

NEW JERSEY TRANSIT TERMS AND CONDITIONS

1. PRICES

NJ TRANSIT shall not be billed at prices higher than those stated on the Purchase Order. Unless otherwise specified the price stated includes all charges for materials, services, labor, packing, hauling, storage and transportation to point of delivery. Seller will pay all delivery charges in excess of any delivery charge NJ TRANSIT has agreed to pay. Seller agrees that any price reduction made with respect to the items covered by this order subsequent to its placement but prior to shipment will be applicable to this order.

2. PAYMENT

NJ TRANSIT agrees to pay the Seller within 30 days after receipt of proper invoices for the quantities of goods or services ordered, delivered and accepted by NJ TRANSIT. A separate invoice shall be issued for each shipment. Credit and discount periods shall be computed from the date of receipt of the correct invoice to the date NJ TRANSIT's check is mailed.

3. DELIVERY

Deliveries to be made both in quantities and at times specified herein. Time is of the essence. If Seller's deliveries fail to meet this schedule, NJ TRANSIT, without limiting its other rights or remedies, may direct expedited routing and any excess costs incurred thereby shall be debited to Seller's account. NJ TRANSIT shall not be liable for Seller's commitments or production arrangements in excess of the amount or in advance of the time necessary to meet NJ TRANSIT's delivery schedule. Goods, (including without limitation, raw materials, components, services, intermediate assemblies, constructions and products, computer software and data) which are delivered in advance of schedule may at NJ TRANSIT's option, either (i) be returned at Seller's expense for proper delivery, (ii) have payment therefore withheld by NJ TRANSIT until the date goods are actually scheduled for delivery, or (iii) be placed in storage for Seller's account until delivery date specified herein.

4. INSPECTION/REJECTION

(a) All goods shall be subject to inspection and test by NJ TRANSIT to the extent practicable at all times and places including the period and place of manufacture and in any event prior to acceptance.

(b) In case any goods or lots of goods are defective in material or workmanship or otherwise not in conformity with the requirements of this Order, NJ TRANSIT shall have the right either to reject them, with or without instruction as to their disposition, to require their correction, or to require their replacement. Goods, or lots of goods, which have been rejected or required to be corrected shall be removed or, if permitted or required by NJ TRANSIT, corrected in place by and at the expense of the Seller promptly after notice. If Seller fails to remove goods or lots of goods, NJ TRANSIT either (1) may by separate contract or otherwise replace or correct such goods and charge to the Seller the additional cost incurred by NJ TRANSIT thereby, or (2) may cancel this Order for default as provided in Article 15 "Termination for Default". Unless Seller corrects or replaces such goods within the delivery schedule, NJ TRANSIT either (1) may pay for such items at a reduced price which is equitable under the circumstances, or (2) may cancel this

Order for default as provided in Article 15 "Termination for Default".

(c) If any inspection or test is made by NJ TRANSIT, the Seller without additional charge shall provide all reasonable facilities and assistance for the safety and convenience of NJ TRANSIT 's inspectors in the performance of their duties. All inspections and tests by NJ TRANSIT shall be performed in such a manner as not to unduly delay the work. NJ TRANSIT reserves the right to charge to Seller any additional cost of inspection and test when goods are not ready at the time such inspection and test is scheduled by the parties or when reinspection or retest is necessitated by prior rejection.

(d) The Seller shall provide and maintain an inspection system acceptable to NJ TRANSIT covering the items hereunder. Records of all inspection work by Seller shall be kept complete and available to NJ TRANSIT during performance of this Order and for such longer period as may be specified elsewhere in this Order.

(e) Unless otherwise provided herein, final inspection and acceptance shall be after delivery to NJ TRANSIT 's facility. Acceptance or rejection of goods shall be made as promptly as practicable after delivery, but failure to inspect and accept or reject goods shall neither relieve Seller from responsibility for such goods that are not in accordance with the requirements of this Order nor impose liability on NJ TRANSIT therefor.

(f) The inspection and test by NJ TRANSIT of any goods or lots thereof does not relieve Seller of responsibility for defects or other failures to meet Order requirements which may be discovered prior to acceptance or during the warranty period set forth in Article 6, or for latent defects.

(g) If at any time during the performance of this Order, or during the warranty period, it was known, or should have been known, by NJ TRANSIT that said goods did not conform to any or all of the requirements of this Order, final acceptance or notice or particulars notwithstanding, the failure of NJ TRANSIT to inform the Seller of such non-conformance shall not be construed as a waiver of any rights NJ TRANSIT may have with respect to items purchased under this Order.

5. ACCEPTANCE

The attached Acknowledgment Copy must be signed and returned by Seller within ten (10) days after it is received by the Seller. The receipt by NJ TRANSIT of the signed Acceptance Copy or the initiation of performance under this Order shall constitute acceptance of the Order by Seller, including all of the terms and conditions therein. This Order expressly limits acceptance to the terms stated herein. Any terms proposed by Seller are rejected unless expressly agreed to in writing by an authorized representative of NJ TRANSIT 's Procurement Division.

6. CHANGES

NJ TRANSIT may, at any time, make changes within the general scope of the Order. If such changes cause an increase or decrease in the cost of this Order or the time required to perform, an equitable adjustment shall be made and the Order modified in writing accordingly. Any claim hereunder must be asserted in writing within ten (10) days from the date the change is ordered. Nothing contained herein shall excuse Seller from proceeding without delay with the Order as changed including failure of the parties to agree upon any adjustment to be made under this Article. Changes shall not be binding upon NJ TRANSIT except

when confirmed in writing by a member of NJ TRANSIT's Procurement Division. The issuance of information, advice, approvals or instructions by NJ TRANSIT 's technical personnel or other representatives shall be deemed expressions of personal opinion only and shall not affect NJ TRANSIT's and Seller's rights and obligations hereunder, unless the same is in writing signed by authorized representative of the NJ TRANSIT 's Procurement Division and which expressly states that it constitutes an amendment to this Order.

7. WARRANTIES

Seller warrants that the goods or services covered hereunder shall conform to applicable specifications, instructions, drawings, date, and samples shall be merchantable, shall be of good material and workmanship, shall be free from defects, and shall be fit and sufficient for the purpose intended. These warranties shall be in addition to all other warranties, express, implied or statutory. These warranties shall run for a minimum of one year from time of acceptance of the goods or services by NJ TRANSIT. Receipt of, inspection of, or payment for goods or services shall not constitute a waiver of any breach of warranty.

8. APPLICABLE LAWS AND TAXES

This Order shall be governed by and construed in accordance with the laws of the State of New Jersey. Seller agrees to comply with all federal, state and local laws, rules and regulations. Seller also agrees that any taxes to be paid as a result of this Order will be paid by Seller and that NJ TRANSIT 's obligation is limited to payment for the goods or services in accordance with the unit prices stated herein. NJ TRANSIT is exempt from State use and sales taxes and Federal excise taxes. They must not be included in Seller's price quotations or invoices. The State of New Jersey's Federal Excise Tax Exemption Number is 22-75-0050K NJ State Exemption Number is 21-60000928.

9. SELLER'S STATUS

In supplying good or services under this Order, Seller shall operate as and have the status of an independent contractor and shall not act as, or be an employee or agent of NJ TRANSIT.

10. ASSIGNMENT AND SUBCONTRACTING

This Order shall not be assigned or subcontracted by the Seller without the written consent of NJ TRANSIT. Utilization of independent delivery services and similar activities are acceptable. Such consent, if granted, shall not relieve Seller of any responsibilities under this Order.

11. SUCCESSION

This Order shall be binding upon the successors and assigns of NJ TRANSIT and Seller.

12. DELAYS AND NOTICE OF LABOR DISPUTES

If delivery under this Contract should be unavoidably delayed, NJ TRANSIT shall extend the time for completion of the Contract for the determined number of days of excusable delay. A delay is unavoidable only if the delay was not reasonably expected to occur in connection with or during Seller's performance was not caused directly or substantially by the acts, omissions, negligence or mistakes of Seller, Seller's supplies or their agents was substantial and in fact caused Seller to miss delivery dates, and could not adequately have been guarded against by contractual or

legal means. When any delays in delivery occur, Seller shall immediately notify NJ TRANSIT's Procurement Division within five (5) days.

Seller shall confirm such notice in writing furnishing as much detail as is available. Whenever an actual or potential labor dispute is delaying or threatening to delay the performance of the Order, Seller shall immediately give written notice thereof to NJ TRANSIT. Failure of Seller to so notify NJ TRANSIT shall result in a waiver of any rights that Seller may have for an extension of time under this Contract. It is expressly understood and agreed that the Seller shall not be entitled to damages or compensation for, and shall not be reimbursed for losses on account of delays resulting from any cause under this provision.

13. INDEMNIFICATION

The Seller shall defend, indemnify, protect and save harmless the State of New Jersey, NJ TRANSIT Corporation and its subsidiaries, and their officers, employees and their agents from and against all suits, claims, liabilities, demands, actions at law or equity, judgments, settlements, losses, damages, and expenses of every character whatsoever including, but not limited to, expenditures for and costs of investigations, hiring of expert witnesses, court costs, and counsel fees for injury (including death) sustained by the officers and employees and agents of NJ TRANSIT and its subsidiaries, the State of New Jersey, the officers, employees and agents of Seller, and all other persons whomsoever, and for damage to or loss or destruction of property of any kind by whomsoever owned, caused by, resulting from, arising out of, or occurring in connection with the performance of this Contract, and whether or not such injury (including death) or such damage to or loss or destruction of property are due to or chargeable to, in whole or in part, any alleged active or passive negligence or participation in the wrong or upon any alleged breach of any statutory duty or obligation by the State, NJ TRANSIT, its subsidiaries, or their officers, employees and agents. NJ TRANSIT and its subsidiaries shall, as soon as practicable after claim has been made against one of them, give written notice thereof to Seller along with full and complete particulars of the claim. If a suit is brought against one of them, it shall promptly forward to Seller every demand, complaint, notice, summons, pleading or other process received by it and Seller shall assume the defense of any such claim.

14. TERMINATION FOR CONVENIENCE

(a) NJ TRANSIT shall have the right to terminate this Order in whole or in part at any time, and from time to time, by written or telegraphic notice effective upon receipt by Seller of such notice, even though Seller is not in breach of any obligation hereunder. Upon receipt of notice of termination, Seller shall immediately discontinue performance and shall comply with NJ TRANSIT's instructions concerning disposition of completed and partially completed items, work in progress and materials acquired pursuant to this Order. In the event of such termination, Seller shall be paid an amount in settlement to be mutually agreed upon by the Parties which shall cover Seller's reasonable costs of performance incurred prior to termination in connection with the items for which this Order is terminated plus a reasonable profit based upon such costs. However, said payment shall not exceed the price specified herein for such goods. Seller shall advise NJ TRANSIT in writing, of Seller's claim, if any, for termination costs within twenty (20) days after receipt of the notice of termination.

Termination in accordance with this Article shall not affect NJ TRANSIT's obligation to pay for goods accepted by NJ TRANSIT prior to such termination.

(b) Nothing contained in paragraph (a) hereof shall limit or affect NJ TRANSIT's right to terminate this Order for Seller's breach.

(c) Any settlement will be in accordance with FAR 52.249.2

15. TERMINATION FOR DEFAULT

(a) NJ TRANSIT may cancel this Order in whole or in part by written or telegraphic notice: (1) If the Seller fails to make delivery of goods or to perform the services within the time specified in this Order or any increments thereof or extensions thereto or (2) if the Seller fails to perform its obligations under any of the other Articles of this Order, provided that the Seller shall fail to remedy any such condition within ten (10) days from the date or receipt of a notice from NJ TRANSIT concerning the existence of the condition.

(b) In the event NJ TRANSIT cancels this Order in whole or in part as provided in paragraph (a) of this Article, NJ TRANSIT may procure upon such terms and in such manner as NJ TRANSIT may deem appropriate, goods or services similar to those canceled, and the Seller shall be liable to NJ TRANSIT for any excess costs of such similar items or services. The Seller shall continue the performance of this Order to the extent not canceled under the provisions of this Article.

(c) After receipt of notice of such cancellation, the Seller shall transfer title and deliver to NJ TRANSIT satisfactorily complete work and such work in progress as may be directed by NJ TRANSIT.

(d) The rights and remedies of NJ TRANSIT provided in this Article shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Order.

(e) If, after notice of cancellation of this Order under the provisions of this Article, it is determined that the Seller was not in default under the provisions of this Article, the rights and obligations of the parties shall be the same as if the notice of cancellation had been issued pursuant to Article 14 "Termination for Convenience."

16. RELEASE OF CLAIMS

It is agreed that Seller's acceptance of final payment from NJ TRANSIT shall release in full all claims against NJ TRANSIT under this Order.

17. NO WAIVER

No omission or delay by the NJ TRANSIT at any time to enforce any right or remedy reserved to it or to require performance of any of the terms of this Order shall be a waiver of any such right or remedy to which it is entitled, nor shall it in any way affect the right of NJ TRANSIT to enforce such provisions thereafter.

18. MAINTENANCE OF RECORDS AND AUDIT

During the term of this Order and for three years after final payment is made to Seller, Seller shall maintain and make available for audit by NJ TRANSIT or its designee all books, records, receipts, documents, papers and any other data or information relevant to and related to this Order.

19. COMMUNICATIONS

Communications shall be in writing and shall be delivered to the NJ TRANSIT Procurement Division and to Seller's officer designated to receive such communications. Telephone calls may be used to expedite communications but shall not be official communications unless confirmed in writing under letterhead, telex, Mailgram or other modern printing devices acceptable to NJ TRANSIT. Communications shall be considered received at the time actually received by the addressee or designated agent.

20. EQUAL EMPLOYMENT OPPORTUNITY

The provisions of N.J.S.A 10 5-31 et seq., as amended and supplemented and the rules and regulations promulgated pursuant thereto are made a part of this Order.

During the performance of this Order, the Seller agrees as follows:

(a) The Seller or subcontractor, where applicable, will not discriminate against employees or applicants for employment because of age, race, creed, color, national origin, ancestry, marital status or sex. The Seller will take affirmative action to ensure that such applicants are recruited and employed and that employees are treated during employment without regard to age, race, creed, color, national origin, ancestry, marital status or sex. Such action shall include, but not be limited to, the following employment upgrading, demotion, or transfer, recruitment or recruitment-advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. The Seller agrees to post in conspicuous places available to employees and applicants for employment, notices by NJ TRANSIT setting forth provisions of this non-discriminating clause.

(b) The Seller or subcontractor, where applicable, will in all solicitations or advertisements for employees placed by or on behalf of the Seller, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status or sex.

(c) The Seller or subcontractor, where applicable, will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by NJ TRANSIT, advising the labor union or worker's representative of the Seller's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

21. RESTRICTION OF GIFTS

Seller, its officers, employees, representatives, agents and subcontractors agree(s) not to give any present or gift of money or any other gift or gratuity in any form whatsoever to any employee of NJ TRANSIT or his or her relatives or agents.

22. INSURANCE

The Seller shall maintain the following minimum insurance during this Contract and shall provide NJ TRANSIT with proof thereof, as requested.

Comprehensive General Liability	\$2,500,000 per occurrence for bodily injury and property damage
Comprehensive Automobile	\$2,500,000 per occurrence for bodily injury and property damage
Worker's Compensation	As required by law

23. CORPORATE AUTHORITY

It is required that the Seller be authorized to do business in the State of New Jersey. If Seller is incorporated outside of New Jersey, it must file with the Secretary of State as required by law.

24. USE OF INFORMATION

Seller agrees that all information heretofore or hereafter furnished or disclosed to NJ TRANSIT by Seller in connection with the placing or filing of this Order is furnished or disclosed as a part of the consideration for this Order, that such information is not, unless otherwise agreed to by NJ TRANSIT in writing, to be treated as confidential or proprietary and that the Seller shall assert no claims by reason of the use or disclosure of such information by NJ TRANSIT or its assigns.

25. SUSPENSION OF WORK

(a) NJ TRANSIT shall have the right to direct the Seller in writing to suspend all or any part of the work for a period of time not to exceed twenty-five (25) days.

(b) If work is suspended, an adjustment shall be made for any increase in the time and cost, exclusive of profit, of performing this Order necessarily caused by such suspension, and this Order shall be modified in writing accordingly.

(c) No claims shall be allowed under this Article unless the claim, in an amount stated, is asserted in writing within twenty (20) days after the termination of the suspension. When the suspension has been terminated, the Seller shall immediately commence performance, notwithstanding the fact that there is no agreement as to the amount of the adjustment in the price of the Order.

26. TOOLS, MATERIALS AND INFORMATION

If any designs, sketches, drawings, blueprints, patents, dies, molds, masks, software, models, tools, gauges, equipment or special appliances should be made or procured by Seller especially for producing the items covered by this Order, then immediately upon manufacture or procurement they shall become the property of NJ TRANSIT. Seller shall maintain current inventory list of the foregoing. Any such item or any materials or any engineering data or other technical or proprietary information furnished by or paid for by NJ TRANSIT shall: (a) become and shall be identified as property of NJ TRANSIT, (b) be held by Seller on consignment at Seller's risk, (c) be used exclusively in the production for NJ TRANSIT of items required by this Order, (d) be subject to disposition by NJ TRANSIT at any and all times and

upon demand they shall be returned to NJ TRANSIT. The Seller shall establish procedures for the adequate storage, maintenance and inspection of the foregoing and shall maintain inspection and inventory records therefore which shall be available to NJ TRANSIT upon request.

27. PACKING

Unless otherwise specified in this Order, Seller shall be responsible for safe and adequate packing which shall conform to the requirements of carrier's tariffs. Seller shall separately number all cases, packages, etc., showing the correspondence numbers on the invoices. An itemized packing slip, bearing this Order number, shall be placed in each container. No extra charge shall be made for packaging or packing materials.

28. PRODUCT SUPPORT

(a) The Seller warrants that the items purchased under this Order, including sub-assemblies, service, and spare parts shall be available to NJ TRANSIT during the operational life of the goods purchased or a reasonable time after the date of final shipment under this Order, whichever is later.

(b) In the event the Seller discontinues service or manufacture of the aforementioned goods, sub-assemblies or spare parts therefore and does not provide for another qualified source, the Seller shall make available to NJ TRANSIT all drawings, specifications, data and know-how which will enable NJ TRANSIT to service, manufacture, or procure said goods, sub-assemblies and spare parts under a royalty-free license which is hereby granted. Seller shall give NJ TRANSIT timely written notice of such discontinuance.

29. AIR POLLUTION

The contractors and suppliers must submit evidence to NJ TRANSIT that the governing air pollution criteria will be met. This evidence and related documents will be retained by NJ TRANSIT for on-site examination by the Federal Transit Administration.

30. LABOR DISPUTES

Whenever the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this Contract, the Contractor shall immediately give notice thereof, including all relevant information to NJ TRANSIT.

31. TITLE VI COMPLIANCE

During the performance of the contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

(1) Compliance with Regulations. The contractor shall comply with the Regulations relative to nondiscrimination in Federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

(2) Nondiscrimination. The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, religion, color, sex, age, or national origin in the selection and retention of subcontractor and shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulation, including employment practices

when contract covers a program set for in Appendix B of the Regulation.

(3) Solicitations for Subcontractors, including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under the contract and the Regulations relative to nondiscrimination on the grounds of race, religion, color, sex, age or national origin.

(4) Information and Reports: The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by NJ TRANSIT or the Federal Transit Administration to be pertinent to ascertain compliance with such Regulations, orders, and instructions.

Where any information is required or a contractor is in the exclusive possession of another who fails or refused to furnish this information, the contractor shall so certify to NJ TRANSIT or the Federal Transit Administration as appropriate and shall set forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, NJ TRANSIT shall impose such contract sanctions as it or the Federal Transit Administration may determine to be appropriate, including, but not limited to:

(a) Withholding of payments to the contractor under the contract until the contractor complies, and/or

(b) Cancellation, termination or suspension of the contract, in whole or in part.

(6) Incorporation of provisions: The contractor shall include the provisions of paragraph (1) through (6) of this section in every subcontract including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such actions with respect to any subcontract or procurement as NJ TRANSIT or the Federal Transit Administration may direct as a means of enforcing such provisions including sanctions for noncompliance; Provided, however, that in the event a contractor becomes involved or is threatened with litigation with subcontractor or supplier as a result of such direction, the contractor may request NJ TRANSIT to enter into such litigation to protect the interests of the United States.

32. THE WORKER AND COMMUNITY RIGHT TO KNOW ACT

The provisions of N.J.S.A. 34:5A-1 et seq., which require the labeling of all containers of hazardous substances are applicable to this contract. Therefore, all goods offered for purchase to NJ TRANSIT must be labeled by the contractor in compliance with the provisions of the Act.