

**TOWN OF GLASTONBURY
PURCHASE ORDER TERMS AND CONDITIONS**

1. **Agreement.** No changes, conditions or agreements other than those stipulated herein are to govern this purchase order (“Order”) unless expressly made in writing and mutually agreed to. Acceptance of this Order / contract constitutes acceptance of all conditions stated herein.
2. **Prices.** This Order shall not be filled at prices or fees higher than those shown on the Order without the written authority of the Purchaser. If this Order is not priced, it shall not be filled at prices higher than those last quoted or charged the Purchaser, unless prices shall have been authorized in writing by the Purchaser. The Purchaser shall be protected against declining prices on the undelivered portion of this Order. Seller may elect to meet price reductions, but if Seller should refuse to do so, the Purchaser shall have the right to cancel any or all of the balance due on this Order without cost or penalty.
3. **Invoices.** No invoice shall be delivered by the Seller to any employee of the Town of Glastonbury. All invoices, in duplicate, shall be mailed to the Accounting Department, Town of Glastonbury, PO Box 6523, Glastonbury, Connecticut 06033-6523, unless instructed to do otherwise in writing.
4. **Delivery.** Time is of the essence in the Seller’s fulfillment of the Order. Delays in shipment shall be reported immediately by the Seller to the Purchaser. The Purchaser reserves the right to cancel this Order if delivery is not made within a reasonable period of time from the date of this Order or as expressly set forth in the Order. Prices are considered “FOB Glastonbury” with transportation charges prepaid on all Orders; charges for freight, express, cartage or packing will not be allowed or paid by the Purchaser unless expressly stated on the Order. The Risk of Loss shall remain with the Seller and delivery shall not be deemed to be complete until the goods and/or and services have been actually received and accepted by the Purchaser.
5. **Inspection & Acceptance.** All goods and services are subject to inspection and approval by the Purchaser. If rejected, goods will be returned at Seller’s expense. The Purchaser reserves the right to refuse any goods and to cancel all or any part of the goods not conforming to applicable specifications, drawings, samples, or descriptions. Acceptance of any part of the Order shall not bind the Purchaser to accept future shipments, nor deprive it of the right to return goods already accepted.
6. **Quantity.** The quantity of goods delivered must be that specified in the Order with variations limited to those established by custom or usage. All changes in quantity must be approved in writing by an authorized agent of the Purchaser. The Purchaser reserves the right to return excess shipments at the Seller’s expense.
7. **Defects.** By accepting this Order, the Seller acknowledges that the goods covered by this Order are satisfactory for the purposes intended by the Purchaser, if previously disclosed to Seller, and that any defect in such goods may occasion special damages to the Purchaser.
8. **Conforming Goods.** Acceptance of all or any part of the goods shall not be deemed to be a waiver of the Purchaser’s right to either cancel or to return all or any portion of the goods because of failure to conform to the Order, or by reason of defects, latent or patent, or other breach of warranty, or to make any claim for damages including special damages occasioned to the Purchaser. Such rights shall be in addition to any other remedies provided by law.
9. **Payment Discounts.** It shall be understood that the cash discount period will date from the Purchaser’s RECEIPT of the invoice and not from the DATE of the invoice.

10. **Worker's Compensation and Insurance.** If this Order includes any work on any premises other than those of the Seller, the Seller, in accepting the Order agrees:

a. Not to transfer this Order nor any part thereof to any person, firm or corporation without the prior consent of the Purchaser, but to give personal attention and superintendence to the work, and that the Purchaser shall be at liberty to place other contractors at work on the premises during the continuance of the work under this Order, for the execution of such other work as may be necessary and that are not included in this Order.

b. To maintain such insurance as will protect the Seller from claims under Workmen's Compensation or Employer's Liability Acts and commercial general liability insurance for any other claims for personal injury or property damage which may arise by reason of the performance of any work under this Order; to deliver to the Purchaser; a certificate or other evidence of such reasonable insurance coverage limits reasonably satisfactory to Purchaser, and further to protect, indemnify and save the Purchaser harmless from any and all liabilities arising from injuries to mechanics, laborers or any other persons whatsoever employed in the construction of said work or otherwise employed on or coming upon or near said premises from and against damage to property adjacent thereto, and from and against any and all liabilities for damage or injury to any persons or property whatsoever in any manner resulting from or caused by the performance of this Order, or any work relating thereto or any portion of said work.

11. **Patent Infringement.** The Seller agrees to indemnify and hold harmless the Purchaser from and against all costs, damage, loss or expense, including reasonable attorneys' fees, which the Purchaser may incur or undergo in the event of any suit, claim, or proceedings being brought against the Purchaser for the infringement of any letters patent of the United States of America by reason of the sale and/or use of any devise, design or apparatus furnished by the Seller under this Order; including any actual or claimed trademark, patent or copyright infringement.

12. **Regulatory Compliance.** In filling this Order, Seller represents and covenants that all goods and materials used to fill this Order are produced in compliance with all applicable existing federal and state laws, including but not limited to those regarding labor, wages, hours and materials.

13. **OSHA Requirements.** Seller agrees to comply with the provisions of the Occupational Safety and Health Act of 1970 and the standards and regulations issued thereunder and warrants that all goods furnished under this Order will conform to and comply with said standards and regulations. Seller further agrees to indemnify and hold harmless the Purchaser for all damages suffered by the Purchaser as a result of Seller's failure of the goods furnished under this Order to so comply. Seller agrees to furnish Material Safety Data Sheet as applicable for hazardous or potentially hazardous products.

14. **Non-Discrimination.** The Seller agrees and warrants that in the fulfillment of this Order it will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religion, national origin, sex or physical disability including, but not limited to blindness, unless it is shown by Seller that such disability prevents performance of that which must be done to successfully fulfill the terms of this Order or in any manner which is prohibited by the laws of the United States or the State of Connecticut and further agrees to provide the Connecticut Human Rights and Opportunities Commission with such information requested by the Commission concerning the employment practices and procedures of the Seller.

15. **Warranty.** Seller expressly warrants that the goods covered by this Order are of merchantable quality and satisfactory and safe for consumer use.

- a. **Warranty of Merchantability** – goods provided by the Seller under this Order shall be merchantable. All goods provided shall be of good quality, within the description given by the Purchaser, shall be fit for their ordinary purpose, shall be adequately contained and packaged within the description given by the Purchaser, shall conform to the agreed upon specifications, and shall conform to the affirmations of fact made by the Seller or on the container or label.
- b. **Warranty of fitness for a particular purpose** – When Seller has reason to know or knows any particular purpose, for which the goods are required, and the Purchaser is relying on the Seller's skill or judgment to select or furnish suitable goods, there is a warranty that the goods are fit for such purpose.
- c. **Warranty of Title** – Seller shall, in providing goods to the Purchaser, convey good title in those goods, whose transfer is right and lawful. All goods provided by the Seller shall be delivered free from any security interest, lien, or encumbrance unless otherwise agreed to by the Purchaser. Goods provided by the vendor shall be delivered free of any rightful claim of any person by patent, copyright, infringement or the like.

16. **Indemnification.** To the maximum extent allowed by law, Seller shall defend, indemnify and hold harmless the Purchaser, its officers, agents and employees from and against any and all damages, claims, liabilities, demands, suits, judgments, penalties and costs (including reasonable attorneys' fees and expenses) and all liability imposed by law, for or on account of damage to property or death of or injury to any person or persons (including property and employees of the Purchaser) arising or resulting from any negligent act or omission of, willful misconduct, breach of contract or breach of warranty by, or the fault of the Seller or anyone for whom the Seller is responsible in the performance of the Order/contract or the work, goods, or services provided by the Seller, its employees, agents or subcontractors pursuant to this Order/contract. This indemnification will survive the delivery and acceptance of the goods and services to the maximum extent allowed by law.

17. **Taxes.** The Town of Glastonbury is exempt from sales tax. Seller shall not include sales taxes on invoices.

18. **Gratuities.** By accepting this Order, the Seller represents and warrants that no arrangement has been made with the Purchaser or any person or agency to solicit or secure this Order upon an agreement or understanding for a gratuity, commission, percentage, brokerage or contingent fee, in any form, to any person excepting bona fide employees of the Seller.

19. **Governing Law.** This Agreement shall be construed in accordance with and governed by the laws of the State of Connecticut, without regard to its conflicts of law principles.

20. **Termination for Convenience.** Purchaser may, by written notice to Seller, terminate the Order, or any part thereof, for any or no reason, for Purchaser's convenience. Upon notice of termination, Seller shall immediately stop all work and cause its suppliers and/or subcontractors to stop all work in connection with the Order. If Purchaser terminates for convenience, Purchaser shall pay Seller for goods and services accepted as of the date of termination, and subject to Purchaser's approval, which approval shall not be unreasonably withheld, for Seller's actual and reasonable out of pocket costs incurred directly as a result of such termination. Incidental costs or damages shall not be compensable by Purchaser. Purchaser shall have no responsibility for Seller's work performed after Seller's receipt of notice of termination.

21. **Termination for Cause.** Purchaser may, by written notice to Seller, terminate the Order, or any part thereof, if Seller breaches any of the terms and conditions of the Order, becomes insolvent or files for bankruptcy protection. By way of example; (a) failure by Seller to make timely, complete and conforming delivery of goods and services, or (b) breach of the representations or warranties set forth in this Order, shall entitle Purchaser to terminate the Order for cause. If Purchaser terminates for cause, Purchaser shall have no payment obligations to Seller. Should a court of competent jurisdiction subsequently determine that Purchaser's termination for cause was wrongful or unjustified, then such termination shall be automatically considered a termination for convenience under Section 21, and Seller shall have rights under that provision, but no other rights or claims for damages.

22. **Damages.** Without limiting Purchaser's rights and remedies at law or in equity, Purchaser reserves the right to charge Seller for any loss, expense (including reasonable attorneys' fees) or damage sustained as a result of Seller's failure to deliver conforming goods or services or other breach of the Order, including without limitation, expenses incurred in connection with Purchaser's purchase of substitute goods, incidental damages and consequential damages resulting from Seller's failure or breach.

23. **Entire Agreement.** This Order contains the entire agreement of the parties. It may not be modified or terminated orally and no claimed modification, termination or waiver shall be binding on the Purchaser unless in writing signed by an authorized representative of the Purchaser. No modification or waiver shall be deemed effected by Seller's acknowledgement or confirmation containing other or different terms. All titles to clauses contained in this Order are for identification only and shall not be construed as being a substantive part of the Order.