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|  |  | **Purchase**  **Order No.:** |  |
|  |  | **Date:** |  |
| **To:** |  | **Ship to:** |  |
|  |  | **Ship via:** |  |
| **Attn:** |  | **Project:** |  |
| **Fax:** |  | **Date**  **Ordered:** |  |
|  |  | **Date**  **Required:** |  |

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| --- | --- | --- | --- |
| **Description** | **Qty.** | **Unit Price** | **Total Amounts** |
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|  |  | **TOTAL** | **$** |

**THE TERMS AND CONDITIONS ON THIS FORM AND ATTACHED HERETO SHALL CONSTITUTE THE FINAL AND COMPLETE AGREEMENT BETWEEN PURCHASER AND SELLER.**

Not valid unless signed by Purchasing Agent

NORTHSHORE SHEET METAL, INC.

By\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Purchasing Agent

Accepted by\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Vendor Approved

**Northshore Sheet Metal, Inc.**

**Purchase Order Terms and Conditions**

**1. DEFINITIONS.** As used herein; (i) “Purchaser” shall mean Northshore Sheet Metal, Inc.; (ii) “Seller” shall mean the person or entity from whom Purchaser is buying materials pursuant to this Purchase Order, (iii) “Materials” shall mean the materials which are identified on the front page of this Purchase Order, and (iv) “Main Contract” shall mean the agreement between Purchaser and the owner of the project for which Purchaser is acquiring the Materials.

**2. ACCEPTANCE.** Purchaser hereby objects to any conflicting, additional and/or different terms contained in any purchase order or other writing sent by Seller in accepting this Purchase Order and the same shall not become part of this Purchase Order unless mutually agreed to in writing by Purchaser and Seller. This Purchase Order is revocable in whole or in part by Purchaser effective upon mailing notice thereof First Class Mail, postage prepaid, to Seller’s address shown on this Purchase Order.

**3. PRICE.** The prices of the Materials herein may not be increased by Seller without written notice to Purchaser. In the event Seller’s prices or the reorder market price of the Materials is lower than the prices set forth herein, Seller agrees to give Purchaser the benefit of such lower prices on any unshipped Materials. If a delivery price has been quoted, any charges at destination for switching, handling, storage and other accessorial services shall be borne by Seller.

**4. PAYMENT.** Unless otherwise stated herein, payment shall be made by Purchaser within thirty (30) days from the date of invoice. Neither full nor partial payment shall be construed as acceptance of any defective workmanship or materials. Payment to Seller is subject to adjustment for overshipment, shortage and Purchaser’s rejection of the Materials.

**5. SPECIFICATIONS AND DRAWINGS.** Seller agrees that the Materials shall be provided in accordance with the terms of this Purchase Order, as well as the Main Contract, including but not limited to, all applicable drawings, specifications, schedules and warranties; provided, further, Seller agrees all Materials shall be provided so as not to delay the progress of Purchaser’s work. To the extent there is a conflict between the terms of this Purchase Order and the Main Contract, the stricter terms shall govern. A copy of the Main Contract is available upon Seller’s request. Seller must obtain written approval from Purchaser before deviating from, modifying, changing and/or increasing or decreasing, the work or quantities set forth in the applicable drawings and specifications.

**6. DELIVERY/INSPECTION.** Time is of the essence for this Purchase Order. Seller shall be liable to Purchaser for any damages as a result of non-performance or delay in delivery or performance. Delivery shall not be deemed complete until the Materials have been received by Purchaser. Purchaser reserves the right to inspect the Materials prior to shipment by Seller, and the Materials shall be received subject to inspection and approval by Purchaser upon delivery. Purchaser reserves the right, whether or not it has made payment, and in its sole discretion, to either (a) reject and receive full credit for, or (b) request replacement of, any Materials that are, or that become, defective or do not conform to the specifications or drawings during the applicable warranty period. If Purchaser, in its reasonable exercise of judgment, determines that additional work, design rework or redesign is necessary to cause any Materials to come within the warranties provided for herein, Purchaser may perform such work or design as may be necessary or appropriate, all at the expense of Seller. Performance of such work by Purchaser shall in no way invalidate, waive or affect any of Seller’s warranties, express or implied, nor cause Purchaser to waive, any other remedy at law or in equity.

**7. CHANGES.** Purchaser may, in writing, make changes within the general scope of this Purchase Order, including but not limited to, the quantity, shape or size of the Materials, the method of shipment or packing, and the place of delivery. If any such change causes an increase or decrease in the cost of, or the time required for, performance of the work contemplated by this Purchase Order, an equitable adjustment shall be made and this Purchase Order shall be accordingly modified in writing. No change in, modification of, or revision to this Purchase Order shall be valid unless in writing and signed by Purchaser,

**8. PERMITS/LICENSES/TAXES/FEES.** Seller shall obtain and pay for all permits and licenses related to its performance under this Purchase Order. Except as otherwise provided herein, or as prohibited by law, Seller shall pay all sales, use, excise or other taxes or fees that may be imposed upon the Materials or the parties hereto by reason of the sale, delivery, use or rendering of the Materials or services hereunder. In the event any taxes or fees are included in the price of the Materials and are subsequently refunded to Seller, Seller shall immediately pay to Purchaser any such refund.

**9. RISK OF LOSS.** Seller shall bear the risk of any loss or damage to the Materials until delivered to Purchaser in conformity with this Purchase Order.

**10. SHIPMENT.** Shipment shall be by means and route selected by Purchaser. The Materials shall be packaged in such a manner that they may be lifted by forklift or crane, if necessary, and Seller shall immediately replace and ship, at its sole cost, any Materials that are damaged as a result of Seller’s faulty packaging.No charges for packing, crating or carriage shall be paid by Purchaser unless otherwise stated herein. Title to any goods priced at shipping point shall pass to Purchaser upon delivery at such shipping point; title to any goods priced at destination shall pass to Purchaser upon delivery at the specified destination.

**11. ASSIGNMENT.** Seller’s rights and obligations under this Purchase Order may not be assigned without the prior written consent of Purchaser.

**12. WARRANTIES.** Seller warrants to Purchaser that the Materials conform to the terms of this Purchase Order and the Main Contract as provided for in paragraph 5 herein, are not less than merchantable in quality, conform to accepted standards for usage in the trade, and are fit for the particular purpose intended. Purchaser is relying upon Seller’s skill and judgment to select and furnish suitable Materials. Seller further warrants the Materials to be free from any security interest or any other lien or encumbrance. Seller warrants that the Materials shall be new, of the highest quality in design and workmanship and free from defects in workmanship, design and materials for a period of two (2) years from the date of final acceptance of the project for which Purchaser is acquiring the Materials by the owner of the project, with any replacements, corrections, or remedy thereof additionally warranted against defects for a period of one (1) year after date of remedying such defects.

**13. PATENT PROTECTION.** Seller’s entire right, title and interest in and to any and all inventions and improvements conceived or actually reduced to practice in the performance of work contemplated by this Purchase Order shall be granted to Purchaser. Except in the case of goods for which Purchaser furnishes complete specifications, the manufacture or sale by Seller, the use, resale, installation and intended use of the material, and the disclosure by Seller to Purchaser in any manner hereunder will not infringe upon or violate the rights of any person, corporation or partnership arising out of any patent, trademark or other proprietary right, now or hereafter in effect, or out of any license or franchise other than one to which Purchaser may be a party or by reason of equitable rights.

**14. INDEMNIFICATION.** Seller shall indemnify and hold Purchaser harmless from and against all liabilities, claims, losses, damages, penalties, and costs or expenses (including but not limited to court costs and attorneys’ fees) resulting from any failure of the Materials to comply with the terms of this Purchase Order and the Main Contract as provided for in paragraph 5 herein, any failure of the Materials to conform with any applicable warranties, any lien or encumbrance on the Materials, or any act or omission of Seller, its agents or employees, whether negligent or otherwise, in performing or making delivery under this Purchase Order. Seller’s indemnity obligations shall not extend to any damage or personal injury caused by the sole negligence of Purchaser; provided further that Seller’s duty to indemnify Purchaser for damages resulting from the concurrent negligence of Purchaser and Seller shall apply only to the extent of the negligence of Seller, its agents or employees. Seller’s indemnity obligations shall survive Purchaser’s acceptance of the Materials and payment therefor.

**15. WAIVER.** Neither failure by Purchaser to insist upon strict performance of any terms and conditions herein, nor waiver by Purchaser of a breach of any provision hereof, shall constitute a waiver of any other breach, or of such provision.

**16. CLAIMS.** If any Materials received by Purchaser are damaged or defective, or if the quantities received by Purchaser do not comply with the quantities indicated herein or in the Main Contract, Purchaser shall provide written notice to Seller thereof. Seller shall have thirty (30) days from receipt of such notice to cure the defective Materials and/or quantities. In the event of an emergency, Purchaser may procure materials and/or services from a third party and charge the resulting costs to Seller. All claims for monies due to or to become due from Purchaser shall be subject to deduction by Purchaser for any setoff, recoupment, or counterclaim arising out of this or any other Purchase Order between Purchaser and Seller, or by reason of any other transaction or occurrence whatsoever, whether such setoff, counterclaim or recoupment arose before or after any assignment by Seller. Purchaser reserves the right to recover from Seller any prospective profits or incidental or consequential damages due to Seller’s default under the terms of this Purchase Order or the Main Contract.

**17. VENUE.** The parties agree that the venue of any dispute arising from this Purchase Order shall be King County, Washington.

**18. ATTORNEYS’ FEES.** In the event of a dispute arising under this Purchase Order, the prevailing party, as determined by the arbitrator, shall be entitled to an award for its reasonable costs and attorneys’ fees.

**19. GOVERNING LAW.** This Purchase Order shall be governed by and construed in accordance with the laws of the State of Washington, including the Uniform Commercial Code as adopted in the State of Washington, without giving effect to its laws on conflicts of law.

**20. ENTIRE AGREEMENT.** The parties intend this Purchase Order and its Terms and Conditions to constitute the final, complete and exclusive agreement between Purchaser and Seller. This Purchase Order shall supersede all other prior or contemporaneous agreements, representations, understandings, and promises, oral and/or written, by or between the parties with respect to the subject matter hereof. No course of dealing between the parties shall be relevant or admissible to explain, supplement or vary the terms hereof. No amendment or modification of this Purchase Order shall be effective or binding upon the parties unless made in writing and executed by both Purchaser. In the event that any provision of this Purchase Order is found to be invalid by sire court or arbitrator, all remaining provisions of this Purchase Order shall remain in full force and effect.

**21. TERMINATION FOR CAUSE.** Purchaser has the right to terminate this Purchase Order if Seller is unable to meet the specified delivery date(s) or if Seller fails to comply with any of the other provisions herein; provided, further, Purchaser may terminate this Purchase Order in the event of the happening of any of the following: (a) insolvency of Seller or Purchaser; (b) any act of bankruptcy by Seller under any provision of the Federal Bankruptcy Act or filing by Seller of a voluntary petition under any law providing for relief from the claims of creditors; (c) the filing of an involuntary petition to have Seller adjudicated as bankrupt under the Federal Bankruptcy Act or for reorganization of Seller under that Act or under any law providing for relief from the claims of creditors which is not vacated within thirty (30) days from the date of such filing; (d) the appointment of a receiver or trustee for Seller or Purchaser which is not vacated within thirty (30) days from the date of such appointment; (e) the execution by Seller or Purchaser of an assignment for the benefit of creditors; (f) the failure by Seller to produce and deliver acceptable Materials; or (g) any other event occurring which under the applicable law would entitle Purchaser to cancel and terminate this Purchase Order. Such termination shall not prejudice any claims that either party may have against the other.

**22. TERMINATION FOR CONVENIENCE.** Purchaser may, at its option and for its convenience, terminate this Purchase Order in whole or in part at any time upon written notice to Seller. Upon any such termination Seller agrees to waive any claim for damages including, but not limited to, loss of anticipated profits. Seller’s exclusive remedy, and Purchaser’s sole liability, for such termination shall be Purchaser’s payment to Seller for the Materials supplied to Purchaser prior to notice of such termination.