

SPECIAL CONDITIONS OF PURCHASE – SYSTEMS CONTRACT

October 1, 2007

1. Requirements Contract

- (a) This is a requirements contract for the goods specified in the Purchase Order for the period set forth in the Purchase Order. The quantities of goods specified in the Purchase Order are estimated only and are not purchased merely by issuance of the Purchase Order.
- (b) Except as otherwise provided in the Purchase Order, Con Edison shall order from the Seller the goods set forth in the Purchase Order which are required to be purchased by Con Edison during the term of the Purchase Order.
- (c) Subject to any limitations elsewhere in the Purchase Order, the Seller shall furnish to Con Edison all goods set forth in the Purchase Order which are ordered in accordance with these Special Conditions.

2. Requisitions for Goods

Con Edison will order goods by issuing “Requisitions” by electronic data interchange (“EDI”) for specific quantities of goods to be furnished under the Purchase Order.

3. Deliveries

- (a) Deliveries shall be made to Con Edison locations in New York City and Westchester County as specified in the requisitions.
- (b) Unless Con Edison has specified emergency delivery, the Seller shall deliver goods as follows:

Goods on Requisitions received prior to noon shall be delivered by the next business day (overnight delivery).

Goods on requisitions received after noon shall be delivered by the second business day following receipt of the requisition.

- (c) Deliveries to Con Edison’s corporate headquarters at 4 Irving Place shall be made between 7 a.m. and 4 p.m.

Deliveries to all other locations shall be made between 7 a.m. and 2 p.m.

- (d) The Seller shall retain written proof of each delivery made to Con Edison (including signed receipts) for at least one year after the date of the delivery. Proof of delivery shall include the signature and the employee number of the Con Edison employee who received the delivery. No claim for unbilled deliveries shall be allowed in the absence of such proof of delivery.

4. Emergency Requirements

- (a) Con Edison employees may Requisition goods by telephone for delivery on an emergency basis. Such requests will include a Requisition reference number.
- (b) The Seller shall make delivery of emergency Requisitions as soon as possible and not later than 12 hours after receipt of the telephoned Requisition.

5. Seller Inventory

Based on the estimated quantities shown or incorporated by reference in the Purchase Order, the Seller shall maintain a thirty day supply (unless otherwise directed by Con Edison) in stock of all items. The Seller shall have this supply immediately available at all times, allowing a reasonable time to replenish items removed from stock to fill Con Edison Requisitions.

6. Out-of-Stock Items

In the event that the Seller does not have the entire quantity of a requisitioned item, the Seller shall immediately note the condition on the Requisition, indicating the actual quantity being shipped, and return copies of the corrected Requisition to the Con Edison employee who issued the Requisition (the "Requisitioner") and to the Materials Management representative named in the Purchase Order. The Seller shall also immediately advise the Requisitioner by telephone of the shortages and the date when the out-of-stock items will be delivered. The Seller shall maintain a system to keep track of out-of-stock items and shall deliver them promptly when they become available (a backorder system). Con Edison may, at its discretion, purchase from others items that are out of stock and, if the out-of-stock condition is not

excusable, the Seller shall be liable to Con Edison for the increased costs Con Edison incurs.

7. Invoicing and Payment

Con Edison will issue to the Seller weekly billing lists summarizing all requisitions/receipts under the Purchase order during the period covered. The Seller shall review and return each billing list with a covering invoice. Unless otherwise specified in the Purchase Order, payment for undisputed quantities will be made by Con Edison net thirty (30) days after receipt of the Seller's invoice. Listed items as to which the parties are not in agreement shall be resolved separately.

8. Unusual Quantities

The Seller shall ask the Requisitioner to confirm Requisitions for unusually large quantities before processing such Requisitions. An "unusually large quantity" is defined as any quantity equal to or greater than a thirty day supply for the item as determined in accordance with Paragraph 5, "Seller Performance." The Seller shall advise Con Edison's Materials Department weekly in writing of Requisitions for unusually large quantities.

9. Packing Lists

Each shipment shall be accompanied by an itemized packing list that states the Purchase Order number, the Requisition number, and any difference between the Requisition and the shipment. The Seller may use a copy of the Requisition for the packing list.

10. No Substitutions

The Seller shall not accept Requisitions for, and shall not make substitutions of, goods that are different from the purchase order descriptions without a written purchase order modification. Con Edison's Materials Management Department will notify the Requisitioners of authorized modifications, changes, or substitutions.

11. Terms and Conditions

All Requisitions issued hereunder are subject to the terms and conditions of the Purchase Order. In the event of conflict between the Purchase Order and any Requisition, the terms and conditions of the Purchase Order shall govern.

12. No Price Adjustment

Except as may be otherwise provided herein, in the event Con Edison's requirements for the goods do not result in orders for the quantities specified in the Purchase Order, or even in approximations thereof, or in the event Con Edison has no requirements at all for some or all of the items, one or more of such events shall not constitute the basis for an equitable price adjustment under the Purchase Order.

13. Price Limit

The Seller Shall not deliver the goods or perform the services specified on any Requisition if the price thereof together with the price of all such previous Requisitions issued hereunder exceeds the total amount of the expenditures authorized by the Purchase Order unless and until that amount has been increased by means of a duly executed amendment to the Purchase Order. The Seller shall inform Con Edison in writing when the total price of goods released reaches 75% of the maximum expenditures authorized by the Purchase Order.

14. Purchase Order Expiration

- (a) Sixty (60) days prior to expiration of the Purchase Order, Materials Management will meet with the Seller to specify Con Edison's requirements through the last day of the Purchase Order term.
- (b) If, in the reasonable judgment of Con Edison, the Seller suffers a loss as a direct result of the obsolescence of items which are stocked pursuant to this Purchase Order exclusively and specifically for Con Edison, Con Edison shall reimburse the Seller for such loss on up to a thirty (30) day supply of each item (unless Con Edison has directed the Seller in writing to maintain a different quantity, in which case the different quantity shall apply), taking into account any adjustments for transportation and any scrap value of the items. Con Edison shall not be responsible for items in the Seller's inventory that are not purchased exclusively by Con Edison.

15. Completion of Performance

Requisitions issued during the effective period of the Purchase Order and not completed within that time shall be completed by the Seller within the time specified in such releases, and the rights and obligations of the Seller and Con Edison respecting those Requisitions shall be

governed by the terms of the Purchase Order to the same extent as if such Requisitions were completed during the effective period of the Purchase Order.

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