

## **ASCO Power Technologies, L.P. and ASCO Power Services, Inc. Standard Terms and Conditions of Sale**

**1. Contract Terms.** These Standard Terms and Conditions of Sale ("Conditions of Sale") shall apply to any purchase or procurement of Products or Services by the legal entity procuring such Products or Services ("Purchaser") from the legal entity (ASCO Power Technologies, L.P. or ASCO Power Services, Inc.) that provided the proposal or is selling the Products and Services ("Seller"). To the extent that there is a conflict between these Conditions of Sale and a valid signed master agreement between the Purchaser and Seller, the specific conflicting terms of the master agreement shall prevail. To the extent that there is a conflict between these Conditions of Sale and another set of Seller terms and conditions issued to the Purchaser as part of the proposal or quotation process, the specific conflicting terms of the proposal or quotation document shall prevail. Any other variation from these Conditions of Sale shall require the signed consent of an authorized Seller representative and these terms and conditions supersede any prior or contemporaneous agreements or correspondence between the parties except as provided above. Seller's acceptance of Purchaser's purchase order is expressly conditional on Purchaser's assent to all of Seller's Conditions of Sale, and Purchaser specifically acknowledges and agrees that any purchase order issued by Purchaser shall operate only to establish payment authority for Purchaser's internal accounting purposes. Any such purchase order issued by Purchaser shall not be considered as a counteroffer, addition, amendment, modification or other revision these Conditions of Sale, and any terms or conditions contained in Purchaser's purchase order shall be of no force and effect. Purchaser's acceptance of the Products or Services will manifest Purchaser's assent to these Conditions of Sale.

**2. Prices.** Unless otherwise stated in an applicable quotation or proposal from Seller, the price quoted or specified by Seller for the Products or Services shall remain in effect for thirty (30) days after the date of Seller's quotation provided Seller receives and accepts from Purchaser a purchase order and an unconditional release to manufacture the Product and/or perform the Services within such time period. If such purchase order and release is not received by Seller within such thirty (30) day period, Seller shall have the right to change the price for the Products and/or Services to Seller's price for the Products and/or Services then in effect at the time of shipment of the Product and/or performance of the Services. All clerical errors are subject to correction. Services Terms: Additional charges will be billed to Purchaser at Seller's then prevailing labor rates or the prevailing wage rate required by law for any of the following: (a) any Services not specified in Seller's quotation, Seller's order acknowledgement, Seller's scope of work, or other documents referenced herein and therein; (b) any Services performed at times other than Seller's normal service hours; (c) if timely and reasonable site and/or equipment access is denied the Seller service representative; (d) if it is necessary, due to local circumstances, to use union labor or hire an outside contractor, Seller Service personnel will provide supervision only and the cost of such union or contract labor will be charged to Purchaser; (e) if Service or repair is necessary to return equipment to proper operating condition as a result of other than Seller (i) maintenance, repair, or modification (including, without limitation, changes in specifications or incorporation of attachments or other features), (ii) misuse or neglect, (including, without limitation, failure to maintain facilities and equipment in a reasonable manner), (iii) failure to operate equipment in accordance with applicable specifications, and (iv) catastrophe, accident, or other causes external to equipment; (f) Seller's performance is made more burdensome or costly as a result of Purchaser's failure to comply with its obligations herein; or (g) any additional obligations or requirements, including but not limited to those related to insurance requirements, service delivery, building entry, or technical training. Seller is under no obligation to remove or dispose of parts or equipment unless specifically agreed upon in Seller's scope of work. Seller removed parts become the property of Seller. Purchaser shall not solicit, directly or indirectly, or employ any employee of Seller during the period any Services are being provided to Purchaser and for a period of one (1) year after the last provision of Services.

**3. Taxes.** Unless otherwise set out in Seller's proposal or quotation, prices do not include taxes, duties or any other governmental levies, all of which are payable by Purchaser. Except as may be otherwise provided in the relevant Purchase Order, the price excludes all present or future sales taxes, revenue or excise taxes, value-added taxes, import and export duties and any other taxes, surcharges or duties now existing or hereafter imposed by governmental authorities upon equipment and/or services quoted by Seller. The Purchaser shall be responsible for all such taxes, duties and charges resulting from these Conditions of Sale or any associated purchase. Seller is required to impose taxes on orders and shall invoice the Purchaser for such taxes and/or fees according to applicable law, statutes, or regulations, unless Purchaser furnishes the Seller at the time of order with a properly completed exemption certificate(s) acceptable to the authorities imposing the tax or fees. Any changes in foreign exchange rates, sales taxes, customs tariffs or other taxes shall be chargeable to the Purchaser.

**4. Terms of Payment.** Terms are net 30 days from date of invoice. Late payments will be subject to interest charges at the rate of two percent (2%) per month. If at Purchaser's request, shipments are delayed beyond the scheduled date, payments for the Products and Services completed to date will be invoiced to the Purchaser, as a percentage of the total Purchase Order price when Seller was originally prepared to ship. Products held for the Purchaser shall be at the risk and expense of the Purchaser. If shipment of Products and/or completion of Services is delayed more than 30 days after originally scheduled delivery date and not caused solely by Seller, Seller reserves the right to ship all Products to the Purchaser who will accept responsibility for Products including payment. Failure to pay any applicable payment on its due date shall automatically cause all installment amounts to become payable and in addition to Seller's other lawful remedies, Seller reserves the right to suspend or cancel the PO. If Purchaser fails to pay Seller for the Products and Services, Seller reserves the right to file in its sole discretion any liens, charges, security interests, or similar encumbrances against the applicable property, building, land, or Products and Services and Purchaser consents to such filings and registrations. Purchaser shall be liable for all expenses, including attorneys' fees, relating to the collection of past due amounts.

**5. Delivery and Schedule.** While Seller will use all reasonable commercial efforts to maintain the delivery date(s) and/or performance dates acknowledged or quoted by Seller, all shipping dates and/or performance dates are approximate and not guaranteed.

**6. Risk of loss.** Unless otherwise specifically agreed by the Parties, the Products are delivered FCA Seller's shipping point (Incoterms 2010) with Purchaser responsible for all official export formalities, authorizations, risks and expenses as may be applicable for export from the country of shipment, and title and risk of loss or damage shall pass to the Purchaser upon collection of the Products by the first carrier at Seller's premises, plants or warehouses. Delivery of Products by Seller will be deemed to be made to the Purchaser upon obtaining a signed receipt from the carrier showing receipt of the Products in good order.

**7. Substitutions.** Seller may furnish suitable substitutes for Products unobtainable because of priorities or regulations established by governmental authority or non-availability of materials from suppliers, provided such substitutions do not adversely affect the technical soundness of the Products. Seller assumes no liability for deviation from published dimensions and descriptive information not essential to proper performance of the Products.

**8. Shortage.** Claims for shortages or errors must be submitted to Seller within 30 days after invoice date, and failure to give such notice shall constitute unqualified acceptance and a waiver of all such claims by the Purchaser.

**9. Installments.** Seller reserves the right to make shipments in installments, unless otherwise expressly stipulated in a specific Purchase Order; and all such installments when separately invoiced shall be paid for when due per invoice without regard to subsequent shipments. Delay in shipment of any installment shall not relieve Purchaser of its obligation to accept remaining shipments.

**10. Force Majeure.** Seller will be excused from and not be liable for any non-performance if such delay or non-performance is due to any cause beyond the reasonable control of Seller, or which Seller could not reasonably foresee or reasonably provide against, and which prevents Seller from carrying out the terms of the order. This includes but is not limited to the following: epidemic, pandemic, public health emergency, war, revolution, insurrection or hostilities (whether declared or not), riot, economic upheaval, civil commotion or uprising, flood, earthquake, tempest, hurricane, lightning or other natural disaster; fire or explosion; strike, lockout, or other industrial disturbance whether at Seller or one of its suppliers; sabotage, accident, cyber attack, embargo, car shortage, wrecks or delays in transportation, non-delivery, unavailability or shortages of materials, parts or components or order or action of government authority. Any delay resulting from such cause shall extend the date of delivery or performance accordingly and the price will be adjusted to compensate Seller for the delay. Seller reserves the right to cancel an order, if in its opinion such circumstances threaten or cause extended delay in the performance thereof. In no event shall Seller be subject to any contractual sanctions including without limitation, delay penalties, liquidated or other damages or termination for default as a result of an event under this Section.

**11. Standard Warranty.** Seller warrants: (a) Products manufactured by Seller under its own brands and supplied by Seller as part of the Purchase Order, are subject to Seller's standard warranty that is applicable to the specific product at the time of purchase, and its terms, conditions and limitations are incorporated by reference herein (a "Standard Warranty"). (b) Services performed by Seller's personnel as part of the Purchase Order, if any, will be

performed by qualified personnel with care, skill and diligence, in accordance with the applicable generally accepted standards recognized by the industry, and shall be free from faulty workmanship for a period of thirty (30) days from completion of the Services. For Services that include a Modification, the warranty for such Modification shall be one (1) year from the date of shipment of such by Seller. A "Modification" is integrating new controls and/or switchgear components into existing switchgear or upgrading an automatic transfer switch with new components or accessories. Exclusive Warranty Remedies: In the event of any warranty covered defects or deficiencies in Products in subsections (a) above, or Services in subs. (b) above, the sole and exclusive obligation of Seller shall be to re-perform the Services, or repair or replace the defective Products or part of the Products, at Seller's sole discretion. Such warranty coverage is contingent on Purchaser providing prompt notification to Seller once such defect or deficiency is reasonably apparent to Purchaser. Exclusions & Limitations: This warranty shall not apply (a) to Products not manufactured by Seller, (b) Services not provided directly by Seller, (c) to Products or Services that has been repaired or altered by anyone other than Seller so as, in Seller's judgment, affects the same adversely, (d) Seller's conformance with Buyer's design of the Products or Software; or (e) to Products or Services that appear to be subjected to negligence, accident, or damage by circumstances beyond Seller's control, or improper any non-Seller operation, maintenance or storage, or to other than normal use or service. Unless specifically covered in a Standard Warranty, the foregoing warranties do not cover reimbursement for labor, transportation, removal, installation, temporary power, or any other expenses that may be incurred in connection with repair or replacement. THESE WARRANTIES, CONDITIONS, AND EXCLUSIONS ARE EXCLUSIVE AND IN LIEU OF ALL OTHER EXPRESS OR IMPLIED WARRANTIES, CONDITIONS, REPRESENTATIONS AND GUARANTEES (EXCEPT WARRANTIES OF TITLE), INCLUDING, BUT NOT LIMITED, TO IMPLIED WARRANTIES OF MERCHANTABILITY, MERCHANTABLE QUALITY, AND FITNESS FOR A PARTICULAR PURPOSE. EXCEPT AS MAY BE PROVIDED IN WRITING BY SELLER, SELLER SHALL NOT BE SUBJECT TO ANY OTHER OBLIGATIONS OR LIABILITIES WHATSOEVER THAN AS STATED ABOVE WITH REGARD TO PRODUCTS AND SERVICES SOLD BY SELLER TO PURCHASER. Non-Seller Products or Services: With respect to Products not manufactured by Seller, or Services provided by non-Seller providers, the warranty obligations of Seller shall in all respects conform and be limited to the warranty actually extended to Seller by such non-Seller supplier.

**12. Return of Products.** No Products may be returned without first obtaining Seller's written permission and a returned material identification tag. Returned Products must be of current manufacture, in the original packaging, unused, undamaged and in saleable condition. Returned Products must be securely packed to reach Seller without damage and labeled with the return authorization number. For any returns, Seller will pay the carrier and deduct the freight charges from the credit unless the return results from Seller error, in which case freight charges will be paid by Seller. Any cost incurred by Seller to put Products in first class condition will be charged to the Purchaser. Returns must originate from the original Purchaser account number. Returns will be credited at the original price paid as indicated on the invoice or Purchase Order associated to the Products being returned as provided by the Purchaser. If no invoice number or Purchase Order number is provided, then credit will be issued based on the into stock price in effect 12 months prior to date of return authorization and will also have an additional 25% processing fee applied. Seller Products, which are listed in the current product return policy as returnable and which are accepted for credit, not involving a Seller error, shall be assessed a restocking fee of 25% of the invoice price.

**13. Intellectual Property.** Seller retains ownership of all right, title and interest (including copyright and patent rights) in and to the intellectual property relating to Products and Services and work product relating to thereto, including, but not limited to, documentation, prints, and drawings. Nothing in these Conditions of Sale constitutes a transfer or conveyance of any right, title or interest in such intellectual property, including without limitation any software or firmware contained in those, except the limited right to use it as provided in the documentation. As to Products proposed and furnished by Seller, Seller shall defend any suit or proceeding brought against Purchaser so far as based on a claim that such Products constitute an infringement of any copyright, trademark or patent in the United States or Canada. This obligation shall be effective only if Purchaser shall have made all payments then due hereunder and if Seller is notified promptly in writing and given authority, information, and assistance at Seller's expense for the defense of the same. In the event the use of such Products by Purchaser is enjoined in such a suit, Seller shall, at its expense, and at its sole option, either (a) procure for the Purchaser the right to continue using such Products, (b) modify such Products to render them non-infringing, or (c) replace such Products with non-infringing Products. Seller will not be responsible for any compromise or settlement made without its written consent. The foregoing states the entire liability of Seller for patent, trademark or copyright infringement, and in no event shall Seller be liable if any infringement charge is based on the use of Seller Products for a purpose other than that for which it was sold by Seller. As to any Products or Services furnished by Seller to Purchaser and manufactured or provided in accordance with designs proposed by Purchaser, the Purchaser shall indemnify Seller against any award made against Seller for patent, trademark, or copyright infringements.

**14. Software.** Any software or computer information, in whatever form that is provided with Products manufactured by Seller or as part of Services, is licensed to Purchaser solely pursuant to standard licenses of Seller or its supplier of such software or computer information which licenses are hereby incorporated by reference and are available upon request. Seller does not warrant that such software or computer information will operate error-free or without interruption, and warrants only that during the warranty period applicable to the Products that the software will perform its essential functions. If such software or computer information fails to conform to such warranty, Seller will, at its option, provide an update to correct the non-conformance or replace the software or computer information with the latest available version containing a correction. Seller shall have no other obligation to provide updates or revisions.

**15. LIMITATION OF LIABILITY. NOTWITHSTANDING ANY PROVISION OF THESE CONDITIONS OF SALE OR ANY OTHER CONTRACT DOCUMENT TO THE CONTRARY, IN NO EVENT SHALL EITHER PARTY, ITS OFFICERS, DIRECTORS, AFFILIATES OR EMPLOYEES BE LIABLE FOR ANY FORM OF INDIRECT, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF USE, LOSS OF PRODUCTION, LOSS OF PRODUCT, LOSS OF REVENUE, PROFITS OR LOSS OF DATA DAMAGES WHETHER SUCH DAMAGES ARISE IN CONTRACT OR TORT, IRRESPECTIVE OF FAULT, NEGLIGENCE OR STRICT LIABILITY OR WHETHER SUCH PARTY HAS BEEN ADVISED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANY OTHER PROVISION OF THESE CONDITIONS OF SALE OR ANY OTHER CONTRACT DOCUMENT TO THE CONTRARY, AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE MAXIMUM LIABILITY OF SELLER FOR DAMAGES HEREUNDER SHALL NOT EXCEED THE AMOUNTS ACTUALLY PAID BY THE PURCHASER TO SELLER FOR THE PRODUCTS AND/OR SERVICES GIVING RISE TO A CLAIM. SELLER SHALL NOT BE LIABLE FOR DAMAGES CAUSED BY DELAY IN PERFORMANCE AND THE REMEDIES OF PURCHASER SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE.**

**16. Insurance.** Seller shall maintain reasonable insurance coverage (e.g., commercial general liability, worker's compensation, automobile) in such amounts as Seller deems appropriate in accordance with industry practice. Certificate of insurance evidencing this may be provided on request.

**17. Import and Export.** Seller is subject to the laws of, and the items provided by Seller under these Conditions of Sale contain or may contain components and/or technologies from, the United States of America ("US"), the European Union ("EU") or other nations. Purchaser acknowledges and agrees that the supply, assignment and/or usage of the products, software, services, information, other items and/or the embedded technologies (hereinafter referred to as "Deliverables"), and all activities carried out under these Conditions of Sale shall fully comply with applicable trade, export control, economic or financial sanctions or anti-boycott requirements imposed, administered or enforced from time to time by the United States, the United Kingdom, the European Union, and other applicable jurisdictions (hereinafter referred to as "International Trade Controls"). Unless applicable International Trade Controls authorizations have been obtained from the relevant authority and Seller has approved, the Purchaser shall not transact on Seller's behalf with, and Deliverables shall not (i) be exported and/or re-exported to any destination and party (may include but not limited to an individual, group and/or legal entity) restricted by the applicable International Trade Controls; or (ii) be used for those purposes and fields restricted by the applicable International Trade Controls. Purchaser also agrees that the Deliverables will not be used either directly or indirectly in any missiles; nor be used in any nuclear weapons delivery systems; and will not be used in any design, development, production or use for any weapons which may include but not limited to chemical, biological or nuclear weapons, or for any other prohibited end-use or end user unless authorized under International Trade Controls. Purchaser represents and warrants that it shall maintain reasonable compliance policies, procedures and controls designed to ensure compliance with International Trade Controls, and shall not otherwise undertake any action that violates or would cause Seller to violate International Trade Controls. Purchaser agrees to fully cooperate and provide all documentation that Seller identifies as necessary or advisable to support

compliance with International Trade Controls. If any necessary or advisable licenses, authorizations or approvals are not obtained, whether arising from inaction by any relevant government authority or otherwise, or if any such licenses, authorizations or approvals are denied or revoked, or if the International Trade Controls would prohibit Seller from fulfilling any order, or would in Seller's judgment otherwise expose Seller to a risk of liability under the applicable International Trade Controls if it fulfilled the order, Seller shall be excused from all obligations under such order.

**18. Health and Safety; Compliance.** Seller employees shall not perform Services that, in their sole opinion, are not free of reasonably foreseeable harm. This includes working on any equipment, whether provided by Seller, Purchaser or otherwise, that in such Seller employees' sole opinion has not been placed in an electrically safe working condition. Purchaser warrants that site and working conditions shall meet or exceed those specified by applicable Occupational Health and Safety Act and Regulations. Purchaser shall inform Seller of: (a) Known hazards, or reasonably foreseeable hazards, that are related to Seller's scope of Services and the site where the Services will be performed; and (b) Information about the worksite necessary to identify hazards and assess risk for the protection of the health and safety of Seller personnel. This information might include, but is not limited to: (i) Providing an accurate up-to-date single line diagram of the electrical distribution system; (ii) Providing relevant Workplace Hazardous Materials Information System (WHMIS) information such as Material Safety Data Sheets (MSDS) and floor plans indicating areas where hazardous materials are located and emergency exits for service rooms and other areas of operation; and (iii) Other site specific information relative to the Purchaser's operation, process and safety systems. Any hazardous materials requiring remediation in Seller's sole opinion will be separately chargeable to Purchaser and will be a condition precedent to Seller's performance of such Services. Purchaser shall at all times conduct itself in accordance with the highest standards of ethics and comply with all laws, rules, regulations, statutes, court decisions and guidance issued by any local, state, federal or foreign governmental authority or any political subdivision or instrumentality thereof. Purchaser shall, and shall cause its affiliates and its and its affiliates respective employees, officers, directors, managers, members, partners, shareholders, agents, attorneys or third-party advisors ("Representatives") to comply with the US Foreign Corrupt Practices Act of 1977, as amended (the "FCPA"), the U.K. Bribery Act and any other applicable anti-bribery or anti-corruption Law. Purchaser covenants and agrees that it shall not (and that it shall cause its affiliates and its and its affiliates' respective Representatives not to) promise, authorize or make any payment to, or otherwise contribute any item of value to, directly or indirectly, to any third person or entity, including any Non-US Official (as such term is defined in the FCPA), in each case, in violation of the FCPA, the U.K. Bribery Act and any other applicable anti-bribery or anti-corruption Law. Purchaser further covenants that it shall (and that it shall cause each of its affiliates and its and its affiliates' respective Representatives to) maintain systems of internal controls (including accounting systems, purchasing systems and billing systems) to ensure compliance with the FCPA, the U.K. Bribery Act and any other applicable anti-bribery or anti-corruption Law. Upon request by Seller, the Purchaser shall provide responsive information and certifications (and/or allow Seller to review books and records) concerning the Purchaser's, its affiliates' and its and its affiliates' respective Representatives' compliance with applicable anti-bribery or anti-corruption laws, rules, regulations and statutes to Seller and its affiliates. The Purchaser shall promptly notify Seller if the Purchaser becomes aware of any violation of this section or any action, suit or proceeding brought against the Purchaser, its affiliates or its or its affiliates' respective Representatives in connection with any applicable anti-bribery or anti-corruption laws, rules, regulations and statutes. If the Purchaser has concerns related to ethics, compliance or ASCO Power/Schneider Electric's Principles of Responsibility, and/or any potential violations of these policies, Purchaser is welcome to make use of Schneider Electric's TrustLine. The TrustLine is Schneider Electric's global helpline for external stakeholders. It is a confidential channel through which Purchasers can ask questions and raise concerns. Reports can be made using the following link: <https://secure.ethicspoint.eu/domain/media/en/gui/104677/index.html>

**19. Witness of Tests & Factory Inspections.** Normal production schedules do not provide the opportunity for Purchaser to witness routine factory tests on Products or make factory inspections. Witnessing of tests or factory inspections by the Purchaser may result in delays of production for which Seller will not be responsible and which may result in additional charges and delayed scheduling to Purchaser. Witness testing and factory inspections must be requested at time of quotation, are subject to additional costs and must be confirmed at Purchase Order entry. Standard Seller factory testing and inspection will apply. Seller will notify Purchaser fourteen (14) calendar days prior to scheduled witness testing or inspection. In the event Purchaser is unable to attend, the Parties may mutually agree on a rescheduled date. However, Seller, at its sole option, may consider the witness tests or inspection waived, and ship and invoice the Products and the witness testing charges. Purchaser will be responsible for paying for all scheduled witness testing, whether or not Purchaser attends.

**20. Patterns and Tools.** Notice will be given if special patterns or tools are required to complete any Purchase Order. Charges for such patterns or tools do not convey title thereto or the right to remove them from Seller's plant. If patterns or tools are not used for a period of two years, Seller shall have the right to scrap them without notice.

**21. Nuclear Applications.** Unless otherwise agreed in writing by a duly authorized representative of Seller, Products sold hereunder are not intended for use in or in connection with any nuclear facility or activity. Purchaser hereby represents and warrants that such Products shall not be used in or in connection with any nuclear facility or activity. If so used, Seller disclaims all liability for any damage, injury or contamination; and Purchaser agrees and indemnifies Seller against any such liability, whether arising as a result of breach of contract, warranty or tort (including negligence) or otherwise.

**22. Nature of Relationship.** Purchaser agrees that Seller is an independent contractor and nothing in these Conditions of Sale creates between Seller and Purchaser a relationship of partners, joint venturers, or agents of each other, and no Party may so represent itself any of these manners.

**23. Termination.** Any Purchase Order may be terminated by the Purchaser only upon 30 days' notice to Seller and (a) for Services, upon reimbursement of all costs and expenses associated with the order caused by such termination and shall include a reasonable profit; (b) for Product, upon payment of the following termination charges, based on the price of the terminated Purchase Order: 20% after issuance of approval drawings; 50% after release to manufacturing; 100% after start of fabrication. Special or custom ordered Products are not cancelable after final acceptance or approval of drawings for the commencement of manufacturing.

**24. Cancellation.** Seller shall have the right to cancel any Purchase Order at any time by written notice for any material breach of these Conditions of Sale by the Purchaser, including material delays by Purchaser or its authorized representatives in releasing Products for manufacture or approval drawings and excessive changes to specifications or drawings.

**25. Amendments.** No amendment, supplement, modification, waiver or termination of the Purchase Order or these Conditions of Sale is binding unless executed in writing by both parties.

**26. Applicable Laws.** All matters arising out of or relating to the execution, construction, interpretation or breach thereof, are to be governed by the laws of the state of Delaware, excluding (i) such jurisdiction's rules regarding conflicts of laws, and (ii) the provisions of the *United Nations Convention on Contracts for the International Sale of Goods*. No action, regardless of form, arising out of transactions relating to this contract, may be brought by either party more than two (2) years after the cause of action has accrued.

**27. Indemnity.** Each party shall indemnify and hold the other party harmless from loss, damage, liability or expense resulting from damage to personal property of a third party, or injuries, including death, to third parties to the extent caused by a negligent act or omission of the party providing indemnification or a party's subcontractors, agents or employees during performance of services hereunder. Such indemnification shall be reduced to the extent damage or injuries are attributable to others. The indemnifying party shall defend the other party in accordance with and to the extent of the above indemnification, provided that the indemnifying party is: (i) promptly notified by the other party, in writing, of any claims, demands or suits for such damages or injuries; (ii) given all reasonable information and assistance by the other party; (iii) given full control over any resulting negotiation, arbitration or litigation, including the right to choose counsel and settle claims, or the indemnifying party's obligations herein shall be deemed waived.

**28. Prevailing Wage Rates.** Purchaser agrees to provide written notice of legally required prevailing wage rates. Without written notice of legally required prevailing wage rates, Seller will assume Purchaser has concluded any applicable prevailing wage rates do not apply. Purchaser agrees to indemnify and defend Seller to the fullest extent of the law in any action (including but not limited to a lawsuit or proceeding before an administrative body or delegatee thereof) concerning applicable prevailing wage rates or classifications.