



PURCHASE ORDER TERMS AND CONDITIONS

1. Acceptance – Agreement. The purchase order, together with these terms and conditions, and any attachments and exhibits, specifications, drawings, notes, instructions and other information, whether physically attached or incorporated by reference (collectively the “Purchase Order”), constitutes the entire and exclusive agreement between Satellite Shelters, Inc. and Satellite Equipment, LLC (collectively, “Satellite”) and the vendor (the “Vendor”) identified in the Purchase Order. Satellite’s submission of the Purchase Order is conditioned on Vendor’s agreement that any terms different from or in addition to the terms of the Purchase Order, whether communicated orally or contained in any purchase order confirmation, invoice, acknowledgement, release, acceptance or other written correspondence, irrespective of the timing, shall not form a part of the Purchase Order, even if Vendor purports to condition its acceptance of the Purchase Order on Satellite’s agreement to such different or additional terms. Vendor’s electronic acceptance, acknowledgement of this Purchase Order, or commencement of performance of services subject to this Purchase Order or work on the goods subject to this Purchase Order or shipment of such goods, whichever occurs first, shall be deemed acceptance of this Purchase Order.

2. Equipment. “Equipment” as used in this Purchase Order is that equipment specifically set forth and identified in this Purchase Order, as such equipment is further described in any attachments and exhibits, specifications, drawings, notes, instructions and other information, whether physically attached or incorporated by reference).

3. Payment. The total price for the goods and services are as referenced on the Purchase Order. Any alterations to the pricing must be in writing and agreed upon by both parties. Monthly progress payments will be made upon receipt of an accurate invoice listing the current months completed work.

4. Lien Waivers. Lien waivers from Vendor and all subcontractors will be required for each payment application and a final lien waiver will be required to obtain the final payment. Vendor shall provide Satellite with any certified payrolls, affidavits, manuals or other documentation that may be requested by Satellite.

5. Changes. Satellite shall have the right, at any time, to make changes in drawings, designs, specifications, materials, packaging, time and place of delivery and method of transportation by notifying the Vendor of such changes in writing. If such changes cause an increase or decrease in the cost or the ability to conform to the Purchase Order, or the time required, an equitable adjustment shall be made.

6. Price Warranty. Vendor warrants that the prices for the articles sold or services delivered to Satellite hereunder are not less favorable than those currently extended to other customers for the same or similar articles in similar quantities. In the event Vendor reduces its price for such article during the term of this order, Vendor agrees to reduce the prices hereof correspondingly. Vendor warrants that prices shown on this Purchase Order shall be complete, and no additional charges of any type shall be added without Satellite’s express written consent. Such additional charges include, but are not limited to, shipping, packaging, labeling, custom duties, taxes, storage, insurance, crating.

7. Compliance with Laws, Policies and Procedures.

(a) **Generally.** Vendor represents and warrants that it will comply with all applicable local and national laws and regulations pertaining to its performance of its obligations under this Purchase Order. Vendor represents and warrants that it will comply with all of Satellite’s requirements, policies and procedures in performance of its obligations under this Purchase Order.

(b) **Local Laws.** Vendor shall be solely responsible for compliance with applicable building codes, and for obtaining any type of building permits and licenses that may be required for its services. Satellite assumes no responsibility for compliance with local codes.

(c) **Freight Services.** To the extent Vendor is providing freight transportation and delivery services under the Purchase Order (a “Freight Vendor”), Freight Vendor represents and warrants that it has obtained and

shall maintain all training and material, licenses, testing, permits, statutory benefits, and other authorizations required under federal, state and local laws relating to the provision of services. Freight Vendor and all activities of Freight Vendor comply in all material respects with all applicable federal state and local laws and with all terms and conditions of any required permits, licenses and authorizations applicable to the Freight Vendor or its drivers. Freight Vendor is also in material compliance with all limitations, restrictions, conditions, standards, prohibitions, requirements, obligations, schedules and timetables contained in applicable federal, state and local laws or contained in any plan, order, decree, judgement or notice. Freight Vendor is not aware of, nor has it received notice of any events, conditions, circumstances activities, practices, incidents, actions or plans which may interfere with or prevent continued compliance with, or which may give rise to any material liability under, any federal, state or local law concerning the provision of services hereunder. Freight Vendor warrants that no law, regulation or ordinance of the United States, or any state, municipality or any governmental authority or agency has been or will be violated in the procurement of services to be furnished or rendered hereunder. Freight Vendor agrees to indemnify, defend and hold Satellite and Satellite’s officers, directors, employees, subsidiaries and affiliates harmless from all damages, claims, costs and expenses, including reasonable attorney fees incurred by Satellite due to Freight Vendor’s failure to comply with any such law, regulation or ordinance. Satellite will not intentionally instruct Freight Vendor to violate federal, state or local laws; provided however, Freight Vendor shall advise Satellite in the event Satellite’s instructions will result in such a violation.

8. Limitation on Satellite’s Liability. SATELLITE’S LIABILITY TO VENDOR ON ANY CLAIM OF ANY KIND FOR ANY LOSS, LIABILITY OR DAMAGE ARISING OUT OF OR IN CONNECTION WITH OR RESULTING FROM THIS PURCHASE ORDER OR FROM THE PERFORMANCE OR BREACH THEREOF SHALL IN NO CASE EXCEED THE PRICE ALLOCABLE TO THE GOODS OR SERVICES IN THIS PURCHASE ORDER. IN NO EVENT SHALL SATELLITE HAVE ANY LIABILITY TO VENDOR OR ANY OTHER PARTY WHATSOEVER FOR ANY INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, CONSEQUENTIAL OR SIMILAR DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, ARISING OUT OF, OR IN CONNECTION WITH, THE PURCHASE ORDER OR FROM THE PERFORMANCE OR BREACH THEREOF, WHETHER OR NOT SATELLITE WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. THE LIMITATIONS WILL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OR ANY LIMITED REMEDY PROVIDED HEREIN.

9. Indemnification. VENDOR DOES HEREBY INDEMNIFY SATELLITE AND HOLD SATELLITE, ITS AGENTS AND EMPLOYEES, HARMLESS OF AND FROM ANY AND ALL LOSSES, DAMAGES, CLAIMS, DEMANDS, OR LIABILITY OF ANY KIND OR NATURE WHATSOEVER, INCLUDING LEGAL EXPENSES AND ATTORNEY’S FEES, ARISING FROM (I) THE BREACH OF THIS PURCHASE ORDER, (II) THE INSTALLATION, OPERATION, CONDITION, OR USE OF THE EQUIPMENT, AND BY WHOMSOEVER USED OR OPERATED, (III) ARISING OUT OF OR RESULTING IN ANY WAY FROM ANY DEFECT IN THE GOODS OR SERVICES PURCHASED HEREUNDER, THAT ARE RELATED TO THE VENDOR’S DESIGN, OR (IV) FROM ANY ACT OR OMISSION OF VENDOR, ITS AGENTS, EMPLOYEES OR SUBCONTRACTORS.

10. Assignment and Subcontracting. Vendor agrees that it may not assign, transfer, or subcontract this Purchase Order or any amount payable under the Purchase Order without the prior written consent of Satellite. Vendor agrees that nothing contained in this Purchase Order shall prohibit Satellite, its assigns and/or successors from selling, assigning and/or transferring all of its right, title and interest in and to this Purchase Order, the property described therein and all monies to become due there under.

11. Shipment. If in order to comply with Satellite’s required delivery date it becomes necessary for Vendor to ship by a more expensive way than specified in the Purchase Order, any increased transportation costs resulting therefrom shall be paid for by Vendor unless the necessity for such rerouting or expedited handling has been caused by Satellite.



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12. **Material.** Material furnished by Satellite at Satellite's expense for use pursuant to this Purchase Order shall be deemed as held by Vendor on consignment. Vendor agrees to pay for all such material spoiled or not otherwise satisfactorily accounted for. Material shall be kept and identified as property of Satellite.

13. **Delivery.** Time is of the essence for this Purchase Order, and if delivery of items or rendering of services is not completed by the time promised, Satellite reserves the right without liability in addition to its other rights and remedies to terminate this Purchase Order by notice effective when received by Vendor as to items not yet shipped or services not yet rendered and to purchase substitute items or services elsewhere and charge Vendor with any loss incurred.

14. **Cross-Default.** Satellite and Vendor may enter into additional agreements with each other. A default under this Purchase Order also constitutes a default under every other agreement the parties may have with each other. Further, a default under any agreement between Satellite and Vendor constitutes a default under this Purchase Order.

15. Insurance.

(a) **On-Site Services.** In the event that Vendor's obligations hereunder require or contemplate performance of services by Vendor's employees, or persons under contract to Vendor, to be done on Satellite's property, or property of Satellite's customers, the Vendor agrees that (i) all such work shall be done as an independent contractor and that the persons doing such work shall not be considered employees of the Satellite, (ii) Vendor shall maintain all necessary insurance coverages, including workers compensation insurance, for any and all claims or liabilities arising out of the services covered by this paragraph, (iii) prior to commencing services Vendor shall provide a copy of Vendor's workers compensation policy and proof that Satellite has been named an additional insured on the aforementioned policy, and (iv) Vendor will indemnify, defend and hold Satellite harmless from all losses, damages, claims, demands, or liability of any kind or nature whatsoever, including legal expenses and attorney's fees, arising from Vendor's failure to comply with the obligations of this section.

(b) **Freight Vendor Insurance.** Each Vendor, including Freight Vendor, represents and warrants that it possesses and shall maintain, as a minimum, the following insurance policies and coverage during the term of this Purchase Order:

- (i) A commercial general liability insurance policy with limits of \$1,000,000 per occurrence and \$3,000,000 in the aggregate.
- (ii) A separate automobile insurance policy providing a minimum of \$5,000,000 of coverage.
- (iii) An umbrella insurance policy providing a minimum of \$6,000,000 coverage in the aggregate which shall be applicable to both the general liability and automobile policies maintained by Freight Vendor.

Each Freight Vendor represents and warrants that it possesses and shall maintain, as a minimum, cargo insurance policies and coverage in amounts covering the value of all shipments during the term of this Purchase Order.

In conjunction with this Purchase Order, Vendor shall provide Satellite with a list of the policies that are currently in place pursuant to this section, each of which shall require the insurer under such policy to provide Satellite with written notice at least thirty (30) days prior to cancellation of the applicable policy. Further, upon or prior to the execution of this Purchase Order, Vendor shall provide written proof to Satellite that Satellite has been named as additional insured on each of the aforementioned policies for coverage. In the event a policy lapses, is modified or replaced, Vendor shall immediately notify Satellite and send evidence of the new policies, which such notice shall include without limitation the name of the new insurer and proof that Satellite has been named as an additional insured. Vendor will indemnify, defend and hold Satellite harmless from all losses, damages, claims, demands, or liability of any kind or nature whatsoever, including legal expenses and attorney's fees, arising from Vendor's failure to comply with the obligations of this section

16. **Change Orders.** A written change order must be provided by Satellite for the approval of any additional work beyond what is listed on this Purchase Order. A written change order request listing a material and labor breakdown must be provided before a change order will be considered.

17. **Inspection/Testing.** Payment for the goods or Equipment delivered to Satellite shall not constitute acceptance thereof. Satellite shall have the right to inspect such goods and to reject any or all of said goods which are in Satellite's judgment defective or nonconforming. Goods rejected and goods supplied in excess of quantities called for herein may be returned to Vendor at its expense and in addition to Satellite's other rights, Satellite may charge Vendor all expenses of unpacking, examining, repacking and reshipping such goods. If Satellite receives goods whose defects or nonconformity is not discoverable upon reasonable examination, Satellite reserves the right to require replacement, as well as payment of damages. Nothing contained in this Purchase Order shall relieve in any way the Vendor from the obligation of testing, inspection and quality control.

18. **Termination for Convenience of Satellite.** Satellite reserves the right to terminate this Purchase Order or any part hereof for its sole convenience. In the event of such termination, Vendor shall immediately stop all work hereunder, and shall immediately cause any of its suppliers or subcontractors to cease such work. Vendor shall be paid a reasonable termination charge consisting of a percentage of the order price reflecting the percentage of the work performed prior to the notice of termination, plus, actual direct costs resulting from termination. Vendor shall not be paid for any work done after receipt of the notice of termination, nor for any costs incurred by Vendor's suppliers or subcontractors which Vendor could reasonably have avoided.

19. **Termination for Cause.** Satellite may also terminate this Purchase Order or any part hereof for cause in the event of any default by the Vendor or if the Vendor fails to comply with any of the terms and conditions of this Purchase Order. Such causes shall include but are not limited to late deliveries, deliveries of products which are defective or which do not conform to this order, and failure to provide Satellite, upon request, of reasonable assurances of future performance. Vendor shall be liable to Satellite for damages sustained by reason of the default which gave rise to the termination.

20. **Default.** In the event any act or thing required of Vendor hereunder shall not be done and performed in the manner and at the times required by this Purchase Order, Vendor shall thereby be held in default. In addition to all remedies available under law, Satellite may take possession of the Equipment and is hereby authorized by Vendor to enter upon any premises of Vendor without notice for the purpose of taking possession of the Equipment. Repossession by Satellite or the surrender of the Equipment to Satellite shall not affect the right of Satellite to recover from Vendor any and all damages which Satellite shall have sustained by reason of the breach of any of the covenants, terms or conditions thereof.

21. Warranties.

(a) **Generally.** Vendor represents and warrants that (i) it has the full power to enter into the Purchase Order and to perform its obligations under the Purchase Order; and (ii) the products, services and Equipment provided pursuant to this Purchase Order, and Satellite's use thereof, do not and will not infringe upon any third party's intellectual property rights, right of publicity or privacy, or any other proprietary rights, whether contractual, statutory or common law.

(b) **Quality.** Vendor expressly warrants that all goods or services furnished under this Purchase Order shall conform to all specifications and Satellite's requirements, will be new, and will be free from defects in material or workmanship for a period of two (2) years from the date of delivery. Vendor warrants that all goods or services of that kind are normally used. If Vendor knows or has reason to know the particular purpose for which Satellite intends to use the goods or services, Vendor warrants that such goods or services will be fit for such particular purpose. Inspection, test, acceptance or use of the goods or services furnished hereunder shall not affect the Vendor's obligation under this warranty, and such warranties shall survive inspection, test, acceptance



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and use. Vendor agrees to replace or correct defects of any goods or services not conforming to the foregoing warranty promptly, without expense to Satellite, when notified of such nonconformity by Satellite, provided Satellite elects to provide Vendor with the opportunity to do so. In the event of failure of Vendor to correct defects in or replace nonconforming goods or services promptly, Satellite, after reasonable notice to Vendor, may make such corrections or replace such goods and services and charge Vendor for the cost incurred by Satellite in doing so.

22. Attorney's Fees and Cost. In the event Vendor shall default hereunder, Satellite shall be entitled to recover from Vendor, in addition to all other items of damages, all costs and expenses, including court costs and reasonable attorney's fees incurred by Satellite to enforce its rights and remedies hereunder.

23. Confidentiality. Vendor shall consider all information furnished by Satellite to be proprietary and confidential and shall not disclose any such information to any other person, or use such information itself for any purpose other than performing its obligations under this Purchase Order, unless Vendor obtains the express written permission from Satellite to do so. This section shall apply to drawings, specifications, or other documents prepared by Vendor for Satellite in connection with this Purchaser Order. Vendor shall not advertise or publish the fact that Satellite has contracted to purchase goods or services from Vendor, nor shall any information relating to the order be disclosed without Satellite's written permission.

24. Tooling. All tools, gauges, dies, fixtures and patterns furnished by Satellite or which the Satellite authorizes in writing the Vendor to acquire for work on this Purchase Order shall remain the property of the Satellite. Such tooling shall be identified and marked as Satellite's property and shall be maintained by Vendor at its expense, in suitable operating condition to do the required work. Tooling may be removed from Vendor's plant at any time by Satellite without liability to Satellite.

25. Chemicals. If chemicals or chemical ingredients ordered under this Purchase Order are considered hazardous under the Federal Occupational and Health Administrations Hazard Communication Standard, under State of Minnesota Department of Labor and Industry Occupational Safety and Health rules or other local, state or federal law or regulation, Vendor shall notify Satellite in writing prior to shipment of such chemicals. Satellite may in turn refuse delivery of such chemicals and terminate order without obligation to Vendor. If such chemicals are shipped to Satellite without Satellite's written authorization, Satellite retains the right to return such chemicals to Vendor at Vendor's expense.

26. Safety. At all times safety must be followed on any work site with all equipment and services meeting OSHA guidelines and requirements. Vendor agrees to comply with any and all safety requirements, training processes, or safety stipulation required by Satellite or any work site owner

(or agent thereof) as part of any services provided under this Purchase Order.

27. Patents. Vendor agrees, upon receipt of notification, to promptly assume full responsibility for defense of any suit or proceeding which may be brought against Satellite or its agents, customers, or other vendors for alleged patent or trademark infringement, as well as for any alleged unfair competition resulting from Satellite's use or sale of goods or services furnished hereunder that are related to Vendor's design; Vendor further agrees to indemnify Satellite, its agents and customers from and against any and all expenses, losses, royalties, profits and damages including court costs and attorney's fees resulting from any such suit or proceeding, including any settlement. Satellite may be represented by and actively participate through its own counsel in any such suit or proceeding if it so desires, and the costs of such representation shall be paid by Vendor.

28. Setoff. All claims for money due or to become due from Satellite shall be subject to deduction or setoff by the Satellite by reason of any claim of the Satellite against the Vendor arising out of this or any other transaction with Vendor.

29. Waiver. Satellite's failure to insist on performance of any of the terms or conditions herein or to exercise any right or privilege or Satellite's waiver of any breach hereunder shall not thereafter waive any terms, conditions, or privileges, whether of the same or similar type.

30. Risk of Loss. While the Equipment or goods are in the possession, custody, or control of Vendor, its agents, employees, or carriers, the risk of loss shall remain on the Vendor.

31. Miscellaneous. This Purchase Order, including those documents specifically set forth in Section 1, constitute the entire understanding and agreement between Satellite and Vendor superseding all prior agreements, understandings, negotiations, discussions, proposals, representations, promises, commitments and offers between the parties, whether oral or written. No provision of this Purchase Order shall be deemed waived, amended, discharged or modified orally or by custom, usage or course usage or course of conduct unless such waiver, amendment or modification is in writing and signed by an officer of each of the parties hereto. Time is of the essence regarding this Purchase Order.

This Purchase Order shall be governed by the internal laws (as opposed to conflicts of law provisions) and decisions of, the State of Minnesota. Satellite and Vendor consent to the exclusive jurisdiction of any local, state or federal court located within Minnesota. Venue must be in Minnesota and Vendor hereby waives local venue and any objection relating to Minnesota being an improper venue to conduct any proceeding relating to this Purchase Order. It is the policy of Satellite not to discriminate against any employee or applicant for employment because he or she is an individual with a disability or a protected veteran. We encourage all Satellite subcontractors, vendors and suppliers to do the same.