

PCI Proposal Terms & Conditions

The Work: CONTRACTOR will supply and perform only that work specifically described herein (the "Work"). It is specifically understood that the scope of work described herein shall supersede anything to the contrary provided in the Bid Documents. Any work to be done beyond that described herein shall require that a change order be executed.

Schedule: CONTRACTOR will supply and perform the Work in accordance with the schedule (the "Schedule") described herein. In the event of any significant change in the Schedule, the contract price and the Schedule shall be equitably adjusted. In the event CONTRACTOR is delayed in its Work or is otherwise required to accelerate or resequence its Work or work outside of normal daytime business hours for reasons other than the fault of CONTRACTOR or others under CONTRACTOR's control, then CONTRACTOR shall be entitled to additional compensation.

Guarantee: CONTRACTOR warrants and guarantees that its Work will be performed in compliance with all Federal, State and/or Local regulations and, at the time of Customer's acceptance inspection, will meet the specifications in the Contract Documents specifically relating to CONTRACTOR's Work. CONTRACTOR's obligation to repair or replace defective Work will expire one year from the completion of CONTRACTOR's Work. THIS WARRANTY IS IN LIEU OF ANY WARRANTIES PROVIDED IN THE BID DOCUMENTS AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

Protection of Work: CONTRACTOR shall be responsible for protecting the Work, or portions thereof, during the time the Work or portions of it are under its control; provided, however, that during such time, CONTRACTOR shall not be responsible for loss or damage caused by others, nor for any damages whatsoever while CONTRACTOR is not on site.

Storage and Facilities: Customer will provide at its expense sufficient storage space to CONTRACTOR, which is fully protective of materials and equipment furnished for the Work. Customer will also provide all light, heat, power and water which is required by CONTRACTOR for performance of the Work in the custom and practice of CONTRACTOR's trade.

Taxes: Customer will pay for any and all taxes which are now or may be imposed on the Work by any Federal, State or Local taxing authority, law, ordinance, rule or regulation, unless otherwise specified herein.

Bonds: Upon the request and at the expense of Customer, CONTRACTOR will furnish performance and payment bonds.

Indemnity: CONTRACTOR will indemnify and hold harmless Customer from all or such portion of such loss or damage to persons or property to the extent arising directly from CONTRACTOR's performance of the Work and which is caused solely by the willful misconduct or negligent acts of CONTRACTOR, its employees, or anyone under its control. Customer will indemnify and hold harmless CONTRACTOR from all or such portion of such loss or damage to persons or property to the extent arising directly from the willful misconduct or negligent acts of Customer, its employees or anyone under its control, including other contractors.

Payments: For Work commenced and completed in any one calendar month, Customer will pay the full contract price in full upon the completion and acceptance of the Work. Otherwise, all progress payments for the value of the Work completed plus the amount of materials and equipment suitably stored on or off site, and final payment, shall be paid by the Customer to CONTRACTOR within thirty (30) days after the Customer's receipt of CONTRACTOR's payment application therefor.

Inspection and Acceptance: CONTRACTOR's Work shall be considered complete when CONTRACTOR notifies Customer that the Work has been completed in accordance with the specifications. Customer's acknowledgement on the Acceptance Form shall constitute acceptance of the Work.

Retention: Customer shall withhold no more retention than is being withheld from it by the Owner/Upper Tier Contractor.

Late Payments and Attorney's Fees: All sums not paid to CONTRACTOR when due, shall bear an interest rate of (1½%) per month or the maximum legal rate permitted by law, whichever is less; and all costs of collection, including a reasonable attorney's fee, shall be paid by Customer.

Changes: CONTRACTOR may only be ordered in writing by the Customer to make changes in the Work within the general scope of the Work consisting of additions, deletions, changes to the Schedule in duration or sequence, or other revisions, and the contract price and the Schedule shall be adjusted accordingly. Before starting the changed Work, CONTRACTOR will submit to the Customer a request for adjustment to the contract price and/or the Schedule. CONTRACTOR will not commence any such changed or revised Work until receipt of a written change order from the Customer incorporating an adjustment to the contract price and/or Schedule in accordance with the above.

Force Majeure: CONTRACTOR shall not be responsible for delays or defaults where occasioned by any causes of any kind and extent beyond its control, including but not limited to: delays caused by the Owner, Customer, other subcontractors, architect and/or engineers, delays in transportation, shortages of raw materials, civil disorders, acts of the government, labor difficulties or shortages, vendor allocations, freight embargoes, fires, floods, epidemics, quarantine restrictions, accidents, unusually severe weather, and acts of God. CONTRACTOR shall be entitled to an equitable adjustment in the Schedule and Contract Sum for such delays as described above.

Customer Supplied Property: If the Work described herein requires Customer to supply materials, equipment or other property, then Customer warrants that such items shall be fit for the use for which they were intended. If such items do not conform, CONTRACTOR shall notify Customer within a reasonable time after CONTRACTOR's notice of the nonconformance and CONTRACTOR may request additional compensation by change order.

CONTRACTOR Supplied Property: Whenever the Customer, its employees, contractors and subcontractors (other than CONTRACTOR) use ladders, scaffolding, tools, vehicles, equipment or property of any kind, either owned or rented by CONTRACTOR, Customer shall indemnify and hold CONTRACTOR harmless from any and all claims, demands, damages, causes of action and suits of whatsoever nature and kind, arising out of or connected with the use of such, except when caused by the sole active negligence of CONTRACTOR.

Differing Site Conditions: If CONTRACTOR encounters conditions at the site differing materially from those indicated in the Bid Documents, or unknown physical conditions at the site of unusual nature differing materially from those ordinarily encountered by CONTRACTOR's trade, then CONTRACTOR shall promptly notify the Customer, stop its Work and await instructions from Customer. If such conditions cause a change in the cost of, or the time required for, performance of any portion of the Work, an equitable price adjustment shall be made and the Schedule modified accordingly.

Notices: Any notice or written claim required to be submitted to the Customer on account of charges, extras, delays, acceleration, or otherwise, shall be furnished within a reasonable time period, and in a manner to permit the Customer to satisfy the requirements of the Contract.

Liens: Nothing shall serve to void CONTRACTOR's right to file a lien or claim on its behalf in the event that any payment to CONTRACTOR is not timely made.

Damages: CONTRACTOR will in no event be liable for any consequential, incidental or special damages of any kind for any reason whatsoever, whether arising in contract, tort or equity. This release includes but is not limited to claims of negligence.

Preparation of Work Areas: The Customer shall prepare all Work areas so as to be acceptable for mobilization by CONTRACTOR. CONTRACTOR will not be called upon to start Work until sufficient areas are ready to ensure continued Work until job completion.

Termination and Suspension: If the Customer does not pay CONTRACTOR in a timely manner within seven (7) days from the time payment should be made as provided herein (except where such nonpayment is due to defective Work by CONTRACTOR or other material breach by CONTRACTOR), then CONTRACTOR may, without prejudice to any other remedy it may have, upon two (2) additional days' written notice to the Customer, stop its Work until payment of the amount owing has been received. In the event CONTRACTOR resumes its Work, the Schedule

shall be equitably adjusted, and CONTRACTOR shall incur no liability for such termination. Further, the contract price shall, by appropriate adjustment, be increased by the amount of CONTRACTOR's reasonable costs of shutdown, delay and startup. Further, if CONTRACTOR's Work is terminated or suspended for the convenience of the Customer or any other party, then CONTRACTOR shall be paid for all Work performed to-date, for equipment and materials already ordered, and for CONTRACTOR's costs of early termination, or in the case of suspension, CONTRACTOR's costs of shutdown, delay and startup. Notwithstanding anything herein to the contrary, CONTRACTOR shall not be liable for any damage while CONTRACTOR is not on site.

Waiver: CONTRACTOR's waiver of any term herein shall not be construed as a waiver of such terms at any subsequent time.

Cooperation and Safety: CONTRACTOR's Work shall be performed in accordance with all applicable requirements of the Environmental Protection Agency, OSHA and other Federal, State and Local regulations. Customer shall provide adequate security, including security personnel, to prevent unauthorized entry into CONTRACTOR's Work areas. CONTRACTOR shall provide for its Work all safety signs, direction signs and warning signs for the Project in accordance with statutory requirements. All visitors to the Work areas shall be required to comply with CONTRACTOR's safety requirements.

Legal Effect: This proposal offers to the Customer the terms and conditions upon which CONTRACTOR will perform the Work described herein and is made without regard to any of the provisions in the Bid Documents not expressly incorporated herein by reference or otherwise agreed to in writing signed by CONTRACTOR. The proposal may be changed or withdrawn at any time prior to acceptance by notice to the Customer and will be deemed withdrawn if not accepted by the Customer within thirty (30) days from the date hereof.

Applicable to Contractor's Scaffold Related Work – Supplemental & Additive to Other Proposal Terms & Conditions

Lead Time: Unless otherwise specified, Customer will provide CONTRACTOR a lead time of at least two (2) weeks prior to commencement of CONTRACTOR's work.

Preparation of Work Areas: Customer is to ensure that the ground is reasonably level, clear from obstruction and capable of withstanding the total load to be imposed by the erection of the scaffolding. Any debris, material or machinery that may interfere with the scaffold installation shall be removed by Customer prior to the commencement of CONTRACTOR's Work.

Control of Site: Ready for Use: CONTRACTOR will examine the scaffold with Customer's designated competent person after erection to verify its conformation to regulations and will not tag the scaffold as ready for use until Customer has signed off on its acceptance. Once erection is complete, it is the Customer's responsibility to provide a competent person to inspect the scaffold daily while it is being used. CONTRACTOR shall at all times have the right to free access to the equipment for the purposes of inspecting and observing its use or operation or determining the nature and extent of its use.

Guarantee: Any and all warranties and guarantees, and obligations of indemnity, shall be void and of no further force or effect if any scaffolding equipment or material is moved or altered, erected or dismantled by any other person other than under the direct employ of CONTRACTOR.

Protection of Work: CONTRACTOR shall not be responsible for protecting the Work or portions thereof after erection is complete unless CONTRACTOR has been retained to perform daily inspections of the scaffolding.

Alteration or Damage: Customer agrees that there shall be no modification or alteration other than by CONTRACTOR. In the event Customer, Owner, other contractors or subcontractors, or any other party modifies or alters the scaffold, in whole or in part (including any planks thereon), Customer shall indemnify and hold harmless CONTRACTOR from and against any and all claims, actions, litigation, costs, damages, liability and expenses, including attorney's fees, which may arise out of, directly or indirectly, or be related to any injury to persons (including death) or damage to property, caused by such modification or alteration.

Ownership of Equipment: The scaffolding materials shall at all times remain and be the sole and exclusive property of CONTRACTOR.

Equipment Loss or Damage: In the event of loss, theft, modification or damage to the equipment, whether or not the fault of Customer, Customer shall be fully responsible therefor and shall pay to CONTRACTOR a sum equal to CONTRACTOR's current list price for such equipment. Damaged equipment shall remain the property of CONTRACTOR.

Condition of Equipment upon Return: All scaffolding must be returned to CONTRACTOR in a clean and reusable condition. Further, Customer agrees to fully decontaminate all equipment exposed to asbestos, radiation, toxic or hazardous substances or any other material that would preclude its subsequent use. In the event the equipment is contaminated by any such material, Customer agrees to pay the cost associated with or incurred for decontamination or cleanup services, or for the value of the equipment (at CONTRACTOR's current list price) if it cannot be decontaminated or cleaned.

Shrinkwrapping: Customer will notify CONTRACTOR in the event any tarpaulins, netting, shrinkwrapping or other sheeting is anticipated to be attached to the scaffolding by others. Additional charges may apply. Further, and regardless of whether the netting, shrinkwrapping or other sheeting is supplied by CONTRACTOR or others, it is the Customer's responsibility to ensure that any part of a building structure used to support the scaffold shall be capable of supporting the maximum intended load to be applied. Tie-ins to buildings are based on one time use only. CONTRACTOR is not responsible for deck or roof damage, nor for any damage caused by tie-ins to the building structure. Tarpaulins, netting, shrinkwrap, or other sheeting cannot be installed during inclement weather, high winds, heavy rains and snow. Possible damage to the structure and/or the scaffold can occur during detachment due to periods of high wind and inclement weather. CONTRACTOR is not responsible for damage to the structure or the scaffold due to these conditions. Cost for repairs and replacement of the wrap and/or the scaffold shall be borne by Customer and will be invoiced on a time and materials basis.

Cooperation and Safety: Working scaffold platforms are not to be used for building ingress and egress except as otherwise specifically approved by CONTRACTOR.

Accident Notification: Customer agrees to notify CONTRACTOR immediately of any accident involving the equipment and of any accident causing injury, death or property damage. Customer understands that time is of the essence after an accident to promptly investigate, and isolate the physical evidence (including the taking of photographs and other measures to prevent the spoliation of physical evidence).

Safety Awareness Training: If requested by Customer, and agreed to by CONTRACTOR, CONTRACTOR shall conduct basic scaffold safety awareness training for such of Customer's employees as Customer may designate. The purpose of such training will be to instruct such employees on the basics of hazard awareness regarding the use of scaffolding systems. It is fully understood and agreed that any such training shall NOT be for the purpose of qualifying or certifying any such employee as a "competent person" or scaffold builder, or providing any other designation, certification or qualification. ANY SUCH DESIGNATION, CERTIFICATION OR QUALIFICATION SHALL BE THE SOLE RESPONSIBILITY OF THE CUSTOMER/EMPLOYER as per OSHA Subpart L 1926.450 and 1926.454. Any such safety awareness training shall be at an agreed upon extra cost to Customer as designated as a line item on the Proposal or by a Change Order.

Tender of Custody and/or Control: At such time as CONTRACTOR tenders custody and/or control of the scaffold, CONTRACTOR shall record the condition of the scaffold in writing and photographically. Customer shall execute an inspection to acknowledge the Work is properly performed for its intended purpose. A record of such inspection and photos shall be maintained by the parties. Documentation maintained by CONTRACTOR shall be kept in confidence and stored in compliance with the National Institutes of Standards and Technology (NIST) Special Publication (SP) 800-171, as adopted by the Defense Acquisition Regulations System.

