



Reply to
Post Office Box 96
St. Louis, Missouri 63166-0096
636-532-2000
www.sachsco.com

**SACHS ELECTRIC COMPANY
PURCHASE ORDER
TERMS AND CONDITIONS**

1. Sachs Electric Company ("Buyer") will issue to "Seller" a "Purchase Order" which defines the "Goods" and/or "Services" to be sold to the "Buyer" for the agreed upon price. The terms "Goods" and "Services" shall mean the items specified on the written Purchase Order. This Purchase Order is issued by Buyer subject to the acceptance and performance by Seller of the warranties, agreements, terms and conditions stated.
2. Seller's acceptance of these Terms and Conditions must be made on its exact terms. No additional or different terms or provisions (except additional warranties given by Seller) of any acknowledgement, packing slip, invoice or other form supplied by Seller shall become a part of the Purchase Order, notwithstanding Buyer's failure to specifically object in writing to such form or provision. To insure prompt payment, invoices must correspond with prices and quantities on the Purchase Order. It is expressly agreed that there are no promises, agreements or understandings between Buyer and Seller not contained in these Terms and Conditions and that there have been no representations made by Buyer not contained in the Purchase Order, and any and all subsequent modifications must be mutually agreed upon in writing between Seller and Buyer.
3. Seller is to include with each shipment all necessary documents to insure prompt delivery of all Goods to Buyer. Notwithstanding any other mode of acceptance utilized by Seller in accepting the Purchase Order, shipment of any of the Goods or the performance of any Services covered hereunder shall constitute acceptance by Seller of these Purchase Order Terms and Conditions.
4. Material or equipment on the Purchase Order is purchased F.O.B. job site, unless otherwise noted.
5. Acceptance of the Purchase Order constitutes Seller's assurance that the Goods specified herein were produced and the services required herein have been or will be performed in compliance with all applicable Federal, State, and local regulations, laws, statutes, executive orders and ordinances. The Seller shall take all reasonable safety measures initiated by Buyer and shall comply with all applicable laws, ordinances, rules, regulations and orders of any public authority for the safety of persons or property. All electrical material, articles and components supplied by Seller must be UNDERWRITERS LABORATORIES APPROVED and comply with the National Electrical Code. In the event such UNDERWRITERS LABORATORIES APPROVED Goods are unavailable, Seller shall notify Buyer in writing immediately upon receipt of the Purchase Order. Any Services conducted or performed per the Purchase Order shall be done in complete compliance with O.S.H.A. regulations.
6. Seller shall deliver the Goods, in the quantities and within the time or times, in accordance with the plans and specifications and at the prices specified on the Purchase Order, including but not limited to, all of the requirements of contract documents entered into by and between Buyer and clients relating in any way to the Goods hereunder. If the Purchase Order or said contract documents require the Seller to prepare shop drawings for said Goods or Services, said shop drawings shall be submitted by Seller in a timely manner or as otherwise required by Buyer. Buyer shall have the right to route all shipments of Goods. Risk of loss shall be upon Seller until conforming Goods are delivered to and have been inspected and accepted by Buyer.
7. Time is of the essence with respect to Seller's performance of this Order. No extension of time shall be valid without Buyer's written consent. If necessary, certain portions of the stated Goods shall be delivered in preference to others in order to secure the completion of our work and within the time specified. Buyer reserves the right to cancel the Purchase Order, or any part thereof, by notice effective when received by Seller (a) if Goods are not shipped or Services are not performed at the time or times required; (b) if Goods or Services are not in accordance with specifications, or as otherwise required in the Purchase Order or the plans and contract documents as specified in the Purchase Order, or are defective in workmanship or quality; or (c) for causes due to any governmental acts, demands, requirements or regulations, or fire, labor trouble, accident or any other cause whatever beyond Buyer's reasonable control. Either party may cancel the Purchase Order in the event that the other party becomes bankrupt or insolvent or makes an assignment for the benefit of creditors. Upon any such cancellation as specified herein, the Goods, or parts thereof, which have previously been delivered to Buyer, may be returned by Buyer to Seller, and if the reason for such cancellation is any of the causes specified in (a) or (b) above, Seller shall pay all transportation charges for the delivery to Buyer and the return to Seller. Seller shall be paid an equitable adjustment for Services already performed as determined by Buyer in Buyer's judgment. Buyer will deduct from payment all handling/processing costs incurred due to over shipment or shipping errors caused by the Seller, manufacturer, or manufacturer's agent for the Goods and/or Services stated herein. It is hereby specifically agreed that damages arising from the Seller's non-fulfillment of this order within the specified time limits shall be deducted from payments on this order and shall be liquidated damages and not in the nature of penalty.
8. **INDEMNITY:** Seller hereby assumes exclusive responsibility for any and all personal injury, including death or property damage of whatever nature and however caused which results from or arises out of Seller's supply of Goods and Services, or arising out of, or resulting from the defective or delayed manufacturing and delivery of the Goods and Services furnished by the Purchase Order. Seller agrees to indemnify, protect and defend Buyer, its officers, directors, agents, or employees, and its subsidiaries or affiliated companies, and clients against all claims, suits, losses or damages (Claims) arising out of or in part by the negligence of Seller, its Subcontractors, suppliers, invitees or others acting for the benefit of the Goods and/or Services to be performed hereunder, except such Claims which are caused by the sole negligence of the parties seeking indemnity hereunder. To the extent that such indemnity shall be held void and unenforceable, Seller specifically and separately agrees to indemnify, protect and defend the parties listed in this paragraph as indemnities against Claims arising out of Seller's supply of Goods and Services to the extent caused by the negligent act or omission of Seller, its employees, or its agents. In accepting the Purchase Order, Seller agrees to defend, at its own cost and expense, all claims, demands, and actions which may be made or instituted against Buyer for alleged patent infringement by the use or resale of Goods covered by the Purchase Order, and to indemnify and hold harmless Buyer against all costs, expenses (including attorney's fees), and judgments in and incident to such claims, demands and actions.

INSURANCE REQUIREMENTS for Goods and Services: Seller will fully insure its risk of loss until acceptance of the Goods and/or Services. The Seller shall purchase and maintain insurance of the following types of coverages and limits of liability: 1) Commercial General Liability (CGL) \$2,000,000 each occurrence, \$4,000,000 products/completed operations aggregate, and \$4,000,000 annual aggregate, to include a) Buyer and its Clients and all other parties required of the Buyer as additional insureds; b) the insurance shall be primary and not be contributory with any insurance provided by the Buyer and its Clients; c) a waiver of subrogation and d) completed operations coverage for three years; 2) Automobile Liability Combined single limits of \$2,000,000, applicable to all owned, leased, hired and non-owned automobiles; 3) Workers' Compensation with statutory limits and Employers' Liability with \$1,000,000 limits; 4) Property Insurance for all tools and equipment owned, leased, borrowed or rented by Seller, at Seller's own expense. Seller hereby waives all rights of subrogation for damage that may occur to tools and equipment owned, leased or rented by Seller. Seller shall forward to Buyer a Certificate of Insurance showing the above required insurance coverages, limits and conditions with a company acceptable to the Buyer. Such coverages shall not be cancelled without at least thirty days prior written notice given to the Buyer. Seller agrees to purchase Professional Liability insurance with limits of \$2,000,000 if Seller provides design, testing, startup and/or commissioning services. Where a Controlled Insurance Program



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- ("CIP") is required, and Seller is required by client to enroll, these Insurance Requirements shall apply to coverages which Seller is required to carry outside the scope of the CIP.
9. This order, including the obligation of Seller to perform and Seller's rights to receive monies for said performance, may not be assigned, pledged, transferred or otherwise encumbered by Seller, without the prior written consent of Buyer.
 10. Buyer reserves the right to make changes and alterations in any Goods required to be supplied and/or Services required to be performed by Seller and in the drawings and specifications, if any, relating to the Purchase Order or the contract documents as defined in the Purchase. If any such change or alteration causes a substantial variation in the cost of furnishing the Goods or performing the Services covered hereunder, the price of such Goods or Services must be agreed upon by Seller and Buyer before Seller performs such Services or supplies such Goods. No claim for such changes shall be allowed unless Buyer has agreed in advance upon such changes in writing. Seller expressly warrants that all Goods supplied shall be free and clear of all liens and encumbrances, good and merchantable title thereto belonging to Seller, and that all Goods or Services furnished under the Purchase Order shall conform to all specifications and the highest applicable industry standards, will be new, will be under manufacturer's warranty, will be free from defects in material or workmanship and in strict conformance with the contract documents as defined in the Purchase Order. Warranty of Goods supplied by this order shall begin only after said Goods or equipment is installed and energized, or as specified in the Purchase Order. In the event of the failure of the Seller to pay for equipment and Services used in the performance of the Purchase Order, Buyer may, at its option, without notice to the Seller, pay for such claims and charge the amount to the Seller. In case any action or filing to establish is brought by any person, firm, corporation employed by the Seller, the Seller shall, at its own expense (including attorney's fees), initiate or defend an action to effect cancellation of such lien promptly and without delay and per any such lien established in court. Seller warrants that all such Goods or Services will conform to any statements made on the containers or labels or advertisements for such Goods or Services, and that any Goods will be adequately contained, packaged, marked and labeled by Seller. Seller warrants that all Goods or Services furnished hereunder will be safe and appropriate for the purpose for which Goods or Services of that kind are normally used. Seller warrants that such Goods or Services will be fit for Buyer's intended or particular purpose. Seller warrants that such Goods or Services furnished will conform in all respects to samples approved by Buyer. Inspection, testing, acceptance or use of the Goods or Services furnished hereunder shall not affect the Seller's obligation under this warranty, and such warranties shall survive inspection, testing, acceptance and use. Seller's warranty and manufacturer's warranty (which is hereby being assigned by Seller to Buyer) shall run to Buyer, its successors, assigns and clients, and users of products sold by Buyer. Upon notice or demand from Buyer, Seller agrees to replace or correct defects of any Goods or Services not conforming to the foregoing warranty promptly, without expense to Buyer. In the event of failure of Seller to correct defects in or replace nonconforming Goods or Services promptly, Buyer, after reasonable notice to Seller, may make such corrections or replace such Goods and Services and charge Seller for the cost incurred by Buyer in doing so.
 11. Upon written application by Seller, Buyer shall pay Seller in monthly payments as Goods and/or Services are provided ("Progress Payments"). Buyer shall pay Seller only upon receipt of payment for the Goods hereunder from Buyer's customer or such other party with whom Buyer has its contract. If Seller extends a two percent (2%) discount on Goods, Buyer shall pay invoices within thirty (30) days. Otherwise, Buyer will pay invoices on the tenth (10th) of the second (2nd) month following the date of the invoice.
 12. Seller warrants that the prices for the Goods sold to Buyer hereunder are not less favorable than those currently extended to any other customer for the same of similar Goods in similar quantities. In the event Seller reduces its price for such Goods during the term of the Purchase Order, Seller agrees to reduce the prices hereof correspondingly. Seller warrants that prices shown on the Purchase Order shall be complete, and no additional charges of any type shall be added without Buyer's express written consent. Such additional charges include, but are not limited to, shipping, packaging, labeling, custom duties, storage, insurance, boxing and crating.
 13. Buyer's failure to insist on performance of any of the terms or conditions herein or to exercise any right or privilege or Buyer's waiver of any breach hereunder shall not thereafter waive any other terms, conditions or privileges, whether of the same or similar type.
 14. Any monies due or which may become due under the Purchase Order shall be subject to set off, recoupment or other lawful means of enforcing any present or future claim or claims which Buyer may have against Seller.
 15. Buyer may deduct from any amount due or to become due to Seller under the Purchase Order, any amount owed to Buyer by Seller from any source.
 16. Defective Goods will be promptly returned at Seller's expense and credit taken on invoice. No Goods returned, as defective shall be replaced without Buyer's formal replace order. All Goods shall be subject to Buyer's inspection and rejection at place of delivery. Goods shipped on the Purchase Order must not be in excess of quantity ordered; over-shipment will be returned at the expense of and charged to Seller. Shipments are subject to postponement at Buyer's request.
 17. The Purchase Order shall be construed by and governed in accordance with the laws of the State of Missouri.
 18. In no event will Buyer be liable for any circumstantial, consequential, contingent, exemplary, incidental, indirect, liquidated, material punitive, special, speculative or other damages, including without limitation, damages for lost profits, sales or revenues, cost of replacement goods, lost business or business interruptions, or attorneys' fees or court costs arising in any manner pursuant to or in connection with the Purchase Order Terms and Conditions, the Goods or the Services.
 19. Seller shall provide competent and adequately trained personnel, and upon written notice from Buyer, shall remove personnel deemed by Buyer, in its sole judgment, to be unsatisfactory due to incompetence, lack of cooperation, unwillingness to comply with established policies and procedures, improper conduct or other behavior deemed detrimental to the workplace.
 20. During performance of the Purchase Order, the vendor shall not discriminate against any employee or applicant for employment because of race, creed, color, sex, age, disability, veteran status or national origin. Unless exempted, vendors/subcontractors on all federally assisted contracts shall comply with all provisions of Executive Order 11246, Non-discrimination in Employment and Affirmative Action.

Company: _____

By: _____
Name and Title:

Date _____