

WOLVERINE PIPE LINE COMPANY TERMS AND CONDITIONS

THE FOLLOWING STANDARD TERMS AND CONDITIONS ("TERMS AND CONDITIONS") SHALL BE DEEMED INCORPORATED INTO AND SHALL FORM A PART OF EACH PURCHASE ORDER FOR GOODS AND/OR SERVICES (WHETHER ONE OR MORE, THE "PURCHASE ORDER") ISSUED BY WOLVERINE PIPE LINE COMPANY ("WPLCO"), UNLESS OTHERWISE SPECIFIED IN THE PURCHASE ORDER. THESE TERMS AND CONDITIONS AND THE PURCHASE ORDER ARE COLLECTIVELY REFERRED TO AS THIS "AGREEMENT":

1. DEFINITIONS. For purposes of these Terms and Conditions: "Goods" shall mean all goods, articles, materials, parts, components, accessories, processing and other items to be sold and all other deliverables to be provided to WPLCO under the terms of the Purchase Order. "Services" shall mean all services of any nature to be provided under the Purchase Order, including designing, assembling, and installing any of the Goods. "Work" shall mean and include the Goods and the Services. "Contractor" shall mean the supplier, vendor, contractor, or subcontractor providing or performing the Work under the Purchase Order.
2. ORDER, ACCEPTANCE, AND APPLICABLE TERMS. WPLCO offers to purchase the Goods and/or Services described in the Purchase Order only upon the Terms and Conditions contained herein. WPLCO reserves the right to revoke the Purchase Order without notice before acceptance. The Purchase Order shall be deemed agreed to and accepted by Contractor and become a binding contract on these Terms and Conditions when signed by both WPLCO and Contractor and returned to WPLCO. Any agreements, negotiations, or understandings of the parties prior or contemporaneous to the date of the Purchase Order, whether written or oral, are superseded hereby. Any document submitted by Contractor (including any Contractor document referenced in the Purchase Order) is used solely for the purpose of describing the Work and by accepting the Purchase Order, Contractor waives all terms and conditions contained in its quotation, acknowledgment, invoice, or other documents which contain terms and conditions different from or additional to those contained herein and all such different or additional terms and conditions shall be null and void. All special terms and conditions or supplemental attachments which are attached to or referenced in the Purchase Order are made a part of these Terms and Conditions between WPLCO and Contractor as though fully set forth herein.
3. CHANGES AND MODIFICATIONS. Contractor shall not make any change in the Work or to any term of the Purchase Order, unless done pursuant to WPLCO's written instructions or with WPLCO's written approval. Any alteration, deletion or addition to the Purchase Order, or a change in any provision(s) of the Purchase Order shall be effective only if made in a change order or amendment approved in advance by WPLCO and executed by WPLCO and Contractor.
4. PAYMENT AND PRICE. The purchase price of the Work is set forth on the face of the Purchase Order. Unless otherwise stated in the Purchase Order, the purchase price: (i) is a firm fixed price for the duration of the Purchase Order and not subject to increase for any reason, including increased raw material costs, increased labor or other manufacturing costs, increased development costs, or changes in volumes or program length from those estimated or expected and (ii) is inclusive of all storage, handling, packaging and all other expenses and charges of Contractor. Contractor will provide WPLCO with pricing that is as least as low as the pricing Contractor charges its other customers for the similar type of Work and in similar quantities, during the period of performance of the Purchase Order or six months before such period. WPLCO shall not be responsible for taxes, duties, assessments, or tariffs on account of any Work provided by Contractor. If payment terms are not otherwise specified in the Purchase Order, WPLCO's payment terms will be net 30 days from the later of receipt of a valid invoice with all required supporting documentation or receipt of the Work. Invoices submitted by Contractor shall show the following information from the front of the Purchase Order: (a) the Purchase Order number, (b) the Charge Code(s), if any, and (c) a brief description of the Goods supplied and/or Services performed. All charges shall be detailed as shown on the front of the Purchase Order, and each invoice shall be accompanied by documents supporting all charges, including original signed copies of material delivery tickets and daily time sheets, copies of invoices for materials, rental tools, and equipment, and itemized statements of other charges as applicable. All labor, including subcontracted labor, that is performed at any WPLCO site must be listed on the invoice per regulatory requirements. Invoices should be submitted to WPLCO no later than 3 months upon delivery of Goods and/or labor completion of Services, unless otherwise noted on the Purchase Order. Payment shall be deemed to occur upon mailing of a check to Contractor. Payment terms will be extended three business days for payments made by electronic funds transfer. Contractor must provide WPLCO with detailed written notice of payment problems, including past due invoices or short payments, within 90 days of the applicable payment due date(s). If Contractor fails to provide WPLCO with timely written notice of a payment problem, Contractor shall be deemed to have waived and released the right to assert a claim against WPLCO related to the problem. Payment by WPLCO shall not prevent WPLCO from later challenging or disputing any Contractor invoice.
5. DELIVERY OF WORK. Time is of the essence for this Agreement. If delivery of the Goods and/or Services, as applicable, is not completed by the time period stated in the Purchase Order, WPLCO reserves the right, without liability and in addition to other rights and remedies, to cancel the Purchase Order by notice effective upon receipt by Contractor as to stated quantities of Goods not yet delivered or Services not yet performed and to purchase substitute Goods and/or Services from third parties and Contractor shall be liable for any additional or increased cost. All Goods shall be packed by Contractor in suitable containers for protection in shipment and storage and shipped in accordance with WPLCO shipping instructions. Contractor shall be responsible for any increased or additional costs or charges resulting from Contractor's failure to abide by WPLCO's shipping instructions. Unless otherwise specified, prices set forth in the Purchase Order include all charges for packing, crating and for transportation to the point of delivery set forth herein. The number of the Purchase Order shall appear on each invoice, bill of lading and packing list and every package and shipment. An itemized packing list shall accompany each shipment made hereunder. Upon acceptance of the Purchase Order, Contractor shall promptly notify WPLCO as to the date of each shipment thereunder. Regardless of FOB terms set forth in the Purchase Order, risk of loss and responsibility for damage in transit is the sole responsibility and liability of Contractor until Work conforming to the terms of the Purchase Order are delivered to and inspected and accepted by WPLCO.
6. INSPECTION AND ACCEPTANCE. WPLCO may inspect the Work during any stage of its manufacture, construction, preparation, completion, or delivery. WPLCO may enter onto Contractor's premises during normal business hours to verify that the Work conforms to the specifications of the Purchase Order. Within 10 business days of Contractor's delivery or performance of the Work, WPLCO may reject any or all of the Work which does not conform to the applicable requirements. At WPLCO's option, WPLCO may (i) return the nonconforming Goods to Contractor for a refund or credit; (ii) require Contractor to replace the non-conforming Goods; or (iii) require Contractor to repair or reperform the non-conforming Work so that it meets the requirements. As an alternative to clauses (i) through (iii), WPLCO may accept the non-conforming Work conditioned on Contractor providing a refund or credit in an amount WPLCO reasonably determines to represent the diminished value of the non-conforming Work. In no event shall WPLCO's payment to Contractor for Work prior to WPLCO's timely rejection of such Work as non-conforming be deemed as acceptance by WPLCO. Unless otherwise agreed, title to the Work covered by the Purchase Order and the risk of loss or damage shall pass from Contractor to WPLCO upon acceptance of the Work at the destination specified in the Purchase Order, subject in all cases to WPLCO's right of inspection and rejection as set forth herein.
7. REPRESENTATIONS, WARRANTY, AND STANDARD OF CARE. Without limiting any warranties implied by law with respect to the Goods purchased and/or delivered hereunder, Contractor warrants to WPLCO, its successors and assigns, that all Goods purchased and/or delivered hereunder shall (i) be new and

unused, (ii) be free and clear of liens and encumbrances and all claims of Contractor and any third parties, (iii) be free from defects in material and workmanship and, to the extent such Goods are not manufactured pursuant to detailed designs of WPLCO or its customers, be free from defects in design, (v) conform strictly to all specifications, drawings, samples or descriptions furnished to Contractor by WPLCO and to all other requirements of the Purchase Order, and (vi) be fit for the purposes of WPLCO. Contractor further warrants it has good and marketable title to all Goods sold and/or delivered hereunder; that no statute, order, regulation, or ordinance of any governmental body or agency has been violated in the manufacture, sales, and/or delivery of any Work hereunder, including, but not limited to, the Fair Labor Standards Act of 1938, as amended, and the rules, regulations, and orders issued thereunder and that the sale and/or use thereof (before or after incorporation into products during manufacture) do not and will not infringe any Intellectual Property Rights. "Intellectual Property Rights" means any right arising under U.S. or foreign law relating to patent, trademark, copyright, moral, industrial design right or misuse or misappropriation of trade secrets. Additionally, if and to the extent the Goods includes Services supplied by Contractor, Contractor expressly warrants to WPLCO and its successors and assigns, that all such Services furnished: (a) have been performed or prepared in a safe, professional and workmanlike manner by personnel who are adequately trained, supervised and experienced and according to best industry standards and practices; (b) are suitable for the purposes intended whether expressed or implied, and (c) are in compliance with all applicable specifications and performance requirements. Contractor agrees that WPLCO's approval of any designs or drawings furnished by Contractor hereunder or in contemplation hereof shall not relieve Contractor of its obligations under this warranty. Contractor represents and warrants that it will neither create nor allow to exist, any liens on WPLCO's Property and Contractor agrees to immediately sign any waivers, UCC-1 forms or other documents reasonably required by WPLCO to perfect all rights granted and obligations imposed herein. Contractor further represents that all financial settlements, billings, and reports rendered to WPLCO or its representatives may be relied upon as complete and accurate in any subsequent recordings or reporting made by WPLCO for any reason. The foregoing warranties are in addition to any other representations and warranties in the Purchase Order or provided under law. Contractor hereby agrees that, in addition to any other remedies which WPLCO may have against Contractor for breach of warranty, Contractor will repair or replace at the option of WPLCO and at cost to the Contractor, any or all of the Work found in the sole, reasonable judgment of WPLCO to be in breach of this warranty, and to indemnify WPLCO for all costs and incurred by reason of such breach. Contractor's warranties shall survive any inspection by, delivery to, acceptance by, or payment by WPLCO for any or all of the Work furnished hereunder, shall be in addition to any other warranties or service guarantees given by Contractor to WPLCO, shall be construed as conditions as well as warranties, shall not be determined exclusive, and shall be for the benefit of both WPLCO and its successors and assigns. Contractor specifically agrees that WPLCO need not inform it of the breach of any warranties hereunder within any particular time and specifically waives any right that may accrue to Contractor on account of WPLCO's failure to notify Contractor of any breach of warranty within any period of time.

8. SAFETY AND WPLCO POLICIES. Contractor shall be responsible for providing a healthy and safe work place for its employees during the progress of the Work on WPLCO's property and to adequately protect the health and safety of Contractor's agents and subcontractors and their respective employees, WPLCO's employees, the public and other third parties. All tools, equipment, facilities, and other items used by Contractor and practices employed by Contractor in accomplishing the Work are considered to be part of the working environment. In addition to having its own health, safety, and drug and alcohol policies, Contractor agrees to comply with WPLCO's health, safety, and drug and alcohol policies applicable to the site where services are to be performed which are available upon request (or may be provided by WPLCO), and Contractor shall ensure that all services are performed in compliance with those policies. Contractor agrees to adopt whatever methods, procedures and precautions necessary to comply with the provisions in this Section. WPLCO may modify or replace at any time the provisions of any health and safety rule(s), regulation(s) or policy(s) applicable to the Work by notifying Contractor either orally or in writing without complying with any provision on giving notice in this Agreement and Contractor shall promptly comply with same. If Contractor provides Work to WPLCO on WPLCO's premises, Contractor will examine the premises to determine whether they are safe for such Work and shall advise WPLCO promptly of any situation Contractor deems to be unsafe. Contractor shall be responsible for all acts and omissions of its employees, agents and subcontractors while on WPLCO's premises or other work site and shall cause them to comply with all regulations and policies of WPLCO that apply.

9. INDEMNIFICATION, LIMITATION OF LIABILITY, AND RISK OF LOSS.

(a) WPLCO and Contractor shall indemnify, defend and hold each other harmless from claims, demands and causes of action asserted against the indemnitee, its affiliates, employees and each of their shareholders, directors, officers, employers and agents ("Indemnitee") by any person (including, without limitation, Contractor's and WPLCO's employees) for personal injury, death or loss of or damage to property, (including without limitation, any costs, penalties, fines, or reasonable attorney fees and costs) resulting from the indemnitor's active or passive negligence or willful misconduct. Where personal injury, death, or loss of or damage to property is the result of joint active or passive negligence or willful misconduct of WPLCO and Contractor, the indemnitor's duty of indemnification shall be in proportion to its allocable share of joint active or passive negligence or willful misconduct. If WPLCO is strictly liable under law, Contractor's duty of indemnification shall be in the same proportion that the negligent acts or omissions of Contractor contributed to the personal injury, death, or loss of or damage to property for which WPLCO is strictly liable. The indemnities contained in this Agreement shall survive the termination or expiration of the Purchase Order or the expiration of any applicable warranty period.

(b) Contractor shall indemnify and hold WPLCO harmless from and against any and all expense, liability or loss from any claim or lawsuit for alleged infringement of any copyright, trademark or patent resulting from the manufacture, sale, use or other disposition of any article, material, or service furnished by Contractor, or resulting from Contractor's performance, under the Purchase Order. The indemnities set forth in this Section shall include, without limitation, all penalties, awards, and judgments; all court and arbitration costs; attorneys' fees; and other reasonable out-of-pocket costs incurred in connection with such claims or lawsuit.

(c) Contractor shall bear all risk of damage and loss to WPLCO's property in Contractor's care, custody and control. Contractor shall release and indemnify WPLCO and hold WPLCO harmless for loss of or damage howsoever caused to Contractor's or subcontractor's tools and equipment and rented items which are used or intended for use in the Work to be performed, even if the loss or damage results from WPLCO's active or passive negligence.

(d) In any action brought by WPLCO to enforce Contractor's obligations in connection with the production or delivery of Goods or Work, or for possession of property, the parties agree that WPLCO does not have an adequate remedy at law and WPLCO is entitled to an immediate order for specific performance of Contractor's obligations (including related temporary and preliminary injunctive relief).

10. INSURANCE. Contractor agrees that it shall maintain at its expense: (a) workers' compensation and employers' liability insurance in accordance with law for all its employees engaged in performing services; and (b) its normal and customary general liability and automobile liability insurance coverage and policy limits. Additionally, Contractor agrees that all insurance policies shall include contractual coverage for the undertakings of Contractor contained in this Agreement. The purchase or furnishing of any insurance by the Contractor or WPLCO on Goods in transit shall not alter the provision hereof that legal title to the Goods shall remain in Contractor until accepted by WPLCO as specified herein. Contractor further agrees that these minimum insurance requirements shall not limit or waive Contractor's legal or contractual responsibilities to WPLCO or to others. Upon request by WPLCO, Contractor shall have its insurance carrier(s) furnish to WPLCO certified copies of the required insurance policies and/or certificates of insurance specifying that no insurance shall be canceled or materially

changed while services are in progress without thirty (30) calendar days prior written notice to the requester.

11. **CONFIDENTIALITY.** Contractor shall keep confidential all information, drawings, specifications, or data furnished by WPLCO, whether such information is transmitted in written form, orally, or electronic form, or whether such information is transmitted by WPLCO through its employees, agents, contractors, customers or other third parties at the request of WPLCO, or prepared by Contractor in connection with the Purchase Order. Contractor shall not take any photographs or video or audio recordings of, on or about any WPLCO, affiliated entity or customer property without WPLCO's prior written consent. Contractor shall not make reference to WPLCO in any publicity, advertisement or other publication without WPLCO's prior written consent.

12. **SUSPENSION AND TERMINATION FOR CONVENIENCE.** WPLCO may suspend or terminate the Work at any time at its option, in whole or in part, for its convenience without penalty to WPLCO, by giving written notice to the Contractor. During any suspension of the Work, WPLCO shall not pay any compensation nor be liable for any other costs whatsoever to Contractor with respect to the Work suspended unless expressly agreed upon by both parties. WPLCO may, at any time, authorize Contractor to resume any part of the suspended Work by notice to Contractor, and Contractor shall then promptly comply. Any partial termination shall not alter or affect the terms of the Purchase Order with respect to, or result in a change to the price of, Work not terminated. In the event the Purchase Order is terminated, WPLCO shall pay Contractor only for Work performed and obligations incurred prior to the termination and for costs that Contractor directly incurs in terminating the Purchase Order, provided WPLCO has authorized in advance those payments. In no event shall WPLCO be liable for any costs, claims, damages or liabilities whatsoever of Contractor or its subcontractors including, without limitation, for consequential, punitive, exemplary or indirect damages, loss of anticipated profit or reimbursement for Work suspended or unperformed. Upon termination, Contractor shall: (1) immediately discontinue all terminated Work; (2) if so directed by WPLCO, transfer title and deliver to WPLCO all (a) completed Work, (b) work in process, and (c) materials produced or acquired in connection with such Work, which Work conforms to the requirements of the Purchase Order, does not exceed the Work authorized by WPLCO, and cannot otherwise reasonably be used by Contractor; and (3) take all action necessary to protect Work in Contractor's or its subcontractors' or suppliers' possession in which WPLCO has or may acquire an interest. In no event will WPLCO be liable for lost profits or consequential, indirect, or special damages of any nature.

13. **MICELLANEOUS.**

(a) **Assignments and Subcontracting.** Contractor may not assign or subcontract any part of the Purchase Order without WPLCO's prior written consent. Contractor shall inform WPLCO in writing of any Work under the Purchase Order that it proposes to subcontract, including identifying the third parties and specifying in detail the Work to be subcontracted. Contractor shall ensure that all its permitted contracts with its subcontractors contain provisions which are in conformity with and no less stringent than the provisions of this Agreement. Contractor shall ensure that any third party to whom Contractor subcontracts any of the Work under the Purchase Order is bound by all terms and conditions relating to such Work to which Contractor is bound under this Agreement and that its subcontracts contain provisions which are in conformity with and no less stringent than the provisions of this Agreement. Contractor shall be responsible for such third parties' performance or non-performance under any subcontract.

(b) **Compliance with Laws.** Contractor, in performing the Work, shall ascertain and comply with all applicable Federal, State, and local laws, regulations, and ordinances, including, but not limited to, the Foreign Corrupt Practices Act of 1977, as amended ("FCPA"), especially as it relates to payments or gifts to officials, employees, or representatives of foreign governments and Contractor agrees that it and all who act on its behalf shall fully and faithfully comply with the FCPA, and with all applicable trade or industry codes, regulations and standards. Where applicable the following provisions are hereby incorporated by reference in this Agreement: (a) Executive Order 11246, and 41 CFR Part 60, as well as 41 CFR Subpart 1-12.8, relating to Equal Employment Opportunity (b) Executive Order 11701, as amended, and 41 CFR Part 50-250, 41 CFR Part 60-250, relating to Disabled Veterans and Veterans of the Vietnam Era; (c) the Americans With Disabilities Act of 1990, Titles I and V. By executing the Purchase Order, Contractor certifies that it is in compliance with the applicable governmental requirements pertaining to nonsegregated facilities.

(c) **Right to Audit.** Contractor and its subcontractors shall at their sole cost and expense, maintain complete and accurate books and records of all materials, services and costs relating to the Purchase Order in accordance with generally accepted accounting principles for at least three years after Contractor receives the final payment under the Purchase Order. WPLCO and its representatives shall have access, at all reasonable times, to all of Contractor's and subcontractor's personnel, books, records, correspondence, instructions, plans, drawings, receipts, vouchers, financial accounts, data stored in computer files or microfiche, and memoranda of every description pertaining to the Purchase Order for the purpose of verifying costs of Work and Contractor's compliance with the terms of this Agreement. WPLCO shall have the right to copy those records during the term of the Purchase Order and during the three-year period after final payment under the Purchase Order. Contractor agrees to include the necessary provisions in its contracts with subcontractors that shall assure access by WPLCO's employees or representatives to applicable records of subcontractors. WPLCO shall have no obligation to reimburse Contractor or any subcontractor for any costs incurred by Contractor or its subcontractor incidental to any such audit.

(d) **Severability.** Any part of this Agreement which is held to be invalid or unenforceable shall be deemed ineffective without affecting the validity or enforceability of any other part of this Agreement.

(e) **Governing Law.** This Agreement and all transactions between WPLCO and Contractor hereunder shall be governed by the laws of the state in which the Work is to be performed or the Goods are to be delivered to WPLCO's work site, except for provisions regarding principles of conflicts of laws, which if applied might require the application of the laws of another jurisdiction.

(f) **Setoff.** In addition to any right of setoff or recoupment provided by law, WPLCO may, without notice, setoff against or recoup from any amounts owing to Contractor any amounts which WPLCO determines in good faith is owed by Contractor, including for damages resulting from breaches by Contractor of its obligations to WPLCO under the Purchase Order.

(g) **Electronic Communication.** The parties recognize that Purchase Orders and other communications may be transmitted by telecopier, e-mail or other electronic or telephonic means. Any Purchase Order or communication so transmitted shall be deemed delivered when sent by WPLCO. Both WPLCO and Contractor agree to accept "electronic records" and "electronic signatures" as those terms are defined under the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq.

(h) **Duty Drawback Rights.** The Purchase Order includes all related customs duty and import drawback rights, if any (including rights developed by substitution and rights which may be acquired from Contractor's suppliers), which Contractor can transfer to WPLCO. Contractor agrees to inform WPLCO of the existence of any such rights and upon request to supply such documents as may be required to obtain any drawbacks.

(i) **Waiver.** No waiver of any of the provisions of this Agreement shall be effective unless made in a writing signed by an authorized representative of WPLCO; no such waiver shall be construed as a waiver of any subsequent breach of the provisions of this Agreement.

(j) Entire Agreement. This Agreement contains the entire agreement of the parties relating to the subject matter and supersedes all prior and contemporaneous agreements, understandings, usages of trade and courses of dealing, whether written or oral, except for any Continuing Services Agreement between the parties and concerning the same Work covered by the Purchase Order. In the event of conflict between this Agreement and a Continuing Services Agreement between the parties hereto, the terms and conditions of the Continuing Services Agreement shall control. No modification shall be effective unless in writing and signed by WPLCO's authorized representative. If any billing statement, report, delivery ticket, or rate schedule by Contractor or WPLCO purports to contain provisions contrary to or amendatory to the provisions of this Agreement, such provisions shall have no legal force or effect, and this Agreement shall remain as written.

(k) Jury Trial Waiver. Because Purchase Orders and the relationship between WPLCO and Contractor are commercial in nature and disputes regarding such matters are best decided by a judge, the parties knowingly waive the right to trial by jury of any disputes arising from their business relationship with each other, including disputes under the Purchase Order.

(l) Survival. The obligations of Contractor to WPLCO survive termination of the Purchase Order, except as otherwise provided in the Purchase Order.

(m) Interpretation. Both parties had the opportunity to have its legal advisor review this Agreement. Accordingly, no provision may be construed against WPLCO or Contractor based on who drafted the particular provision. Section headings are for convenience or reference only, and do not affect the meaning of the provisions therein.

(n) Independent Contractor and Relationship of Parties. Contractor, in performing Work and other obligations under the Purchase Order, shall be deemed an independent contractor controlling and supervising its personnel and equipment used in performance of the Purchase Order and not the agent or employee of WPLCO. WPLCO's interest is in the completed performance of the Work. Nothing in this Agreement will make either party the employee, agent, or legal representative of the other for any purpose. The Purchase Order does not grant either party any authority to assume or to create any obligation on behalf of or in the name of the other. Contractor will be solely responsible for all employment and income taxes, insurance premiums, charges, and other expenses it incurs in connection with its performance of the Purchase Order, except as expressly provided in a written agreement signed by WPLCO. All employees and agents of Contractor or its respective contractors are employees or agents solely of Contractor or such contractors, and not of WPLCO, and are not entitled to employee benefits or other rights accorded to WPLCO's employees. WPLCO is not responsible for any obligation with respect to employees or agents of Contractor or its contractors.

(o) Conflict of Interest. Contractor represents and warrants that its performance of the Purchase Order will not in any way conflict with any continuing interests or obligations of Contractor or its employees or contractors. Contractor further warrants that while the Purchase Order is in effect, Contractor and those of its employees and contractors participating in the performance of the Purchase Order will refrain from any activities which could reasonably be expected to present a conflict of interest with respect to Contractor's relationship with WPLCO or its performance of the Purchase Order. Contractor shall establish policies and procedures to ensure the highest business standards and ethics in its dealings hereunder. Contractor shall promptly notify WPLCO of any actual or apparent conflict of interest whether arising before or during any Work and take all reasonable effort to cure such conflict.