



**TERMS AND CONDITIONS
FOR MATERIAL PURCHASES (SHORT FORM)**

1. ENTIRE AGREEMENT

The Purchase Order or Contract together with these Terms and Conditions and all documents referenced and specifically incorporated into the Purchase Order or Contract are the entire agreement between the Parties (referred to collectively as "Agreement"). No modification of the Agreement shall be effective unless by a Change Order issued by Company's Buyer. "Company" shall mean the DTE Energy entity stated on the first page of the Purchase Order or Contract. "Seller" shall mean the person or legal entity with whom Company has entered into the Agreement. Any agreements, negotiations or understandings of the parties prior or contemporaneous to the date of the Agreement, whether written or oral, are superseded hereby. Any document submitted by Seller (including any Seller document referenced in the Agreement) is used solely for the purpose of describing the materials ("Materials") and, to the extent containing any terms in addition to or inconsistent with the terms of the Agreement, or a rejection of any terms of the Agreement, shall be deemed to be a counter offer to Company and shall not be binding upon Company unless specifically accepted in writing by Company's Buyer.

2. SCOPE OF SALE AND PURCHASE

Seller agrees to sell to Company the Materials identified in the Agreement at the stated price, quantity, ship to location and other specifications. Company is not obligated to purchase any minimum quantity or dollar amount of Materials from Seller.

3. DELIVERY OF MATERIALS

Time is of the essence for this Agreement. If delivery of the Materials is not completed by the time period stated in the Agreement, Company reserves the right, without liability and in addition to other rights and remedies, to cancel this Agreement by notice effective upon receipt by Seller as to stated quantities of Materials not yet delivered and to purchase substitute Materials from third parties and Seller shall be liable for increased cost.

4. INSPECTION, REJECTION, ACCEPTANCE AND REVOCATION OF ACCEPTANCE OF GOODS

A. Seller shall provide and maintain a quality assurance system which shall assure that all Materials delivered to Company conform to the Agreement Seller shall maintain adequate records of all inspections and tests. Such records shall be made available to Company at all times and, unless otherwise agreed to by Company, shall be retained by Seller for a period of at least five (5) years.

B. Notwithstanding payment, passage of title of Materials to Company or prior inspection or testing by Seller, all Materials are subject to final inspection and acceptance or rejection by Company. At all reasonable times during the period of Seller's performance under the Agreement, including the period of manufacture, Company may inspect and/or test the Materials to be furnished under the Agreement at the locations where the work is being performed, including those of Seller's suppliers and Seller shall provide, without additional charge, reasonable facilities and assistance for safe and convenient inspection and testing.

5. TITLE AND RISK OF LOSS

Except as otherwise stated in the Agreement, title to all Materials subject to the Agreement shall remain with Seller until delivery. Notwithstanding a contrary Incoterm or other shipping term, Seller shall be responsible for any loss or damage occurring during transit to the extent that such loss or damage is attributable to an act or omission of Seller or Seller's failure to adhere to the express shipping instructions of Company.

6. WARRANTY

A. Seller warrants that (1) all materials and equipment furnished by it and its subcontractors or suppliers shall be (a) free from defects in design, material and workmanship, (b) fit for the purpose intended, (c) new and conform to the specifications, drawings, samples and other descriptions as set forth in the Agreement and, (d) where not specified, of the highest quality and best grade of its respective kind for its intended use, and (2) it has good and marketable title to all materials at the time the materials are loaded for delivery to Company and that title to all materials and equipment furnished by it shall pass to Company free and clear of all liens, claims, security interests or encumbrances.

B. If at any time during the eighteen (18) months period from the date that the Materials are first used for the purposes intended by Company or the four (4) year period from the date of acceptance by Company, whichever occurs first, it appears that the Materials or any part thereof do not conform to these warranties, Company shall notify Seller within a reasonable time after such discovery and Seller, at its sole expense and after obtaining Company's concurrence, shall promptly provide any redesign, repair, replacement and testing services as necessary to correct any nonconforming materials or workmanship. The warranty period for such corrected or replaced Materials shall be of an equal duration as the original warranty period and shall commence upon acceptance of such corrected or

replaced Materials. If Seller fails to fulfill its obligations under this Section, Company may revoke acceptance and cover by purchasing substitute Materials or may proceed to make corrections or accomplish Seller's work by the most expeditious means available. Seller shall be liable for the cost of cover or correction.

C. Seller shall promptly provide Company's Buyer and the Company's Contract Administrator (a) notice of any defects (latent or otherwise) in the Materials; (b) any warnings concerning defects (latent or otherwise) in the Materials; (c) any recall notices or safety bulletins related to the Materials; and (d) details including corrective action requirements. The provisions of this Section shall survive termination, cancellation or expiration of the Purchase Order or Contract.

D. In addition to, and without limiting, Seller's warranty, Seller shall obtain and extend to Company any manufacturer's warranty for products or processes utilized during, or incorporated into, the Material and procured by Seller.

7. INTELLECTUAL PROPERTY

A. Seller represents and warrants that it has authority to grant, and hereby grants Company, a permanent, assignable, nonexclusive, royalty free license to use, maintain and modify (except for software) any Third Party Work that is required for the performance of this Agreement. "Third Party Work" means any original works of authorship or inventions or designs created or owned by a third party and used in performing any Work under this Agreement, as identified in writing in sufficient detail in the Agreement so as to distinguish them from Work Product developed or created under any Agreement.

B. Seller represents and warrants that all materials, equipment and processes used or supplied and Work Product are free from infringement of any patent, trademark or other intellectual property right. Seller shall pay all royalties and license fees necessary for the performance of this Agreement or use of the Materials.

C. All Work Product shall become the sole and exclusive property of Company, whether delivered to Company or not, and shall be delivered to Company in hard copy in electronic native file format as well as Adobe Portable Format (PDF) upon request or upon expiration, termination or completion of this Agreement. Company and Seller agree that all Work Product is a Work-Made-For-Hire under the copyright, patent and trademark laws (as applicable) of the United States. "Work Product" means all materials, notes, reports, documentation, computer programs in object code and fully-commented source code, literary works, graphical works, performances or displays and any derivatives, inventions, formulae, processes, machines, manufacturers, composition of matter devices or any portions thereof and Work Documents, and any improvements on any of them, prepared or developed by Seller in the performance of this Agreement.

D. Notwithstanding the foregoing, Seller shall retain ownership of all its pre-existing know-how embodied in the Work Product, provided that the Company shall have a transferable license to use such pre-existing know-how to the fullest extent necessary to realize the benefits of the Work Product and/or Materials

8. WORK DOCUMENTS

Seller shall deliver all Work Documents, to Company upon request, delivery of Materials or termination of this Agreement. All Work Documents or Work Product furnished by Seller in connection with this Agreement are the property of Company and, notwithstanding any markings or notices to contrary included on such Work Documents or Work Product, there shall be no restrictions upon Company's use thereof. "Work Documents" means all manuals, designs, specifications, technical descriptions, drawings, plans, reports, calculations, summaries, other items identified as deliverables from Seller to Company pursuant to the Agreement and other documentation necessary for the use of Materials.

9. PRICE AND PAYMENT

Company shall pay Seller the prices indicated in the Agreement for all Materials purchased under this Agreement. Company shall pay approved invoices in accordance with the payment terms specified in the Agreement or shall notify Seller of its reasons for disapproval of such invoices. All payments are subject to adjustment for shortage or rejection.

10. CHANGES

Company may make changes to the Agreement, including without limitation, changes to any one or more of the following: (a) the specifications of the Materials, (b) the addition or deletion of Materials; (c) the method of shipment of the Materials and (d) the place or time of inspection, delivery or acceptance of the Materials. If such change causes an increase or decrease in the cost of, or time required for performance of, the Agreement, an equitable adjustment may be made by Change Order issued by Company Buyer. Nothing in this Section shall excuse Seller from proceeding with performance of the Agreement as changed. No price increases, costs, charges or other amounts, extensions of time for delivery or other changes shall be binding on Company unless evidenced by a Change Order issued by Company Buyer. Payments made under this Section shall not exceed the aggregate price specified in the

Agreement No claim by Seller for adjustment hereunder shall be considered unless made in writing within ten (10) days from the date of notice of any such change is received by Seller.

11. FORCE MAJEURE

Except as otherwise provided herein, Seller shall not be liable for a reasonable delay or default in furnishing Materials hereunder and Company shall not be liable for failure to perform any of its obligations hereunder, to the extent due to fire, flood, storm, other natural disaster, national emergency or war, inability to obtain financing, negligence or other similar condition of such party, provided that either party has given the other prompt notice of such occurrence. Within seven (7) days of the commencement of any excusable delay, Seller must notify Company Buyer in writing of the nature, cause, date of commencement and expected impact of the event. Seller must exercise due diligence in proceeding to meet its performance obligations hereunder, notwithstanding the delay. Upon Seller satisfying these conditions, Company may extend the schedule for the period of time equal to the time actually lost by reason of the delay.

12. TERMINATION

A. Company may, at its option, by written Change Order issued by Company's Buyer, terminate the Agreement or any part thereof upon ten (10) days' notice without cause. Upon such termination, Seller agrees to waive all claims for damages, including claims for loss of profits and to accept as its sole remedy for termination the cost of all Materials delivered prior to the date of termination, including reasonable overhead and profit thereon and reasonable cost incurred by Seller in terminating the Agreement. Company shall have no liability whatsoever for goods which are Seller's standard stock. Termination shall not relieve Seller of any of its obligations for Materials delivered hereunder.

B. Company may terminate this Agreement for cause if (1) Seller refuses, neglects or fails in any respect to prosecute the Agreement hereunder or any portion thereof with promptness, diligence or in accordance with any of the provisions set forth herein, (2) Seller refuses, neglects, or fails to perform any other obligations under this Agreement or provide adequate assurance of performance, (3) Seller makes an assignment for the benefit of creditors or bankruptcy or insolvency proceedings are instituted by or against Seller, or (iv) at any time in Company's sole judgment, Seller's financial or other condition or progress on the Agreement shall be such as to endanger timely performance.

13. LIMITATION ON LIABILITY

Except as may be expressly stated elsewhere in this Agreement, neither party shall be liable to the other party for incidental, indirect, or consequential damages, including, but not limited to, loss of profits or revenue.

14. SELLER REPRESENTATIONS AND COVENANTS

A. Seller represents and warrants that (a) execution, delivery and performance by Seller of this Agreement have been authorized by all necessary action on behalf of Seller and (b) the execution, delivery and performance by Seller under this Agreement does not conflict or result in the breach of any applicable laws, any judgment or decree of any court, or any agreement to which Seller is a party.

B. Seller shall keep itself fully informed of and shall comply with all applicable federal, state and local laws, ordinances, industry standards, codes, regulations and executive orders or decrees (collectively, "Laws"), including but not limited to (i) the Laws set forth on the attached Federal Requirements Schedule (which Company may modify from time to time to conform to any change in law without notice to Seller), (ii) environmental and pollution control laws, (iii) Laws of bodies or tribunals having any jurisdiction or authority over the Materials, and (iv) any rules or regulations of Company relating to health, safety or performance of the Agreement which in any manner affect those engaged or employed on any work, the Materials used in any work, or the performance of the Agreement. If any discrepancy or inconsistency should be discovered between the Agreement and any such Laws, Seller shall immediately report the same in writing to Buyer. Seller shall be responsible for the compliance by its subcontractors and suppliers of all tiers with the above provisions and shall be liable for all fines levied in violation of any Laws.

15. RECORDS AND AUDITS

Company or its authorized representative shall have access to Seller's records at Company's premises or at Seller's regular place of business during normal business hours to review, audit, and verify any information connected with this Agreement, including (1) payment for furnished other than on a firm price basis, (2) progress payments, or (3) the negotiation of price adjustments for changes. Copies of any material shall be made for Company at its request and any reasonable cost of reproduction shall be borne by Company.

16. NONWAIVER

None of the provisions of the Agreement shall be considered waived by either party unless such waiver is given in writing by the other party. No such waiver shall be a waiver of any past or future default, breach or modification of any of the terms, provisions, conditions or covenants of the Agreement unless expressly set forth in such waiver.

17. NOTICES

Notices and other written communications are to be made in writing to the address stated in the Agreement. Such notices and other written communications must reference the Purchase Order and/or Contract Number appearing in the Agreement.

18. ASSIGNMENT

No assignment of this Agreement or any of its rights or obligations hereunder shall be made by Seller without first obtaining the written consent of Company. This Agreement shall be binding upon and inure to the benefit of the respective successors and permitted assigns of the parties hereto.

19. GOVERNING LAW AND JURISDICTION

The Agreement, and the rights, obligations and liabilities of the parties hereto shall be construed in accordance with the law of the State of Michigan, without regard to its conflict of law principals. The parties agree that any action with respect to this Agreement shall be brought in a court of competent subject matter jurisdiction located in the State of Michigan and the parties hereby submit themselves to the exclusive jurisdiction and venue of such court for the purpose of such action.

20. SURVIVAL

All of the terms of this Agreement which by their nature extend beyond (a) the termination or cancellation of this Agreement or (b) the completion of the delivery of Materials shall survive and remain in full force and effect and apply to respective successors and assigns.

FEDERAL REQUIREMENT SCHEDULE

A. Company, as a federal contractor, requires that Seller agree to be bound by and comply with the following clauses which are incorporated by reference herein and have the same force and effect as if set forth in full text.

1. The following Federal Acquisition Regulation ("FAR") and Code of Federal Regulations ("CFR") clauses, as amended, are incorporated by reference in these terms and conditions unless Seller is exempt thereunder: Equal Opportunity, FAR 52.222-26 (applies to all orders); Prohibition on Segregated Facilities, FAR 52.222-21 (applies to all orders); Anti-Kickback Procedures, FAR 52.203-7 (applies to all orders over \$100,000); Notice of Employee Rights Concerning Payment of Union Dues or Fees, 29 CFR Part 470 (applies to all orders over \$100,000); Employment Reports on Disabled Veterans and Veterans of the Vietnam Era-FAR 52.222-37 (applies to orders of \$25,000 or more); and Seller Code of Business Ethics and Conduct-FAR 52.203-13 (applies to orders of \$5,000,000 or more and a performance period of 120 days). To the extent not exempt, Contractor shall abide by the requirements of 41 CFR 60-300.5(a) (applies to orders of \$100,000 or more) and 60-741.5(a) applies to orders of \$10,000 or more). These regulations prohibit discrimination against individuals on the basis of protected veteran status or disability, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities. The terms "Contractor," "Government" and "Contracting Officer" as used in the FAR clauses shall be deemed to refer to "Seller," "Company" and "Company Representative", respectively.

2. Except to the extent that this Agreement is exempt from any of these requirements, Seller agrees to be bound by and comply with the clauses set forth at 48 CFR 52.219-8 (Utilization of Small Business Concerns) (only if this Agreement exceeds \$100,000) and 48 CFR 52.219-9 (Small Business Subcontracting Plan) (only if this Agreement exceeds \$500,000 and if Company requests submission of a Small Business Subcontracting Plan).

B. Seller does hereby represent, warrant and covenant that:

1. Seller shall not cause Company or its affiliates to be in violation of the Foreign Corrupt Practices Act (15 U.S.C. Section 78dd-1, et. seq.) as amended (the "FCPA") or any other applicable law.

2. With respect to its performance under the Agreement, Seller and its owners, directors, officers, employees, and agents will not, directly or indirectly through third parties, pay, promise or offer to pay, or authorize the payment of, any money or give any promise or offer to give, or authorize the giving of anything of value to any individual, entity, or government for purposes of corruptly obtaining or retaining business for or with, or directing business to, any person, including, without limitation, Company or its affiliates.

3. Seller shall ensure that no part of any payment, compensation, reimbursement or fee paid by Company to Seller will be used directly or indirectly as a corrupt payment, gratuity, emolument, bribe, kickback or other improper benefit.

4. Seller shall provide to Company and/or its representatives and advisors all supporting documents requested by Company pertaining to any expenses incurred, products provided, and/or services performed by Seller and its agents pursuant to the Agreement to ensure compliance with the FCPA. Seller understands and acknowledges that, notwithstanding any other provision contained in the Agreement, none of Company or any of its affiliates shall be obligated to reimburse any expense incurred or pay for any Work, in Company's reasonable opinion, (i) Seller has failed to provide adequate documentation or information to confirm that an expense or charge did not violate the FCPA, or (ii) an expense reimbursement or product/service payment would cause Company or any of its affiliates to be in violation of the FCPA.