

VENDORS TERMS AND CONDITIONS

1. **Billing Requirements:** (a) Invoices received by the 25th of the month will be paid within 15 days of receipt of payment from owner; invoices received after the 25th of the month will be submitted the following month. All payments may be subject to retainage. (b) Invoices must have complete purchase order numbers before payment will be made. (c) All freight charges must be shown separately on all invoices. If not shown separately the invoice will be returned to Vendor. (d) Vendor shall submit a monthly "Subcontractor's/Supplier's Application for Payment and Lien Waiver" or monthly statement.
2. **Payments:** Prices in Downey Metal Products, Inc. Purchase Orders are firm and not subject to increase unless specifically stated. No payment shall relieve Vendor of its obligation to fully comply with all terms of Downey Metal Products, Inc. Purchase Order.
3. **General Requirements:** If materials or services delivered to Downey Metal Products, Inc. are unacceptable, Downey Metal Products, Inc. may at its option, (1) reject goods or services or (2) cause their correction, charging vendor's account with the cost thereof. Vendor also agrees: (a) if Vendor fails to perform in a timely manner, Downey Metal Products, Inc. may (in addition to all other rights) either demand immediate cure of vendor's default or Downey Metal Products, Inc. may obtain conforming goods elsewhere at Vendor's expense. (b) to promptly pay when due for all labor, equipment, materials or supplies used or consumed in completing this Purchase Order and to save Downey Metal Products, Inc. harmless from any claim, lien, judgment, court costs and expenses incurred on account of Vendor's failure to comply with the terms of Downey Metal Products, Inc. order or purchase order. Downey Metal Products, Inc. reserves the right to pay directly or by joint check to any supplier or subcontractor of Vendor, or to offset against sums due hereunder any other sum by which Vendor is indebted to Downey Metal Products, Inc. whether arising out of this purchase order or otherwise.
4. **Release for services, fabrication, and shipment:** (a) A release date will be established. No services are to be started or shipments made until approval is obtained on Vendor's submittal data. Downey Metal Products, Inc. may at its option and without notice to Vendor change the required release date. Delivery of goods does not constitute acceptance of them. Vendor is to notify Downey Metal Products, Inc. at least 24 hours prior to delivery in order to facilitate loading.
5. **Packing and Crating:** (a) Every possible precaution and measure must be taken in packing, crating, and preservation of equipment and/or materials prior to shipment to minimize in-transit and storage damage. The material is to be packed and preserved for possible outdoor shipping and storage unless otherwise directed by Downey Metal Products, Inc. (b) Each item shall be tagged or stenciled legibly identified and shall include the following: (1) name of Vendor; (2) shipping address; (3) purchase order number; (4) material or equipment identification number; (5) box and package number; (6) weight. (c) Vendor agrees to accept back charges that are a direct result of Vendor's failure to properly pack, crate, and ship materials.
6. **Warranty:** (a) Vendor shall guarantee this merchandise for a minimum of one year after satisfactory performance test and/or acceptance by owner. In the event vendor fails to meet the terms of this warranty, goods shall immediately be repaired or replaced by vendor. In the event that Downey Metal Products, Inc. repairs or replaces nonconforming or damaged goods, all costs incurred shall be borne by Vendor. Acceptance and/or payment shall not relieve Vendor from liability for defects which may be discovered thereafter. (b) Vendor further warrants that the services, material, machinery, accessories, parts, and/or other goods and materials purchased hereunder are designed, manufactured and/or constructed, and are capable of being operated or used effectively so as to comply (1) with the Occupational Safety and Health Act of 1970, as amended, and with the standards and rules issued thereunder, (2) with other federal, state, and local laws, ordinances, and regulations issued thereunder with respect to any occupational safety and health.

7. **Indemnification:** Vendor agrees to indemnify, defend, and hold harmless Downey Metal Products, Inc. from any and all claims, demands, actions and remedies of collection available under law including attorney's fees, arising out of (a) Vendor's payment of contributions, penalties or interest due under any state employment security law, and upon request shall furnish Downey Metal Products, Inc. with the affidavit of the Labor Commissioner of the State in which Vendor's work was performed and attesting to Vendor's compliance; (b) Any alleged defects or failure in Vendor's products, goods, services, packaging, or crating, or any negligence, fault or omission by the Vendor; (c) all tax liabilities of the Vendor; (d) any infringement of patent, trademark, or trade secrets.
8. **Dispute Resolution:** Vendors agreeing to do business with Downey Metal Products, Inc., a Georgia corporation, agree to abide and be governed by the laws of the State of Georgia. Any and all litigation arising between the Vendor and Downey Metal Products will be filed in Gordon County, Georgia and this agreement shall be construed under the laws of the State of Georgia. Vendors further agree to waive their corporate terms and conditions for the right to do business with Downey Metal Products. The acceptance of a purchase order and/or order from Downey Metal Products constitutes an agreement to this effect between Vendor and Downey Metal Products. By Downey Metal Products signing a Vendor's delivery ticket, accepting or paying an invoice does not constitute Downey Metal Products acceptance of the Vendor's terms and conditions.
9. **General Conditions:** Downey Metal Products' order and/or Purchase Order may only be amended in writing and signed by Downey Metal Products. All inconsistent terms of Vendor's quotations, order acknowledgments, terms and conditions, or other documents are specifically excluded. In case of any inconsistency between the terms of Downey Metal Products' order and/or Purchase Order, and any other document, Downey Metal Products' document titled "Vendors Terms and Conditions" shall govern. Vendors shall not assign Downey Metal Products' order or Purchase Order nor subcontract any of the work hereunder without the prior written consent of Downey Metal Products.