

Kapsch TrafficCom USA, Inc.
PURCHASE ORDER
GENERAL TERMS and CONDITIONS

1. **ACCEPTANCE OF ORDER:** This order may be accepted only by signing and returning the attached acknowledgement to Buyer. Acceptance is limited to the terms stated herein, and any additional or different terms proposed by Seller are rejected unless expressly assented to in writing by Buyer. Delivery of materials or other goods and performance of services in conformity herewith prior to acceptance hereof and use of such goods and acceptance of such services by Buyer shall constitute a contract embodying all and only the terms stated herein. References herein to this order shall, unless the context otherwise requires, include any contract resulting herefrom.

2. **MODIFICATION:** No modification of this order shall be effective without Buyer's written consent. No course of prior dealings, no usage of the trade and no course of performance shall be used to modify, supplement or explain any terms used in this order. No partial shipments allowed.

3. **TERMINATION:** Buyer reserves the right to terminate this order at any time with respect to undelivered goods or unperformed services by written or telegraphic notice or oral notice confirmed in writing.

4. **DELIVERY:** Time and place of delivery shall be as directed by Buyer. Time is of the essence in this order and if delivery of conforming goods or performance of conforming services is not completed by the time(s) promised, Buyer reserves the right, in addition to its other rights and remedies, to cancel this order, to reject such goods or services in whole or in part on reasonable notice to Seller and/or to purchase substitute goods or services elsewhere and charge Seller with any loss incurred. Any provisions herein for delivery of goods or performance of services by installments shall not be construed as making the obligations of Seller severable. Shipments sent C.O.D. without Buyer's written consent will not be accepted and will be at Seller's risk.

5. **PRICES:** Buyer shall not be billed at prices higher than stated herein unless authorized in writing by Buyer. Seller represents that the prices charged for the goods and services covered by this order are the lowest prices charged by Seller and that such prices comply with all applicable laws and government regulations in effect at time of quotations, sale, delivery and performance. Seller agrees to notify Buyer of any price reduction made in goods or services covered by this order subsequent to the date hereof and prior to delivery or performance and agrees that any such reduction will be applicable to this order.

6. **CONTINGENCIES:** Failure of Buyer to take delivery of goods or accept performance of services hereunder (or portions thereof) occasioned by act of God or the public enemy, fire, explosion, perils of the sea, flood, drought, war, riot, sabotage, accident, embargo, government priority, requisition or allocation, or any circumstance of like character beyond the reasonable control of Buyer, or by interruption of or delay in transportation, labor trouble from whatever cause arising and whether or not the demand of the employees involved are reasonable and within Buyer's power to concede, partial or complete suspension of Buyer's operations, or compliance with any order or request of any governmental office, department agency or committee, shall not subject Buyer to any liability to Seller. At Buyer's option, the period specified for delivery of goods or performance of services hereunder shall be extended by the period of delay occasioned by any such circumstance, and deliveries or services omitted (or portions thereof) shall be made or performed during such extension, or the total ordered hereunder shall be reduced by the deliveries or services (or portions thereof) so omitted. The provisions of this paragraph shall be effective notwithstanding that such circumstance shall have been operative at the date of this order.

7. **WARRANTIES:** In addition to all warranties established by law, Seller hereby warrants and agrees that:

(a) All goods and services covered by this order shall conform to the specifications, drawings, samples or other descriptions furnished or adopted by Buyer, and shall be merchantable fit for the purpose intended, of best quality and workmanship and free from all defects. Buyer shall have the right of inspection and approval, and may reject and return goods or require reperformance of services at Seller's expense if defective or not in compliance with Buyer's specifications. Defects shall not be deemed waived by Buyer's failure to notify Seller upon receipt of goods or completion of services, or by payment of invoice. The Seller, in addition to all other guarantees and warranties, and not in limitation of the Buyer's other legal rights, warrants and guarantees that its work is in strict and absolute accord with the Purchase Order, and that it shall, for a minimum of one year after the date of final acceptance of the Prime Contract, perform any maintenance or corrective work, without cost, as directed by the Buyer.

(b) No disclosure, description or other communication of any sort shall be made by Seller to any third person of the fact of Buyer's purchase of goods or services hereunder, or of the details and characteristics thereof, without Buyer's prior consent in writing. Anything furnished to seller by Buyer pursuant to this order, including without limitation samples, drawings, patterns and materials, shall remain the property of Buyer, shall be held at Seller's risk and shall be returned upon completion of the work, and no disclosure or reproduction thereof in any form shall be made without Buyer's prior consent in writing.

(c) All goods delivered pursuant to this order shall conform to standards established for such goods in accordance with any applicable Federal, State or local laws or regulations, unless otherwise indicated herein.

(d) The use or sale of any goods delivered hereunder, or any part thereof, except goods produced to Buyer's drawings or specifications, does not infringe any adverse valid existing patent. Seller shall indemnify, exonerate and save harmless Buyer, its customers, users of its products and its and their successors and assigns or any of them, from and against any and all liability, damage, loss, cost or expense incurred in connection with any claim, suit or action for actual or alleged infringement of any such patent, arising out of or in connection with the use or sale of such goods, and Seller shall defend, at its expense, any such claim, suit or action, brought against Buyer, its customers, users of its products and its and their successors and assigns, or any of them.

(e) The foregoing warranties shall survive acceptance of goods and performance of services hereunder.

(f) The Buyer may deduct from any amounts due or to become due to the seller, any sum or sums owing by the Seller to the Buyer; and in the event of any breach by the Seller of any part of this Purchase Order, or in the event of any lien claim or other liability asserted by Seller, arising out of the Seller's performance hereunder, which the Seller hereby agrees to save Buyer harmless from and indemnify him against, the Buyer shall have the right to retain out of any payments due or to become due to the Seller an amount sufficient to completely protect and defend the Buyer from damage resulting therefrom, until the situation has been completely eliminated or adjusted by the Seller to the satisfaction of Buyer. The Buyer's withholding of monies from Seller shall be interest free. The acceptance of any payment by Seller shall constitute a release of the Buyer from any liability, except retainage, due to any reason, to date.

(g) Seller shall be liable for all damages, costs, and expenses, direct, indirect and consequential, including Buyer's attorneys fees, resulting from any breach of the Purchase Order.

8. **LOSS IN TRANSIT:** Title and risk of loss in transit shall not pass to Buyer upon delivery to carrier unless shipment is made F.O.B. Seller's shipping point.

9. **MARKING:** Seller shall mark each package or shipment clearly with Buyer's name and address, contents and this Purchase Order number.

10. **ASSIGNMENT:** Assignment of this order or of any interest herein or of any money due or to become due hereunder without the prior written consent of Buyer shall be void.

11. **GOVERNING LAW:** This order shall be governed by the laws of the State of Georgia and specifically by the Georgia Uniform Commercial Code. Unless otherwise indicated by the context, whenever a term used in this order is defined in the Georgia Uniform Commercial Code, the definition contained therein is controlling as to the meaning of the term.

12. **WAIVER:** The waiver or acceptance by us of any breach on your part of any of the terms of this order shall not operate to relieve you of any responsibility hereunder for any prior or subsequent breach.

13. **EMPLOYEES, INSURANCE, INDEMNIFICATION:**

(a) In performing any services hereunder, Seller is, and undertakes performance thereof, as independent contractor, with sole responsibility for all persons employed in connection therewith, including, without limitation exclusive liability for the payment of all Federal, State, and local Unemployment and Disability Insurance and all Social Security and/or other taxes and contributions payable in respect of such persons, from and against which liability Seller agrees to indemnify, exonerate and hold harmless Buyer.

(b) If this order shall require the presence on Buyer's or his Clients premises of Seller's employees, subcontractors or others under Seller's control, Seller agrees, prior to commencement of any services hereunder, to transmit to Buyer certificates of Worker's Compensation and Employer's Liability and Comprehensive General and Automobile Liability insurance, with limits of not less than \$2,000,000.00 combined single limit for bodily injury and property damage. At Buyer's option higher limits may be specified. All such persons shall be subject to all applicable rules of such premises, including those for safety and fire protection.

(c) Seller shall indemnify, exonerate, hold harmless and defend Buyer from and against any actions or suits and any claims, liabilities, damage, loss, cost or expense as a result of bodily injury or death and/or property damage arising out of or in connection with performance of services under this order, unless caused by the sole negligence of Buyer.

14. **DISCOUNT:** Cash discount will be calculated from date of receipt of acceptable invoice.

15. **COMPLIANCE WITH LAW AND BUYER'S PLANT RULES:**

(a) Seller shall comply with the Equal Employment Opportunities provisions of the Civil Rights Act of 1964, as amended, and insofar as Section 202 of Executive Order 11246, as amended, is applicable to this order, Seller agrees to comply with subdivisions (1) through (7) thereof, which are hereby incorporated by reference.

(b) Seller shall certify on each invoice for goods purchased hereunder that all such goods were produced in full compliance with Sections 6, 7, and 12 of the Fair Labor Standards Act of 1938, as amended, and regulations issued thereunder.

(c) If this order shall require the presence on Buyer's premises of Seller's employees, subcontractors or others under Seller's control, Seller shall comply with all applicable rules of such premises, including without limitation those relative to environmental quality, safety and fire prevention.

16. **PROJECT SPECIFICATION, PLANS, GENERAL TERMS & CONDITIONS:** All materials, equipment and services to be furnished under this Purchase Order must be in strict conformance with the plans and specifications and the general terms and conditions of the referenced project. The Prime Contract, including all of its plans, specifications, general terms and conditions and other contract documents, is incorporated herein by reference and made an integral part of this Purchase Order. The Prime Contract can be reviewed by Seller at Buyer's principal place of business. The Seller is bound, responsible, obligated and liable to Buyer as Buyer is bound, responsible, obligated and liable under the Prime Contract. All work, materials, equipment, and services to be furnished under the Purchase Order shall be done to the satisfaction of Buyer, shall strictly conform to the terms of this Purchase Order and the Prime Contract and shall include, at no additional cost to Buyer, all work reasonably necessary to have a properly working and totally acceptable system and Project.

17. **AWARD SUBJECT TO APPROVAL OF MATERIAL:** Award of this Purchase Order is contingent upon the acceptance of your material, equipment or services by the referenced client.

18. **BOXING, WRAPPING, CARTAGE:** No charges shall be made for boxing, wrapping, or cartage, unless noted on this order.

19. **FREIGHT BILL:** Attach to Invoice the Original of any pre-paid freight or express bill for any pre-paid freight or express charges. State transportation charges separately, and do not subject to sales tax.