



GENERAL CONDITIONS OF PURCHASE AGREEMENT

1. Parties. "Seller" shall mean the Vendor, Supplier or Contractor to whom this Purchase Order was issued, and "Buyer" shall mean Cemtek Environmental Inc DBA Cemtek KVB-Enertec.
2. Contract Interpretation. If any of the provisions of this Agreement conflict with any provisions in the Purchase Order documents, the former shall govern unless Buyer expressly agrees to the contrary in writing. No changes in or modifications of said terms and conditions shall be binding unless approved and in writing by Buyer. Seller shall not assign part or all of the Work at any time without the prior written consent of Buyer. Commencing performance or making deliveries or any acknowledgement of this Agreement by Seller shall constitute an acceptance of the terms of this Agreement by Seller. Buyer is to be bound only by the terms and conditions of this Agreement notwithstanding any proposals, terms or conditions additional to or different from those accompanying Seller's performance or acknowledgement.
3. Terms of Payment and Pricing. Unless otherwise specified on the face of the Purchase Order, Buyer shall pay undisputed invoices net sixty (60) days upon receipt invoice. Sales Tax, Personal Property Tax, Use Tax, Excise Tax, or other taxes imposed by Federal, state or municipal authority and incurred are included in the Purchase Order price.
4. Set-off. Buyer shall be entitled to set-off any amount owing at any time from Seller to Buyer against any amount payable at any time by Buyer in connection with the Purchase Order.
5. Title. Title to all equipment shall pass to Buyer at the FOB point as stated on the Purchase Order.
6. Timeliness. Time is of the essence for all schedule requirements set forth in the Purchase Order, and all schedule requirements set forth in the Purchase Order are firm. Seller agrees that delays during performance of the Purchase Order which would cause delivery or performance to extend beyond the specified delivery or performance date(s), and which are the responsibility of Seller, must be made up by Seller at its expense through the use of commercially reasonable means as available, including, but not limited to, overtime and additional work shifts. Seller shall notify Buyer in writing within five (5) Days of all occurrences or happenings which will result in, or have the possibility of resulting in, a delay or extension beyond the specified delivery schedule.
7. Force Majeure. In the event of delays or damages due to conditions beyond Seller's reasonable control, including, but not limited to, Acts of God, Acts of Civil or Military Authority, priorities, fire, strikes, earthquakes, floods, epidemics, quarantine restrictions, war, and riot, the Purchase Order dates shall be extended by an equitable period of time.
8. Warranty. Seller warrants that all Goods and Services: (i) conform to the kind, quality and capability designated or described by the Agreement and/or any associated Purchase Order or Contract; (ii) are free from latent and patent defects in design, materials, and workmanship; (iii) are suitable and adequate for the purposes for which they were designed and for other purposes, if any, specified in the Purchase Order or Contract; and Services shall be performed with due care, skill and diligence, in accordance with Applicable Law and applicable professional standards, industry and construction practices. Seller warrants the Work and all Goods, including parts, equipment, materials and labor furnished under the Agreement to be as specified herein for the longer period of twelve (12) months after any Final Acceptance, or eighteen (18) months after delivery or the period of any original equipment manufacturer's warranty. Any and all original equipment manufacturer's warranties shall be and hereby are transferred to Buyer or Buyer's customer pursuant to the provisions and operation of the Agreement to the extent that original manufacturer permits such transfer. Any repairs or replacements furnished under this warranty shall be warranted for the longer of the original warranty period specified herein or twelve (12) months from date of such repair or replacement.
9. Confidentiality. Seller agrees that all information disclosed by the Buyer to Seller, including any such information disclosed prior to the date of this Agreement, and including without limitation information acquired by Seller in writing, orally, by inspection or work performed on Buyer's property including property of a third party, relating to (without limitation) the Buyer's technical data, trade secrets, know-how, actual and anticipated research developments or products, product plans, services, software, inventions, processes, discoveries, formulas, customers, programming matter, compositions, drawings, diagrams, computer programs, work in process, visual demonstrations, manufacturing plans, confidential information disclosed to the Buyer by third parties, and other data, shall be considered "Confidential Information". However, Confidential Information shall not include information which, Seller can prove in written evidence (i) is now or subsequently becomes generally known or available by publication, commercial use or otherwise, through no fault of Seller, (ii) is known by Seller at the time of disclosure, or (iii) is lawfully obtained by Seller without violation of a confidentiality obligation. Seller hereby acknowledges that unauthorized disclosure or use of Confidential Information could cause irreparable harm and significant injury, which may be difficult to ascertain. Accordingly, Seller agrees that Buyer shall have the right to seek and obtain immediate injunctive relief from breaches to this Agreement, in addition to any other rights and remedies it may have.



10. Indemnification. Seller agrees to defend, indemnify and hold harmless Buyer and its shareholders, members, partners, affiliates, employees, representatives and agents from and against liability arising from third party Claims in the event that such Claims arise from Seller's willful or negligent acts or omissions or those of Seller's officers, employees, agents or affiliates.

11. Patent Indemnification. Seller shall defend at its expense any suit or proceeding brought against Buyer based on any claim that the equipment covered herein, except for equipment manufactured and/or designed to Buyer specifications, infringes any United States patent issued as of the date of this proposal and pay any court-imposed damages and costs finally awarded against Buyer.

12. Insurance. In the event Seller's employees or agents will perform services or deliver goods on Buyer's premises or Buyer's customer premises, Seller shall maintain at a minimum \$1,000,000 per claim and \$2,000,000 aggregate for general liability, property damage, auto liability, and workers compensation. If Seller is providing professional services, Seller shall provide professional liability coverage for \$1,000,000 per claim. Buyer shall name Seller and Seller's customer as an additional insured. Waiver of subrogation shall be provided in favor of Seller. Buyer and Seller shall have the status of independent contractors under this Agreement.

13. Consequential Damages: Buyer shall not be liable to Seller for indirect, incidental or consequential damages including, but not limited to, loss of profits or revenue, loss of use of equipment, costs of sale, replacement power, or product, loss of reputation, use of Work or the claims of third parties.

14. Health and Safety: Seller agrees to comply with the Federal OSHA requirements in effect as of the date of this proposal relative to the design of the equipment furnished within its scope of supply as defined in this proposal. Where state or local safety and health requirements differ from the Federal OSHA requirements, modifications or changes in design to meet state or local safety and health requirements will be incorporated at Buyer's request.

15. Proprietary Information. Each Party shall retain ownership of all proprietary and confidential information it had prior to the Agreement. Seller hereby grants to Buyer an irrevocable, assignable, nonexclusive royalty-free unrestricted worldwide right and license to use any intellectual property of Seller included in the Equipment furnished by Seller to Buyer under the Purchase Order. Seller expressly warrants that there has been no violation, misappropriation or infringement of any trade secret, patent, trademark, copyright, or other third party property right (including without limitation, any violation of a third party license) in any way connected with or arising out of furnishing the Equipment specified in this Purchase Order.

16. Termination. Buyer shall have the right to terminate Purchase Order for Buyer's convenience without cause subject to an equitable adjustment to the price. If Seller fails to perform any of its obligations hereunder, Buyer shall be entitled to all remedies provided by law. If Seller becomes insolvent or makes an assignment for the benefit of creditors, or files or becomes subject to receivership or reorganization or bankruptcy proceedings, or becomes involved in labor difficulties, which in Buyer's opinion threaten Seller's ability to perform in a timely manner, Buyer may, in addition to any other rights or remedies it may have hereunder or at law, terminate the Purchase Order upon written notice to Seller; such termination shall be deemed a termination for default. Buyer's failure to notify Seller of a rejection of nonconforming materials or to specify with particularity any defect in nonconforming materials after rejection or acceptance thereof will not bar Buyer from pursuing any remedies for breach which it may otherwise have.

17. FAR and DFAR Compliance. To the extent applicable this Agreement, Seller shall comply with all Federal Acquisition Regulations ("FAR") and Defense Federal Acquisition Regulations ("DFAR"). Seller represents that it is not presently debarred, suspended, proposed for debarment or declared ineligible from procurement or non-procurement by any Federal department or agency. Seller further warrants that it is not presently indicted, whether criminally or civilly, by any government authority.

18. Disputes. In the event of a dispute arising hereunder, the parties will attempt to amicably resolve the dispute. If after good faith negotiations, the parties cannot reach agreement, then the matter shall be resolved in a court having competent jurisdiction. The existence of a dispute between Seller and Buyer, shall not relieve the Seller of its obligation to perform under this Agreement. In the event either party becomes involved in litigation or arbitration arising out of this Agreement, the prevailing party shall be fully compensated for the cost of its participation in such proceedings, including the cost incurred for attorneys' fees and experts' fees.

19. Severability. Should any part of this Agreement be declared invalid or unenforceable, such decision shall not affect the validity of any remaining portion, which remaining portion, shall remain in full force and effect, and Buyer shall have the right to replace the part declared invalid or unenforceable with a provision which serves as much as validly possible the same commercial purpose as the part determined to be invalid or unenforceable