RAUHORN ELECTRIC
TERMS AND CONDITIONS
Material Service Order
Effective July 30, 2026

1. DEFINITIONS: For purposes of these Terms and Conditions:

1.1. **"Change Order"** means a written document signed by Contractor and Supplier to change the Work, Price, time for performance or other terms of this MS Order.

1.2. **"Claim"** means any demand or request by Supplier, pursuant to Section 27, for extra payment, extension of time, damages, or other relief in connection with this MS Order.

1.3. **"Contractor"** means the entity issuing this MS Order, which is Rauhorn Electric, unless a different entity is identified as Contractor in this MS Order. The term "Contractor" shall be used regardless of whether the actual role of the entity issuing this MS Order is a general contractor, construction manager, design builder, or otherwise.

1.4. **"Default"** has the meaning stated in Section 23.

1.5. **"Dispute"** has the meaning stated in Section 28.

1.6. **"Drawings"** means the graphic and pictorial portions of the Prime Contract and MS Order showing the Work.

1.7. **"Hazardous Material"** means asbestos; asbestos containing material; lead (including lead-based paint); polychlorinated biphenyl (also known as PCB); mold; any other chemical, material, or substance subject to regulation as a hazardous material, hazardous substance, toxic substance, or otherwise, under applicable federal, state, or local law; and any other chemical, material, or substance that may have adverse effects on human health or the environment.

1.8. **The words "include," "including",** and their variants shall be interpreted to mean including without limitation.

1.9. **"Lien"** means a lien, claim, or demand against the Project, the Work, Owner's funds, or any payment bond furnished by Contractor to Owner.

1.10. **"MS Order"** means and includes: (a) the Material Service Order form attached to or provided with these Terms and Conditions, and which identifies, among other things, Supplier; (b) these Terms and Conditions; (c) any Project manual or bid package pursuant to which Supplier has bid or proposed its Work, including any general conditions, supplementary conditions, and/or special conditions therein; (d) the Drawings and Specifications (and all addenda) applicable to the Work; (e) the Prime Contract; and (f) any other documents expressly incorporated by the documents specified in this Subsection 1.10. The MS Order includes neither the Supplier's bid or proposal nor any terms or conditions furnished by Supplier unless Contractor specifically agrees in writing to incorporate them into the MS Order.

1.11. **"Notice to Proceed"** means a written document signed by Contractor directing Supplier to undertake specifically described Work prior to execution of a Change Order.

1.12. **"Owner"** means the party with whom Contractor has entered into the Prime Contract with respect to the Project, even if such party does not own the Project.

1.13. **"Price"** means the amount to be paid by Contractor to Supplier under the MS Order, from funds actually received by Contractor from or on behalf of Owner, for proper performance of the Work.

1.14. **"Prime Contract"** means the contract between Contractor and Owner with respect to the Project, including all changes or modifications thereto through the date of this MS Order and all Contract Documents, which are defined by the Prime Contract to be a part thereof. The Prime Contract is available from Contractor upon written request; provided, however, that if Contractor removes or redacts pricing or other portions from the copy of the Prime Contract provided to Supplier, then Supplier shall not be bound by those removed or redacted portions. Failure of Supplier to request the Prime Contract shall not excuse Supplier from compliance with its obligations under the Prime Contract based on the MS Order.

1.15. **"Project"** means the project identified in the MS Order for which the Supplier is supplying materials and/or equipment along with other miscellaneous services as described in the MS Order.

1.16. **"Schedule"** means the schedule information provided to Supplier with or prior to the MS Order, together with any updates, adjustments, or refinements to the Schedule of which Supplier receives written notice from Contractor thereafter. Any change in Schedule must be issued or approved in writing by the Contractor.

1.17. **"Specifications"** means the portions of the Prime Contract and MS Order consisting of the written scope and other requirements for the Work and performance of related services.

1.18. **"Subordinate Parties"** means all of Supplier's employees, workers, laborers, agents, consultants, suppliers, or subcontractors, at any tier, who perform, assist with, or otherwise are involved in any of the Work.

1.19. **"Supplier"** means the entity designated as such in the MS Order.

1.20. **"Terms and Conditions"** means this document.

1.21. **"Work"** includes all work and responsibilities performed or to be performed by Supplier or Subordinate Parties under the MS Order.

2. MS ORDER: The various provisions of the MS Order, as defined in Subsection 1.10 above, are intended to complement each other and shall, where reasonably possible, be so interpreted. If there is an irreconcilable conflict between provisions of the MS Order, the provision granting greater rights or remedies to Contractor, or imposing the greater duty, standard, responsibility or obligation on Supplier shall govern. Headings in the MS Order are for convenience only. Singular terms shall include the plural and vice versa.

3. GENERAL DUTIES OF SUPPLIER: Supplier shall commence the Work when directed by Contractor and shall diligently perform and complete the Work in strict accordance with the MS Order. With respect to the Work, and to the extent applicable to Supplier's scope of Work, Supplier assumes toward Contractor all obligations that Contractor assumes toward Owner under the Prime Contract. Contractor shall have all the rights and remedies against Supplier, which Owner or others have against Contractor under the Prime Contract. Except as specifically set forth in the MS Order, Supplier shall not have any rights against Contractor that Contractor does not have against Owner under the Prime Contract. Supplier shall be responsible for the correctness of its Work. Supplier shall be solely responsible to Contractor for the means, methods, techniques, sequences and procedures for the Work and for coordinating its Work with others on the Project. Supplier shall participate in meetings regarding the Work as requested by Contractor.

4. INSPECTION: Contractor shall have the right but not the obligation to inspect all of Supplier's and its Subordinate Parties' materials and equipment during any stage of manufacture or production; expedite fabrication; audit Supplier's and its Subordinate Parties' quality assurance programs; and otherwise assure

quality control in the production and manufacture of the materials or equipment provided hereunder by Supplier or its Subordinate Parties. Supplier shall provide reasonable access, accommodations and assistance for the safe and convenient inspection and audit at Supplier's or its Subordinate Parties' facilities. All materials and equipment are subject to final inspection and acceptance by Contractor or Owner, in each of their discretion, after receipt by Contractor at the Project Site. No interim or final inspection by Contractor or Owner shall relieve the Supplier of any warranties or other obligations under the MS Order. Contractor may reject and refuse acceptance of materials or equipment that Contractor reasonably determines do not comply with the requirements of the MS Order, Specifications, Drawings, or Prime Contract. Supplier shall indemnify and hold harmless Contractor from and against any increased costs, expenses, penalties, liquidated damages, or liability incurred by Contractor to Owner or others, but only to the extent arising out of Supplier's defective or non-conforming materials or equipment, or Supplier's breach of this MS Order, including Contractor's reasonable costs of inspection, testing, removal, replacement, transportation, storage, and re-procurement of such materials or equipment.

5. DELIVERY, ACCEPTANCE AND RISK OF LOSS: All equipment and materials shall be suitably coated, wrapped, covered, boxed and/or crated for shipment to prevent damage during shipment, handling and storage. All electrical equipment (including panels) shall be completely covered with high quality, waterproof material with vacuum packing and moisture absorbent materials as appropriate. Where necessary, heavy parts shall be mounted on skids so that cable slings for handling can be readily attached. Where it is unsafe to apply external slings to a package, attached slings shall be provided so that attachment can readily be made. Each package shall be marked according to Contractor's instructions. All costs of packaging, crating and shipping materials or equipment shall be included in the Price. If required by the Drawings, Specifications or the MS Order, Supplier shall perform installation services, supervision, acceptance testing, and other specified services as necessary to obtain final acceptance of the Work. Supplier assumes risk of loss to the equipment and materials supplied under the MS Order until written acceptance of such equipment and materials by Contractor and Owner at the Project Site. Notwithstanding the foregoing, if Contractor rejects any equipment or materials as defective or non-conforming, the risk of loss on such materials and equipment shall remain with Supplier until Supplier corrects the non-conformity or defect. If required by the Drawings, Specifications or MS Order, Supplier shall provide training for Owner's employees in the use and operation of all equipment provided under the MS Order.

6. SUBORDINATE PARTIES: Supplier shall be fully responsible to Contractor for all actions, omissions, or other conduct of Subordinate Parties arising from or in connection with the Work or the Project. Obligations imposed upon Supplier shall be binding on its Subordinate Parties. Supplier shall pay its Subordinate Parties promptly.

7. LAWS, PERMITS, TAXES: Supplier shall comply with all applicable federal, state and local laws, rules and regulations. Supplier shall obtain all necessary licenses and permits and pay all fees, taxes and other charges relating to the Work. Supplier shall furnish, upon Contractor's request, evidence of compliance with any law and the payment of any fee, tax or charge.

8. EEO: Supplier shall not discriminate against any individual with respect to hire, discharge, compensation, terms, conditions or privileges of employment, or segregation of facilities because of such person's race, color, religion, sex, age, disability, national origin, or other status protected by applicable law.

9. SAFETY:

9.1. Supplier is fully responsible for, and shall ensure, the safety of persons and property in connection with the Work. If installation or another on-site service is a part of this MS Order, Supplier will cooperate with Contractor and comply with any overall safety program for the Project. Supplier shall provide a safe workplace and shall otherwise take all precautions for the safety of Subordinate Parties and persons and property in or near the premises where Work is being performed. Supplier shall comply with all current safety requirements of all applicable federal, state and local laws and regulations, as well as any current Contractor and Owner safety requirements applicable to the Project.

9.2. Supplier shall comply with all requirements of any state or federal workplace right to know laws, including: (a) providing copies of all material safety data sheets for each Hazardous Material furnished under or otherwise associated with the Work under the MS Order, and having a copy of same available for its Subordinate Parties; (b) providing required training of its employees pursuant to such laws; (c) submitting a copy of its written hazard communication program to Contractor; and (d) properly labeling all containers of Hazardous Materials that are brought or shipped to the Project Site or used in the performance of Work under this MS Order.

9.3. Supplier is fully responsible for any Hazardous Materials it ships or otherwise delivers to the Project and must provide pollution liability insurance as specified in Paragraph 20 below.

10. INDEPENDENT CONTRACTOR: The Supplier is an independent contractor, and not an employee, agent, or partner of the Contractor.

11. SCHEDULE:

11.1. Time is of the essence and is a material consideration of this MS Order. Supplier shall provide Contractor with any requested scheduling or productivity information for the Work. Supplier shall perform and complete the Work in accordance with the Schedule when and in such sequence as directed by Contractor, so as not to conflict or interfere with the activities or work of others, including Contractor and the Owner. Supplier shall indemnify and hold harmless Contractor from and against any increased costs and expenses, including any penalty, liquidated damages or liability of Contractor to Owner or others, arising or resulting from Supplier's failure to comply with the Schedule. Changes to the Schedule resulting from Supplier's failure to perform to an earlier version of the Schedule shall not excuse Supplier from this indemnification obligation.

11.2. If Supplier's performance of the Work is delayed or interfered with by Owner, Contractor or other subcontractors or by acts of God or other causes beyond Supplier's control, Supplier may present a Claim for an extension of time in accordance with this MS Order, but Supplier shall not be entitled to any resulting increase in the Price or additional compensation or damages except to the extent that the Prime Contract entitles Contractor to compensation from Owner for such delays, and then only to the extent of the amount which Contractor actually recovers from Owner on behalf of Supplier. Supplier expressly waives and releases any other right to damages or additional compensation related to delays.

11.3. In no event will Supplier be entitled to time or monetary relief related to delay, including acceleration costs, productivity losses, lost profits, unabsorbed overhead, or other damages or costs resulting directly or indirectly from delay, unless: (a) Supplier gives Contractor notice of the delay in writing in accordance with the requirements of the MS Order, including, but not limited to, the time limits in Section 27; (b) the cause of such delay was extraordinary and unforeseeable and

without the fault of Supplier or Subordinate Parties; and (c) Supplier and Subordinate Parties have used all reasonable diligence to prevent, avoid, remove, and mitigate the delay and its impacts.

11.4 Supplier shall notify Contractor in writing within forty-eight (48) hours after becoming aware of any actual or anticipated event that may delay delivery, delay performance of the Work, or otherwise adversely affect the Schedule. Such notice shall describe the nature of the event, its anticipated impact on the Schedule, and the actions Supplier is taking to mitigate the delay.

12. FORCE MAJEURE: Neither Party shall be liable for delays in the performance of its obligations under this MS Order to the extent such delays are directly caused by events beyond the reasonable control of the affected Party, including acts of God, fire, flood, earthquakes, hurricanes, epidemics, pandemics, governmental actions, war, terrorism, civil unrest, labor strikes not directed solely at the affected Party, or other similar events that could not reasonably have been anticipated or avoided ("Force Majeure Event").

The affected Party shall provide written notice to the other Party within five (5) business days after becoming aware of the Force Majeure Event and shall use commercially reasonable efforts to mitigate the effects of the delay and resume performance as soon as reasonably practicable.

A Force Majeure Event shall entitle the affected Party only to a reasonable extension of time for performance unless Contractor is entitled to additional compensation from the Owner attributable to the same Force Majeure Event, in which case Supplier's recovery shall be limited to the extent of Contractor's actual recovery from the Owner.

In no event shall increases in labor costs, material prices, tariffs, transportation costs, supply chain disruptions, or the unavailability of labor or materials, standing alone, constitute a Force Majeure Event unless such condition directly results from one of the Force Majeure Events identified above.

13. CHANGES:

13.1. No changes to the Work, the Price, the Schedule, or other terms of the MS Order are authorized unless approved in a Change Order or Notice to Proceed signed by an authorized representative of Contractor. No course of dealing or course of performance between the parties shall be the basis for an increase in the Price or extension of the Schedule.

13.2. Any Change Order issued by Contractor and signed by Supplier, unless otherwise expressly stated therein, is a complete settlement regarding the amount of materials, equipment, labor, overhead, and profit, and any extension of time, that may relate directly or indirectly to that Change Order. Supplier will have no Claim in connection with changes to the Work for additional time or monetary recovery for delay, interference, acceleration, inefficiency, cumulative effect, extension of overhead cost or any other theory unless included in the signed Change Order.

13.3. Supplier shall quote the price and time impact of proposed changes within 14 days of receipt, unless otherwise directed or agreed in writing by Contractor.

14. PAYMENTS:

14.1. Contractor agrees to pay the Price to Supplier from funds received from Owner for the satisfactory performance of the Work.

14.2. Supplier will submit to Contractor applications for payment on or before the 25th of the month, or as otherwise provided in the MS Order, in order that Contractor may apply for payment from Owner in accordance with the Prime Contract. Supplier shall furnish to Contractor such certificates,

waivers, releases, and other documentation, as Contractor may request, in form satisfactory to Contractor and Owner. Contractor shall have the right, at its sole option, to hold from pay applications, until final payment, retention of up to 10% (or such lesser amount as otherwise established in the MS Order or applicable law).

14.3. Unless Owner's failure to pay is caused solely by the wrongdoing of Contractor, the obligation of Contractor or Contractor's surety to pay Supplier is expressly preconditioned (a condition precedent) upon receipt of each payment from Owner and the amount allowed and paid to Contractor on account of Supplier's Work. This condition applies to payments of every type, including but not limited to progress payments, retention payments, Change Order payments and final payment. This condition applies without regard to any provisions contained in the federal Miller Act or state Little Miller Act provisions, and without regard to the reason that Owner has failed to pay, even if such reason is the insolvency or bankruptcy of Owner. Supplier relies solely and exclusively on the credit of Owner, not of Contractor.

14.4. No payment made by Contractor to Supplier shall be taken as an admission by Contractor of the amount of Work done, its classification, quality, sufficiency or the sum due Supplier or as an acceptance or release of Supplier from responsibility under the MS Order.

14.5. Supplier will receive and hold the payments by Contractor as a trust fund to be applied first to the payment of Subordinate Parties.

14.6. Contractor may issue back charges against the Price not only for increases in Contractor's costs that result from Supplier's failure to comply with the MS Order but also for other costs which are chargeable to Supplier under the MS Order. Contractor will provide written notice of any such back charge.

14.7. Contractor shall have the right to withhold payment from Supplier for defective Work not remedied; Claims of Contractor, Owner or any other against Supplier arising out of or in any way connected with the Work; failure to pay Subordinate Parties; Liens; failure to supply required documentation; anticipated inability of Supplier to complete the Work for the balance of the Price; or any other breach of this MS Order. If any such deficiencies are not promptly corrected or remedied after written notice, Contractor may rectify the same at Supplier's expense and deduct all costs and expenses incurred from such withheld payments.

14.8. Supplier shall not recover interest or late fees on late or delayed payments except (a) to the extent interest is recovered by Contractor from Owner under the Prime Contract, or (b) as otherwise required by applicable law.

14.9. Supplier's right to final payment is expressly conditioned (a condition precedent) on Contractor's or Contractor's surety's receipt of final payment for Supplier's Work from Owner and Supplier's final completion of the Work, including submission in form satisfactory to Contractor, of all documents required by the Supplier or reasonably requested by Contractor, including invoices, certificates, waivers, releases, warranties, instruction manuals, test reports, and consent of surety.

14.10. Supplier's receipt of final payment waives and releases all Claims by Supplier against Contractor and Owner relating to the MS Order except those expressly preserved by written agreement.

14.11. If money is owed from Supplier to Contractor under the MS Order for any reason, including overpayments or legitimate back charges, Supplier shall pay such money to Contractor within 14 days after written demand.

14.12 Supplier shall continue performance of the Work notwithstanding any payment dispute unless otherwise directed in writing by Contractor

15. AUDIT RIGHTS: Supplier shall maintain complete and accurate books, records, invoices, purchase orders, shipping documents, testing records, certifications, applications for payment, and other documentation reasonably relating to the Work performed under this MS Order for a period of not less than three (3) years following Final Payment, or for such longer period as may be required by the Prime Contract or applicable law.

Upon reasonable prior written notice and during normal business hours, Contractor shall have the right to inspect, review, and audit such records to verify Supplier's compliance with this MS Order, including the accuracy of pricing, Change Orders, applications for payment, stored materials, and any other amounts payable under this MS Order.

If Contractor makes payment for stored, specially fabricated, or long-lead materials prior to delivery to the Project Site, Contractor shall have the right, upon reasonable notice, to inspect such materials at Supplier's or its Subordinate Parties' facilities to verify their existence, condition, identification to the Project, and stage of fabrication or completion.

Supplier shall reasonably cooperate with any inspection or audit conducted pursuant to this Section.

16. LIENS: Owner's funds, the Work, the Project, and any payment bond furnished by Contractor or Owner shall be kept by Supplier free of all Liens by itself and Subordinate Parties. Within ten days after written demand, Supplier will discharge or bond off any such Liens. If it fails to do so, Contractor, at its sole discretion, may use any means necessary to remove the Liens, and Supplier shall indemnify Contractor for any related costs and attorney fees. The obligations of this Section 16 shall not apply to the extent a Lien is caused by Contractor’s wrongful failure to pay Supplier in breach of this MS Order, without fault of Supplier.

17. INTELLECTUAL PROPERTY: Royalties and fees for patents, copyrights, and any other intellectual property rights covering materials, articles, apparatus, devices, equipment, or processes used in the Work shall be included in the Price.

18. WARRANTY AND CORRECTION OF WORK: In addition to all other warranties set forth in the MS Order, Supplier warrants to Owner and Contractor that the Work will be free from defects and performed in strict conformity with the requirements of the MS Order. This warranty survives the termination of the MS Order and completion of the Work specified in the MS Order and shall not be limited by any other provisions contained in the MS Order. Supplier shall promptly correct Work that is defective or fails to conform to the MS Order at any time within the time period that Contractor is obligated to correct Work under the Prime Contract. Nothing in this section establishes a period of limitation or otherwise restricts obligations, which Supplier may have under other provisions of the MS Order or applicable law.

19. INDEMNIFICATION:

19.1. To the fullest extent permitted by law, Supplier shall defend, indemnify and hold harmless Contractor and its agents, employees, shareholders, officers, directors, partners, affiliates, and successors from and against any and all liabilities, claims, causes of action, lawsuits, or expenses arising from (a) Supplier’s breach or failure to comply with the MS Order, including any Default or breach of any warranty, or (b) personal injury or death to any person (including employees of

Supplier or Subordinate Parties) or property damage (including claims for loss of use), which arise out of or result from the Work or the operations or acts of commission or omission of Supplier, including those of its Subordinate Parties; or (c) infringement of any patent rights or copyrights arising out of the use or sale of the materials or equipment purchased under the MS Order; unless the injuries or damages are caused by the sole negligence of the party seeking to be indemnified. Supplier's indemnity obligations shall include, but are not limited to: indemnity for all damages and judgment interest, all costs and fees, including all defense costs, expenses and attorney fees, and all settlement payments relating to or arising out of, resulting from or in any way connected with any claim, cause of action or lawsuit, or proceeding requiring indemnity by Supplier; all expenses, including costs, expenses and attorney fees, incurred in securing indemnity from Supplier if Supplier fails or refuses promptly to fulfill any of the indemnity obligations under this MS Order; the obligation to indemnify Contractor for any liability imposed upon Contractor to indemnify and/or defend any and all persons, including but not limited to Owner, from liabilities, claims, causes of action, lawsuits, or expenses arising from or in connection with the MS Order; the obligation to indemnify Owner to the same extent and in the same manner as Supplier is obligated to indemnify Contractor.

19.2. Supplier's obligation to indemnify shall not include any obligation to indemnify which is prohibited by applicable law.

19.3. The indemnification provisions contained in this MS Order shall survive the completion or termination of this MS Order.

19.4. These indemnification obligations shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable under workers' or workmen's compensation acts, disability acts or other employee benefit acts.

20. INSURANCE: Before any Work is started, Supplier must provide Contractor with certificates of insurance and additional insured endorsements for Supplier's liability policies showing the required insurance coverages under the MS Order and Prime Contract. Receipt of a non-conforming insurance certificate by Contractor without objection, or failure to collect an insurance certificate, does not constitute a waiver of the insurance obligations of this MS Order. The insurance requirements identified below are minimum requirements. If the Prime Contract imposes additional or higher standards, Supplier shall meet those as well.

20.1. Workers' compensation covering Supplier's statutory obligations in the state(s) in which the Work is to be performed or federal statutory obligations, if applicable to the Project, and employers' liability insurance with limits of liability of $1,000,000 per accident.

20.2. Automobile liability insurance with the limit of $1,000,000 per accident covering Supplier's owned, non-owned and hired automobiles.

20.3. Commercial general liability insurance written on the 1988 ISO occurrence policy form or subsequent versions with limits of liability as follows: General Aggregate $2,000,000; Products-Completed Operations Aggregate $2,000,000; Personal/Advertising Injury $2,000,000; Each Occurrence $2,000,000. This coverage shall include coverage for premises-operations, independent contractors' protective, products-completed operations, personal injury and broad form property damage, and contractual liability protection with respect to Supplier's indemnification obligations under the MS Order. Products-completed operations coverage must be maintained through the statute of repose applicable in the jurisdiction where the Project is located.

20.4. Pollution liability insurance with policy limits of $1,000,000 per occurrence shall be provided if Supplier provides, delivers, or otherwise supplies or uses Hazardous Materials to, or for, the Project.

20.5. General Provisions.

20.5.1. Every policy must be written by an insurance company licensed in the state where Work is being done and is otherwise reasonably acceptable to Contractor.

20.5.2. Limits may be attained by a combination of an underlying policy with an umbrella or excess liability policy, provided, however, that in the event an umbrella or excess liability policy is used, it must also be endorsed to provide primary and non-contributory coverage to any other valid, applicable, and collectible insurance or self-insurance in force for Contractor, Owner, or other additional insureds, regardless of whether such other insurance is written on a primary, excess or contributory basis.

20.5.3. "Rauhorn Electric," and Rauhorn Electric's shareholders and directors (if applicable), Owner, and all other entities as required in the Prime Contract, shall be endorsed as additional insureds on Supplier's commercial general liability, automobile liability and pollution liability policies with respect to liability arising out of activities, "operations" or "your work", as defined in the commercial general liability policy, and performed by or on behalf of Supplier. The coverage provided by the commercial general liability additional insured endorsement shall be at least as broad as the Insurance Service Office, Inc.'s Additional Insured, Form B CG 20 10 11 85, as determined by Contractor. Forms that do not provide additional insurance for the "products-completed operations hazard" as defined in the commercial general liability policy will not be accepted. In no case shall any additional insured endorsement exclude coverage for the negligence of Contractor, nor limit coverage for Contractor to potential liability incurred solely as a result of Supplier's acts or omissions.

20.6. Evidence of the required insurance is to be provided to Contractor on an ACORD certificate form or other form acceptable to Contractor together with copies of any additional insured endorsements and must indicate:

20.6.1. Any coverage exclusions or deviations from the 1988 ISO commercial general liability form or subsequent versions;

20.6.2. AM Best rating for each insurance carrier at A- VII or better;

20.6.3. Additional insured endorsements have been provided as required under the MS Order; and

20.6.4. Any deductibles over $10,000 applicable to any coverage.

20.6.5. Supplier shall provide renewed certificates of insurance and endorsements upon each policy renewal without request from Contractor.

20.7. All coverage must be primary and not excess over or contributory with any other valid, applicable, and collectible insurance or self-insurance in force for Contractor, Owner, or other additional insureds, regardless of whether such coverage is written on a primary, excess or contributory basis. Each policy shall be endorsed so that the issuing insurance company will provide thirty (30) days' prior written notice of cancellation to the Contractor and any other parties who are additional insureds. Supplier also agrees to provide Contractor with written notice, pursuant to Section 29, of any cancellation, non-renewal or material modification to any of the policies required under this MS Order.

20.8. Supplier shall waive, and shall require its insurers providing the coverage required by these insurance requirements (by endorsement or otherwise) to waive subrogation rights against Contractor, Owner, and all other additional insureds for losses and damages incurred and/or paid under the insurance policies required by these insurance requirements or other insurance applicable to Supplier or its Subordinate Parties, and will include this same requirement in contracts with its Subordinate Parties. If the policies of insurance referred to in this section require an endorsement to provide for continued coverage where there is a waiver of subrogation, the owners of such policies will cause them to be so endorsed.

20.9. Supplier's duty to provide the insurance coverage set forth in this Section 20 is a severable obligation from Supplier's indemnification obligations as set forth in Section 19. Nothing in this Section 20 shall be deemed to limit Supplier's liability under this MS Order.

21. BONDING: Contractor shall have the right to require Supplier to furnish surety bonds to secure the faithful performance of the MS Order and the payment of all MS Order obligations. If Contractor requires Supplier to furnish bonds, then Supplier's surety must be licensed in the state in which the Work is to be performed; listed in the latest version of the Department of the Treasury's Circular 570, "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies," with the bond amount less than or equal to the underwriting limitation; rated by AM Best at A- VII or better; and otherwise acceptable to Contractor. The bonds shall provide that no change or alteration of the MS Order, extension of time, premature payment or overpayment to Supplier will release the surety. If the face of the MS Order indicates that bonding is required, Supplier's reasonable bond premium shall be included in the Price. Bonds shall be submitted on the form specified in the MS Order and, if no form is specified, on an unmodified version of either AIA Document A311 or AIA Document A312, unless otherwise specifically agreed in writing by Contractor. If either AIA form is used, Contractor shall be deemed "Owner" and Supplier shall be deemed "Contractor" under the terminology used in the bond form.

22. ASSIGNMENT: Supplier shall make no assignment in whole or in part of its rights with regard to this MS Order without the prior express written consent of Contractor, and no assignment is valid without such consent and adequate assurances in writing that the assignee is fully ready, willing, and able to perform the Work under the MS Order. Neither an assignment nor Contractor's consent relieves Supplier from its liabilities under the MS Order. Upon Contractor's consent to an assignment, Supplier surrenders its rights in regard to the distribution of payments under the MS Order from the effective date of the assignment. Supplier shall notify Contractor in writing of any subcontracts it proposes to award to Subordinate Parties. Any such sub-subcontracts are subject to Contractor's approval, which shall not be unreasonably withheld. Contractor shall have the right to assign or otherwise transfer any and all of its rights under this MS Order without Supplier's consent.

23. SUPPLIER DEFAULT: Supplier shall be in default under this MS Order if it materially fails or refuses to perform any of the following obligations (each, a "Default"). Administrative deficiencies that do not materially impair Supplier's performance of the Work shall not constitute a Default if cured within the time permitted under Section 23: (a) supply sufficient materials or equipment of proper quality; (b) prosecute the Work diligently or maintain progress in accordance with the Schedule; (c) make payment to all Subordinate Parties promptly; (d) provide waivers of Liens or other documentation required under the MS Order; (e) provide adequate assurances in writing, within 72 hours after written request by Contractor, that Supplier is ready, willing, and able to perform the requirements of the MS Order, including proof of the financial and other resources necessary to complete the Work and comply with the Schedule; (f) correct,

replace and/or re-execute faulty, damaged, or defective Work; (g) supply or maintain required bonds or insurance; (h) comply promptly with a written directive issued by Contractor pursuant to the MS Order; (i) maintain satisfactory financial standing (as evidenced by, but not limited to the following conditions, being insolvent, committing any act of insolvency, making an assignment for the benefit of its creditors, turning over its assets pursuant to a trust chattel mortgage, filing or having a court file against it a petition for bankruptcy, liquidation, reorganization, or receivership, having a court appoint a receiver over a substantial portion or all of its assets, or having a court appoint a creditors committee consenting to the formation of a creditors committee, experiencing a foreclosure upon a substantial portion or all of its assets, or having a creditor issue an execution or garnishment or having a taxing authority issue a levy against it; or (j) perform fully, in other respects, any or all of the requirements of the MS Order.

24. REMEDIES FOR SUPPLIER DEFAULT:

24.1. In the event of any Default, Contractor shall be entitled to employ any one or more of the following remedies: (a) require Supplier to increase manpower or equipment, work overtime, or work extra shifts, at Supplier's sole cost and expense; (b) supplement or replace Supplier's forces with other manpower, materials, or equipment, at Supplier's sole cost and expense; (c) suspend Supplier's right to proceed with the Work, in whole or in part, for such time as Contractor deems advisable; (d) take possession of and use any materials, equipment, tools, or appliances necessary to carry out the Work; (e) terminate all or any portion of the MS Order; and (f) pursue any other relief available under the MS Order or applicable law.

24.2. Prior to relying on the remedies identified in this Section 24, Contractor shall provide Supplier 72 hours' prior written notice and opportunity to cure, unless emergency circumstances make such notice impracticable.

24.3. If a bankruptcy petition is filed by or against Supplier, and Supplier has otherwise committed a Default, then Contractor shall have the right to prompt relief from the automatic stay and a prompt decision assuming or rejecting the MS Order.

25. TERMINATION FOR CONVENIENCE: Contractor reserves the right to terminate all or any portion of the MS Order at any time for its convenience, upon prior written notice. If it is determined that Contractor's attempted termination of the MS Order for Default was invalid for any reason, such attempt will be automatically converted to a termination for convenience, without further notice, and Supplier shall be limited to the remedy provided in this Section 25. In the event of a termination of the MS Order for convenience, Contractor will pay Supplier for the Work properly performed through the effective date of termination, together with the reasonable cost of specially fabricated materials, non-cancelable purchase commitments, reasonable cancellation charges, reasonable demobilization expenses, and other reasonable direct costs necessarily incurred by Supplier as a direct result of the termination. If Owner has terminated the Prime Contract for convenience, Contractor's liability to Supplier shall be fully extinguished by Contractor awarding and paying to Supplier any recovery obtained from Owner on Supplier's behalf. In no event will Supplier be entitled to recover anticipated profit or overhead on Work not performed, or any other indirect or consequential expenses or damages.

26. TERMINATION FOR DEFAULT: If Contractor terminates the MS Order for Default, Supplier shall not be entitled to receive any further payments under the MS Order until the Work under the MS Order is complete. Upon completion of the Work, if the unpaid balance of the Price exceeds the expenses incurred by Contractor finishing the Work, such excess shall be paid by Contractor to Supplier, but, if such expense

shall exceed such unpaid balance, then Supplier shall pay to Contractor the amount by which such expense exceeds such unpaid balance.

27. CLAIMS: Supplier agrees to make any Claim for extra work, extensions of time, delay or damages in the manner and in such time as required in the Prime Contract and in such time as will enable Contractor to promptly submit such Claims to the Owner for payment or recognition. Contractor shall not be liable to the Supplier or on any Claim not timely and properly presented or if prohibited in the Prime Contract, unless otherwise allowed by the Owner.

Contractor shall timely submit any properly documented pass-through Claim presented by Supplier to the extent permitted under the Prime Contract. Contractor shall have no independent liability for such Claim except to the extent Contractor recovers from Owner or is otherwise independently liable under this MS Order.

28. DISPUTE RESOLUTION:

28.1. Any dispute relating to this MS Order, which the parties have been unable to resolve after a reasonable time by negotiation ("Dispute") shall be submitted to mediation upon written request of either party. The mediation shall be conducted using such mediator and procedures as the parties may agree. If agreement on the mediator or procedures has not been reached within 14 days after the request for mediation, the Construction Mediation Rules then in force for the American Arbitration Association shall be followed.

28.2. If after 90 days the parties have not resolved the Dispute by mediation, except as provided below in Subsection 28.4, the matter shall be submitted to mandatory arbitration at the request of either party. The arbitration shall be conducted using such arbitrator(s) and procedures as the parties may agree. If they are unable to reach agreement within 30 days of the demand, the matter shall be submitted to the American Arbitration Association in accordance with its Construction Industry Arbitration Rules then in force. The arbitrator's authority will include the ability to order payment of costs and attorney fees as justice may require, but no punitive or exemplary damages. Judgment on the arbitration award may be entered in accordance with the standards of the Federal Arbitration Act by any court having jurisdiction.

28.3. Unless otherwise agreed by the parties in writing, any mediation or arbitration conducted pursuant to this Section 28 shall take place in the county and state where the Project is located. The parties consent to such venue and agree that the arbitrator(s) shall have authority to conduct proceedings in that location.

28.4. If Contractor is or expects to become a party to any litigation or arbitration with Owner or a third party relating to the Project, Contractor may elect to join Supplier as a party to such litigation or arbitration. Supplier is bound by the procedures, decisions and determinations resulting from any dispute resolution process in the Prime Contract.

28.5. Nothing in this MS Order precludes Contractor from applying to a court for equitable relief when threatened with irreparable harm for which there is no adequate remedy at law.

28.6. In no event shall Contractor be liable to Supplier for consequential, punitive, exemplary, or indirect damages of any kind.

28.7. Pending resolution of a Dispute, Supplier shall continue diligent performance of the Work and Contractor shall continue with payment of amounts not genuinely in dispute.

29. NOTICES: Notices shall be provided in writing, through mail, courier, e-mail, or hand delivery, to an officer or management employee of the party being notified. Notices to Contractor shall be confirmed with a copy sent, return receipt, to the address listed for Contractor on the MS Order. Either party may change its address by providing written notice of the new address.

30. ETHICS AND COMPLIANCE: Supplier represents and warrants that it shall perform the Work in compliance with all applicable federal, state, and local laws, regulations, ordinances, and governmental requirements. Supplier further represents and warrants that neither it nor its Subordinate Parties shall engage in bribery, commercial bribery, kickbacks, fraud, bid-rigging, human trafficking, forced labor, child labor, unlawful discrimination, or any other unlawful or unethical conduct in connection with the Work.

Supplier shall maintain commercially reasonable compliance policies and internal controls appropriate to the nature of its business and shall promptly notify Contractor of any governmental investigation, criminal indictment, regulatory action, suspension, debarment, or other material compliance issue relating to Supplier that could reasonably affect Supplier's ability to perform the Work.

Contractor may immediately terminate this MS Order for cause if Supplier materially violates this Section.

31. GENERAL PROVISIONS:

31.1. This MS Order constitutes the entire understanding of the parties and supersedes any prior proposal or agreement, and shall not be modified, amended or revoked except in writing executed by an authorized representative of Contractor. In entering into this MS Order, Supplier has not relied on any promises or representations unless stated herein. Should any portion of this MS Order be held invalid or unenforceable, in whole or in part, the remainder of the MS Order shall be valid and enforceable to the fullest extent permitted by law. The failure of Contractor to enforce at any time any of the provisions of this MS Order shall in no way be construed to be a waiver, nor in any way to affect the validity of this MS Order or any part thereof or the right of Contractor to enforce each and every provision.

31.2. Except where expressly stated, there are no third party beneficiaries to this MS Order.

31.3. This MS Order shall be governed by the laws of the state where the Project is located, except that the arbitration provision is governed by the Federal Arbitration Act.