

## PURCHASE ORDER TERMS AND CONDITIONS

1. **DEFINITIONS.** Capitalized terms have the following meanings: (a) Goods mean the goods and other items to be supplied to Purchaser by Vendor under this Purchase Order; (b) Services mean the services to be performed by Vendor under this Purchase Order; (c) Purchase Order means this written or electronic order for Goods; (d) Purchaser means Atlas Heavy LLC d/b/a Atlas Heavy Transport LLC and/or its affiliate Atlas Heavy Projects LLC; (e) Specified means as specified on the first page of this Purchase Order; and (f) Vendor means the individual or entity specified as the Vendor.
2. **ACCEPTANCE.** Vendor will be deemed to have accepted all provisions of this Purchase Order upon the first of the following to occur: (a) Vendor's signing and returning a copy of this Purchase Order to Purchaser; (b) Vendor's acceptance of Purchaser's payment; (c) Vendor's shipping of Goods to Purchaser or commencement of Services; or (d) Vendor's acknowledging this Purchase Order by other commercially acceptable means.
3. **VENDOR FORMS AND TERMS.** Either party may use its standard business forms to administer Purchase Orders, but use of such forms is for the parties' convenience only and does not alter the provisions of this Purchase Order. Purchaser will not be bound by, and specifically objects to, any provision providing Vendor any liability limitation of any type and to any provision that is different from or in addition to the provisions of this Purchase Order (whether proffered by Vendor verbally or in any quotation, invoice, shipping document, acceptance, confirmation, correspondence or otherwise).
4. **VENDOR AS AN INDEPENDENT CONTRACTOR.** Vendor shall perform the obligations under Purchase Orders as an independent contractor and under no circumstances shall it be considered an agent or employee of the Purchaser. The Terms and Conditions of this Purchase Order shall not, in any way, be construed as to create a partnership or any other kind of joint undertaking or venture between the parties hereto. The Vendor expressly waives any and all rights which may or may not exist to claim any relief under the Purchaser's comprehensive insurance policy, worker's compensation or unemployment benefits. Vendor is solely and personally responsible for all federal, state and local taxes, contributions and other liabilities with regard to payments by Purchaser to Vendor.
5. **PRICE AND PAYMENT.** Specified prices are not subject to increases or additional charges for any reason. Vendor will separately invoice Purchaser for all amounts payable. Unless otherwise Specified, Purchaser will make payment within 60 days after the later of: (a) Purchaser's receipt of Vendor's correct invoice at the Specified remit to address; or (b) Purchaser's acceptance of the Goods or completed of Services.
6. **DELIVERY & INSPECTION.** Vendor shall bear all risk of loss over Goods until such time as Purchaser unconditionally accepts delivery. Purchaser may inspect the Goods and Vendor's facilities, equipment and records relating to the Goods and/or Services at any time prior to acceptance of the Goods or completion of the Services and for a period of no less than 1 year thereafter. Purchaser's inspection, failure to inspect or failure to discover any defect will not relieve Vendor of any obligation hereunder or impair Purchaser's rights or remedies at law or in equity.
7. **REPRESENTATIONS AND WARRANTIES.** Vendor represents and warrants that the Goods and/or Services (a) are free from defects in design, materials, workmanship and title, (b) are of good and suitable quality, that all materials and other items incorporated in the Goods will be new (not refurbished or reconditioned) and suitable for their intended purpose, (c) do not infringe any patent, trademark, trade dress, copyright or other right, (d) conform to the requirements of this Purchase Order, (e) are of comparable quality as all samples delivered to Purchaser; (f) comply with all applicable laws, regulations and other requirements of governmental authorities having jurisdiction; and (g) will be supplied and/or performed in a professional manner in accordance with Purchaser's code of conduct guidelines as may be communicated. Vendor further warrants its acknowledgement that the supplying of Goods to Purchaser and/or performance of Services to Purchaser may involve exposure to dangerous conditions inherent to the industry of Purchaser and knowingly assumes all such risks and relieves Purchaser of any liability for such risks whether or not caused by the negligence of Purchaser (unless prohibited by law).
8. **PURCHASER REMEDIES.** If the Goods and/or Services do not strictly comply with the requirements of this Purchase Order or the prevailing industry standards, Purchaser may reject them at any time including after payment therefore. In such case, Purchaser may require Vendor to promptly correct the Goods and/or Services. If Purchaser requests Vendor to make any correction and Vendor thereafter fails or indicates its inability or unwillingness to do so, Purchaser may have the correction made by a third party at Purchaser's expense.
9. **DEFENSE AND INDEMNITY.** Vendor will defend and indemnify Purchaser from any allegation or claim based on or any loss, damage, settlement, cost, expense and any other liability (including but not limited to reasonable attorney fees) arising out of any allegation or claim related to (a) the design, manufacture, possession, ownership, use, sale or transfer of the Goods and/or Services, (b) an actual or alleged breach of any of Vendor's representations, warranties or other obligations under this Purchase Order or (c) any act or omission of Vendor or its employees or agents, except to the extent caused by the negligence or willful misconduct of Purchaser. Vendor's obligations under this Section 9 will survive Purchaser's acceptance of and payment for the Goods and/or completion of the Services and are independent of any other obligation of Purchaser under this Purchase Order.
10. **INSURANCE.** Vendor will obtain and maintain at its expense, relevant and adequate liability insurance coverage for Vendor's liabilities assumed hereunder for the Goods and/or Services. Vendor's insurance coverages shall be primary to any insurance coverages carried by Purchaser. Vendor's insurance coverage shall: (a) have commercial general liability, professional errors and omission liability, and auto liability limits of no less than \$1,000,000 per occurrence and \$2,000,000 general aggregate combined single limit for bodily injury and property damage; (b) name Atlas Heavy LLC d/b/a Atlas Heavy Transport LLC and/or its affiliate Atlas Heavy Projects LLC as additional insureds; and (c) be endorsed to provide that it will not be terminated, cancelled, materially altered or allowed to expire without 30 days prior written notice to Purchaser. Vendor will maintain Workers' Compensation insurance in the statutory mandated amounts and Employer's Liability insurance with limits of liability of not less than \$1,000,000 aggregate, with a waiver of subrogation in favor of Atlas Heavy LLC d/b/a Atlas Heavy Transport LLC and/or its affiliate Atlas Heavy Projects LLC (where permitted by law). Purchaser's approval of any of Vendor's insurance does not relieve Vendor of any obligations in this Purchase Order, including but not limited to its defense and indemnity, even for claims in excess of Vendor's insurance policy limits.
11. **CONFIDENTIAL INFORMATION.** Vendor and its representatives, employees, subcontractors and agents will (a) keep confidential the terms and existence of this Purchase Order and all information obtained from Purchaser in connection with this Purchase Order that is identified as confidential or proprietary or that, given the nature of such information or the manner of its disclosure, reasonably should be considered confidential or proprietary; and (b) use such information only for the purposes of this Purchase Order. All such information is Purchaser's exclusive property and Purchaser's disclosure of Confidential Information will not constitute a grant to Vendor of any rights to or under Purchaser's patents, copyrights, trade secrets, trademarks, or other intellectual property rights. Vendor will not refer to Purchaser or its affiliates in any advertisements or other promotional materials without Purchaser's prior written consent.
12. **CANCELLATION AND MODIFICATIONS.** Purchaser may, at any time prior to Vendor's commencement of supplying the Goods and/or performing the Services, cancel or modify this Purchase Order without liability or obligation to Vendor. After Vendor's commencement of supplying the Goods and/or performing the Services, Purchaser may cancel or modify all or any portion of this Purchase Order by giving Vendor written notice of such termination or change. In the event of such cancellation or modification, the prices payable under this Purchase Order with respect to the cancelled Goods and/or Services will be equitably adjusted. In the event of rescheduling or cancellation by Purchaser as a result of a force majeure circumstance, Purchaser shall have no liability whatsoever. In the event of cancellation by Purchaser for reasons under than force majeure, any adjusted prices will not exceed the actual reasonable costs incurred by Vendor in partially performing the Goods and/or Services. In the event of modification by Purchaser for reasons under than force majeure, any adjusted prices will not exceed the actual increase in cost to Vendor attributable to the modification. In the event of cancellation or modification by Vendor after Vendor's acceptance of the Purchase Order, Purchaser shall have the right in its discretion to cancel the Purchase Order and retain an alternative third-party vendor in which event Vendor shall be liable to Purchaser for any charges of the third-party vendor in excess of Vendor's charges under this Purchase Order.
13. **SUCCESSORS AND ASSIGNS.** Vendor will not assign this Purchase Order (in whole or part) without Purchaser's prior written consent. Any assignment without Purchaser's consent will be voidable at Purchaser's option. Subject to the foregoing restrictions, this Purchase Order will be fully binding upon, inure to the benefit of and be enforceable by Vendor, Purchaser and their respective successors and assigns.
14. **APPLICABLE LAW.** This Purchase Order will be interpreted and enforced in accordance with the laws of the State of Texas. Vendor irrevocably consents to the jurisdiction of the courts of the State of Texas with venue laid in Harris County.
15. **NO WAIVER.** A party does not waive any right under this Purchase Order by failing to insist on compliance with any of the terms of this Purchase Order or by failing to exercise any right hereunder.
16. **CUMULATIVE RIGHTS.** The rights and remedies of the parties under this Purchase Order are cumulative, and either party may enforce any of its rights or remedies under this Purchase Order or other rights and remedies available to it at law or in equity.