

Vendor:

PPI Job No.:



PURCHASE ORDER

This Agreement is made this ____ day of _____, 20____, between _____
 ("Buyer") and **Vendor**, _____, whose address, telephone number and license
 number are indicated below.

Project Name and Location

Project Owner

Name _____
 Address _____

Construction lender (if applicable)

Direct Contractor (if not a party)

Name _____
 Address _____

MATERIAL TO BE PROVIDED. Vendor shall furnish the items or services described below at the price set forth opposite each item or service, within the times stated below in accordance with the terms and provisions of the Prime Contract, unless otherwise indicated in writing. Prices shall include all taxes and duties of any kind as set forth below.

<i>Description/Item No.</i>	<i>Estimated Quantity</i>	<i>Price Per Unit</i>	<i>Extension</i>	<i>Delivery Date</i>

Ship to _____ Via _____ Mark _____
 Deliver F.O.B. _____ With Freight Allowed to _____
 Mail Invoices in Triplicate to **Preston Pipelines, Inc. 133 Bothelo Avenue, Milpitas, CA 95035** terms _____ PPI Cost Code: _____

THIS AGREEMENT IS SUBJECT TO ALL OF THE GENERAL TERMS AND CONDITIONS ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE, AS WELL AS ALL PRIME CONTRACT DOCUMENTS, PLANS AND SPECIFICATIONS RELEVANT TO VENDOR'S WORK.

Vendor:

PPI Job No.:

Vendor:

CONTRACTOR: Preston Pipelines, Inc.

Date: _____

Date: _____

By: _____

By: _____

Print Name: _____

Print Name: _____

Print Title: _____

Print Title: Project Executive

Address: _____

Address: 133 Bothelo Avenue

City, State & Zip: _____

City, State & Zip: Milpitas, CA 95035

License No.: _____

License No.: 367660

GENERAL TERMS AND CONDITIONS

This Agreement is subject to all of the following terms and conditions:

1. Complete Agreement. This purchase order consists of this Agreement and the applicable terms, conditions, plans and specifications of the Prime Contract. **Vendor's acceptance is expressly limited to the exact terms of this purchase order.** (Commercial Code Section 2207.) All different or additional terms proposed or required by Vendor are hereby rejected and do not become part of any agreement formed by the parties. This purchase order shall supersede and take precedence over any terms of any prior or subsequent agreement, proposal, or communication, unless both parties both sign a written modification that specifically refers to this paragraph and describes which portions of the purchase order are modified. Commencing performance or making deliveries or any acknowledgment of this Agreement by Vendor shall constitute an acceptance of the terms of this Agreement by Vendor. Buyer is to be bound only by the terms and conditions of this purchase order notwithstanding any proposals, terms, or conditions additional or different from those accompanying Vendor's performance of acknowledgment. With respect to the matters comprised by this Agreement, whether generally or specifically, Vendor agrees to assume toward Buyer, all obligations assumed by Buyer toward Owner or upper tier contractor(s), as the case may be, under the Prime Contract. In the event that Buyer's contract is with the direct contractor or a subcontractor, not Owner, then the term "Prime Contract" shall refer to and include not only all of documents comprising the agreement between the direct contractor and the Owner, as well as all of the documents comprising Buyer's own contract in connection with the Project.

2. Insurance. Before performing work or conducting any

activities at the site of the Project, Vendor shall comply with all of the insurance provisions set forth below. Commencing to perform work constitutes a representation by Vendor that it is in compliance with this Section 2.

2.1.1 Liability Insurance. Vendor shall carry primary Commercial General Liability insurance covering all operations by or on behalf of Vendor, and actions or omissions by Vendor, providing insurance for bodily injury and property damage liability for the limits of liability indicated below and including but not limited to coverage for:

- (1) premises and operations
- (2) products and completed operations
- (3) contractual liability insuring tort obligations assumed by Vendor in this Agreement
- (4) broad form property damage (including completed operations)
- (5) explosion, collapse and underground hazards (including subsidence and any other earth movement)
- (6) personal injury liability

The limits of liability shall be not less than the amounts required of Buyer under the Prime Contract, but in no event less than:
 \$2,000,000 each occurrence (combined single limit for bodily injury and property damage)
 \$2,000,000 for personal injury liability
 \$2,000,000 aggregate for products-completed operations
 \$2,000,000 general aggregate
 The general aggregate limit shall apply separately to Vendor's work under this Agreement. For purchases in excess of \$1,000,000 an additional \$5,000,000 Excess Liability Insurance

Vendor:

PPI Job No.:

policy shall be maintained over the General Liability coverage shall, at a minimum, include coverage for the exposures set forth in items 1-6 above. Vendor shall maintain primary and excess products liability and completed operations coverage through the expiration of the period for filing actions based on patent deficiencies as set forth in Section 337.1 of the California Code of Civil Procedure.

Buyer, its officers, directors and employees, and Owner shall be named as additional insureds under the Commercial General Liability policy and Excess Liability policy and such insurance afforded the additional insureds shall apply as primary insurance. Any other insurance maintained by Buyer or Owner shall not be called upon to contribute with this insurance. Coverage for Buyer, its officers, directors and employees and Owner as additional insureds shall be provided by an endorsement providing coverage at least as broad as Additional Insured (Form B) endorsement form CG 2010 1185 (1985 version) as published by the Insurance Services Office (ISO) (or equivalent). Additional insured endorsements shall be provided for three years following project completion.

General liability insurance shall be written on a form at least as broad as ISO occurrence form CG 0001. Buyer reserves the right, in its sole and subjective discretion, to reject an insurer and require Vendor to obtain policies from another insurer.

2.1.2 Workers Compensation and Employer's Liability

Insurance. Workers Compensation insurance shall be provided as required by any applicable law or regulation. Employer's Liability insurance shall be provided in amounts not less than \$1,000,000 each accident for bodily injury by accident \$1,000,000 policy limit for bodily injury by disease \$1,000,000 each employee for bodily injury by disease.

If there is an Vendor's employees are exposed to conditions that would subject Vendor to the U.S. Longshoreman and Harbor Workers Compensation Act, the Jones Act or under laws, regulations or statutes applicable to maritime employees, coverage shall be included for such injuries or claims. Vendor, on its own behalf and on behalf of its insurers and other providers of coverage, waives any and all right of recovery and right to subrogation in connection with matters to which such insurance applies.

2.1.3 Claims Made/Self Insurance Provisions. Vendor shall not provide general liability insurance under any Claims Made General Liability form without the express prior written consent of Buyer. Any self-insurance program providing coverage in excess of \$25,000 per occurrence requires the prior written consent of Buyer.

2.1.4 Automobile Liability Insurance. Vendor shall carry automobile liability insurance, including coverage for all owned hired and non-owned automobiles. The limits of liability shall be not less than \$1,000,000 combined single limit each accident for bodily injury and property damage. Automobile Liability Insurance shall be provided pursuant to a coverage form at least as broad as ISO form CA 0001

2.1.5 Evidence of Coverage, Certificates, and Insurers.

Certificates of insurance shall set forth deductible amounts applicable to each policy and all exclusions or limitations not set forth in ISO Commercial General Liability Form CG 0001. Buyer may allow deductible provisions if Vendor is willing to increase retentions accordingly. Standard ISO Form CG 0001 exclusions will also be allowed. Allowance of any additional exclusions or coverage limiting endorsements is at the discretion of Buyer, and Vendor's price under this Agreement shall be subject to adjustment to compensate for the existence of such exclusions. Regardless of the allowance of exclusions, coverage limitations or deductibles by Buyer, Vendor shall be responsible for any deductible amount or any loss arising out of coverage denials by its insurance carrier(s). The certificates of insurance shall provide that there will be no cancellation or reduction of coverage without thirty (30) day's prior written notice to Buyer.

Any acceptance of insurance certificates by Buyer shall in no way limit or relieve Vendor of its duties and responsibilities under this Agreement including the duty to indemnify and hold harmless Buyer under other provisions hereof. Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve Vendor of liability in excess of such coverage nor shall it preclude Buyer from taking such other actions as is available to it under any other provision of this Agreement or law. If higher limits or other forms of insurance are required in the Prime Contract, Vendor will comply with such requirements.

Vendor shall provide, as evidence of coverage, actual additional insured endorsements. Vendor shall take such steps as are necessary to assure Vendor's compliance with its obligations. Should any insurance policy lapse or be canceled during the contract period, Vendor shall, prior to the effective expiration or cancellation date, furnish Buyer with evidence of renewal or replacement of the policy. Failure to continuously satisfy insurance requirements as herein provided is a material breach of contract. In the event Vendor fails to maintain any insurance coverage required, Buyer may, but is not required to, maintain such coverage and charge the expense to Vendor or terminate this Agreement.

All insurance (including, but not limited to general liability, automobile liability, and workers compensation and employer's liability insurance) shall be provided by a California admitted carrier with an A.M. Best's Rating of A- or better, financial capacity VII or greater (except for State Fund of California for workers compensation coverage); however, in Buyer's sole subjective discretion, Buyer may consider accepting coverage from a non-California admitted carrier with an A.M. Best rating of A or better, financial capacity of XII or better. Additional insured endorsements shall be maintained and furnished to contractor for three years following completion of the Project. Vendor shall not provide any liability coverage under a "wasting" policy or other form of policy that reduces the amount of coverage, in whole or in part, by amounts expended on defense of claims.

2.1.6 Hazardous Materials. If Vendor and/or its subcontractors or suppliers, regardless of tier, perform remediation of hazardous materials or if their operations create an exposure to

Vendor:

PPI Job No.:

hazardous materials as those terms are defined in federal, state or local law, Vendor and its subcontractors and suppliers must obtain a "Contractor's Pollution Liability" policy with limits not less than \$1,000,000 per occurrence and not less than \$2,000,000 aggregate for Bodily Injury, Personal Injury and Property Damage, naming Buyer as an additional insured. If Vendor or its subcontractors or suppliers haul hazardous material (including, without limitation, waste), the policy must extend pollution coverage to the transportation of hazardous materials or pollutants by waste hauling vehicles. If Vendor is subject to the Motor Carrier Act of 1980, the Motor Carrier Act endorsement MCS-90 must be obtained and attached to the policy.

2.1.7 Professional Liability. Any Vendor performing work that includes any design/build work or services shall obtain a Professional Liability Insurance Policy. Design/build work includes, without limitation, design/build work with respect to mechanical, electrical, structural, plumbing and fire sprinkler systems. Evidence of coverage in the form of a Certificate of Insurance shall be provided prior to the start of the Project. Vendor shall obtain coverage for a minimum of three years following completion of the Project, either through continued purchase of policies for such years or through purchase of an extended reporting period. If Owner or Buyer elects to purchase a project design policy, Vendor's policy shall be endorsed to indicate that Vendor's policy shall provide coverage once the project design policy has been exhausted.

2.1.8 Riggers Liability. Should Vendor's work involve the moving, lifting, lowering, rigging or hoisting of property or equipment, Vendor shall carry Rigger's Liability Insurance to insure against physical loss or damage to the property or equipment.

2.1.9 Aircraft Liability. If Vendor (or its subcontractors or suppliers, regardless of tier) use any owned, leased, chartered or hired aircraft of any type in the performance of this Agreement, they shall maintain aircraft liability insurance in an amount of not less than \$10,000,000 per occurrence, including Passenger Liability. Evidence of coverage in the form of a certificate of insurance shall be provided prior to the start of the Project.

2.1.10 Work Near Railroads. If Vendor (including any lower tier subcontractor or supplier) performs any work or conducts any operations within fifty feet of any railroad (including any light rail, fixed rail or other rail system), Vendor shall obtain an endorsement of its Commercial General Liability Policy to delete any exclusion, including the "Contractual Liability" exclusion, for work performed within fifty feet of a railroad. A copy of such endorsement shall be provided to Buyer prior to any work or operations by Vendor within fifty feet of any railroad.

2.1.11 Requirements for Subcontractors, Vendors, and Suppliers. Vendor shall ensure that all tiers of its subcontractors, vendors and suppliers shall maintain insurance in like form and amounts, shall comply with the additional insured requirements as set forth above, and shall provide Buyer with

evidence of insurance prior to commencing work.

2.2 Waiver of Subrogation and Loss Adjustment. Vendor waives all rights against Buyer, other contractors, and subcontractors, Owner, and their insurers, for loss or damage to the extent reimbursed by any property or equipment insurance applicable to the work, except such rights as they may have to the proceeds of such insurance. If any applicable policies of insurance referred to in this Section require an endorsement or consent of the insurance company to provide for continued coverage where there is a waiver of subrogation, the owners of such policies will cause them to be so endorsed or obtain such consent. Buyer shall pay Vendor a just share on any insurance money received on account of loss to Vendor's goods or materials.

3.0 No Waiver. Failure of Buyer to enforce in a timely manner any of the provisions of this Agreement, including with respect to insurance, shall not act as a waiver to enforcement of any of these provisions at a later date in the performance of this Agreement.

4.0 Liens. In case suit is brought on any lien, claim, or stop payment notice for labor performed or materials used on or furnished to the Project, Vendor shall pay and satisfy any such lien or judgment as may be established by the decision or the court in said suit. Vendor agrees within ten (10) days after written demand to cause any such suit, lien, claim, or stop payment notice to be removed from the premises or otherwise released, and in the event Vendor shall fail so to do, Buyer is authorized to use whatever means in its discretion it may deem appropriate to cause said suit, lien, claim, or stop payment notice to be removed or dismissed and the cost thereof, together with actual attorney's fees, shall be immediately due and payable to Buyer by Vendor. Vendor may litigate any such suit, lien, claim, or stop payment notice provided it causes the effect thereof to be removed, promptly in advance, from the premises and from any payments that may be withheld, and shall further do such things as may be necessary to cause Owner not to withhold any monies due to Buyer from Owner by reason of such liens or suits. It is understood and agreed that the full and faithful performance of this Agreement on the part of Vendor (including the payment of any Project obligations due from Vendor to Buyer, and any amounts due to labor or suppliers furnishing labor or material for said work) is a condition precedent to Vendor's right to receive payment for the work performed, and any monies paid by Buyer to Vendor under the terms of this Agreement shall be impressed with a trust in favor of labor and suppliers furnishing labor and material to Vendor on the work herein.

5.0 Risk of Loss. Notwithstanding the terms of shipment, the risk of loss shall pass to Buyer only after delivery to the job site or other place designated in writing by Buyer, and installation of the goods or materials. Buyer shall have no responsibility to protect Vendor's material and equipment from damage or loss caused by any Act of God, strike, riot, or other natural or human element. Vendor shall carry all necessary insurance to protect its own as well as Buyer's interest in the labor, equipment, and materials furnished, until such time as the risk of loss passes to Buyer.

Vendor:

PPI Job No.:

6.0 Delivery. Time is of the essence of this Agreement. If no delivery date is specified on the face of this order, all deliveries of materials shall conform to the date or dates specified in writing from time to time by Buyer's representative. Should delivery for any reason fail to be timely, Vendor shall be liable for all damages suffered by Buyer as a result of such failure, including, without limitation, any liquidated damages for which Buyer may be liable. In no event shall Vendor be entitled to an extension beyond that allowed to Buyer under the terms of the Prime Contract.

7.0 Acceptance, Examination, Performance, and Cleanup. Vendor shall take all field measurements and perform all investigation necessary to ensure that upon delivery, materials furnished will be fit for the purposes intended and will comply with the Prime Contract and any other applicable requirements. In the event the scope of work includes installation of materials or equipment furnished by others or work to be performed in areas to be constructed or prepared by others, it shall be the responsibility of Vendor to examine and accept, at the time of delivery of such items or first access, the items so provided and thereupon handle, store and install the items with such skill and care as to insure a satisfactory completion of the work by Vendor in such areas. Failure to object in writing immediately upon the time of delivery or first access shall be deemed to constitute acceptance of such items or such conditions, as the case may be, by Vendor. Loss or damage due to acts of Vendor shall be charged to the account of Vendor and Buyer may in its sole discretion deduct such loss or damages from monies otherwise due Vendor under this Agreement. Vendor shall cooperate with Buyer and all contractors, Vendors, and other persons at the Project site and performing any work in connection with the Project. To the extent that Vendor performs any operations at the site, or makes deliveries to the site, Vendor shall promptly remove all surplus material, waste, and rubbish, at its own expense, and shall keep the site in a safe condition; if Vendor fails to do so, Buyer may charge Vendor for costs incurred to remedy Vendor's breach, plus reasonable markup of 15%.

8.0 Inspection; Rejection of Nonconforming Goods. Buyer shall have the right to inspect and test the materials at Vendor's plant anytime prior to shipment and to conduct additional inspections at any time after arrival at the job site. The making or failure to make any inspection of, or payment for or acceptance of, the materials shall not impair Buyer's right to later reject nonconforming or defective materials, or to avail itself of any other remedy to which Buyer may be entitled, notwithstanding Buyer's knowledge of the nonconformity or defect, its substantiality, or the ease of its discovery. Nonconforming or defective items may be rejected orally. Vendor shall be liable for all inspection, reshipment and return costs on nonconforming or defective materials. Vendor shall not replace returned materials unless so directed by Buyer in writing. Vendor shall be responsible for any damages, losses, costs, or liabilities that Buyer may incur because of a late delivery or a delivery of nonconforming or defective items.

9.0 Remedies of Buyer. When reasonable grounds for insecurity arise with respect to Vendor's performance, Buyer may in writing demand adequate assurance of due performance. Vendor's failure to provide within two (2) days of the demand such assurance of due performance as is adequate under the circumstances of the particular case is a default under this Agreement. Adequate assurances may include providing a bond or bonds, in the Buyer's sole discretion.

10.0 Changes and Right to Terminate. Changes will be binding on Buyer only if in writing and signed by the Buyer.

(a) Buyer, for its convenience, may by written change order make any change, including, without limitation, additions or deductions in quantities ordered, changes in the specifications or drawings, changes in the time of delivery, or termination. Buyer may terminate or suspend at its convenience all or any portion of this order not shipped as of the date of termination or suspension of the order. In the event of any change or termination, there shall be an equitable price adjustment by Buyer. If Vendor maintains that Buyer's adjustment is not equitable, the price change shall be negotiated. In the event the parties cannot agree, the final determination shall be made in accordance with the dispute resolution provision of this Agreement. However, if unit prices have been designated as to materials maintained in the normal course of Vendor's business as standard stock, such unit prices shall control all price adjustments for quantity changes. No change or termination shall relieve Buyer or Vendor of any of its respective obligations as to any material shipped prior to Vendor's receipt of the change, termination or suspension order. Any claim for adjustment by Vendor hereunder must be asserted in writing within ten (10) days from the date the change or termination is ordered.

(b) If the Owner shall order the Buyer to change, adjust, substitute, add to, delete from, suspend, or terminate the work included in this order, Vendor shall comply with Owner's order and the price or time of performance hereunder shall be adjusted only as allowed by Owner.

(c) In the event of a termination for default, Buyer may, in addition to all other rights and remedies, purchase substitute items or services elsewhere and hold Vendor liable for any and all excess costs incurred, including attorney's, experts' and consultants' fees actually incurred, and other legal costs.

(d) In the event that any termination other than for convenience is later determined to have been without cause or improper, Vendor's sole remedy shall be to have the termination converted to a termination for convenience, and Vendor's recovery shall be limited in accordance with the terms of subparagraph (a).

11.0 Default. If Vendor fails to perform any of its obligations hereunder, Buyer shall be entitled to all remedies provided by law. If Vendor becomes insolvent or makes an assignment for the benefit of creditors, or files or becomes subject to receivership or reorganization or bankruptcy proceedings, or becomes involved in labor difficulties, which in Buyer's opinion threaten Vendor's ability to perform in a timely manner, Buyer may, in addition to any other rights or remedies it may have hereunder or at law, terminate the purchase order upon written notice to Vendor; such

Vendor:

PPI Job No.:

termination shall be deemed a termination for default. Buyer's failure to notify Vendor of a rejection of nonconforming materials or to specify with particularity any defect in nonconforming materials after rejection or acceptance thereof will not bar Buyer from pursuing any remedies for breach which it may otherwise have.

Upon the appointment of a receiver for Vendor or upon Vendor making an assignment for the benefit of creditors, or if Vendor seeks protection under the Bankruptcy Code or commits any other actor of insolvency, Buyer may, absent any applicable legal limitation, terminate this Agreement upon giving forty-eight (48) hours written notice, by certified mail, to Vendor and its surety, if any. If an order for relief is entered under the Bankruptcy Code with respect to Vendor, Buyer may terminate this Agreement upon giving forty-eight (48) hours written notice, by certified mail, to Vendor, its trustee, and its surety, if any, unless Vendor, the surety, or the trustee:

- a. promptly cures all defaults;
- b. provides adequate assurance of future performance;
- c. compensates Buyer for actual pecuniary loss resulting from such defaults; and
- d. assumes the obligations of Vendor within statutory time limits.

If Vendor is not performing in accordance with the schedule of work at the time of entering an order for relief or at any subsequent time, Buyer, while awaiting the decision of Vendor or its trustee to reject or to accept this Agreement and provide adequate assurance of its ability to perform hereunder, may avail itself of such remedies as are reasonably necessary to maintain the schedule or work.

Buyer may offset against any sums due or to become due Vendor all costs incurred in pursuing any of the remedies provided hereunder, including, but not limited to, reasonable overhead, profit and actual attorney's fees incurred as a result of Vendor's non-performance. Vendor shall be liable for the payment of any amount by which such expense may exceed the unpaid balance that otherwise might be owed to Vendor.

12.0 Payment. The price herein specified shall, unless otherwise expressly stated within the terms of this Agreement, include all taxes and duties of any kind levied by federal, state, municipal, or other governmental authorities, which either party is required to pay with respect to the production, sale, use or shipment of the materials covered by this Agreement, including without limitation, any amounts owed as a result of increase or changes in taxes that take effect during the course of the Project, and all charges for packing, loading, unloading and shipping. If transportation costs are designated as part of the cost to Buyer, only actual transportation costs shall be included. Damage to materials not packed to insure proper protection shall be charged to Vendor. Vendor's invoice shall set forth the items delivered to the project site, the date of delivery, the unit cost and total costs of the items involved. Vendor's right to payment is subject to the same payment provisions enforced upon Buyer by the terms of the Prime Contract. Vendor shall submit all invoices and applications for payment in time to allow Buyer to submit a timely application for payment under its contract in connection with the Project.

If Owner or other responsible party delays in making any payment to Buyer from which payment to Vendor is to be made, Buyer and its sureties shall have a reasonable time to make payment to Vendor, before payment shall be considered due. "Reasonable time" shall be determined according to the relevant circumstances, but in no event shall be less than the time Buyer, its sureties and Vendor required to pursue to conclusion their legal remedies against Owner or other responsible party to obtain payment, including (but not limited to) mechanic's lien remedies. If Vendor asserts a claim which involves, in whole or in part, acts or omissions which are the responsibility of the Owner or another party, including but not limited to claims for failure to pay, an extension of time, delay damages, or extra work, Buyer will present Vendor's claim to the Owner or the responsible party. Vendor shall cooperate fully with the Buyer in all steps taken in connection with prosecuting such a claim and shall hold harmless and reimburse the Buyer for all expense, including legal expense, incurred by Buyer which arise out of Buyer's submission of Vendor's claim to Owner or other responsible party. Vendor shall be bound by any adjudication or award in any action or proceeding resolving such a claim. Vendor agrees to give prompt notice of any claim for additional time or compensation in strict accordance with the terms of the Prime Contract in connection with the Project, in sufficient time so as to allow Buyer to submit a timely claim to Owner or other responsible parties. Notwithstanding the foregoing, nothing herein shall be deemed to authorize any such a claim in the absence of an otherwise existing right to do so.

12.1.1 Releases Vendor as a condition precedent to payment shall provide Contractor with a properly completed, approved "Subcontractor/Vendor Payment Application." The properly completed "Subcontractor/Vendor Payment Application" shall consist of, but is not limited to, properly completed and approved: 1) Schedule of Values, 2) only Contractor approved/provided Conditional Waiver and Release Upon Progress Payment, 3) only Contractor approved/provided Unconditional Waiver and Release Upon Progress Payment for previous payment, 4) Union Status Letters(if required), 5) only Contractor approved/provided Unconditional Waivers and Releases from all Vendors' supplier/subcontractors, 6) certified payroll (if required and pursuant to section (V)(n)), and any other document specifically named and required by Contractor/Owner/Prime Contract. Failure to properly complete the "Subcontractor/Vendor Payment Application" will result in Contractor's rejection of that Payment Application until Vendor resubmits a properly completed application.

13.0 Indemnity and Defense. With the exception that this Section 13 shall in no event be construed to require indemnification by Vendor to a greater extent than permitted under the public policy of the State of California, Vendor shall indemnify, protect, defend and save harmless Owner and Buyer, including their officers, agents, directors, partners, members, employees, affiliates, parents and subsidiaries, and each of them, of and from any and all claims, demands, causes of action, damages, costs, expenses, actual attorney's fees, losses or

Vendor:

PPI Job No.:

liabilities, in law or equity, of every kind and nature whatsoever ("Claims") arising out of or in connection with Vendor's operations to be performed under this Agreement, Vendor's alleged or actual actions or omissions, Vendor's completed work, and/or Vendor's presence at the Project site.

The indemnification provisions of this Agreement shall extend to Claims occurring after this Agreement is terminated or has been fully performed as well as while it is in force. Such indemnity provisions apply regardless of any active and/or passive negligent act or omission of Owner or Buyer or of any other person to be indemnified hereunder. To the extent that and only if Section 2782 of the California Civil Code applies to this Agreement, Vendor shall not be obligated under this Agreement to indemnify Owner or Buyer from Claims arising from the sole negligence or willful misconduct of Owner or Buyer or of any other person to be indemnified hereunder, or for defects in design furnished by such persons. If this Purchase Order is subject to the Section 2782.05 of the Civil Code, this Section 13.0 shall apply to the greatest extent permitted by law, but no greater, and Contractor shall be entitled to all of the rights and remedies available under Section 2782.05, by contract and/or under applicable law. The duty to defend shall apply, and Vendor shall be required to furnish a defense, notwithstanding that there has not yet been an adjudication or finding of liability on the part of Vendor or any person to be indemnified.

All work covered by this Agreement done at the site or in preparing or delivering materials or equipment, or any or all of them, to the site shall be at the risk of Vendor exclusively until the completed work is accepted by Buyer and Owner.

14.0 Safety and Compliance with Laws; Warranty. Vendor shall comply fully with all laws, orders, citations, rules, regulations, standards and statutes affecting or relating to this Agreement or its performance, including but not limited to those with respect to occupational health and safety, the handling and storage of hazardous materials, accident prevention, safety equipment and practices including the accident prevention and safety program of Owner and Buyer, state, federal and local nondiscrimination

in employment provisions, and all applicable provisions required by the Prime Contract and all local regulations and building codes. Vendor shall execute and deliver all documents as may be required to effect or evidence compliance.

Vendor warrants to Buyer that it has fully and carefully reviewed the provisions, specifications, drawings, samples or other descriptions contained in the Agreement and in the Prime Contract. Vendor warrants to Buyer of the materials that the same shall be free from all defects, shall be of the quality specified, shall be fit and appropriate for the purpose intended and shall conform to the provisions, specifications, performance standards, drawings, samples or other descriptions contained herein or in the Prime Contract. Vendor further warrants that the materials will be complete in all respects necessary to make the materials fully functional if installed in accordance with the contract documents. All warranties implied by law or usage of trade are incorporated into this Agreement and shall apply to

services and materials ordered. Vendor guarantees Buyer that the materials rendered shall be free of any and all defects in workmanship and materials which may develop for the period set forth in the Prime Contract, or the period during which an action may be brought against Buyer under Section 337.15 of the California Code of Civil Procedure, plus 12 months, whichever is greater. All warranties herein are deemed to be prospective warranties, and causes of action on warranties shall not be deemed to accrue until such time as Buyer reasonably becomes aware of Vendor's breach of warranty. Vendor's warranty shall in all respects meet the terms of the warranty requirements of the Prime Contract for the materials and services order. The materials are ordered by Buyer in reliance on each and all of the warranties and guarantees specified herein and implied by law or usage of trade. Buyer's remedies pursuant to this paragraph are in addition to, and not a limitation on, all other remedies allowed by contract or law.

15.0 Infringement. Vendor shall pay all royalties and licensing fees arising in connection with the sale or use of materials hereunder. Vendor further undertakes and agrees to defend, at Vendor's expense, all suits, actions or proceedings in which Buyer, its successors, assigns, customers or users of its customer's products are made defendants for actual or alleged infringement of any U.S. or foreign letters patent, copyrights, trademarks or other intellectual property rights resulting from the use or purchase of any materials furnished under this Agreement, and Vendor agrees to pay or discharge any and all judgments or decrees which may be rendered in any such suit, action or proceeding against such defendants therein.

16.0 Bonds. Upon five days' written notice and at Buyer's expense, at a premium not to exceed 1.5% of face value, Vendor shall furnish a corporate surety bonds for payment for labor, equipment, materials and services and guaranteeing Vendor's performance of all obligations hereunder. All sureties shall comply with the requirements for insurers under Section 2 hereof.

17.0 Miscellaneous. Without first giving written notice and then obtaining Buyer's written consent, Vendor shall not assign, hypothecate, transfer or sublet: (1) any portion or part of Vendor's obligations hereunder; (2) payments to Vendor under this Agreement; or (3) any cause of action related to this Agreement. Vendor acknowledges and stipulates that its performance constitutes a unique and personal obligation. Any assignment, hypothecation, transfer, or subletting by Vendor without Buyer's written consent shall be void and invalid, notwithstanding actual or constructive knowledge by Buyer of the purported assignment, hypothecation, transfer or subletting. In the event of any transfer, hypothecation or assignment by Vendor, without Buyer's consent, of the right to receive all or any part of any payments due or to become due hereunder, Buyer may, at any time thereafter, withhold any or all monies or payments due or to become due hereunder until final payment is due and all conditions precedent to such payment are satisfied. Buyer may, at its option, setoff any amounts otherwise due from

Buyer to Vendor under this purchase order against any delinquent amounts or liabilities that are due to Buyer or its commonly controlled affiliates from Vendor.

Vendor is an independent contractor and shall, at its sole cost and expense, and without increase in the Contract Price, comply with all laws, rules, ordinances and regulations of all governing bodies having jurisdiction over the work, obtain all necessary permits and licenses therefore, pay all manufacturers' taxes, sales taxes, use taxes, processing taxes, and all federal and state taxes, insurance and contributions for social security and unemployment which are measured by wages, salaries, or other remuneration paid to Vendor's employees, whether levied under existing or subsequently enacted laws, rules or regulations.

Vendor upon request shall furnish evidence satisfactory to Buyer that any or all of the foregoing obligations have been fulfilled.

The Contract Price reflects compliance with California Prevailing Wage statutes and the federal Davis-Bacon Act, to the extent either may be applicable. Vendor has conducted its own thorough and complete investigation as to all matters relevant to this Agreement, including applicable laws, and represents that it has not relied upon any statement, representation or promise of Buyer.

18.0 Continuing Effect. The terms and conditions set forth in this purchase order shall continue in full force and effect and shall govern and control future transactions between Buyer and Vendor until such time as Buyer receives from Vendor a written notice of revocation. Any notice of revocation, to be effective, shall be signed by an officer or director of Vendor. Vendor's delivery of notice of revocation shall in no way relieve Vendor from any liability, indebtedness or contractual obligations incurred prior to Buyer's actual receipt of such notice.

19.0 Disputes. Any dispute arising out of or related to this purchase order or the breach thereof shall be arbitrated in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, utilizing arbitrator(s) appointed by JAMS. In addition, Buyer may, at its sole option, require that Vendor participate in and be bound by any dispute resolution procedures applicable under the Prime Contract or any proceeding that involves any claims or disputes arising out of or related to Vendor, Vendor's materials, or Vendor's performance or nonperformance of any obligations. The existence of a dispute between Buyer and Vendor shall not relieve Vendor of its obligation to perform under this Agreement, and Vendor shall work through and continue to perform notwithstanding disputes. To the greatest extent permitted by law, Vendor waives the right to suspend performance or rescind because of disputes, including disputes concerning payment.

20.0 Applicable Law - Definitions. The definitions of terms used, interpretation of this Agreement and the rights of all parties hereunder, shall be construed under and governed by the laws of the State of California. Whenever Buyer is not the ultimate consumer of the materials, all rights, benefits and remedies conferred upon Buyer hereunder shall accrue and be available to and are for the express benefit of any successors in interest to the

materials, including the ultimate consumer of the materials. As used herein, the "materials" or "items" means the goods, equipment, labor, supplies, drawings, data and other property and all services, including design, delivery, installation, inspection and testing specified or required to furnish the materials or services ordered. The term "Prime Contract" means the agreement entered into by Buyer with respect to the Buyer's obligations in connection with the Project, whether with the Owner, a general contractor, or a subcontractor, and includes all documents incorporated therein or referred to thereby, including without limitation, plans, specifications, general and special conditions, addenda, etc.

21.0 Compliance with License Law.
CONTRACTORS ARE REQUIRED BY LAW TO BE LICENSED AND REGULATED BY THE CONTRACTORS STATE LICENSE BOARD WHICH HAS JURISDICTION TO INVESTIGATE COMPLAINTS AGAINST CONTRACTORS IF A COMPLAINT REGARDING A PATENT ACT OR OMISSION IS FILED WITHIN FOUR (4) YEARS OF THE DATE OF THE ALLEGED VIOLATION. A COMPLAINT REGARDING A LATENT ACT OR OMISSIONS PERTAINING TO STRUCTURAL DEFECTS MUST BE FILED WITHIN TEN (10) YEARS OF THE DATE OF THE ALLEGED VIOLATION. ANY QUESTIONS CONCERNING A CONTRACTOR MAY BE REFERRED TO THE REGISTRAR, CONTRACTORS STATE LICENSE BOARD, P. O. BOX 26000, SACRAMENTO, CALIFORNIA 95826.