

PURCHASE ORDER GENERAL CONDITIONS

1. Provision of Goods and Services. Pursuant and subject to these General Conditions, Seller shall provide the goods and/or services described on the face of this purchase order (including these General Conditions and any attachments or exhibits thereto, "PO"). Seller may not utilize subcontractors in the performance of services under this PO without the written consent of Buyer. Seller will remain liable for all responsibilities and obligations of Seller under this PO, even if some of such responsibilities and obligations are performed by its subcontractors.

2. Price and Shipping. For goods, a separate invoice shall be rendered for each order for goods or for each shipment made on an order if multiple shipments are made. For services, a separate invoice shall be rendered for each order for services or as otherwise set forth on the face of this PO. An invoice and bill of lading for goods delivered shall be dated and mailed within three business days of the day of actual shipment. An invoice for services performed shall be mailed no later than three business days following completion of the services. Unless Buyer has an EDI account, all invoices shall be mailed to the Buyer at the address shown on the face of this PO; provided, however, that if Buyer provides Seller with an e-mail address for specific invoices, Seller may deliver such invoices to Buyer via the e-mail address provided. Buyer will pay to Seller undisputed amounts within thirty (30) days of receipt of a properly submitted invoice. An itemized delivery ticket, bearing Buyer's PO number and the Buyer business unit receiving the goods, must be provided with the goods. If delivery is made by carrier, an itemized delivery ticket must be attached to the outside of the package. The price includes the cost of all goods and services, including costs of packing, shipping, and delivery of the goods to the location specified on the face of this PO. Title to, and risk of loss of, the services and/or goods shall pass from Seller to Buyer upon the completion of the services or delivery of the goods to the designated location specified on the face of this PO. Unless otherwise designated on the face of this PO, all goods delivered will be FOB destination. Seller shall deliver goods or provide services in accordance with the delivery schedule set forth on the face of this PO. Any premium transportation costs incurred by Buyer as a result of Seller's failure to meet the delivery schedule shall be paid by Seller. Any cash discount or net payment period will date from the receipt of the invoice or the receipt of acceptable goods, whichever is later, and not from the date of the invoice. In the case of corrected invoices, it will date from the date of the corrected invoice or receipt of acceptable goods. Seller agrees that the prices stated on the face of the PO are firm unless otherwise noted on the face of the invoice. Invoices submitted more than 12 months after delivery of conforming goods and/or services will not be honored.

3. Integration. Except as otherwise provided herein, this PO embodies the entire agreement and understanding between the parties with respect to the goods and services covered by this PO and supersedes all prior agreements, dealings and understandings relating to the subject matter thereof, whether oral or written. This PO may be accepted by: (i) Seller's commencing performance of the work; (ii) shipment of the goods; or (iii) Seller's written acceptance and acknowledgement of this PO, whichever occurs first. Acceptance of this PO is limited to acceptance of the express terms contained on its face and these General Conditions. Any additional or different terms proposed by Seller, including any terms and conditions contained in or on any shipping or delivery ticket or any other attempt by Seller to vary or modify any of the terms contained in this PO, are hereby rejected and void, and this PO shall be deemed accepted by Seller without said additional or different terms. If a prior offer has been made by Seller with respect to the goods or services covered by this PO, Buyer's acceptance of Seller's offer is expressly conditioned on assent to the General Conditions contained in this PO. If this PO is issued pursuant to a specific agreement executed by Buyer and Seller or a specific Statement of Work that incorporates a separate agreement executed by Buyer and Seller, then these General Conditions are void and the terms of such other agreement shall govern the provision of goods or services under this PO, except that any commercial terms contained on the face of this PO shall remain in full force and effect.

4. Quantities. This is not a requirements contract. Buyer reserves the right to use its own resources and to purchase the same or similar goods and services from third parties.

5. Timely Performance. Time is of the essence of this PO. The delivery and performance schedules shall be as set forth on the face of this PO.

6. Specifications. All goods and services furnished under this PO shall conform to all express warranties, descriptions, samples, models, promises and affirmations of fact, if any, relating to the goods or services furnished hereunder and shall be in accordance with the manufacturer's specifications as well as the applicable plans and specifications supplied by Buyer. No substitution or change in quantity will be permitted under this PO except on specific written authority of Buyer.

7. Inspection and Acceptance of Goods and Services. Buyer shall have the right prior to acceptance to inspect any goods and services and to reject any or all of said goods and services which are in Buyer's judgment defective or nonconforming. The inspection by Buyer shall not relieve Seller of any responsibility for latent or patent defects in the goods or services. Such inspection shall not affect Seller's warranties hereunder, and such warranties shall survive any such inspection. Payment for goods and services under this PO shall not constitute acceptance by Buyer.

8. Taxes. Unless otherwise indicated on the face of this PO, Seller agrees that all applicable federal, state, and local taxes are included in the price and shall be the sole obligation of Seller.

9. Warranties. In addition to Seller's customary warranties and any other warranties contained herein or implied by law, Seller expressly warrants that all of the goods and/or services will: (i) be performed in accordance with the best practices in the industry prevailing at the time the PO is issued; (ii) conform to all specifications, descriptions, and samples; (iii) be new, unless otherwise specified; (iv) be free from defects in design, material, workmanship, and title; (v) conform to any statements made on the containers, labels, or advertisements for such goods; (vi) be adequately contained, packaged, marked, and labeled; (vii) be merchantable; and (viii) be safe and appropriate for the purpose for which the goods or services are intended and for which goods or services of that kind are normally used. Seller agrees to promptly replace, correct defects in any goods and to re-perform any services not conforming to the foregoing warranties, without expense to Buyer, when notified of such nonconformity by Buyer. In the event of Seller's failure to promptly correct defects in or replace nonconforming goods or to re-perform nonconforming services, Buyer, after reasonable notice to Seller, may make such corrections or replace such goods or re-perform such services and may charge Seller all costs incurred by Buyer in doing so. The foregoing warranties shall inure to the benefit of Buyer, its assigns, successors, customers, and other users of Seller's goods and services.

10. Proprietary Rights. Seller warrants that: (a) Seller has acquired the legal rights to all patents, trademarks, service marks, trade names, trade dress, copyrights, trade secrets, rights of publicity, know-how, and other proprietary rights used in connection with or relating to the goods and services, including the development or manufacture of the goods and services; (b) Seller has the right to transfer the title to any goods provided to Buyer hereunder and (c) the goods and/or services provided pursuant to this PO do not infringe and will not infringe on any third-party patents, trademarks, service marks, trade names, trade dress, copyrights, trade secrets, rights of publicity, know-how, and other proprietary rights now existing or hereafter issued.

11. Confidentiality. During the term of this PO and for a period of two (2) years thereafter, Seller shall, and shall cause its employees and subcontractors to, treat and cause to be treated as confidential all information received or obtained from Buyer in connection with the provision of goods or services pursuant to this PO.

12. Compliance with Laws and Buyer Policies and Procedures. Seller warrants that all goods have been or shall be produced, packaged, tagged, labeled, packed, shipped, and invoiced and all services will be performed in compliance with all federal, state and local laws, regulations, and ordinances. If required by law, Seller shall provide Material Safety Data Sheets with each shipment with a copy to Buyer at the address shown on the face of this PO. Seller warrants that it has and shall maintain all regulatory approvals, authorizations, licenses, permits and other permissions, consents and authorities needed to provide the goods or services pursuant to this PO. Seller shall comply with all of Buyer's rules, policies and procedures including security procedures. Seller will conduct its business with, or on behalf of, Buyer in a manner that is consistent with the Southern Company Gas Code of Business Conduct, as amended from time to time, which is expressly incorporated by reference herein. Seller acknowledges that it will obtain a copy on the Southern Company Gas website at www.southerncompanygas.com and that if it has any questions regarding the Code of Business Conduct, it will contact Southern Company Gas's Executive Director of Corporate Ethics and Compliance at 404-584-3408. Where required by applicable Federal law, Contractor shall comply with the following federal regulations: Contractor and subcontractors are notified that they are subject to the provisions of Executive Order 11246, 41 C.F.R. Sections 60-1.4(a), 1.7(a), 4.2(d), 29 C.F.R. Part 471, Appendix A to Subpart A, and 48 C.F.R. § 52.222-54, incorporated herein by reference.

41 C.F.R. 60-300.5(a). This contractor and subcontractor shall abide by the requirements of 41 C.F.R. Section 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.

41 C.F.R. 60-741.5(a). This contractor and subcontractor shall abide by the requirements of 41 C.F.R. Section 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and

requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

13. Changes. Without invalidating this PO, Buyer may make changes to the goods or services provided under this PO, including but not limited to changes to the following: (a) specifications, drawings, and data; (b) quantities; (c) time and place of delivery; and (d) method of packing and shipment.

14. Indemnification. To the fullest extent permitted by law, Seller waives any right of contribution and shall indemnify and hold harmless Buyer, its affiliates, shareholders, officers, directors, administrators, managers, employees, servants and agents, successors and assigns (each, a "Buyer indemnified party") from and against all liabilities, claims, damages, costs, losses, and expenses, including, but not limited to, attorneys' fees and defense costs, arising out of, resulting from or in connection with, in whole or in part, these General Conditions or Seller's performance under this PO. Except as may be otherwise required by applicable law or governmental authority, and then only to the extent required by such law or authority, each Buyer indemnified party's right to indemnification under this paragraph shall not be impaired or diminished by any act, omission, conduct, misconduct, negligence, fault or default of Buyer or any employee of Buyer. Although Seller does not have a duty to defend *per se*, it is expressly agreed that the duty to indemnify defense costs and attorneys' fees extends to all third-party claims, suits, arbitrations or other proceedings in which the claimants assert one or more actual, alleged or potential liabilities that might come within the scope of Seller's indemnification hereunder; provided, however, that the foregoing does not relieve Buyer of its obligations under statutory workers' compensation law and other laws regarding employer obligations to Buyer's own employees, and for such claims caused by the sole negligence or willful misconduct of Buyer or its employees.

15. Insurance. Where Seller is providing services, Seller shall carry, at its sole cost and expense, the insurance coverages set forth in this Section 15. Seller shall carry primary commercial general liability (CGL) insurance, providing a duty to defend Buyer, including product liability and completed operations, independent contractors, contractual liability, advertising and personal injury coverage with limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate for the period commencing with the issuance of this PO and concluding with the expiration of the longest applicable statute of repose or if no statute of repose, the longest statute of limitations. Seller's CGL policy shall stipulate that such insurance is primary, and not contributing or additional, to any insurance carried by Buyer, whether or not designated as primary, umbrella or excess. For services, Seller shall deliver to Buyer a certificate of insurance before any work begins. Seller shall carry, at its sole cost, the following: workers' compensation and employer's liability coverages providing statutory benefits and limits which shall fully comply with all state and federal requirements applying to this insurance in the states where the goods are manufactured and delivered or services provided; Employer's Liability coverage with limits of not less than \$500,000; and Automotive Liability coverage with limits of not less than \$1,000,000. All insurance policies required by this PO shall include a waiver of subrogation in favor of Buyer. All policies except Worker's Compensation must be endorsed to list as an additional insured Southern Company Gas its subsidiaries, affiliated companies, their officers, directors and employees for all Buyer liabilities arising out of or in connection with, in whole or in part, the goods and services provided hereunder. Whenever Seller shall have Buyer's property in its care, custody, control or possession for Seller's fabrication, or otherwise, Seller shall be deemed the insurer thereof and shall be responsible for such property until its return to and acceptance by Buyer. Seller shall immediately notify Buyer in writing if any insurer cancels, rescinds, terminates, fails or refuses to renew, or materially changes the insurance terms and conditions, including the scope of protection provided to Buyer, or if the limits of Seller's insurance hereunder are materially impaired or exhausted. Seller's insurance does not in any way negate or diminish its other obligations under this PO.

16. Termination. Buyer reserves the right to terminate this PO: (i) immediately for cause, in the event Seller fails to comply with any of the terms in this PO and has not cured such breach within forty-eight (48) hours of receipt of notice; or (ii) at Buyer's sole convenience upon 7 days written notice. In the event of termination for convenience, Seller shall immediately upon receipt of notice stop all work under this PO and cause all subcontractors to cease such work. Seller shall be paid for work completed and accepted prior to receipt of notice. In the event of termination for cause, Buyer shall not be liable to Seller for any amount, and Seller shall be liable to Buyer for any and all damages resulting from Seller's breach of this PO.

17. Buyer's Remedies. In addition to all other remedies available to Buyer under this PO, the UCC or in law or equity, any and all goods or services may be rejected by Buyer and abandoned, returned or held at Seller's expense and risk,

when such goods or services are not produced, sold, shipped, performed or delivered in compliance with the terms of this PO. At its election, Buyer may accept nonconforming goods or services, and Seller shall be liable for any reduced value of such goods and services and the costs to repair or to re-perform the same. Buyer may also charge to Seller all direct and indirect costs incurred by Buyer as a result of any nonconforming goods or services including any consequential damages resulting from such nonconforming goods or services. Each of Buyer's rights and remedies hereunder, including without limitation the right to consequential damages, shall be cumulative and not exclusive. In the event of any default of any terms and conditions of this PO, Seller agrees to pay all damages, including consequential and incidental, and all costs and attorneys' fees resulting from such breach.

18. Supplier Diversity. It is Buyer's policy that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals have the maximum practicable opportunity to participate in the performance of contracts let by Buyer. Seller acknowledges that Buyer operates a "Second Tier Program" that encourages its suppliers to extend subcontracting opportunities to firms that are certified by a third party as having met the definition of being at least 51% owned, controlled and operated by one or more members of the following diverse groups: women, African Americans, Asian-Pacific Americans, Sub-continent Asian Americans, Hispanic Americans, Native Americans, disabled individuals and veterans ("Diverse Suppliers"). Accordingly, Seller represents and warrants that Seller will actively seek qualified Diverse Suppliers to compete for Seller's business on a fair and even basis and will provide such Diverse Suppliers the maximum practicable opportunity to participate in the subcontracts and orders it may award in connection with this PO. Seller hereby agrees to use commercially reasonable efforts to carry out this policy in the awarding of subcontracts to the fullest extent consistent with the efficient performance of this PO.

19. Liability of Affiliates. Seller acknowledges that Buyer, not any entity affiliated with Buyer, is solely liable for Buyer's acts, omissions, or breaches hereunder.

20. Independent Contractor. In supplying any goods or performing any services hereunder, Seller is an independent contractor with sole responsibility for all persons employed in connection therewith, including without limitation exclusive liability for payment of all federal, state, and local employment and disability insurance, social security and other taxes and contributions.

21. Publicity. Unless otherwise specified in writing by Buyer, Seller will not disclose that Buyer is a customer of Seller and will not use Buyer's name or the name "The Southern Company" or any mark, logo or trade name owned or used by Buyer or its affiliates in any press release, marketing or promotional materials or presentations, in any medium.

22. Governing Law. This PO shall be governed by and construed in accordance with the laws of the State of Georgia. Notwithstanding the foregoing, if services are performed in a state where state law requires that state's law to govern, then the laws of that state shall govern for purposes of this PO to the extent required.

23. Waiver of Lien. For projects involving the construction of improvements to Buyer's property, and provided Buyer has paid Seller all amounts properly due and owing for goods or services provided by Seller or its subcontractors, Seller agrees to keep Buyer's property free and clear of, and shall promptly release, or cause the release of, all liens, lien claims, recorded notices, claims for nonpayment or *lis pendens* filed of record by any subcontractor (regardless of tier). Upon request, Seller shall furnish Buyer with lien waivers in accordance with applicable state law.

24. Assignment. Seller shall not assign or transfer any rights, claims, or duties under, or related to, this PO without the prior written consent of Buyer, which consent may be withheld in Buyer's sole discretion. Buyer may assign or transfer its interest in this PO without limitation. This PO shall be binding upon and inure to the benefit of the parties hereto and their successors and permitted assigns.

25. Survival. Any and all provisions, promises and warranties contained herein, which by their nature or effect are required or intended to be observed, kept or performed after termination of this PO will survive the termination of this PO and remain binding upon and for the benefit of Buyer and Seller, their successors and permitted assigns.

26. Unenforceability. If any provision of this PO is void or unenforceable, the remainder of this PO shall not be affected thereby and the void or unenforceable provision shall be deemed to be replaced by a valid and enforceable provision which achieves the purpose intended by the parties to the greatest extent possible.