or other written documents incorporated by reference therein (collectively the "Purchase Order"), shall apply to the purchase of the Goods and/or Services identified on the face of the Purchase Order. This Purchase Order shall constitute the entire agreement between W. W. Williams ("Purchaser") and the seller identified on the face of the Purchase Order ("Vendor"), with respect to the sale of Goods and Services described therein, and supersedes all prior oral and written representations, understandings, communications and agreements relating thereto. If an agreement with Purchaser's customer is referenced on the face of the Purchase Order, the terms and conditions of such agreement are incorporated herein by reference and shall be supplementary and in addition to the terms hereof.
2. **Definitions:**
 - a. Vendor means the person, supplier, or company, including respective successors and, without waiving restrictions on assignment, permitted assigns, selling or offering equipment, machinery, materials, and/or services to which the Purchase Order is addressed.
 - b. As used in these terms and conditions, the term "Goods" means equipment, machinery, materials, parts, product and other tangible property sold by Vendor.
 - c. As used in these terms and conditions, the term "Services" means the services that Vendor is to perform for Purchaser specified in the Purchase Order.
3. **Acceptance:** This Purchase Order will be deemed accepted by the Vendor and to become a contract upon the first of the following to occur: Vendor's electronic acceptance, written acknowledgement of the Purchase Order or commencement of any performance under the Purchase Order. Any acceptance of this Purchase Order is limited to acceptance of the express terms and conditions contained herein. Any proposal or any additional documents of Vendor providing additional or different terms, or any attempt by Vendor to vary in any degree the terms and conditions contained herein is hereby objected to and rejected, unless such variances are in the description, specifications, quantity, price, or delivery schedule of the Goods and/or Services, but shall be deemed a material alteration of this Purchase Order, and the Purchase Order shall be deemed accepted by Vendor without said additional or different terms. Vendor agrees that this Purchase Order contains the complete, exclusive and entire statement of the terms and conditions of the subject matter herein and supersedes any previous oral or written representations, and no other agreement, understanding or proposal, including, without limitation, provisions in Vendor's quotations, proposals, acknowledgements, invoices or other documents, which modifies or changes any term of the Purchase Order, or includes any other additional, different or inconsistent terms from those contained in this Purchase Order, shall be binding unless it has been reduced to writing specifically referencing this Purchase Order and signed by the authorized representatives of the parties. This Purchase Order shall be controlling over any additional, inconsistent or conflicting terms of any purchase order, confirmation, invoice, acknowledgement, release, or other written correspondence. No course of dealing, course of performance or usage of trade shall be applicable unless expressly incorporated by this Purchase Order. Acceptance of the Goods and/or Services delivered under the Purchase Order shall not constitute acceptance of

Vendor's terms and conditions. The rights given to Purchaser by these terms and conditions shall be in addition to any rights given by the general law and not in substitution thereof.

4. **Purchase Price and Terms of Payment.** Vendor shall furnish the Goods and/or Services at the prices specified on the face of the Purchase Order and on the other terms and conditions specified herein. Unless otherwise stated on the Purchase Order, such prices shall constitute the full and complete prices for the Goods and/or Services, inclusive of all costs and expenses, including, without limitation, those related to freight, handling, shipping, packaging, storage, insurance, taxes and all other fees and charges related to the Goods and/or Services and the delivery of the Goods and/or Services to Purchaser (all of which shall be the sole responsibility of Vendor), and no additional charges of any type shall be added without the advance written consent of Purchaser. Vendor warrants that the prices for the Goods and/or Services are no less favorable than those currently extended to any other customer for the same or similar Goods and/or Services in similar quantities. Without prejudice to any other right or remedy, Purchaser reserves the right to set off any amounts owing to it by Vendor against any amounts payable by Purchaser to Vendor. Payment of an invoice is not evidence or admission that the Goods or Services meet the requirements of the Purchase Order.
5. **Bailed Property.** Vendor bears all responsibility for loss of and damage to any property in Vendor's possession or control for the purpose of performing the Purchase Order, regardless of Seller's exercise of reasonable care. Vendor will (i) properly house and maintain such property on Vendor's premises, (ii) prominently mark it as property of Purchaser, (iii) refrain from commingling it with the property of Vendor or with that of a third party, (iv) adequately insure such property against loss or damage, and (v) not move it to another location whether owned by Vendor or a third party, without the prior written consent of Purchaser, except in the case of an emergency (Vendor may move such property provided that it gives Purchaser notice that the property has been moved and the location of the property as soon as reasonably practical). Purchaser will have the right to enter Vendor's premises at all reasonable times to inspect such property and Vendor's records pertaining thereto. Where permitted by law, Vendor waives any lien that it might otherwise have on any of Purchaser's property for work done thereon or otherwise, and Purchaser may evidence its ownership of the property by filing a notice with state regulators. Vendor will cooperate with Purchaser's removal of the property from Vendor's premises.
6. **Title and Risk of Loss.** Risk of loss for the Goods remains with Vendor until completion of delivery to and acceptance by Purchaser, unless otherwise expressly stated in the Purchase Order. Any loss or damage to Goods howsoever caused when under Vendor's risk shall at its own cost be rectified by Vendor and thereafter when the risk in the Goods has transferred to Purchaser, Vendor shall be liable for any loss or damage to such Goods to the extent caused by its negligence, gross negligence, willful misconduct, fault, breach of duty (statutory or otherwise) or breach of this Purchase Order. Title shall pass to Purchaser upon the earlier of payment of the purchase price or delivery to Purchaser. If Purchaser makes progress payments, proportionate title to the Goods shall be transferred to Purchaser as payments are made.
7. **Delivery, Shipment and Packaging.** (a) Delivery. Time is of the essence in Vendor's performance. Vendor shall promptly notify Purchaser, in writing, in the event that Vendor's timely performance under the Purchase Order is or is likely to be delayed, in whole or in part, and Vendor shall provide Purchaser with all available information regarding the reasons for such delay. Such notice shall not constitute a waiver by Purchaser of any of Vendor's

obligations hereunder. If Vendor fails to deliver the Good and/or Services ordered by Purchaser on or before the delivery date, Purchaser may (in addition to any other rights and remedies that may be available to Purchaser at law or equity), at its option, reject the Goods and/or Services that are subject to the late delivery, cancel this Purchase Order for default, partially cancel this Purchase Order for default, vary delivery terms hereunder (including, without limitation, requiring Vendor to use expedited delivery at Vendor's expense), or procure the Goods and/or Services from other sources. Any losses or damages sustained or costs incurred by Purchaser by reason of late delivery (without regard to which option Purchaser elects) shall be paid to Purchaser by Vendor or set-off from any amount owing at any time to Purchaser from Vendor against any amounts payable at any time by Purchaser to Vendor. (b) Shipping. Unless otherwise specified in the Purchase Order, delivery of Goods and/or Services will be made F.O.B. the ship-to-address set forth in the Purchase Order. Vendor accepts any liabilities resulting from incomplete or inaccurate data on all transport and customs documentation or failure to comply with any import or export requirements. (c) Packaging. All Goods will be packaged according to good commercial practice sufficient to ensure no damage. All containers will be properly marked and identified. Vendor shall reimburse Purchaser for all expenses, including, without limitation, damage to the Goods, incurred due to improper packing, marking, loading or routing. Purchaser will not be liable for any discharge, spill or other environmental incident (including clean-up cost) involving any Goods until received and accepted by Purchaser. For supplies that may contain potentially hazardous materials, Seller shall furnish to Purchaser: (i) a list of all potentially hazardous ingredients in the supplies, (ii) the quantity of one or more such ingredients, and (iii) sufficient warning and notice in writing (including appropriate labels on the supplies, containers and packing) of any hazardous material that is an ingredient or a part of any of the supplies, together with such special handling instructions necessary to advise carriers, Purchaser and their employees how to exercise that measure of care and precaution that will best prevent bodily injury or property damage in the handling, transportation, processing, use or disposal of the supplies, containers and packing shipped to Purchaser. Seller shall comply with all applicable federal, state, provincial and local laws and regulations pertaining to product and warning labels.

8. **Excusable Delay.** Vendor shall not be liable for delays in delivery or performance, or for failure to deliver or perform, due to (i) a cause beyond its reasonable control, or (ii) an act of God, act of Purchaser, or act of civil or military authority, government regulation or restriction, strike or other labor disturbance (except strikes or labor disturbances relating to the workforce of Vendor), flood, fire, war, riot, or terrorist act. Vendor shall promptly give Purchaser written notice of such delays, including all relevant information. In the event of any such delay, the date of delivery or of performance will be reasonably adjusted as mutually agreed to by the parties or Purchaser may, at its option, terminate this Purchase Order, in whole or in part, and purchase Goods and/or Services from other sources without liability for loss or damage of any nature whatsoever, including but not limited to, incidental and consequential damages, to the Vendor, or have Vendor provide Goods and/or Services from other sources at the price set forth in this Purchase Order.
9. **Inspection and Rejection.** All Goods and/or Services furnished hereunder will be subject to Purchaser's inspection and approval within a reasonable time after delivery of the Goods and/or Services, irrespective of payment date. Purchaser may reject any or all of the Goods or Services not in accordance with the applicable specifications or description on the Purchase Order or Vendor's warranties (including expressed or implied) and may return rejected Goods and/or Services to Vendor at Vendor's expense for a full refund and Purchaser shall have no

further obligation for such Goods or Services, or repair or replace, at Purchaser's option, any non-conforming Goods and/or Services so it meets the requirements of the Purchase Order, including, without limitation, the warranties contained in this Purchase Order. Payment for, physical possession by Purchaser of, or acknowledgement of receipt of, any Goods and/or Services prior to Purchaser's timely rejection shall not be deemed acceptance by Purchaser, and in no event shall Purchaser incur any liability for payment for rejected Goods and/or Services. In addition, a waiver by Purchaser of a requirement pertaining to any drawing or specification for one or more of the Goods and/or Services does not constitute a waiver of such requirements for the remaining Goods and/or Services to be delivered hereunder unless so stated by Purchaser in writing. If the invoice was previously paid, Vendor will promptly reimburse the amount of damages to Purchaser. Vendor shall assume responsibility for and will pay any and all loss, cost, damage, or expense, including reasonable attorney fees and cost of repair or replacement incurred by Purchaser, attributed to Purchaser's rejection of Goods and/or Services due to any non-conformity of the Goods and/or Services, packaging, delivery or any other defect.

10. **Warranty.** Unless otherwise specified in the Purchase Order, Vendor warrants that (A) all Goods delivered (including all replacement or corrected Goods or components that Vendor furnishes) will (i) be free from defects in material, workmanship, and design, (ii) be merchantable and conform to applicable drawings, designs, quality control plans, specifications and other descriptions furnished or specified by Purchaser and to any other specifications agreed upon between the Purchaser and Vendor, (iii) be new and unused, (iv) conform to Vendor's descriptions, promises or samples, (v) be fit for their intended purpose and operate as intended, (vi) be free and clear of any liens, restrictions, reservations, security interests or encumbrances, (vii) not infringe or misappropriate any third party's intellectual property rights, and (B) Services provided herein will be performed in a professional and workmanlike manner. Vendor extends to Purchaser all third-party manufacturer or supplier warranties in any way relating to the Goods and/or Services. Vendor agrees to use commercially reasonable efforts to assist and cooperate with Purchaser in enforcing any such warranties. The foregoing warranties shall survive delivery, inspection, acceptance, use and payment including, the termination, completion or expiration of the Purchase Order and shall inure to the benefit of Purchaser and its customers. For the purpose of the Purchase Order, the warranty shall apply for one year from acceptance, twenty four (24) months from the startup date or from any other period as set forth in the Purchase Order. If any of the Goods and/or Services delivered by Vendor do not meet the warranties specified herein or otherwise applicable, Purchaser may, after reasonable written notice to the Vendor, at its option, (i) require Vendor to correct any defective or non-conforming Goods and/or Services by repair or replacement at no charge to Purchaser, (ii) return such defective or non-conforming Goods and/or Services to Vendor at Vendor's expense and recover from Vendor all amounts paid heretofore, (iii) correct the defective or non-conforming Goods and/or Services itself and charge Vendor the cost of such correction, (iv) obtain a refund from Vendor for all amounts paid for any defective or non-conforming Goods and/or Services, or (v) utilize the defective Goods and/or Services and require an appropriate reduction in price. The foregoing remedies are in addition to all other remedies at law or in equity or under this Purchase Order, for damages or otherwise, and shall not be deemed to be exclusive. The provisions of this Section shall not limit or affect the rights of Purchaser under Section 9; and the exercise of the rights under Section 9 shall not limit the rights of Purchaser under this Section 10.
11. **Termination.** (a) For Convenience. Purchaser reserves the right to terminate the Purchase Order, in whole or in part, at any time, by written, facsimile or email notice to Vendor. In such

event, Vendor shall promptly cease all performance of the Purchase Order or the stated part thereof and cause any of its suppliers or subcontractors to do likewise. Vendor shall be paid for all costs including profit and overhead, for all Goods and/or Services performed and accepted through the effective date of the termination, provided that Purchaser will not be obligated to pay any more than the payment that would have become due had Vendor completed and Purchaser had accepted the Goods and/or Services. Purchaser shall not pay for any Goods delivered or Services performed after the effective date of termination or for any costs incurred by the Vendor's suppliers and subcontractors, which Vendor could reasonably have prevented. If Purchaser terminates the Purchase Order for any reason, Vendor's sole and exclusive remedy is payment for the Goods and/or Services received and accepted by Purchaser through the effective date of the termination. (b) For Cause. Purchaser shall have the right to terminate the Purchase Order, in whole or in part, by written, facsimile or email notice to Vendor in the event of a default or material breach not cured within a reasonable time period after receipt of notice of the default or breach. Furthermore, Purchaser may cancel the Purchase Order in the event of the insolvency of the Vendor or in the event the Vendor files a voluntary or involuntary petition under any bankruptcy or insolvency law or a receiver for Vendor is appointed by any court of competent jurisdiction or makes an assignment for the benefit of creditors or in the event a petition under any bankruptcy or insolvency law is filed against the Vendor. In the event of such termination, Purchaser shall without prejudice to any other rights or remedies, have no further liability in connection with charges for the cancelled Goods and/or Services and shall have the right to charge the Vendor any additional costs which Purchaser may incur in obtaining alternative Goods and/or Services and to charge the Vendor for any additional costs which Purchaser may incur in connection with delays or any other associated costs for which Purchaser may become liable.

12. **Confidential Information.** All specifications, samples, plans, drawings, documents, data, business operations, pricing, discounts or rebates, and other information disclosed by Purchaser to Vendor, whether disclosed orally or disclosed or accessed in written, electronic, or other form or media, and whether or not marked, designated or otherwise identified as "confidential," in connection with the Purchase Order is confidential and shall be used solely in the performance of the Purchase Order and may not be disclosed or copied unless authorized by Purchaser in writing. Upon Purchaser's request, Vendor shall promptly return all documents and other materials received from Purchaser. Purchaser shall be entitled to preliminary or other injunctive relief, or any other equitable relief for any violation of this section. This section shall not apply to information that is (a) in the public domain; (b) rightfully and legally known to the Vendor at the time of disclosure; or (c) rightfully and legally obtained by the Vendor on a non-confidential basis from a third party.
13. **Insurance.** Vendor shall maintain, at its own expense, such insurance necessary to protect against any and all claims for damages, risks of losses, and contractual indemnities, and shall secure and maintain policies with the minimum limits and other requirements as outlined below. Vendor shall provide evidence of insurance coverage complying with the following minimum insurance requirements. Work on Purchaser's premises or on Purchaser's behalf cannot proceed without a current certificate of insurance on file.

General Liability:

- ▶ \$1,000,000 per occurrence
- ▶ \$2,000,000 Aggregate
- ▶ \$1,000,000 Products/Completed Operations Aggregate

- ▶ The W. W. Williams Company and all related entities or subsidiaries, employees, agents and/or representatives are hereby added as respects to General Liability.
- ▶ Waiver of subrogation in favor of The W. W. Williams Company and all additional insured related entities or subsidiaries, employees, agents and/or representatives are hereby added as additional insured as respects to General Liability.
- ▶ Vendor's policy will act on a primary and noncontributory basis.

Installation Floater

- ▶ Of sufficient property values to cover construction costs and materials
- ▶ "Special Perils" basis including theft

Automobile Liability:

- ▶ \$1,000,000 per occurrence

Workers Compensation & Employer's Liability:

- ▶ Statutory Limits for coverage state(s)
- ▶ \$500,000/\$500,000/\$500,000 Employer's Liability Limit

Umbrella Liability/Excess:

- ▶ \$2,000,000 per occurrence
- ▶ Excess Coverage is Following Form

- a) Vendor's policies shall be endorsed to provide no less than ten (10) days prior written notice of cancellation or non-renewal or material change.
- b) Purchaser and its management company are to be named as additional insureds on the Commercial General Liability policy, and all coverage shall be primary to and shall not contribute with any other coverage carried by Purchaser.
- c) Vendor shall notify Purchaser within thirty (30) days prior to the expiration of said insurances, or to any material change in coverage.
- d) Vendor shall pay for and maintain whatever property insurance it deems necessary for coverage against loss or damage of any kind to owned, leased or rented equipment, tools, scaffolding, forms, including tools and equipment owned or rented by Vendor's employees or sub-Vendors. Purchaser shall have no responsibility with respect to such equipment, facilities or tools. Failure of Vendor to maintain such insurance shall not obligate Purchaser, its agents or employees for any loss or damage to such equipment. In the event Vendor carries such insurance, Vendor agrees to waive its right and those of its insurers to subrogate any loss against Purchaser or its agents or employees.
- e) All forms of insurance and carriers are subject to Purchaser's reasonable approval and policies of insurance shall be provided to Purchaser within ten (10) days of issuance of this Purchase Order. All insurance required shall be written for not less than the limits of liability specified in the Contract or required by law, whichever coverage is greater. No portion of the insurance coverage required to be provided by Vendor shall be self-insured other than any deductible permitted.

Vendor shall require all of its subcontractors to secure, maintain, and provide evidence of the foregoing coverage. Any policy provided by a subcontractor shall also be subject to the same requirements as the Vendor, including but not limited to a waiver of subrogation in favor of Purchaser. To the extent that Vendor does not require a subcontractor to obtain and verify such coverage, the Vendor agrees to indemnify, defend and hold Purchaser harmless from all claims, damages, expenses and losses to which said coverage would have applied. Failure to secure the insurance coverage or the failure to comply fully with any of the insurance requirements stated above, with or without the knowledge of Purchaser, shall in no way act to relieve Vendor from the obligations stated herein. In the event that liability for any loss or damage be denied by the underwriter(s), in all or in part because of breach of said insurance by Vendor, or for any reason, or if Vendor fails to maintain any of the insurance required herein, Vendor shall hold harmless, defend and indemnify Purchaser, its agents, employees, directors, officers and any other party Purchaser is required to indemnify, against any and all claims, demands, costs and expenses, including reasonable attorney's fees, which would otherwise be covered by said insurance. Vendor's indemnification obligations contained herein (expressed or implied) shall not be limited in amount or in scope of coverage provided by insurance.

- 14. Indemnification.** To the full extent permitted by applicable law, Vendor shall defend, indemnify and hold harmless Purchaser and its agents, employees, directors, officers, contractors and subcontractors (other than Vendor and its subcontractors), and any other party Purchaser is required to indemnify (the "Indemnified Parties"), from and against any and all claims, demands, causes of actions, liabilities, losses, damages, fines, penalties, costs and expenses, including reasonable attorneys' fees and costs, of every kind and nature whatsoever, arising out of, resulting from or in connection with, or otherwise related to the Vendor's Goods or Services provided hereunder, and caused or alleged to be caused, in whole or in part, by any act or omission of Vendor or anyone employed directly or indirectly by Vendor or on Vendor's account related to the Vendor's Goods and/or Services, which the Indemnified Parties may suffer or incur by reason of: (i) bodily injury, illness, including death, to any person or persons; (ii) damage to or destruction of property including the loss of use thereof; (iii) downtime or loss of use or other revenue, (iv) copyright or patent infringement; (v) failure to comply with applicable safety regulations; (vi) violation of any law, ordinance or regulation; or (vii) breach of any provision in the Purchase Order. Vendor shall not be obligated to indemnify any party for claims arising from the negligent or willful misconduct of the Indemnified Parties. This Section 14 shall survive the termination, completion or expiration of the Purchase Order.
- 15. LIMITED LIABILITY.** IN NO EVENT SHALL PURCHASER BE LIABLE TO VENDOR FOR ANY INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OR LOST PROFITS OR REVENUE ARISING OUT OF, OR IN CONNECTION WITH THIS PURCHASE ORDER, EVEN IF PURCHASER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGE, OR FOR ANY CLAIM OR ACTION BROUGHT AGAINST THE VENDOR BY ANY THIRD PARTY.
- 16. Relationship of Parties.** Nothing contained herein will be construed to place Vendor and Purchaser in an agency, employment, Joint Venture, partnership or fiduciary relationship. Vendor will perform its obligations under this Purchase Order as an independent contractor of Purchaser.

17. **Compliance with Laws.** Vendor represents and warrants that it will comply with all applicable federal, state, and local laws, rules and regulations pertaining to the sale of Goods and/or Services performed hereunder and its performance of its obligations under the Purchase Order. Vendor shall also comply with all applicable labeling, transporting, licensing, permitting, approval and certification requirements in the United States or any other country where the Goods and/or Services will be sold or used. Vendor assumes all responsibility for shipment of Goods requiring any government import clearance. If Vendor performs Services at or enters onto the premises of Purchaser's customer, Vendor and its representatives shall comply with all safety and health laws, regulations and ordinances, and with Purchaser's customer's safety, health and facility requirements that are provided to Vendor, and shall ensure that all Vendor's employees and agents have a safe work place. If Vendor fails to comply with the laws, orders, rules, ordinances and regulations and as a result Purchaser is fined, Vendor agrees to pay the fine and costs incident thereto or reimburse Purchaser for payment.
18. **Waiver.** The waiver by Purchaser of any breach under these terms and conditions shall not be deemed to be a waiver of any subsequent breach of a like or different nature. The failure to enforce any provision of the terms and conditions shall not be deemed a waiver of such provision.
19. **Governing Law.** The Purchase Order will be governed, construed, and interpreted in accordance with the laws of the State of Ohio, without regard to conflict of law principles. Purchaser and Vendor shall meet in good faith to attempt to resolve informally any disputes arising out of this Purchase Order. If the parties are unable to resolve such disputes informally, either side may initiate legal action for relief. Venue shall be in the state and/or federal courts of Franklin County, Ohio.
20. **Survival and Severability.** Provisions of this Purchase Order which by their nature should apply beyond any termination or expiration of this Purchase Order will remain in force after the Purchase Order termination or expiration so as to cover all claims instituted within the period set forth in such provisions or, if a period is not otherwise specified, the applicable statute of limitations. If any provision of this Purchase Order is held to be illegal, invalid, or unenforceable by a court of competent jurisdiction, that provision will be severed and the remaining provisions will remain in full force and a similar legal, valid and enforceable provision will be substituted for the severed provision.
21. **Assignment.** Vendor shall not assign, transfer, delegate or subcontract any of its rights or obligations under the Purchase Order without Purchaser's prior written consent. Any purported assignment or delegation in violation of this Section 21 shall be null and void. No assignment shall relieve the Vendor of any of its obligations hereunder.
22. **Equal Opportunity.** **Purchaser and Vendor (whether a subcontractor or a vendor) shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals**

without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.