PURCHASE ORDER

PO Number:303-6-0982
Requisition Number:303-6-02290

Order Date: 8/5/2016
Ordered

MAIL INVOICE TO AGENCY BELOW
TEXAS FACILITIES COMMISSION
FISCAL MANAGEMENT / ACCOUNTS PAYABLE
P.O. BOX 13047 Austin, Texas 78711-3047
OR
email to: accountspayable@tfc.state.tx.us

Delivery Location

Parking Garage R, Warehouse
1706 San Jacinto Blvd.
Austin, TX 78701
Show numbers on all papers and packages

Referenced Source or Vendor

10602478405
Associated Springs
226 South Center Street
Corry, PA 16407
Dann Briggenden
Phone:603-571-0036, Fax:
dbrissenden@asbg.com

Description

Custom torsion springs for auditorium seats at the Texas School for the Deaf in Austin, TX.

Pricing and item specifications as per attached quote # 016-004127, dated 07/26/2016.

TFC Contact:
Nick Sultemeier
(512) 462-5385
Nick.Sultemeier@tfc.state.tx.us

Line Items

Description	Qty	Unit	Unit Price	Start Date	End Date	Total
Custom torsion springs	50	EA	$35.80	8/5/2016	9/12/2016	$1,790.00
TFC Contact: Nick Sultemeier 512-587-2462						

NIGP Class: 265
NIGP Item: 80

Object Class: 328 **Reimbursement Type:** Not Reimburseable						
					Grand Total	**$1,790.00**

Questions or concerns regarding this transaction or service should be directed to: Texas Facilities Commission Procurement Division, Phone: (512)463-0209 or FAX: (512)236-6164 (The mailing address for the Texas Facilities Commission is at the top of this purchase order.)

Agency	TFC
Fiscal Year	2016
Division	Planning and Real Estate Mgmt
Program	Property Management
Phone	(512) 462-5385
Org Code	0442 - Facility Maintenance
Type of Purchase/PCC Code	Commodity Purchase $5000 or less - E
Work Order Number	550488

ALL TERMS AND CONDITIONS SET FORTH IN OUR BID INVITATION BECOME A PART OF THIS ORDER. VENDOR GUARANTEES MERCHANDISE WILL MEET OR EXCEED SPECIFICATIONS IN THE BID INVITATION.

Invoicing Standards

To facilitate payments from Texas Facilities Commission please follow the invoicing standards set forth below.

The invoice should include, but is not limited to including:

(1) the vendor's mailing and e-mail (if applicable) address;
(2) the vendor's telephone number;
(3) the name and telephone number of a person designated by the vendor to answer questions regarding the invoice;
(4) the state agency requisition number;
(5) the state aqency's name, aqency number, and delivery address;
(6) the commission's purchase order number, if applicable;
(7) the contract number or other reference number if applicable;
(8) a valid Texas Identification Number (TIN) issued by the Comptroller of Public Accounts;
(9) a description of the goods or services, in sufficient detail to identify the order which relates to the invoice;
(10) unit numbers corresponding to the original order; and
(11) other relevant information supporting and explaining the payment requested or identifying a successor organization to an original vendor, if necessary.

FOB DESTINATION CASH DISCOUNT: 0% 0 DAYS.

TEXAS FACILITIES COMMISSION INTERNAL PURCHASING

PURCHASER: Sarah Evans

Evans, Sarah, 5123059269

(IN ACCORDANCE WITH YOUR BID, SUPPLIES MUST BE PLACED IN THE AGENCY RECEIVING ROOM IN DAYS FROM RECEIPT OF ORDER.)

STATE AND CITY SALES TAX EXEMPTION CERTIFICATE: The undersigned claims an exemption from taxes under Chapter20, Title 122A, Revised Civil Statutes of Texas, for purchase of tangible personal property described in this number order, purchased from contractor and/or shipper listed above, as this property is being secured for the exclusive use of the State of Texas

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TERMS AND CONDITIONS: ITEMS BELOW APPLY TO AND BECOME A PART OF BID. ANY EXCEPTIONS THERETO MUST BE IN WRITING

I. INTRODUCTION.

1.1. GENERAL. These Terms and Conditions shall apply for goods and services including without limitation any Invitation for Bid, Request for Offer, Request for Qualifications, and Request for Proposal (hereinafter referred to collectively as "solicitations") offered by the Texas Facilities Commission (hereinafter referred to as "TFC") and any purchase order issued by TFC (hereinafter referred to as "Purchase Order"). The term "Respondent" shall mean any party who responds to a solicitation for goods and services offered by TFC. The term "Vendor" shall mean the party listed as vendor on the purchase order.

1.2. STATUTORY AUTHORITY. This procurement falls under the statutory authority of the Texas Government Code Chapter 2151, commonly known as the "Purchasing Act," Chapter 2155, General Rules and Procedures, Chapter 2157, Purchasing Methods, and Chapter 2161, Historically Underutilized Businesses. The purchasing procedures include statutory requirements and those requirements established by rule of the Texas Comptroller of Public Accounts (hereinafter referred to as "CPA"), Texas Procurement and Support Services Division (hereinafter referred to as "TPASS") as contained in Title 34 Texas Administrative Code, Part 1, Chapter 20, Subchapter C, Section 20.31 and other applicable federal and state statutes and rules citied herein.

1.3 COST OF SUBMITTING RESPONSE. TFC will not reimburse Respondent for any cost related to its response. Respondent is responsible for any expense related to the preparation and submission of its response.

II. GENERAL INSTRUCTIONS.

2.1 SOLICITATION REQUIREMENTS. Respondent shall comply with the following requirements when responding to a solicitation for goods and/or services offered by TFC.

(a) Respondent must comply with all rules, regulations and statutes relating to purchasing in the State of Texas in addition to the requirements of this form.

(b) Respondent shall submit the number of copies required in the manner stated in the specification or in the solicitation.

(c) Response shall be submitted on the indicated form or in the indicated format. Response must be time stamped in TFC's Mail Room or hand delivered to the address on the solicitation before the hour and date specified for the solicitation opening unless specified otherwise. Late responses will not be considered under any circumstances once the opening has begun.

(d) Failure to sign the solicitation will disqualify the bid. The person signing the response must have the authorization to contractually bind Respondent.

(e) Response cannot be altered or amended after opening time. Alterations made before opening time should be initialed by Respondent or its authorized agent. No response can be withdrawn after opening time without approval by TFC based on an acceptable written reason.

(f) The State reserves the right to accept or reject all or any part of any response, waive minor technicalities and award the response to best serve the interests of the State.

(g) If facsimile submission is acceptable per the solicitation requirements, the telephone number for FAX submission is (512) 236-6164. This is the only number that will be used for the receipt of a response. The subject line shall include the solicitation number. TFC shall not be responsible for failure of electronic equipment or operator error. Late, illegible, incomplete, or otherwise non-responsive responses will not be considered.

(h) E-mailed responses may be accepted if stated on the solicitation. E-mailed responses must be in Portable Document Format (hereinafter referred to as "PDF"), signed by Respondent and attached to the e-mail to be considered for award.

2.2 PRICING. Respondent shall comply with the following pricing requirements when responding to a solicitation for goods and/or services offered by TFC.

(a) Respondent must price per unit shown. Unit prices shall govern in the event of extension errors.

(b) Respondent must quote F.O.B. destination, freight prepaid and allowed; otherwise, Respondent must show exact delivery cost and terms.

(c) Prices are requested to be firm for TFC acceptance for thirty (30) days from opening date if the response is an invitation for bid and ninety (90) days for all other solicitations. "Discount from list" pricing is not acceptable unless requested. Cash discounts are not considered in determining an award. Cash discounts offered will be taken if earned.

(d) Proposal should give Vendor ID Number, full firm name, and address of Respondent in the response. The Vendor ID Number is the number assigned and used by the CPA to track payments.

(e) Purchases made for State use are exempt from the State Sales Tax and Federal Excise Tax; therefore, tax should not be included in the response. Tax Exemption Certificates are available upon request.

(f) Consistent and continued tie bidding could cause rejection of response by TFC and/or investigation for antitrust violations.

2.3 SPECIFICATIONS. Respondent shall carefully examine the solicitation and shall be responsible for securing any additional information form the TFC point of contact needed to gain a clear and full understanding of TFC's requirements.

(a) Any catalog brand name or manufacturer's references are descriptive only, and indicate type and quality desired. Responses including brands of like nature and quality will be considered unless advertised under Texas Government Code, Section 2155.067. If responding with other than reference specifications, the response should show manufacturer, brand or trade name, and other description or product offered. If other than brand(s) specified is offered, illustrations and complete description of product offered are requested to be made a part of the response. Failure to take exception to specifications or reference data will require Respondent to furnish specified brand names, numbers, etc.

(b) The goods furnished or services performed shall be in accordance with the specifications set forth in the solicitation and with these terms and conditions. TFC will provide clarifications of the specifications and determine the quality and acceptability of goods and products furnished or work performed. If the solicitation is for a service, TFC will determine the manner of performance, the rate of progress of the work and whether the vendor's performance of the services is acceptable.

(c) Manufacturer's standard warranty shall apply unless otherwise stated in this solicitation.

(d) Unless otherwise specified, all goods offered shall be new, unused, and of current production, including shipping and storage containers. Verbal agreements to the contrary will not be recognized.

(e) All electrical items must meet all applicable OSHA standards and regulations, and bear the appropriate listing from UL, FMRC, or NEMA.

(f) Samples, when requested, must be furnished free of expense to TFC. If not destroyed in examination, samples will be returned to Respondent, on request, at Respondent's expense. Each sample should be marked with Respondent's name and address, and requisition number. Samples shall not be enclosed or attached to a response unless specified in the solicitation.

(g) Respondent shall include the number of days required to place material in receiving agency's designated location under normal conditions. "Delivery days" means calendar days, unless otherwise specified. Failure to state delivery time obligates Respondent to complete delivery in fourteen (14) calendar days. Unrealistic delivery promises may cause bid to be disregarded.

(h) TFC will not be bound by any oral statement or representation contrary to the written specifications of this solicitation. Any revision, clarification, or interpretations pertaining to this solicitation will be in writing and issued by TFC as an addendum. Any changes or interpretation not in an addendum will not legally bind TFC.

2.4 TIE BIDS. If this solicitation is an Invitation for Bid, awards will be made in accordance with Title 34 Texas Administrative Code, Part 1, Chapter 20, Subchapter C, Sections 20.36(b)(3) and 20.38 (preferences).

2.5 DELIVERY. No substitutions or cancellations will be permitted without written approval from TFC.

(a) If delay is foreseen, Vendor shall give written notice to TFC. Vendor must keep TFC advised at all times of the status of an order. Default in promised delivery, without accepted reasons, or failure to meet specifications authorizes TFC to purchase supplies elsewhere and charge the full increase, if any, in cost and handling to Vendor.

(b) Delivery shall be made between 8:00 am and 4:00 pm Monday through Friday except on regularly observed State or federal holidays, unless prior approval has been obtained from TFC.

(c) Receipt of goods or services does not constitute acceptance.

(d) Goods and materials shall be property packaged. Damaged goods and materials will not be accepted. If the damage is not readily apparent at the time of delivery, the goods shall be returned to the vendor at no cost to TFC. TFC reserves the right to inspect goods at a reasonable time subsequent to delivery where circumstances or conditions prevent effective inspection of the goods at the time of delivery.

2.6 INSPECTIONS AND TESTS. All goods will be subject to inspection and test by TFC. Authorized TFC personnel shall have access to supplier's place of business for the purpose of inspecting merchandise. Tests shall be performed on samples submitted with the bid or on samples taken from regular shipment. All costs shall be borne by Vendor in the event products tested fail to meet or exceed all conditions and requirements of the specification. Goods delivered and rejected in whole or in part may, at TFC's option, be returned to Vendor or held for disposition at vendor's expense. Latent defects may result in revocation of acceptance.

2.7 VENDOR PERFORMANCE. (a) TFC is required to report a vendor's performance on any purchase of $25,000 or more from contracts administered by the agency or any other purchase made through TFC's delegated authority or a purchase made pursuant to the authority in Texas Government Code, Title 10, Subtitle D or a purchase exempt from CPA/TPASS procurement rules and procedures.

(b) Respondent's past performance will be measured based upon a classification given by the CPA rating a vendor on an A through F scale, with A being the highest grade. TFC is required to review the rating in the CPA's performance tracking system to determine whether to award a contract to a Respondent.

(c) Vendor performance information is located on the CPA website at: <A href="http://www.window.state.tx.us/procurement/prog/venor_performance/">http://www.window.state.tx.us/procurement/prog/venor_performance/</A>.

(d) TFC may conduct reference checks with other entities regarding past performance. In addition to evaluating performance through the Vendor Performance Tracking System, as authorized by Title 34, Part 1, Chapter 20, Subchapter C, Section 20.108 of the Texas Administrative Code, TFC may examine other sources of vendor performance including, but not limited to, notices of termination, cure notices, assessments of liquidated damages, litigation, audit reports and non-renewal of contracts. Any such investigations shall be at the sole discretion of TFC, and any negative findings, as determined by TFC, may result in non-award to the Respondent.

2.8 AWARD OF PURCHASE ORDER. A response to this solicitation is an offer to contract based upon the terms, conditions, and specifications contained herein. Responses do not become a purchase order until they are accepted by the TFC Procurement Division through issuance of a purchase order number. The Purchase Order shall be governed, construed, and interpreted under the laws of the State of Texas. The factors listed in Texas Government Code, Title 10, Subtitle D, Section 2156.007 shall also be considered in making an award.

2.9 IRREVOCABILITY OF A RESPONSE. The response is irrevocable for thirty (30) days from opening if the response is an invitation for bid and ninety (90) days for all other solicitations. This period may be extended at TFC's request with the Respondent's written agreement.

2.10 ORDER OF PRECEDENCE. In the event of any conflict or contradiction between or among solicitation documents, the Notice of Award, as modified by any amendments, shall control over the solicitation and the response. The solicitation, as modified by any addenda, shall control over the response.

2.11 PURCHASE ORDER DOCUMENTATION. The Purchase Order will consist of the Notice of Award, the solicitation package, all attachments and the mandatory Price Sheet, together with any modifications made through addenda thereto, and the successful response, together with any clarifications thereto that are submitted at the request of TFC. No terms or conditions that are included in any response or submitted by Respondent that differ from or are contrary to the terms and conditions of TFC's solicitation documents constitute part of the Purchase Order unless specifically incorporated by TFC in writing signed by TFC.

III. RESPONDENT AFFIRMATIONS.

3.1 FALSE STATEMENTS. Respondent represents and warrants that all statements and information prepared and submitted in response to the solicitation are current, complete, true, and accurate. Signing the solicitation with a false statement is a material breach of this Purchase Order and shall void the submitted response or any resulting Purchase Orders, and may result in removal of the Respondent from the Centralized Master Bidders List.

3.2 CONFORMANCE. Respondent represents and warrants that all goods and services furnished shall conform in all respects to the terms of this Purchase Order, including any drawings, specifications or standards incorporated herein, and any defect in materials, workmanship and free from such defects in design. In addition, Respondent represents and warrants that goods and services are suitable for and will perform in accordance with the purposes for which they are intended.

3.3 FINANCIAL INTERESTS/GIFTS. (a) Pursuant to Texas Government Code Sections 572.051 and 2255.001 and Texas Penal Code Section 36.09, Respondent has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this solicitation.

(b) Pursuant to Texas Government Code Chapter 573 and Section 2254.032, if applicable, Respondent certifies that Respondent knows of no officer or employee of TFC, nor any relative within the second degree of consanguinity or affinity of an officer or employee of TFC, that has a financial interest in Respondent's company or corporation. Respondent further certifies that no partner, corporation, or unincorporated association which employs, retains or contracts with, or which may employ, retain, or contract with any of the above, has a financial interest in any entity with which Respondent will be dealing on behalf of TFC.

3.4 ELIGIBILITY. Pursuant to Texas Government Code Section 2155.004(b), Respondent certifies that the individual or business entity named in this response is not ineligible to receive the specified Purchase Order and acknowledges that the Purchase Order may be terminated and payment withheld if this certification is inaccurate.

3.5 FAMILY CODE. Pursuant to the requirements of Texas Family Code Section 231.006, regarding delinquent child support, the undersigned signatory certifies that the individual or business entity named in this Purchase Order is not ineligible to receive payment under this Purchase Order and, if applicable, Respondent has provided the name and Social Security Number of each person (sole proprietors, firm owners, partners, or shareholders) with at least twenty five percent (25%) ownership of the business entity entering into this Purchase Order prior to its execution. Respondent acknowledges that this Purchase Order may be terminated and payment may be withheld if this certification is inaccurate.

3.6 DEBTS OR DELINQUENCIES TO STATE. Pursuant to Texas Government Code Section 403.055, Respondent understands and agrees that any payment due under this Purchase Order may be applied toward payment of any debt that is owed to the State of Texas including, but not limited to, delinquent taxes and child support.

3.7 ANTITRUST AND ASSIGNMENT OF CLAIMS. (a) Respondent represents and warrants that neither Respondent nor any firm, corporation, partnership or institution represented by Respondent, or anyone acting for such firm, corporation, or institution has: (i) violated the antitrust laws of the State of Texas under the Texas Business and Commerce Code, Chapter 15, or the federal antitrust laws; nor (ii) communicated directly or indirectly the solicitation made to any competitor or any other person engaged in such line of business.

(b) Respondent hereby assigns to the State of Texas all of Vendor's rights, title and interest in and to all claims and causes of action Respondent may have under the antitrust laws of Texas or the United States for overcharges associated with this Purchase Order.

3.8 DECEPTIVE TRADE PRACTICE; UNFAIR BUSINESS PRACTICES. Respondent represents and warrants that it has not been the subject of allegations of Deceptive Trade Practices violations under the Texas Business and Commerce Code, Chapter 17, or allegations of any unfair business practice in any administrative hearing or court suit and that Respondent has not been found to be liable for such practices in such proceedings. Respondent certifies that it has no officers who have served as officers of other entities who have been the subject allegations of Deceptive Trade Practices violations or allegations of any unfair business practices in an administrative hearing or court suit and that such officers have not been found to be liable for such practices in such proceedings.

3.9 AGENCY EXECUTIVE HEAD. Under Texas Government Code Section 669.003 relating to contracting with an executive of a state agency, Respondent represents that no person who, in the past four (4) years, served as an executive of TFC or any other state agency, was involved with or has any interest in this Purchase Order or contract resulting from this solicitation. If Respondent employs or has used the services of a former executive head of TFC or any other state agency, then Respondent shall provide the following information: the name of the former executive, the name of the state agency, the date of separation from the state agency, the position held with Respondent, and the date of employment with Respondent.

3.10 NO CONFLICTS. Respondent represents and warrants that Respondent has no actual or potential conflicts of interest in providing services to the State of Texas under this Purchase Order and that Respondent's provision of services under this Purchase Order would not reasonably create an appearance of impropriety.

3.11 PROHIBITION ON CERTAIN BIDS AND CONTRACTS. Under Texas Government Code, Section 2155.006, relating to the prohibition of certain bids and contracts, Respondent certifies that the individual or business entity named in this Purchase Order is not ineligible to receive the specified Purchase Order and acknowledges that this Purchase Order may be terminated and payment withheld if this certification is inaccurate. Respondent represents and warrants that during the five (5) year period preceding the date of this Purchase Order, Respondent has not been: (i) convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Texas Utilities Code, Section 39.459, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or (ii) assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Texas Utilities Code, Section 39.459, Hurricane Katrina, or any other disaster occurring after September 24, 2005.

3.12 PRIOR EMPLOYMENT. Vendor certifies that Vendor shall comply with all applicable Texas and federal laws and regulations relating to the hiring of former state employees including "revolving door" provisions. Furthermore, Vendor certifies that if it employs any former employee of TFC, such employee will perform no work in connection with this Purchase Order during the twelve (12) month period immediately following the employee's last date of employment at TFC.

IV. PAYMENT.

4.1 **PAYMENT**. Payment for goods and services purchased with state-appropriated funds is made by warrants or by direct deposit from the State Treasury. No penalty for late payment will be incurred by TFC if payment is made in thirty (30) days or less from receipt of goods, services or a correct invoice, whichever is later. Payment under this Purchase Order are subject to the availability of appropriated funds. Payment will be made in accordance with Chapter 2251 of the Texas Government Code.

(b) If, at any time during the term of this Purchase Order, Vendor reduces the comparable price of any article or service covered by the Purchase Order to customers other than TFC, the prices charged to TFC for such articles or services shall also be reduced proportionately. Such reduction shall be effective at the same time and in the same manner as the reduction in price to customers other than TFC. In addition to invoicing at the reduced prices, Vendor shall furnish promptly to TFC complete information regarding the reduction.

4.2 PAYMENTS TO VENDOR FOR GOODS. To facilitate payments for goods provided by Vendor to TFC, Vendor's invoice shall include, but not be limited to, the following:

(i) the Vendor's mailing and e-mail address, if applicable;

(ii) the Vendor's telephone number;

(iii) the name and telephone number of a person designated by the vendor to answer questions regarding the invoice;

(iv) the TFC Purchase Order;

(v) TFC's name, and delivery address;

(vi) the TFC requisition number, if applicable;

(vii) the TFC contract number or other reference number, if applicable;

(viii) a valid Texas Identification Number (TIN) issued by the CPA;

(ix) a description of the goods or services, in sufficient detail to identify the order which relates to the invoice;

(x) unit numbers corresponding to the original order; and

(xi) other relevant information supporting and explaining the payment requested or identifying a successor organization to an original vendor, if necessary.

4.3 PAYMENTS TO VENDOR FOR SERVICES. (a) Payments for services provided by Vendor will be made on a monthly basis and within thirty (30) days from receipt of a correct invoice or billing statement in accordance with the Texas Government Code, Chapter 2251, Texas Prompt Payment Act. An invoice is considered received on the date it is date stamped by TFC. Vendor will be paid for completion of work accepted and approved by TFC. For large projects, partial payment may be allowed once per month on completed work with acceptance and approval of TFC.

(b) Vendor shall invoice TFC for services performed by vendor identification number, building, if applicable, and purchase order number. Invoices must include the purchase order number, the number of employees that worked on the job and the number of hours. Additionally, invoices for any materials purchased for each project must be provided. Address for submission is: Texas Facilities Commission, Accounts Payable, P.O. Box 13047, Austin, Texas 78711-3047 or by e-mail to <A href="mailto:accountspayable@tfc.state.tx.us">accountspayable@tfc.state.tx.us</A>.

4.4 STATE FUNDING. (a) This Purchase Order shall not be construed as creating any debt on behalf of the State of Texas and/or TFC in violation of Tex. Const. art. III, § 49. In compliance with Tex. Const. art. VIII, § 6, it is understood that all obligations of TFC hereunder are subject to the availability of state funds. If such funds are not appropriated or become unavailable, this Purchase Order may be terminated. In that event, the parties shall be discharged from further obligations, subject to the equitable settlement of their respective interests accrued up to the date of termination.

(b) Furthermore, any damages due under this Purchase Order should not exceed the amount of funds appropriated for pay¬ment under this Purchase Order, but not yet paid to Vendor, for the fiscal year budget in existence at the time of the breach; provided, however, the foregoing shall not be construed as a waiver of sovereign immunity.

4.5 TRAVEL. Any travel or per diem required by Vendor to perform its obligations under the Purchase Order will be at Vendor's expense. All travel and per diem that TFC requests in addition to what the Purchase Order requires Vendor to provide at the Vendor's expense will be paid at rates not to exceed State of Texas travel laws, rules and regulations. Vendor must obtain prior written approval by TFC prior to incurring travel expenses.

V. TERMINATION AND DEFAULT.

5.1 TERMINATION. (a) TFC may terminate this Purchase Order immediately for default by providing written notice to Vendor of such termination if the Vendor fails to execute the work properly, performs work in an unsatisfactory manner, or fails to perform any provision of the Purchase Order. In the event of abandonment or default, Vendor will be responsible for paying damages to TFC, including but not limited to, the cost to re-solicit this Purchase Order and any consequential damages to the State of Texas or TFC resulting from Vendor's non-performance. The defaulting Vendor will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of work, unless the scope of work is significantly changed.

(b) TFC may, at its sole option and discretion, terminate this Purchase Order at any time, for any reason whatsoever, in whole or in part, by giving written notice (hereinafter referred to as the "Notice of Termination") to Vendor at least thirty (30) days prior to the effective date of termination or reduction in the scope of work. In the event of termination by TFC under this subsection, Vendor shall be governed by the terms and conditions, and shall perform the acts outlined in the following Section 5.1(c).

(c) Vendor shall terminate all work under the Purchase Order to the extent and on the date specified in the Notice of Termination and until such date shall, to the extent stated in the Notice of Termination, do such work as may be necessary and be compensated only for such work as may be necessary as determined by TFC preserve the work in progress and to protect materials, properties, and equipment. In the event of termination by TFC, TFC shall pay Vendor for all work satisfactorily performed up to the effective date of termination or reduction in the scope of work in accordance with the prices included in the scope of work.

(d) Vendor may terminate the Purchase Order upon providing sixty (60) days' written notice to TFC. In the event of termination by Vendor, Vendor shall be governed by the terms and conditions of this Purchase Order, and shall perform the acts outlined in Section 5.1(c) above. Vendor will be held responsible for additional cost incurred from the termination of this Purchase Order.

5.2. CHANGE IN FEDERAL OR STATE REQUIREMENTS. If federal or state laws, rules, regulations or requirements applicable to this Purchase Order are amended, performance under this Purchase Order will be subject to the laws, rules, regulations or requirements applicable at the time of performance under the Purchase Order. If federal or state laws or regulations or other federal or state requirements are amended or judicially interpreted so that either TFC or Vendor cannot reasonable fulfill the Purchase Order and if the parties cannot agree to an amendment that would enable substantial continuation of the Purchase Order, the parties shall be discharged from any further obligations under the Purchase Order.

5.3. RIGHTS UPON TERMINATION OR EXPIRATION OF PURCHASE ORDER. In the event that the Purchase Order is terminated for any reason, or upon is expiration, TFC shall retain ownership of all associated work products and documentation obtained from Vendor under the Purchase Order.

5.4 NO LIABILITY UPON TERMINATION. If this Purchase Order is terminated for any reason, TFC and the State of Texas shall not be liable to Vendor for any damages, claims, losses, or any other amounts arising from or related to any such termination absent an award of damages pursuant to Texas Government Code, Chapter 2260.

5.5 SURVIVAL OF TERMS. Termination of the Purchase Order for any reason shall not release Vendor from any liability of obligation set forth in the Purchase Order that is expressly stated to survive any such termination or by its nature would be intended to be applicable following any such termination, including the provisions regarding confidentiality, indemnification, transition, records, audit, property rights, dispute resolution and invoice and verification.

VI. CRIMINAL BACKGROUND CHECK AND E-VERIFY.

6.1 GENERAL AND CRIMINAL BACKGROUND CHECKS. (a) Vendor represents and warrants that Vendor and Vendor's employees have not been convicted of a felony criminal offense, or that, if such a conviction has occurred, Vendor has fully advised TFC as to the facts and circumstances surrounding the conviction.

(b) Vendor's employees and subcontractors that will complete any work on-site at a state-owned property may be subject to a criminal background check. Any expense associated with such criminal background check shall be borne by Vendor. A complete criminal background check shall be completed before any employee performs services at the site, and may be requested at any time thereafter. Criminal background checks must be accomplished by the Texas Department of Public Safety ("DPS"), which includes fingerprint processing by an independent third-party company selected by DPS. Upon receipt of the fingerprints of Vendor's employees and/or subcontractors, DPS or TFC, will adjudicate the results of the criminal background searches in accordance with the criteria set forth in the TFC Criminal Background Checks and Application Guidelines attached hereto and incorporated herein for all purposes.

6.2 E-VERIFY. (a.) By entering into this Contract, Contractor certifies and ensures that it utilizes and will continue to utilize, for the term of this Contract, the U.S. Department of Homeland Security's E-Verify system, in accordance with the U.S. Department of Homeland Security's rules, to determine the eligibility of:

(i) all persons employed to perform duties within the State of Texas, during the term of the Contract; and

(ii) all persons (including subcontractors) assigned by the Contractor to perform work pursuant to the Contract, within the United States of America.

(b) Contractor shall provide, upon request of TFC and if available, an electronic or hardcopy screenshot of the confirmation or tentative non-confirmation screen containing the E-Verify case verification number for attachment to the Form I-9 for the three (3) most recent hires that match the criteria above, by the Contractor, and Contractor's subcontractors, as proof that this provision is being followed. If this certification is falsely made, the Contract may be immediately terminated, at the discretion of TFC, and at no fault to TFC, with no prior notification. Contractor shall also be responsible for the costs of any re-solicitation that TFC must undertake to replace the terminated Contract.

(c) For persons not eligible for E-Verify screening, Contractor (including sub-contractors) shall provide, upon request by TFC, another form of documentation of proof of eligibility to work in the United States of America.

VII. RECORDS, AUDIT, PROPRIETARY INFORMATION, AND PUBLIC DISCLOSURE.

7.1 SUPPORTING DOCUMENTS, RETENTION; RIGHT TO AUDIT; INDEPENDENT AUDITS.
(a) Vendor shall maintain and retain supporting fiscal and any other documents relevant to showing that any payments under this Purchase Order were expended in accordance with the laws and regulations of the State of Texas including, but not limited to, requirements of the Comptroller of the State of Texas and the State Auditor. Vendor shall maintain all such documents and other records relating to this Purchase Order and the State's property for a period of seven (7) years after the date of submission of the final invoices or until a resolution of all billing questions, whichever is later. Vendor shall make available at reasonable times and upon reasonable notice, and for reasonable periods, all documents and other information related to the Purchase Order. Vendor and any subcontractors shall provide the State Auditor with any information that the State Auditor deems relevant to any investigation or audit. Vendor must retain all work and other supporting documents pertaining to this Purchase Order, for purposes of inspecting, monitoring, auditing, or evaluating by TFC and any authorized agency of the State of Texas, including an investigation or audit by the State Auditor.

(b) Vendor shall cooperate with any authorized agents of the State of Texas and shall provide them with prompt access to all of such State's work as requested. The acceptance of funds by Vendor or any other entity or person directly under this Purchase Order, or indirectly through a subcontractor under this Purchase Order, shall constitute acceptance of the authority of the State Auditor to conduct an audit or investigation in connection with those funds. Vendor acknowledges and understands that the acceptance of funds under this Purchase Order shall constitute consent to an audit by the State Auditor, Comptroller or other agency of the State of Texas. Vendor shall ensure that this paragraph concerning the State's authority to audit funds received indirectly by subcontractor through Vendor and the requirement to cooperate is included in any subcontractor it awards. Furthermore, under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the State Auditor must provide the State Auditor with access to any information the State Auditor considers relevant to the investigation or audit.

7.2 CONFIDENTIALITY. Vendor shall keep confidential all information, in whatever form, produced, prepared, observed or received by Vendor to the extent that such information is:

(a) confidential by law;

(b) marked or designated "confidential" (or words to that effect) by TFC; or

(c) information that Vendor is otherwise required to keep confidential by this Purchase Order.

7.3 PUBLIC RECORDS. Notwithstanding any provisions of this Purchase Order to the contrary, Vendor understands that TFC will comply with the Texas Public Information Act, Texas Government Code, Chapter 552. If contacted by TFC, Vendor will cooperate with TFC in the production of documents responsive to the request. Vendor agrees to provide the documents responsive to the request in the format and within the time frame specified by TFC. Vendor may request that TFC seek an opinion from the Office of the Texas Attorney General. However, the final decision whether to seek a ruling from the Office of the Texas Attorney General will be made by TFC in its sole discretion to comply with the legal requirements of the Texas Public Information Act. Additionally, Vendor will notify TFC's general counsel within twenty-four (24) hours of receipt of any third-party requests for information written, produced, collected, assembled, or maintained in connection with this Purchase Order and/or any amendment to this Purchase Order. This Purchase Order and/or any amendment to this Purchase Order and all data and other information generated or otherwise obtained in its performance is subject to the Texas Public Information Act. Vendor agrees to maintain the confidentiality of information received from the State of Texas during the performance of this Purchase Order, including information which discloses confidential personal information particularly, but not limited to, social security numbers. Furthermore, Vendor is required to make any information created or exchanged with the State pursuant to this Purchase Order, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public as specified by TFC at no additional charge to the State.

7.4 PUBLIC DISCLOSURE. No public disclosures or news releases pertaining to this Purchase Order shall be made without prior written approval of TFC.

VIII. BONDS AND INSURANCE.

8.1 BONDS. (a) Prior to commencement of construction work, if applicable under the solicitation, Vendor is required to tender payment and performance bonds to TFC, as required by Texas Government Code, Chapter 2253, when the following circumstances apply:

(i) A performance bond is required if the Purchase Order amount is in excess of $100,000.00. The performance bond is solely for the protection of TFC. The performance bond is to be for the sum of the Delivery Release to guarantee the faithful performance of the work in accordance with the Purchase Order. The performance bond shall be effective through Contractor's warranty period.

(ii) A payment bond is required if the Purchase Order amount is in excess of $25,000.00. The payment bond is to be for the sum of the Purchase Order and is payable to TFC solely for the protection and use of payment bond beneficiaries who have a direct contractual relationship with Vendor or a subcontractor.

(b) Each bond shall be executed by a corporate surety or sureties authorized to do business in the State of Texas and acceptable to TFC, on TFC's form (a copy of which can be provided by TFC upon request), and in compliance with the relevant provisions of the Texas Insurance Code. If any bond is for more than ten (10) percent of the surety's capital and surplus, TFC may require certification that the company has reinsured the excess portion with one or more reinsurers authorized to do business in the State. A reinsurer may not reinsure for more than ten (10) percent of its capital and surplus. If a surety upon a bond loses its authority to do business in the State, Vendor shall, within thirty (30) days after such loss, furnish a replacement bond at no added cost to TFC.

(c) Each bond shall be accompanied by a valid power of attorney (issued by the surety company and attached, signed and sealed with the corporate embosses seal, to the bond) authorizing the attorney in fact who signs the bond to commit the company to the terms of the bond, and stating any limit in the amount for which the attorney can issue a single bond.

(d) The process of requiring and accepting bonds and making claims thereunder shall be conducted in compliance with Texas Government Code, Chapter 2253. IF FOR ANY REASON A STATUTORY PAYMENT OF PERFORMANCE BOND IS NOT HONORED BY THE SURETY, VENDOR SHALL FULLY INDEMNIFY AND HOLD OWNER HARMLESS OF AND FROM ANY COSTS, LOSSES, OBLIGATIONS OR LIABILITIES IT INCURS AS A RESULT.

(e) TFC shall furnish certified copies of the payment bond and the related Purchase Order to any qualified person seeking copies who complies with Texas Government Code, Section 2253.026.

(f) Claims on payment bonds must be sent directly to Vendor and its surety in accordance with Texas Government Code, Section 2253.041. All payment bond claimants are cautioned that no lien exists on the funds unpaid to Vendor on such contract, and that reliance on notices sent to TFC may result in loss of their rights against Vendor and/or its surety. TFC is not responsible in any manner to a claimant for collection of unpaid bills, and accepts no such responsibility because of any representation by any agent or employee.

(g) The rights of subcontractors regarding payment are governed by Texas Property Code, Sections 53.231–53.239 when the value of a Purchase Order is less than $25,000.00. These provisions set out the requirements for filing a valid lien on funds unpaid to Vendor as of the time of filing the claim, actions necessary to release the lien and satisfaction of such claim.

(h) Sureties shall be listed on the US Department of the Treasury's Listing Approved Sureties stating companies holding Certificates of Authority as acceptable sureties on federal bonds and acceptable reinsuring companies (Department Circular 570).

8.2 INSURANCE. Prior to the commencement of work under this Purchase Order, Vendor agrees to carry and maintain insurance in the following types and amounts for the duration of this Purchase Order, to furnish certificates of insurance including corresponding policy endorsements, and make available, at no cost to TFC, copies of policy declaration pages as evidence thereof:

(a) Workers' Compensation and Employers' Liability coverage with minimum policy limits for employers' liability of $100,000.00 bodily injury per accident, $100,000.00 bodily injury disease policy limit and $500,000.00 per disease, per employee. Workers' compensation insurance coverage must meet the statutory requirements of Texas Labor Code, Section 401.011(46). Certification in writing from Vendor and subcontractor shall be provided to TFC in accordance with Texas Labor Code, Section 406.096. A Waiver of Transfer Right of Recovery Against Others in favor of TFC shall be included.

(b) Commercial General Liability with a combined single limit of $500,000.00 per occurrence for coverage A and B including products/completed operations, where appropriate, with a separate aggregate of $1,000,000.00 for bodily injury and for property damages. The general aggregate limit shall apply on a per Project basis. The policy shall contain the following provisions:

(i) blanket contractual liability coverage for liability assumed under the Purchase Order;

(ii) independent Vendors' coverage;

(iii) State of Texas, TFC, its officials, directors, employees, representatives and volunteers must be listed as additional insureds;

(iv) thirty (30) day Notice of Cancellation in favor of TFC; and

(v) Waiver of Transfer Right of Recovery Against Others in favor of TFC.

(c) Business Automobile Liability Insurance for all owned, non-owned and hired vehicles with a minimum combined single limit of $500,000.00 per accident for bodily injury and property damage. Alternate acceptable limits are $500,000.00 bodily injury per person, $500,000.00 bodily injury per occurrence and at least $500,000.00 property damage liability per accident. The policy shall contain the following endorsements in favor of TFC:

(i) Waiver of Subrogation endorsement;

(ii) Thirty (30) day Notice of Cancellation endorsement; and

(iii) Additional Insured endorsement.

(d) For renovation projects or projects that involve portions of work contained within an existing structure, the policy must also include Existing Property coverage in an amount equivalent to the Total Purchase Order Sum. For purposes herein, "Existing Property" means existing buildings or structures as well as, all personal property contained therein. "Existing Property" does not include personal property owned or operated by Vendor or any subcontractors.

(e) For TFC furnished equipment or materials that will be in care, custody or control of Vendor, Vendor shall be responsible for any and all damages and losses thereto.

(f) The policy must be written jointly in the names of TFC and Vendor. Subcontractors must be named as additional insureds. The policy shall have endorsements as follows:

(i) this insurance shall be specific as to coverage and not contributing insurance with any insurance or self-insurance carried by TFC, if any;

(ii) this insurance shall not contain an occupancy clause suspending or reducing coverage should Owner partially occupy the Site and before the parties have determined Substantial Completion; and

(iii) loss, if any, shall be adjusted with and made payable to TFC as trustee for the insureds as their interests may appear. TFC shall be named as loss payee.

(g) Valuation of any loss for the renovation and any existing property (exclusive of building and existing structures) shall be at replacement cost.

(h) Policy shall remain in effect until Substantial Completion is achieved as to all phases of the Project.

8.3 GENERAL REQUIREMENTS FOR INSURANCE. (a) Vendor shall be responsible for deductibles and self-insured retention, if any, stated in policies. All deductibles or self-insured retention shall be disclosed on the certificate of insurance required above. If coverage is underwritten on a claims-made basis, the retroactive date shall be coincident with the date of this Purchase Order and the certificate of insurance shall state that the coverage is claims made and the retroactive date.

(b) Vendor shall maintain coverage for the duration of this Purchase Order. Coverage, including any renewals, shall have the same retroactive date as the original policy applicable to the Purchase Order. Vendor shall, on at least an annual basis, provide TFC with an insurance certificate as evidence of such insurance. The premium for this extended reporting period shall be paid by Vendor.

(c) Vendor shall not commence work under this Purchase Order until they have obtained the required insurance and until such insurance has been reviewed by TFC. Vendor shall not allow any subcontractors to commence work until the required insurance has been obtained and approved. Approval of insurance by TFC shall not relieve or decrease the liability of Vendor hereunder.

(d) Insurance shall be written by a company licensed to do business in the State of Texas at the time the policy is issued and shall be written by a company with an A.M. Best rating of A- or better.

(e) TFC shall be an additional insured as its interests may apply on the Commercial General Liability and Business Automobile Liability Policies.

(f) Vendor shall produce endorsements upon TFC's request to each affected policy:

(i) Naming TFC, P.O. Box 13047, Austin, Texas 78711 as additional insured (except Workers' Compensation and employers' Liability);

(ii) That obligates the insurance company to notify the TFC Purchase Order Administrator, TFC, P.O. Box 13047, Austin, Texas 78711, of any non-renewal, cancellations or material changes at least thirty (30) days prior to change or cancellation; and,

(iii) That the "other" insurance clause shall not apply to the State where TFC is an additional insured shown on the policy. It is intended that policies required in this Purchase Order, covering both TFC and Vendor, shall be considered primary coverage as applicable.

(g) TFC shall be entitled, upon request and without expense, to receive copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies and if such request for deletions, revisions, or modifications are commercially available.

(h) Vendor shall not cause any insurance required under this Purchase Order to cancel nor permit any insurance to lapse during the term of this Purchase Order.

(i) TFC reserves the right to review the insurance requirements of this section during the effective period of the Purchase Order and to make reasonable adjustments to insurance coverage and their limits when deemed necessary and prudent by TFC based upon changes in statutory law, court decisions or the claims history of the industry as well as Vendor (such adjustments shall be commercially available to Vendor).

(j) Vendor shall provide TFC thirty (30) days written notice of erosion of the aggregate limit.

(k) Actual losses not covered by insurance as required by this Purchase Order shall be paid by Vendor.

(l) Vendor's insurance shall include a waiver of subrogation to TFC for the Workers' Compensation and Employers' Liability, Commercial General Liability, and Business Automobile Liability policies.

IX. INDEMNIFICATION AND LEGAL OBLIGATIONS.

9.1 INDEMNIFICATION. VENDOR SHALL INDEMNIFY AND HOLD HARMLESS TFC AND THE STATE OF TEXAS, THEIR AGENTS AND EMPLOYEES, FROM ALL LIABILITY AND DAMAGES ACTIONS, CLAIMS, DEMANDS OR SUITS FOR ANY AND ALL INJURIES OR DAMAGES SUSTAINED BY ANY PERSON OR PROPERTY TO THE EXTENT CAUSED BY ANY NEGLIGENCE IN THE PERFORMANCE OF THE SERVICES REFERENCED HEREIN AND FROM ANY CLAIMS OR AMOUNTS ARISING OR RECOVERABLE UNDER BOTH FEDERAL AND STATE WORKERS COMPENSATION LAWS, TEXAS TORT CLAIMS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE, CHAPTER 101), OR ANY OTHER SUCH LAWS. VENDOR SHALL FURTHER SO INDEMNIFY AND BE RESPONSIBLE FOR ALL DAMAGES OR INJURY TO PROPERTY OF ANY CHARACTER TO THE EXTENT CAUSED BY ANY NEGLIGENT ACT, OMISSION OR MISCONDUCT OF VENDOR, VENDOR'S AGENTS OR EMPLOYEES, IN THE MANNER OR METHOD OF EXECUTION OF THE SERVICES HEREIN TO BE PERFORMED; OR FROM FAILURE TO PROPERLY PERFORM THE SERVICES TO THE REQUIRED STANDARD STATED HEREIN; OR FROM DEFECTIVE WORK OR MATERIALS; OR FROM BREACH OF ANY REPRESENTATION OR WARRANTY HEREIN. THESE REQUIREMENTS SHALL SURVIVE THE TERM OF THIS AGREEMENT UNTIL ALL CLAIMS HAVE BEEN SETTLED OR RESOLVED AND SUITABLE EVIDENCE TO THAT EFFECT HAS BEEN FURNISHED TO TFC. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TFC AND/OR THE STATE OF TEXAS ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL.

9.2 INFRINGEMENT INDEMNIFICATION. (a) VENDOR SHALL INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND CUSTOMERS, AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, VENDORS ASSIGNEES AND/OR DESIGNEES FROM ANY AND ALL THIRD PARTY CLAIMS INVOLVING INFRINGEMENT OF UNITED STATES PATENTS, COPYRIGHTS, TRADE AND SERVICE MARKS, AND ANY OTHER INTELLECTUAL OR INTANGIBLE PROPERTY RIGHTS IN CONNECTION WITH THE PERFORMANCES OR ACTIONS OF VENDOR PURSUANT TO THIS PURCHASE ORDER. VENDOR AND TFC AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. VENDOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL.

(b) Vendor shall have no liability under this section if the alleged infringement is caused in whole or in part by:

(i) use of the product or service for a purpose or in a manner for which the product or service was not designed;

(ii) any modification made to the product without Vendor's written approval;

(iii) any modifications made to the product by the Vendor pursuant to TFC's specific instructions;

(iv) any intellectual property right owned by or licensed to Customer; or

(v) any use of the product or service by TFC that is not in conformity with the terms of any applicable license agreement.

(c) If Vendor becomes aware of an actual or potential claim, or TFC provides Vendor with notice of an actual or potential claim, Vendor may (or in the case of an injunction against TFC, shall), at Vendor's sole option and expense:

(i) procure for TFC the right to continue to use the affected portion of the product or service, or

(ii) modify or replace the affected portion of the product or service with functionally equivalent or superior product or service so that TFC's use is non-infringing.

9.3 LEGAL OBLIGATIONS. Vendor shall procure and maintain for the duration of this Purchase Order any state, county, city, or federal license, authorization, insurance, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Vendor to provide the goods or services required by this Purchase Order. Vendor will be responsible to pay all taxes, assessments, fees, premiums, permits, and licenses required by law. Vendor agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Purchase Order.

9.4 COMPLIANCE WITH LAWS. Vendor shall comply with all applicable federal, state, and local laws, including laws governing labor, equal employment opportunity, safety, and environmental protection. Vendor shall make itself familiar with and at all times shall observe and comply with all federal, state, and local laws, ordinances, and regulations which in any manner affect performance under this purchase order.

9.5 GOVERNING LAW AND VENUE. This Purchase Order and the rights and obliga¬tions of the parties hereto shall be governed by, and con¬strued according to, the laws of the State of Texas, exclusive of conflicts of law provisions. Venue of any suit brought under this Purchase Order shall be in a court of competent jurisdiction in Travis County, Texas. Vendor irrevocably waives any objection, including any objection to personal jurisdiction or proper venue or based on the grounds of forum non conveniens, which it may now or hereafter have to the filing of any action or proceeding in such jurisdiction in respect of this Purchase Order or any document related hereto. Nothing in this section shall be construed as a waiver of sovereign immunity by TFC.

X. ASSIGNMENT AND SUBCONTRACTING.

10.1 ASSIGNMENT. Vendor shall neither assign, transfer, nor delegate any rights, obligations, or duties under this Purchase Order without the prior written consent of TFC.

10.2 SUBCONTRACTING. It is mutually understood and agreed that Vendor may subcontract with others for some or all of the services to be performed. Subcontractors providing service under this Purchase Order shall meet the same requirements and level of experience as required of the Vendor. No subcontract under the Purchase Order shall relieve Vendor of responsibility for the service. If Vendor uses a subcontractor for any or all of the work required, the following conditions shall apply under the listed circumstances.

(i) Vendors planning to subcontract Order all or a portion of the work to be performed under this Purchase Order shall identify the proposed subcontractor on the HUB Subcontracting Plan, as further described in Section 10.3 below.

(ii) Subcontracting shall be at the Vendor's expense.

(iii) TFC retains the right to check any subcontractor's background and make the determination to approve or reject the use of subcontractor.

(iv) Vendor shall be the only contact for TFC and subcontractor. Vendor shall list a designated point of contact for all TFC and subcontractor inquiries.

10.3 HISTORICALLY UNDERUTILIZED BUSINESSES (HUBS). In accordance with State law, it is TFC's policy to assist HUBs, whether minority or women owned, whenever possible, to participate in providing goods and services to the agency. TFC encourages those parties with whom it does business for the provision of goods and services to adhere to this same philosophy in selecting subcontractors to assist in fulfilling Vendor's obligations with TFC. If Vendor subcontractors with others for some or all of the services to be performed under this Purchase Order, Vendor shall comply with all HUB requirements pursuant to Texas Government Code, Chapter 2161 as described in the HUB Subcontracting Plan. In addition to information required by Section 10.2 above, Vendor shall provide TFC with pertinent details of any participation by a HUB in fulfilling the duties and obligations arising hereunder on a HSP Progress Assessment Report (hereinafter referred to as "PAR"), attached hereto and incorporated herein for all purposes. PARs shall be submitted monthly with each invoice and are a condition of payment.

10.4 PAYMENT OF SUBCONTRACTORS. As provided by Section 2251.022 of the Texas Government Code, Vendor shall pay a subcontractor its appropriate share of a payment received by TFC not later than the tenth (10th) day after the date Vendor received payment.

XI. WARRANTIES.

11.1 PERFORMANCE WARRANTY. All work performed under this Purchase Order shall be in accordance with applicable terms and conditions of this Purchase Order and of local codes and ordinances and any other authority having lawful jurisdiction. Vendor shall guarantee all work included in the Purchase Order against any defects in workmanship and shall satisfactorily correct, at no cost to TFC, any such defect that may become apparent within a period of one (1) year after completion of work. The warranty period shall commence upon the date of acceptance by TFC.

11.2. MATERIAL WARRANTY. All material furnished under this Purchase Order is guaranteed by Vendor to be in compliance with this Purchase Order, fit and sufficient for the purpose intended, new and free from defects. Materials furnished under this Purchase Order shall be the latest improved product in current production, as offered to commercial trade, and shall be of quality material. Used, shopworn, demonstrator, prototype, reconditioned, or discontinued products or material are not acceptable. The warranty period for Vendor-provided materials shall be for a period of one (1) year after completion of the installation or within the manufacturer's warranty, whichever is longer. The warranty period shall commence upon date of acceptance by TFC.

11.3 NO LITIGATION WARRANTY. Vendor represents and warrants that it is not a party to or otherwise substantively involved in any matter involving litigation, or any administrative or regulatory proceeding, which, if decided adversely to Vendor's interests, could be reasonably expected to adversely affect Vendor's ability to fully and timely perform all of its obligations under this Purchase Order. Vendor agrees that in the event any action, event or circumstance occurs, that could be reasonably expected to adversely affect Vendor's ability to fully and timely perform all of its obligations under this Purchase Order, Vendor shall provide written notice to TFC of such action, event or circumstance, and shall continue to update TFC in writing every thirty (30) days thereafter of the status of the action, event or circumstance, until otherwise directed by TFC.

11.4 WARRANTY ON SAFETY AND HEALTH REQUIREMENTS. Vendor shall procure, at Vendor's expense, all necessary and required licenses and permits necessary for the performance of this Purchase Order. Vendor represents and warrants that the services provided under this Purchase Order comply with all applicable federal health and safety standards, including but not limited to, OSHA, and all Texas health and safety standards.

XII. MISCELLANEOUS PROVISIONS.

12.1 NOTICES. Any notice required or permitted to be delivered under this Purchase Order shall be deemed delivered when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to Vendor at the address provided on the response and to TFC at the address set forth below:

For TFC: Texas Facilities Commission
Attention: Legal Services Division
1711 San Jacinto Blvd., Room 400
Austin, TX 78701
Phone: (512) 463-3446
Fax: (512) 236-6171

Notice given in any other manner shall be deemed effective only if and when received by the party to be notified. Either party may change its address for notice by written notice to the other party as herein provided.

12.2 SECURITY AND IDENTIFICATION. Vendor shall abide by all procedures and rules as conveyed by TFC regarding security requirements of the building where work is to be performed. All Vendor's and Subcontractor's personnel must wear uniform clothing to identify the company for which they work.

12.3 VENDOR ACCESS. Access routes, entrance gates or doors, parking and storage areas, and other necessary Contactor access, along with any imposed time limitations shall be designated by TFC. Vendor shall conduct operations in strict observation of the access routes and other areas established. Under no circumstances shall any of Vendor's employees, vehicles, or equipment enter or move upon any area not authorized by TFC for access by Vendor.

12.4 EXAMINATION OF PREMISES. Vendor shall be held to have examined all properties at which the work will take place and to be familiar with the conditions under which the work will be accomplished. Vendor shall inspect existing conditions prior to commencing work, including elements subject to damage or movement during the performance of services under this Purchase Order.

12.5 EXISTING UTILITIES AND STRUCTURES. Vendor shall adequately protect the work, TFC's property, adjacent property and the public. In the event of damage to facilities as a result of Vendor's operations, Vendor shall take immediate steps to notify TFC and subsequently repair or restore all services to the satisfactory approval of TFC. Further, Vendor shall engage any additional outside services which may be necessary to facilitate repairs until services are restored. All costs involved in making repairs and restoring disrupted services shall be at the expense of Vendor, and Vendor shall be fully responsible for any and all claims resulting from the damage. TFC may elect to perform such repairs and deduct the cost of such repairs, replacements, and outside services from amounts due to Vendor. Upon the approval of TFC, Vendor shall have permission to utilize air, water, gas, steam, electricity, and similar items of expense from existing resources on TFC property.

12.6 WASTE REMOVAL. Vendor will be allowed to store materials and equipment in performance of the Purchase Order only if space is available in each building and approved by TFC. Vendor shall keep the premises clean on a continual basis, and no trash or debris will be permitted to accumulate in work areas. Vendor shall be responsible for removal and disposal of all waste packaging material associated with services being performed which may include, if

applicable, the rental of a waste receptacle associated with this Purchase Order. If needed, site placement of the waste receptacle shall be approved by TFC.

12.7 SMOKING. All TFC facilities are nonsmoking buildings. Vendor's employees are prohibited from smoking in all areas except in areas designated for smoking.

12.8 FEDERAL, STATE, AND LOCAL REQUIREMENTS. Vendor shall demonstrate on-site compliance with the Federal Tax Reform Act of 1986, Section 1706, amending Section 530 of the Revenue Act of 1978, dealing with issuance of Form W-2's to common law employees. Vendor is responsible for both federal and State unemployment insurance coverage and standard Workers' Compensation Insurance coverage. Vendor shall comply with all federal and State tax laws and withholding requirements. The State of Texas shall not be liable to Vendor or its employees for any unemployment or workers' compensation coverage, or federal or State withholding requirements. Vendor shall indemnify the State of Texas and shall pay all costs, penalties, or losses resulting from Vendor's omission or breach of this Section.

12.9 DRUG FREE WORK PLACE. Vendor shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (Public Law No. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.) and maintain a drug-free work environment; and the final rule, government-wide requirements for drug-free work place (grants), issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 280, Subpart F) to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference and Vendor, Vendor's employees, and Subcontractors shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.

12.10 RELATIONSHIP OF THE PARTIES. Vendor is associated with TFC only for the purposes and to the extent specified in this Purchase Order, and with respect to performance of the services pursuant to this Purchase Order, Vendor is and shall be an independent contractor. Subject only to the terms of this Purchase Order, Vendor shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Purchase Order. Nothing contained in this Purchase Order shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for TFC whatsoever with respect to the indebtedness, liabilities, and obligations of Vendor or any other party. Vendor shall be solely responsible for, and TFC shall have no obligation with respect to:

(i) withholding of income taxes, FICA or any other taxes or fees;

(ii) industrial or workers' compensation insurance coverage;

(iii) participation in any group insurance plans available to employees of the State of Texas;

(iv) participation or contributions by the State of Texas to the State Employees Retirement System;

(v) accumulation of vacation leave or sick leave; or

(vi) unemployment compensation coverage provided by the State.

12.11 NAME AND ORGANIZATIONAL CHANGES. (a) Vendor must provide TFC with written notification of all name changes and organizational changes relating to Vendor including, but not limited to, merger, acquisition or sale no later than ten (10) business days of such change. Vendor, in its notice, shall describe the circumstances of the name change or organizational change, state its new name, provide the new Tax Identification Number, and describe how the change will impact its ability to perform under the Purchase Order. If the change entails personnel changes for personnel performing the responsibilities of the Purchase Order for Vendor, Vendor shall identify the new personnel and provide resumes to TFC, if resumes were originally required by the solicitation. TFC may request other information about the change and its impact on the Purchase Order and Vendor shall supply the requested information within five (5) working days of receipt of the request. All written notifications of organizational change must include a detailed statement specifying the change and supporting documentation evidencing continued right of Vendor or successor entity, as applicable, to maintain its status as a party to this Purchase Order.

(b) TFC may terminate the Purchase Order due to any change to Vendor that materially alters Vendor's ability to perform under the Purchase Order.

12.12 FORCE MAJEURE. Any delays in or failure of performance by either party, except in respect of the obligation of payments under this Purchase Order, shall not constitute default hereunder if and to the extent such delays or failure of performance are caused by occurrence(s) beyond the reasonable control of the party affected, and which by the exercise of due diligence such party is unable to prevent, herein called "Force Majeure", including acts of God or the public enemy, sabotage, war, mobilization, revolution, civil unrest, riots, strikes, lockouts, fires, accidents, breakdowns, or floods, earthquakes, hurricanes or any other natural disaster or governmental actions. In any such event, the party claiming Force Majeure shall promptly notify the other party of the Force Majeure event in writing and, if possible, such notice shall set forth the extent and duration thereof. The party claiming Force Majeure shall exercise due diligence to prevent, eliminate, or overcome such Force Majeure event where it is possible to do so and resume performance at the earliest possible date. However, if non-performance continues for more than thirty (30) days, TFC may terminate this Purchase Order immediately upon written notification to Vendor.

12.13 ELECTRONIC AND INFORMATION RESOURCES ACCESSIBILITY STANDARDS. (a) Effective September 1, 2006, all state agencies and institutions of higher education shall procure products which comply with the State of Texas accessibility requirements for electronic and information resources specified in Title 1 of the Texas Administrative Code, Chapter 213 when such products are available in the commercial marketplace or when such products are developed in response to a procurement solicitation.

(b) If applicable, Vendor shall provide the Texas Department of Information Resources ("DIR") with the universal resource locator ("URL") to its Voluntary Product Accessibility Template (VPAT) for reviewing compliance with the State of Texas Accessibility requirements (based on the federal standards established under Section 508 of the Rehabilitation Act), or indicate that the product/service accessibility information is available from the General Services Administration "Buy Accessible Wizard" (<A href="http://www.buyaccessible.gov">http://www.buyaccessible.gov</A>). Vendors not listed with the "Buy Accessible Wizard" or supplying a URL to their VPAT must provide DIR with a report that addresses the same accessibility criteria in substantively the same format. Additional information regarding the "Buy Accessible Wizard" or obtaining a copy of the VPAT is located at <A href="http://www.section508.gov/">http://www.section508.gov/</A>.

12.14 BUY TEXAS. If Vendor is authorized to make purchases under this Purchase Order, Vendor certifies that Vendor will buy Texas products, services, and materials when available at a comparable price and in a comparable period of time pursuant to Texas Government Code Ch. 2155.

12.15 PATENT, TRADEMARK, COPYRIGHT AND OTHER INFRINGEMENT CLAIMS. Vendor shall indemnify, save and hold harmless the State of Texas from and against claims of patent, trademark, copyright, trade secret or other proprietary rights, violations or infringements arising from the State's or Vendor's use of or acquisition of any services or other items provided to the State of Texas by Vendor or otherwise to which the State of Texas has access as a result of Vendor's performance under this Purchase Order, provided that the State shall notify Vendor of any such claim within a reasonable time of the State's receiving notice of any such claim. If Vendor is notified of any claim subject to this section, Vendor shall notify TFC of such claim within five (5) business days of such notice. No settlement of any such claim shall be made by Vendor without TFC's prior written approval. Vendor shall reimburse the State of Texas for any claims, damages, losses, costs, expenses, judgments or any other amounts, including, but not limited to, attorneys' fees and court costs, arising from any such claim. Vendor shall pay all reasonable costs of the State's counsel and shall also pay costs of multiple counsels, if required to avoid conflicts of interest. Vendor represents that it has determined what licenses, patents and permits are required under this Purchase Order and has acquired all such licenses, patents and permits.

12.16 EQUAL OPPORTUNITY. Vendor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, or national origin. Vendor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, sex, religion, age, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Vendor agrees to post in conspicuous places, available to employees or applicants for employment, notices to be provided setting forth the provisions of this non-discrimination article. Vendor shall include the above provisions in all subcontractors pertaining to the work.

12.17 LIABILITY FOR TAXES. Vendor represents and warrants that it shall pay all taxes or similar amounts resulting from this Purchase Order, including, but not limited to, any federal, state, or local income, sales or excise taxes of Vendor or its employees. TFC shall not be liable for any taxes resulting from this Purchase Order.

12.18 IMMIGRATION REFORM. The Immigration Reform and Control Act of 1986, as amended, the Immigration Act of 1990, and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, require that all employees provide proof of identity and employment eligibility before they can work in the United States. TFC is committed to complying with all applicable immigration laws of the United States and requires compliance by its contractors and subcontractors. Vendor shall not place any employee of Vendor at a worksite, nor shall Vendor permit any employees, nor any employee of its subcontractors to perform any work on behalf of, or for the benefit of, TFC without first ensuring said employee's authorization to lawfully work in the United States.

12.19 MINIMUM WAGE RATE REQUIREMENTS. Notwithstanding any other provision of this Purchase Order, Vendor hereby represents and warrants that Vendor shall pay to each of its employees a wage not less than what is currently known as the "Federal Minimum Wage" and any increase or amendments thereto. Furthermore, Vendor shall produce proof of compliance with this provision by Vendor to TFC. TFC shall withhold payments due to Vendor until Vendor has complied with this provision. Prior to any payment being made for work satisfactorily completed and accepted, Vendor shall submit Wage Rate Affidavits with its billing documents affirming that all employees have been paid not less than the current "Federal Minimum Wage."

12.20 SEVERABILITY. If any provision contained in this Purchase Order is held to be unenforceable by a court of law or equity, this Purchase Order shall be construed as if such provision did not exist and the non-enforceability of such provision shall not be held to render any other provision or provisions of this Purchase Order unenforceable.

12.21 PROPER AUTHORITY. The parties hereto represent and warrant that the person execut¬ing this Purchase Order on behalf of each party has full power and authority to enter into this Purchase Order. Vendor acknowledges Purchase Order is effective for the period of time specified in the Purchase Order. Any services performed by Vendor before this Purchase Order is effective or after it ceases to be effective are performed at the sole risk of Vendor.

12.22 LABOR ACTIVITY. If any strike, boycott, picketing, work stoppage, slowdown, or other labor activity is directed against the Vendor at TFC's facility, which results in the curtailment or discontinuation of services performed herein, TFC shall have the right during said period to employ any means legally permissible to have the work performed.

12.23 COUNTERPARTS. This Purchase Order may be executed in any number of counterparts, each of which shall be an original, and each such counterpart shall together constitute but one and the same agreement.

12.24 NO WAIVER. Nothing in this Purchase Order shall be construed as a waiver of sovereign immunity by the State of Texas. This Purchase Order shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the State of Texas. The failure to

enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the State of Texas under this Purchase Order or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel. TFC does not waive any privileges, rights, defenses, or immunities available to TFC by entering into this Purchase Order or by its conduct prior to or subsequent to entering into this Purchase Order.

12.25 FALSE STATEMENTS; BREACH OF REPRESENTATIONS. By signature to this Purchase Order, Vendor makes all the representations, warranties, guarantees, certifications and affirmations included in this Purchase Order. If Vendor signs this Purchase Order with a false statement or it is subsequently determined that Vendor has violated any of the representations, warranties, guarantees, certifications or affirmations included in this Purchase Order, Vendor shall be in default under this Purchase Order, and TFC may terminate or void this Purchase Order for cause and pursue other remedies available to TFC under this Purchase Order and applicable law.

12.26 ENTIRE PURCHASE ORDER & MODIFICATION. This Purchase Order and its integrated attachment(s) constitute the entire agreement of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Purchase Order specifically displays a mutual intent to amend a particular part of this Purchase Order, general conflicts in language between any such attachment and this Purchase Order shall be construed consistently with the terms of this Purchase Order. Unless otherwise expressly authorized by the terms of this Purchase Order, no modification, renewal, extension or amendment to this Purchase Order shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto.

Associated Spring

A business of BARNES GROUP INC

Associated Spring
Barnes Group, Inc.
226 South Center Street
Corry, PA 16407
USA

Texas Facilities Commission
1102 South Congress Ave.
Austin,, TX 78704
USA

Quote #: **016-004127**
Date Quoted: 07/26/2016
Inquiry # Torsion Spring

Dann Brissenden
+1 603 5710036
DBrissenden@asbg.com

Attn: **Nick Sultemeier**
+1 512 4625385
nick.sultemeier@tfc.state.tx.us

Payment Terms: Net 30 Days
FOB: AS-Corry PA

This quotation is in reply to your inquiry covering the following items, and is subject to the conditions listed below:

Part Number/Description	Qty	Price	Other
7623-072616	50 pcs	$35.80/pc	

Order total $1,790.00
Quoting torsion spring per photo. 2.3mm diameter spring steel. OD 28mm. Leg lengths 26 and 66mm

Estimated Lead Time is 6 weeks. Estimated lead time is subject to change when order is received. Engineered Components will confirm our best estimated delivery date to you after we review the order, material availability, and production capacity.

Engineered Components reserves the right to pass through raw material and special process cost increases.

General Terms and Conditions of Sale

1. **Acceptance.** With respect to goods purchased by Buyer from Seller ("Goods"), no contract exists until Buyer places order for delivery and such order is accepted by Seller's acknowledging receipt of the order, by Seller's commencement of work on the Goods ordered, or by Seller's shipment of the Goods, whichever occurs first. Any acceptance will be limited to the express terms contained on the face hereof. Additional or different terms in Buyer's forms or any attempt by Buyer to vary in any degree any of the terms of this quotation shall be deemed material and are objected to and rejected, but this shall not prevent the formation of a contract between Buyer and Seller unless such variances are in the terms of the description, quantity, price or delivery schedule of the goods, and the order shall be deemed accepted by Seller without said additional or different terms.

2. **Payment Terms.** Unless otherwise stated on this quotation, payment terms are net 30 days from the date of invoice, subject to the approval of Seller's credit department.

3. **Taxes.** The price does not include an Federal, state or local property, license, privilege, sales, use, excise, gross receipts, value added or other like taxes which may be applicable to, or imposed upon, the transaction, the goods, or the sale, transportation, delivery, value or use thereof, or any services performed in connection therewith. Such taxes are for the account of the Buyer and Buyer agrees to pay or reimburse any such taxes which Seller or its contractors or suppliers are required to pay.

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4. **Excusable Delay.** Seller shall not be liable for failure to perform or for delay in performance due to any cause beyond its reasonable control, including but not limited to fire, flood, strike or other labor difficulty, act of God, any legal proceeding, act of any governmental authority, act of Buyer, war, riot, sabotage, civil disturbance, embargo, fuel or energy shortage, wreck or delay in transportation, major equipment breakdown, inability to obtain necessary labor, materials or manufacturing facilities from usual sources, or any act, delay or failure to act of Seller's suppliers and subcontractors of any tiers beyond Seller or such supplier's or subcontractor's reasonable control. In the event of delay of performance due to any such cause, the date of shipment or time for completion will be extended by a period of time reasonably necessary to overcome the effect of such delay.

5. **Tooling Charges.** Unless otherwise stated on this quotation, where a separate charge is made for specially designed tools and dies, Seller will maintain such tools and dies without further cost to Buyer for the life of such tool or die so long as the part remains active and the design is not changed and Seller will not use such tools or dies for others without Buyer's permission, but Buyer acquires no right to remove any such tools or dies from Seller's factory.

6. **Warranty.** Seller warrants to Buyer that the Goods purchased by Buyer from Seller shall be free from defects in material and workmanship. This warranty is the only warranty applicable to the Goods. Seller's liability for breach of warranty shall be limited solely and exclusively to repairing or replacing, at Seller's option, the defective Goods. THERE ARE NO OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE WHICH ARE HEREBY DISCLAIMED. THE REMEDIES SET FOR BREACH OF WARRANTIES SET FORTH ABOVE ARE EXCLUSIVE REMEDIES AND SELLER SHALL NOT BE RESPONSIBLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES.

7. **Exclusions.** The above warranty does not cover, and Seller will have no responsibility for any failure to meet any warranty caused by (x) any failure of Buyer or its agents to store, install, operate, inspect or maintain the Goods in accordance with the recommendations or specifications of the OEM or its agent manufacturer or in the absence of such recommendations or specifications, in accordance with the generally accepted practices of the industry, including but not limited to applicable quality assurance procedures relating to the installation or operation of the Goods or (y) any design failure attributable, in whole or in part, to designs or specifications provided by the OEM or its agent manufacturer.

8. **Acceptance.** All Goods shall be deemed accepted by Buyer upon the earlier of (i) when Buyer uses such Goods in the ordinary course of its business or (ii) 45 days after delivery.

9. **Limitation of Liability.** In no event shall the liability of Seller for breach of any contractual provision relating to the Goods exceed the purchase price of the Goods quoted herein. In no event shall Seller be liable for any special, incidental or consequential damages arising out of Buyer's use or sale of the Goods or Seller's breach of any contractual provisions relating to the Goods, including but not limited to any loss of profits or production by Buyer. Any action resulting from any breach by Seller must be commenced within one year after the cause of action has accrued.

10. **Indemnity.** Except to the extent caused by Seller's breach of warranty, Buyer shall indemnify and hold harmless Seller, its employees, officers and directors, and their respective successors and assigns, (collectively, "Indemnities") from and against any and all liability, damages, claims, causes of action, losses, costs and expenses (including attorneys' fees) of any kind (collectively, "Damages") arising out of injuries to any person (including death) or damage to any property caused by or related to the Goods or any negligent act or omission of Buyer, its employees or agents. Buyer shall indemnify and hold harmless each of the Indemnities from and against any and all Damages, royalties and license fees arising from or for infringement of any patent by reason of any sale or use of the Goods or the manufacture of the Goods to Buyer's specifications or sample. Upon the tendering of any of the foregoing suits or claims to Buyer, Buyer shall defend the same at Buyer's expense. The foregoing obligations of Buyer shall apply whether Seller or Buyer defends such suit or claim.

11. **Term; Termination.** This agreement shall commence on the date of acceptance and shall continue for twelve (12) months from such date. This agreement shall automatically renew for an additional twelve (12) month term on each anniversary of the acceptance date, unless either party gives at least 30 days' prior written notice of its intent to terminate. Seller agrees that it will continue to support Buyer's product needs for a period not to exceed 180 days from the termination date at the price stated in this quotation, solely for the purpose of enabling Buyer to resource its production requirements. If Buyer terminates this agreement and Seller has procured raw material in accordance with Buyer product releases for releases which would have occurred after the termination date, Buyer shall either (i) purchase such raw material from Seller at Seller's cost or (ii) purchase product until such time as Seller has exhausted such raw material supplies.

12. **Changes.** Any changes in orders requested by Buyer, including, without limitation, design, scope of work, delivery or increase or decrease in quantities shall only be effective if accepted in writing by Seller. Such changes may require other terms and conditions to be modified, including price terms and Seller reserves the right to make such adjustments.

13. **General.** The contact arising pursuant to this order shall be governed by the laws of the States of Connecticut without giving effect to its conflict of law principles. The remedies provided herein shall be cumulative and in addition to any other remedies provided by law or equity. Either party's failure to insist on performance of any of the terms and conditions of this order or exercise any right shall not be deemed a waiver unless in writing signed by the party waiving performance. A waiver on one accession shall not thereafter operate as a waiver of any other terms, conditions or rights, whether of the same of similar type. Seller reserves the right to over and under ship by not more than 10% of specified quantity.