

US FUSION & SPECIALTY CONSTRUCTION, LLC

TERMS AND CONDITIONS

PAYMENT. Unless otherwise stated, payment for items of labor described above is due within 30 days from date of invoice. All charges not paid within 30 days of date of invoice will accrue interest at the rate of one and a half percent (1½%) a month. In the event that it becomes necessary for US FUSION & SPECIALTY CONSTRUCTION, LLC to employ an attorney to seek action on unpaid charges, customer agrees to pay all attorney fees and costs incurred by US FUSION & SPECIALTY CONSTRUCTION, LLC in seeking to collect all outstanding obligations.

CANCELLATION/CHANGES OF SCOPE. Buyer may cancel this contract only upon payment of reasonable cancellation charges which shall take into account expense incurred and commitments made by US FUSION & SPECIALTY CONSTRUCTION, LLC and lost profit. When cancellation of change of scope requires return of materials, equipment, and/or supplies, the vendor's restocking charge and return freight charge will be paid by the Buyer. In the event vendors' materials, equipment and/or supplies are non-returnable, Buyer is responsible for payment of the contract unit price for those materials, or if there is no unit price, US FUSION & SPECIALTY CONSTRUCTION, LLC's costs from vendor (including freight and taxes), plus 15%. In the case of US FUSION & SPECIALTY CONSTRUCTION, LLC's materials, the following will apply: a) 35% restocking charge will apply to any materials that are classified by US FUSION & SPECIALTY CONSTRUCTION, LLC as returnable; b.) Materials manufactured specifically for the Buyer (including special formulations, custom fabrication, and special colors) and materials with limited shelf life are specifically classified as nonreturnable, and Buyer is responsible for payment of the contract unit price for those materials, or if there is no unit price, US FUSION & SPECIALTY CONSTRUCTION, LLC's costs of the materials, plus 15%.

TESTING OF MATERIALS OR SERVICES. Any testing to be done on service or materials sold, delivered, or performed by US FUSION & SPECIALTY CONSTRUCTION, LLC shall be provided by a professional engineer in a manner consistent with industry standard for additional charges or agreed upon specifically in the contract.

WARRANTIES. US FUSION & SPECIALTY CONSTRUCTION, LLC warrants that the work performed by US FUSION & SPECIALTY CONSTRUCTION, LLC technicians hereunder will conform to the description, herein stated, that the work shall be free from any defects in workmanship and that the work will comply with all trade standards. The Warranty period is thirty (30) days and commences on the date installation is completed. It shall be the responsibility of the Buyer to notify US FUSION & SPECIALTY CONSTRUCTION, LLC in writing of any problems with the work. Upon determination that the work is defective, US FUSION & SPECIALTY CONSTRUCTION, LLC will furnish the labor and equipment necessary for any repair at the installation site at no expense to the Buyer and repair any defective work. US FUSION & SPECIALTY CONSTRUCTION, LLC SHALL NOT BE LIABLE IN ANY WAY FOR THE SUPPLIES OR MATERIALS FURNISHED IN CONNECTION WITH THE WORK PERFORMED BY US FUSION & SPECIALTY CONSTRUCTION, LLC. ANY RECOVERY FOR SUCH SUPPLIES OR MATERIALS, WHETHER IN CONTRACT, TORT, OR OTHERWISE SHALL BE EXCLUSIVELY AGAINST THE MANUFACTURER OF SUCH SUPPLIES OR MATERIALS. US FUSION & SPECIALTY CONSTRUCTION, LLC MAKES NO OTHER WARRANTY OF ANY KIND WHATSOEVER, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. ANY WARRANTIES WHICH EXCEED THE AFORESTATED OBLIGATION ARE HEREBY DISCLAIMED BY SELLER AND EXCLUDED FROM THIS AGREEMENT.

DAMAGES. It is agreed that in the event of breach of the warranty, the liability of US FUSION & SPECIALTY CONSTRUCTION, LLC shall be limited to repairing or replacing defective work at the installation site. Buyer shall be responsible for any excavation necessary to provide US FUSION & SPECIALTY CONSTRUCTION, LLC access to the defective work. After repairs are completed the Buyer shall be responsible for restoring the area to its original condition. US FUSION & SPECIALTY CONSTRUCTION, LLC shall not be liable for any other damages, either direct or consequential.

US FUSION & SPECIALTY CONSTRUCTION, LLC warrants no work done by anyone else other than their authorized personnel. Nor does US FUSION & SPECIALTY CONSTRUCTION, LLC warrant any joint which fails due to damage caused by others.

US FUSION & SPECIALTY CONSTRUCTION, LLC will not be responsible for, nor will they accept delay damages or back charges due events beyond its control, including scheduling delay, equipment mechanical failures, vehicle breakdown, weather delays or other unforeseen events beyond our control that occur before or during the fusion work.

US FUSION & SPECIALTY CONSTRUCTION, LLC's understanding of Buyer's operating conditions is limited to those conditions that are stated in the proposal. Where operating conditions are not stated in the proposal, US FUSION & SPECIALTY CONSTRUCTION, LLC assumes no responsibility for the performance of the materials furnished. In no event shall US FUSION & SPECIALTY CONSTRUCTION, LLC be responsible for consequential or incidental damages of any kind.

The foregoing obligations are in lieu of all other obligations and liabilities including negligence and all warranties of merchantability, fitness for a particular purpose (except as expressly set forth in the proposal) or otherwise expressed or implied in fact or by law, and state buyer's entire and exclusive remedy for any claim for damages in connection with the sale or furnishing of materials included in the contracted work, their design, suitability for use, installation or operation. US FUSION & SPECIALTY CONSTRUCTION, LLC will in no event be liable for any direct, indirect, incidental, special, or consequential damages whatsoever and its liability shall under no circumstances exceed the contract price for the contracted work as set forth in the proposal.

No contract term or condition shall be amended, deleted or added without the express written consent of US FUSION & SPECIALTY CONSTRUCTION, LLC. This offer expressly limits acceptance to the terms of this offer, and any acceptance or subsequent purchase orders or subcontracts from buyer which contain terms which materially alter this offer are of no force or effect. All representations, promises, warranties or statements by an agent or employee of US FUSION & SPECIALTY CONSTRUCTION, LLC that differ in any way from the terms and conditions hereof shall be given no effect or force.