

Purchase Order: Terms and Conditions

- 1) The entity (hereinafter referred to as "Contractor/Vendor") identified on this purchase order ("PO") shall furnish to the King Aultman Group LLC identified on this PO (hereinafter referred to as "KA Group") all equipment, materials, tools, labor and supervision necessary to perform the work ("Work") required in accordance with the drawings, specifications, and descriptions provided by KA Group under this PO. No substitutions to materials or equipment specified shall be permitted except through the expressed written approval of KA Group.
- 2) By accepting this PO and/or performing any of the Work under this PO, the Contractor/Vendor certifies that it has read and accepts these terms and conditions. No agreements or other understandings modifying the terms and conditions of this PO, including any terms and conditions contained on any quotation(s) of the Contractor/Vendor shall be binding upon KA Group unless made in writing and signed by both Contractor/Vendor and KA Group and specifically states that the same is an amendment to this PO.
- 3) All quotes and invoices issued by Contractor/Vendor, associated with this PO shall reflect the total sum of the PO and will include all things necessary to complete the Work, and shall also include all federal, state, local, sales, use, excise, and other taxes of a like nature which Contractor/Vendor may be required to collect or pay with respect to the Work. The PO number must be plainly marked on all invoices. Invoices must be forwarded to the KA Group Accounts Payable address listed on this PO. Invoices for Work performed on a "time and material" basis shall be accompanied by daily labor and material usage sheets signed by the Contractor's and KA Group's representatives.
- 4) None of the Work at the construction site shall be performed by subcontractors except as authorized in writing by KA Group prior to the arrival of such subcontractors at the construction site. Contractor/Vendor shall complete and submit a Subcontractor Authorization form for each subcontractor to be utilized on the construction site. Such approved subcontractors shall acknowledge the terms and conditions and maintain the required insurance per EXHIBIT A.
- 5) All personnel of the Contractor/Vendor and authorized subcontractors may be required to undergo background checks and drug testing at the discretion of KA Group and/or the KA Group client. If required, the cost of such checks and testing shall be borne by the Contractor/Vendor. KA Group at its sole discretion may prohibit any individual from being granted access to the KA Group client's facility and/or the construction site or may direct the Contractor/Vendor to remove any individual.
- 6) It is understood and agreed by the parties that time is of the essence in the completion of the Work ordered under this PO. KA Group reserves the right to cancel all or any part of this Order if not delivered as ordered.
- 7) All items covered by this PO shall be f.o.b. to the construction site, unless otherwise specified herein. No charge will be allowed for containers, crating, boxing, shipping, storage or demurrage unless stated herein.
- 8) The Contractor/Vendor shall keep the construction site clean and orderly at all times and shall remove all uninstalled materials and debris in order to maintain the construction site in a clean and orderly condition at all times.
- 9) KA Group may order the Contractor/Vendor to make changes in the Work. Such changes shall only be made through an amendment to this PO issued by KA Group. Any changes made by the Contractor/Vendor other than under an amendment to this PO shall be at the Contractor's/Vendor's sole cost and liability.
- 10) Payment for the Work hereunder shall not constitute acceptance thereof. KA Group shall have the right to inspect such Work and to reject any or all of said Work, which are in KA Group's judgment defective. In the event of such rejection, in addition to any rights to damages available to KA Group at law, Contractor/Vendor agrees to repay to KA Group the purchase price of any Work rejected. Additionally, KA Group may elect to set-off any amounts due to Contractor/Vendor under this or any other agreement for expenses or damages incurred by KA Group associated with the rejection of any Work. Goods so rejected and Work supplied in excess of quantities called for herein may be returned to Contractor/Vendor at Contractor/Vendor's expense and, in addition to KA Group's other rights, KA Group may charge Contractor/Vendor all expenses of uncovering, examining, and repairing or replacing such Work and KA Group shall have the right to cancel any other order with Contractor/Vendor for similar Work. In the event Contractor/Vendor performed Work whose defects or non-conformity is not apparent on examination resulting in deterioration of its finished product, KA Group reserves the right to acquire the replacement, as well as payments of damages.
- 11) Contractor/Vendor warrants that all items covered by this PO will not infringe upon any United States or foreign patent or patent right, and Contractor/Vendor agrees to indemnify and hold harmless KA Group, and anyone selling or using any of the items against all judgments, decrees, costs and expenses resulting from any alleged infringement; and Contractor/Vendor further agrees that it shall upon the request of KA Group, and at Contractor/Vendor's own expense, defend or assist in the defense of any action which may be brought against KA Group or those selling or using any of the items by reason of such alleged infringement.
- 12) It is understood that Contractor/Vendor shall warrant and guarantee for a period of one (1) year commencing upon final completion of the Work, or Contractor/Vendor or manufacturer explicit warranty period, if greater, all of the Work furnished pursuant to this PO, and that all materials used, and all Work performed have been in accordance with the drawings and specifications provided Contractor/Vendor by KA Group. No substitutions from the items specified on the drawings and specifications furnished by KA Group shall be permitted except by the expressed written approval of KA Group. Contractor/Vendor agrees for above said warranty period to replace and repair defective materials and/or workmanship covered by this PO, and to indemnify KA Group against any and all liabilities whatsoever for damages and/or expenses which are incurred by KA Group by virtue of defective material or workmanship in the items and/or labor supplied under this PO.
- 13) All of the Contractor/Vendor's personnel and the personnel of authorized subcontractors performing Work at the construction site shall be employees of the Contractor/Vendor or subcontractor. None of such personnel shall be deemed to be the agent, servant or employee of KA Group or KA Group's client or affiliates.
- 14) Any personnel of the Contractor/Vendor or authorized subcontractors performing Work on the construction site may be required to undergo background checks and drug testing at the discretion of KA Group and/or the KA Group client, before being granted access to the construction site. If

required, the cost of such checks and testing shall be borne by the Contractor/Vendor. KA Group at its sole discretion may prohibit any individual from being granted access to the construction site.

15) All Work performed under this PO shall be in compliance with all Federal, State and local laws and regulations regarding worker safety. Contractor/Vendor is responsible for the supervision, training, and equipment necessary for compliance with the laws and regulations. For construction, demolition, installation, maintenance, or non-consulting service Work performed under this PO, Contractor/Vendor shall complete and submit to the KA Group representative a Safe Action Plan (SAP) each day before the start of Work. Contractor/Vendor Shall defend, indemnify and hold harmless KA Group from and against all claims, demands, and liabilities arising from the control, Work performed, or actions in whole or in part caused by any action of Contractor/Vendor in performing Contractor/Vendor's obligations hereunder.

16) To the fullest extent permitted by Laws and Regulations, the Contractor/Vendor shall defend, indemnify and hold harmless KA Group, KA Group's client, and their separate respective officers, directors, members, partners, employees, parents, subsidiaries, consultants and subcontractors (collectively referred to as "Indemnified Parties") of each and any of them from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, including but not limited to claims, cost, loss, or damage attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom caused by any act (negligent or otherwise) or omission of the Contractor/Vendor, any subcontractor, any supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable .

17) Before proceeding with the Work specified in and for three (3) years following the date of final completion of the Work under this PO, the Contractor/Vendor shall, at its own cost and expense, procure and keep in force and in effect at least the kinds and amounts of insurance coverage detailed on the ACORD Certificate of Insurance Form in EXHIBIT A. The Contractor/Vendor shall furnish to the KA Group representative a certificate showing evidence of insurance in the types and amounts required herein.

18) KA Group has the right to terminate this PO or any portion of it at its sole discretion or upon the occurrence of any of the following: (a) insolvency of the Contractor/Vendor; (b) Contractor/Vendor's filing a voluntary petition in bankruptcy or application for the appointment of a receiver or trustee of its assets; (c) an involuntary petition to have Contractor/Vendor declared bankrupt not vacated within 30 days from the date of filing; and (d) the execution by Contractor/Vendor of an assignment for the benefit of creditors; (e) the Contractor's/Vendor's material breach of any of the terms and conditions of this PO; (f) the Contractor's/Vendor's failure to perform the Work as required; or (g) the modification or termination of the agreement between KA Group and the KA Group client. In the event of KA Group's decision to terminate this PO, the Contractor/Vendor shall be compensated for that portion of the Work performed prior to the receipt of notification of termination which is accepted by KA Group. KA Group shall have no obligation to compensate the Contractor/Vendor for Work not performed and accepted by KA Group.

19) Contractor/Vendor certifies that all items and/or labor under this PO and all prices charged shall comply with all federal, state and local laws and regulations relative thereto and all pricing and safety laws and regulations. To the extent applicable, the clauses with respect to government contracts set forth in 41 C.F.R., Sections 1-1.805-3, (labor surplus areas), 1-1.1310-2 (minority business enterprises), 60-1.4 (equal opportunity), 60-1.40 (affirmative action), 60-1.8 (non-segregated facilities), 60-300.5(a) (employment of veterans), 60.741.5(a) (employment of persons with disabilities), at F.P.R. Section 1-1.710-3 and 48 C.F.R. 52.219-8 and 52.219-9 (small business concerns), Executive Order 12138 (women-owned businesses) and at 42 U.S.C. Section 12101 et seq. (American with Disabilities Act) are incorporated by reference and shall have the same binding effect as if reproduced herein in their entirety. Furthermore, and to the extent applicable, Contractor/Vendor and its subcontractors shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability. Acceptance of this PO constitutes certification of compliance by the Contractor/Vendor to KA Group.

20) Contractor/Vendor shall at all times comply with all applicable laws, regulations and governmental requirements, including without limitation national and international laws governing export and import control and ethical business practices, including but not limited to the Sherman and Clayton Anti-Trust Acts, Robinson-Patman Act, and the Federal Trade Commission Act. Contractor/Vendor shall at all times comply with the U.S. Foreign Corrupt Practices Act and any other similar laws which prohibit the offering, giving or promising to offer or give, directly or indirectly, money or anything of value to any official of a government, political party or instrumentality, or other individuals to assist it or KA Group in obtaining or retaining business. Likewise, KA Group requires that its employees comply with the any adopted Code of Ethics and Standards of Business Conduct by KA Group or its customers and affiliates.

21) Any and all drawings, specifications and other documents or materials prepared by KA Group for use by Contractor/Vendor shall remain the sole property of KA Group or the KA Group's client and shall be returned to KA Group upon the final approval/acceptance of the Work, termination of this PO, or upon demand by KA Group. Further, Contractor/Vendor shall not without the express written consent of KA Group use the information contained in these drawings, specifications or other documents or materials except as it relates to the Work covered by this PO.

22) The terms, conditions and performance of this PO shall be governed and construed in accordance with the laws of the State of Texas.

23) KA Group shall pay the Contractor/Vendor for the Work in accordance with the stated terms, either following final completion and acceptance of the Work by KA Group, or on a monthly basis as stated in the PO and following receipt of an acceptable invoice by KA Group. In cases where Contractor/Vendor is a subcontractor providing pass through services/material/support on a project for a KA Group client, payment shall be due net ten (10) days following KA Group's receipt of final payment from the KA Group client for the associated project. For all other cases, payment shall be due on a paid when paid basis following the receipt of payment for the associated work performed to KA Group from the project Customer.

EXHIBIT A



CERTIFICATE OF LIABILITY INSURANCE

DATE (MMDD/YYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER CONTACT NAME: PHONE (A/C, No, Ext): _____ FAX (A/C, No): _____ E-MAIL ADDRESS: _____ _____ _____	INSURER(S) AFFORDING COVERAGE NAIC # INSURER A : _____ INSURER B : _____ INSURER C : _____ INSURER D : _____ INSURER E : _____ INSURER F : _____
INSURED Contractor/Vendor Information Listed Here	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MMDD/YYYY)	POLICY EXP (MMDD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER: _____						EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 _____ _____
	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ _____ BODILY INJURY (Per accident) \$ _____ PROPERTY DAMAGE (Per accident) \$ _____ _____ _____
	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED _____ RETENTION \$ _____						EACH OCCURRENCE \$ 6,000,000 AGGREGATE \$ 8,000,000 _____ _____
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		Y/N				<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
			Y	N/A			
A							

CERTIFICATE HOLDER King Aultman Group LLC PO BOX 810 Carthage TX, 75633	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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SUBCONTRACTOR AUTHORIZATION

Refer to Paragraph 4 of the KA Group Construction PO Terms and Conditions.
Complete and submit a separate form for each subcontractor.

KA Group PO Number: _____

Subcontractor Company Name: _____

Street Address: _____

P.O. Box: _____

City, State, Zip: _____

Phone Number: _____

Fax Number: _____

Name of Authorized Representative (printed): _____

Contractor/Vendor acknowledges that the subcontractor has received a copy of the KA Group PO terms and conditions issued with the KA Group PO, and will abide by these terms and conditions, including the insurance requirements contained therein, in addition to any other terms and conditions contained in any agreement between the Contractor and subcontractor for the Work to be performed by subcontractor under the KA Group PO.

Signature of Contractor's Authorized Representative: _____

Name (printed): _____

Date: _____

KA Group Approval

Signature: _____

Name (printed): _____

Date: _____

Copy Distribution: Contractor, Subcontractor, KA Group Project Representative

CONDITIONAL WAIVER AND RELEASE ON PROGRESS PAYMENT

Project _____

Job No. _____

On receipt by the signer of this document of a check from _____ (maker of check) in the sum of \$ _____ payable to _____ (payee or payees of check) and when the check has been properly endorsed and has been paid by the bank on which it is drawn, this document becomes effective to release any mechanic's lien right, any right arising from a payment bond that complies with a state or federal statute, any common law payment bond right, any claim for payment, and any rights under any similar ordinance, rule, or statute related to claim or payment rights for persons in the signer's position that the signer has on the property of _____ (owner) located at _____ (location) to the following extent: _____ (job description).

This release covers a progress payment for all labor, services, equipment, or materials furnished to the property or to _____ (person with whom signer contracted) as indicated in the attached statement(s) or progress payment request(s), except for unpaid retention, pending modifications and changes, or other items furnished.

Before any recipient of this document relies on this document, the recipient should verify evidence of payment to the signer.

The signer warrants that the signer has already paid or will use the funds received from this progress payment to promptly pay in full all of the signer's laborers, subcontractors, materialmen, and suppliers for all work, materials, equipment, or services provided for or to the above referenced project in regard to the attached statement(s) or progress payment request(s).

Date _____

_____ (Company name)

By _____ (Signature)

_____ (Title)

This instrument was executed and acknowledged before me on this ____ day of _____, 20____, by _____, known to me as the person whose name is subscribed above, as _____ [title] of _____ [company], on behalf of and as the authorized act of said entity.

Notary Public in and for the State of Texas

My Commission Expires: _____

CONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT

Project _____

Job No. _____

On receipt by the signer of this document of a check from _____ (maker of check) in the sum of \$ _____ payable to _____ (payee or payees of check) and when the check has been properly endorsed and has been paid by the bank on which it is drawn, this document becomes effective to release any mechanic's lien right, any right arising from a payment bond that complies with a state or federal statute, any common law payment bond right, any claim for payment, and any rights under any similar ordinance, rule, or statute related to claim or payment rights for persons in the signer's position that the signer has on the property of _____ (owner) located at _____ (location) to the following extent: _____ (job description).

This release covers the final payment to the signer for all labor, services, equipment, or materials furnished to the property or to _____ (person with whom signer contracted).

Before any recipient of this document relies on this document, the recipient should verify evidence of payment to the signer.

The signer warrants that the signer has already paid or will use the funds received from this final payment to promptly pay in full all of the signer's laborers, subcontractors, materialmen, and suppliers for all work, materials, equipment, or services provided for or to the above referenced project up to the date of this waiver and release.

Date _____

_____ (Company name)

By _____ (Signature)

_____ (Title)

This instrument was executed and acknowledged before me on this ___ day of _____, 20___, by _____, known to me as the person whose name is subscribed above, as _____ [title] of _____ [company], on behalf of and as the authorized act of said entity.

Notary Public in and for the State of Texas

My Commission Expires: _____