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1. Definitions

Throughout this document the term "Seller" means the entity furnishing goods, services, and goods and services, and shall be synonymous with the term "Supplier." The term "Buyer" means the Great Lakes Water Authority, a Michigan municipal authority and public body corporate organized under Act 233, Michigan Public Acts of 1955, as amended.

2. Order of Precedence

- (a) In the event of any inconsistency or conflict between or among the provisions of this Purchase Order, the inconsistency or conflict shall be resolved by the following descending order of preference: (1) documents attached to and/or incorporated by reference on the face page(s) of this Purchase Order; (2) typed provisions on the face page(s) of this Purchase Order; (3) these GLWA Purchase Order Terms and Conditions.
- (b) In the event of a conflict between the specifications, drawings, samples, designated type, part number, or catalog description, the specifications shall govern over drawings, drawings over samples, whether or not approved by Buyer, and samples over designated type, part number, or catalog description. In cases of ambiguity in the specifications, drawings, or other requirements of this Purchase Order, Seller must, before proceeding, consult Buyer for its written clarification of the ambiguity which determination shall be final.

3. Acceptance of Purchase Order

Agreement by Seller to furnish the materials and/or services ordered, or its commencement of such performance, constitutes acceptance by Seller of this Purchase Order subject to these terms and conditions. No other terms and conditions shall be binding on Buyer unless Buyer's specific written approval of those terms and conditions shall have been given to Seller. In the event that this Purchase Order does not state price or delivery terms, Buyer will not be bound to any prices or delivery terms to which it has not specifically agreed in writing. No modifications or additions to this Purchase Order shall be effective unless made in writing signed by Buyer's Purchasing Representative. These terms and conditions, together with such modifications and with such data relating to price and delivery as are accepted in writing by Buyer, constitute the entire agreement between the parties and supersede any prior or contemporaneous written or oral agreements.

4. Invoices.

All invoices shall be emailed to accountspayable@glwater.org and contain:

- (a) Vendor information: full name of business, federal identification number, unique invoice number, date of invoice, Purchase Order number, and part of item number; and
- (b) Quantity and pricing information: description of goods or services, part or item number, quantity of goods or services provided, unit price of goods or services provided, part or item subtotal (quantity, unit cost), and discount terms (if applicable); and
- (c) Delivery information: location and date of delivery of goods or services provided, and delivery terms

In addition, where applicable, invoices for services shall contain:

- (a) The cost of all Services for the subject billing period;
- (b) The total cost of the Services rendered to date;
- (c) The date of each Service performed;
- (d) The name of the person who performed the Service (each item should refer to only one person);
- (e) Written acceptance by GLWA of the service performed, deliverable completed, milestone met, etc.
- (f) A brief description of the Service performed;
- (g) The amount of time expended on performing the Service;
- (h) Each expenditure or charge for which reimbursement is sought; and
- (i) Copies of receipts for any Reimbursable Expenses for which payment or reimbursement is being requested.

5. Shipping Instructions

- (a) Seller shall be responsible for ensuring the proper packaging of materials.
- (b) Shipments of goods shall be made in a manner which results in the lowest possible freight rate unless specified by Buyer. Penalties or increased charges due to failure to observe this provision will be charged to Seller and may at Buyer's sole election, be taken as a set-off by Buyer against any payment(s) due to Seller under this Purchase Order.

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- (c) Unless otherwise directed, all items shipped in one day from and to a single location must be consolidated on one bill of lading or airbill, as appropriate. No charges will be allowed for packing, crating, freight, local cartage, and/or any other services unless they are specified in this Purchase Order.
- (d) For material purchased F.O.B. origin, the Seller shall not insure and not declare a value except when transportation rates are based on "released value," in which instance the Seller shall annotate on the bill of lading the lowest released value provided in applicable tariffs.
- (e) Seller shall at all times comply with Buyer's written shipping instructions. Seller shall submit all required shipping papers to Buyer prior to final payment.
- (f) The Purchase Order number(s) must appear on all correspondence, shipping labels, and shipping documents, including all packing sheets, bills of lading and airbills.
- (g) Any materials supplied to Buyer which are covered by the OSHA Hazard Communication Standard must be accompanied by the applicable Material Safety Data Sheet (MSDS) at the time of delivery.

6. Delivery; Notice of Delay

- (a) Time is and shall remain a material element of this Purchase Order, and no acts of Buyer, including without limitation modifications to this Purchase Order or acceptance of late deliveries, shall constitute a waiver of this provision. Buyer also reserves the right to refuse or return at Seller's risk and expense shipments made in excess of Buyer's orders or in advance of required schedules, or to defer payment on advance deliveries until scheduled delivery dates.
- (b) Seller shall notify Buyer in writing immediately of any actual or potential delay to the performance of this Purchase Order. The notice shall include a revised schedule of performance and shall not constitute a waiver of Buyer's rights and remedies under this Purchase Order.

7. Termination for Convenience

- (a) Buyer may for its convenience at any time, by notice in writing, direct Seller to terminate this Purchase Order in whole or in part and such termination shall not constitute an event of default. In such event, unless Seller is in default, Buyer and Seller shall have all rights and obligations accruing to each, both at law and in equity, including Buyer's right to title and possession of goods paid for.
- (b) Seller shall be reimbursed for its actual, reasonable, substantiated and allowable costs. Buyer may take immediate possession of all goods received and work performed upon the notice of termination.
- (c) Seller's obligations under the warranty, intellectual property, and confidentiality provisions of this Purchase Order shall survive a termination for convenience.

8. Termination for Cause

- (a) Buyer may, by notice in writing, direct Seller to terminate this Purchase Order in whole or in part at any time for Seller's breach of any one or more of its terms.
- (b) An event of default shall occur if there is a material breach of this Contract, and shall include, but is not limited to the following:
 - (i) The Seller fails to begin work in accordance with the terms of this Contract; or
 - (ii) The Seller, in the judgment of the Buyer, is unnecessarily, unreasonably, or willfully delaying the performance and completion of the work product or services; or
 - (iii) The Seller ceases to perform under the Purchase Order; or
 - (iv) The Buyer is of the opinion that the Services cannot be completed within the time provided and that the delay is attributable to conditions within the Seller's control; or
 - (v) The Seller, without just cause, reduces its work force on this Purchase Order to a number that would be insufficient, in the judgment of the Buyer, to complete the services within a reasonable time, and the Seller fails to sufficiently increase such work force when directed to do so by the Buyer; or

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- (vi) The Seller assigns, transfers, conveys or otherwise disposes of this Purchase Order in whole or in part without prior approval of the Buyer; or
 - (vii) Any officer or employee of Buyer acquires an interest in this Purchase Order so as to create a conflict of interest; or
 - (viii) The Seller violates any of the provisions of this Purchase Order, or disregards applicable laws, ordinances, permits, licenses, or instructions or orders of the Buyer; or
 - (ix) The performance of this Purchase Order, in the sole judgment of the Buyer, is substandard, unprofessional, or faulty and not adequate to the demands of the task to be performed; or
 - (x) The Seller fails in any of the agreements set forth in this Purchase Order; or
 - (xi) The Seller ceases to conduct business in the normal course; or
 - (xii) The Seller admits its inability to pay its debts generally as they become due.
- (b) In the event of Seller's default, Buyer may exercise any or all rights accruing to it, both at law, including without limitation those set forth in Article 2 of the Uniform Commercial Code, or in equity.
- (c) Seller's obligations under the warranty, intellectual property, and confidentiality provisions of this Purchase Order shall survive a termination for default.

9. Force Majeure

Except for defaults of subcontracts at any tier, a failure by either party to perform due to causes beyond the control of and without the fault or negligence of such party is deemed excusable during the period in which the cause of the failure to perform continues. Such causes may include acts of God, acts of government, fire, flood, strike, war, terrorism, and freight embargo. When Seller becomes aware of any actual or potential force majeure condition, Seller shall immediately notify Buyer of the condition and the expected time required to rectify the condition. Buyer may cancel this Purchase Order, in whole or in part, in the event that a force majeure condition continues for seven (7) days.

10. Disputes

- (a) Any controversy or claim arising out of or relating to this Purchase Order or the breach thereof may be settled at Buyer's sole discretion by submitting the claim to (i) a court of competent jurisdiction; or (ii) non-binding mediation with a neutral mediator agreed upon by the parties; or (iii) binding arbitration, before a single arbitrator, conducted in and subject to the laws of the State of Michigan, in accordance with the commercial arbitration rules of the American Arbitration Association. The appointing authority shall be the President of the American Arbitration Association. Judgment upon the award rendered by the Arbitrator may be entered in any Court having jurisdiction. The Arbitrator's award may include compensatory damages against either party but under no circumstances will the Arbitrator be authorized to nor shall the Arbitrator award punitive, exemplary, or multiplied (e.g. treble) damages against either party. Notwithstanding the above, either party may seek immediate injunctive relief in any court of competent jurisdiction against improper use or disclosure of proprietary information. Buyer reserves the right to abandon arbitration and pursue any available legal or equitable remedy in the event that Seller does not comply with a demand for arbitration within thirty (30) days of notice.
- (b) Pending resolution or settlement of any dispute arising under this Purchase Order, Seller will proceed diligently as directed by Buyer with the performance of this Purchase Order. This Purchase Order will be construed and interpreted according to the laws of the State of Michigan, without resort to the State's Conflicts of Law Rules.

11. Remedies

- (a) The rights of each party to this Purchase Order shall be in addition to their respective rights and remedies at law or in equity. Failure of either party to enforce any of its rights shall not constitute a waiver of such rights or of any other rights.
- (b) In no event shall Seller be entitled to anticipatory profits or punitive, exemplary, multiplied (e.g. treble), incidental, or consequential damages.

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12. Proprietary Rights

- (a) Unless otherwise expressly agreed to in writing, all specifications, information, data, drawings, software and other items supplied to Buyer by Seller shall be disclosed to Buyer on a non-proprietary basis and may be used and/or disclosed by Buyer without restriction.
- (b) Unless otherwise expressly agreed to in writing, all specifications, information, data, drawings, software and other items which are (i) supplied to Seller by Buyer or (ii) obtained by Seller and paid for by Buyer in the performance of this Purchase Order shall be maintained as proprietary to Buyer by Seller, shall be used only for purposes of providing goods or services to Buyer pursuant to this Purchase Order, and shall not be disclosed to any third party without Buyer's express written consent. All such items supplied by Buyer shall be promptly returned to it on request or upon completion of this Purchase Order.

13. Buyer's Property

- (a) All information and drawings, tools, jigs, dies, fixtures, materials, and other items supplied or paid for by Buyer (collectively, "Buyer's Property") shall be and remain the property of Buyer. Seller shall immediately return any and all of Buyer's Property to Buyer upon Buyer's request.
- (b) All such items shall be used only in the performance of work under this Purchase Order unless Buyer consents otherwise in writing.
- (c) Material made in accordance with Buyer's specifications and drawings shall not be furnished or quoted by Seller to any other person or concern without Buyer's prior written consent.
- (d) Seller shall have the obligation to maintain any and all property furnished by Buyer to Seller and shall be responsible for all loss or damage to said property except for normal wear and tear.

14. Release of Information

Seller shall not publish any information developed under this Purchase Order nor distribute it nor make any news release about the existence or subject matter of this Purchase Order without prior written approval of the Buyer.

15. Warranty

- (a) Seller warrants the materials delivered and/or services rendered on this Purchase Order to be fit for the particular purposes contemplated by this Purchase Order and to be free from defects in workmanship, materials, and design and to be in accordance with all the requirements of this Purchase Order. These warranties shall survive final acceptance and payment pursuant to UCC 2-601 and 2-608.
- (b) This warranty entitlement covers both Buyer and Buyer's customers.
- (c) Seller shall be liable for and save Buyer harmless from any loss, damage, or expense whatsoever that Buyer may suffer from breach of any of these warranties. Buyer's remedies include, but are not limited to, repair, replacement or reimbursement of the purchase price of nonconforming goods and/or services, at Buyer's election.

16. Inspection

- (a) All material and workmanship shall be subject to inspection and test at all reasonable times and places by Buyer or Buyer's customer before, during and after performance and delivery. The Buyer may require Seller to repair, replace or reimburse the purchase price of rejected material or Buyer may accept any materials and upon discovery of nonconformance, may reject or keep and rework any such materials not so conforming. Cost of repair, rework, replacement, inspection, transportation, repackaging, and/or re-inspection by Buyer shall be at Seller's expense.
- (b) If inspection and test are made on the premises of Seller or Seller's subcontractors, Seller shall furnish without additional charge all reasonable facilities and assistance for the safe and convenient inspection and tests required by the Buyer. The provisions of this section (b) are supplementary to and not in lieu of the provisions of section (a) above.
- (c) Buyer's failure to inspect does not relieve Seller of any responsibility to perform according to the terms and conditions of this Purchase Order.

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17. Change Orders; Claims for Adjustment

- (a) Buyer shall have the right by written change order to suspend work, or to make changes from time to time in the services to be rendered or the materials to be furnished by Seller, or the delivery date. If such change order causes an increase or decrease in the cost of performance of this Purchase Order or in the time required for its performance, an equitable adjustment shall be negotiated promptly and the Purchase Order shall be modified in writing accordingly. Any claim by Seller for adjustment must be asserted in writing as soon as practicable but in no event later than fourteen (14) days from the date of receipt by Seller of notification of the change or suspension with an itemization of all costs of goods, services, and/or labor with extensions listing quantities and total costs, and a substantiation of any claim for an extension of time to perform. However, nothing herein shall excuse the Seller from proceeding with its obligations under this Purchase Order as modified by the change order pending resolution of the claim.
- (b) Oral Information, advice, approvals or instructions given by Buyer's technical personnel or other representatives shall be deemed expressions of personal opinion only and shall not affect Buyer's and Seller's rights and obligations unless set forth in a written change order signed by Buyer's Purchasing Representative.

18. Intellectual Property

- (a) Seller warrants that the sale, use, or incorporation into manufactured products of all goods, machines, parts, components, services, devices, material, and rights furnished or licensed under this Purchase Order (collectively, "Parts") which are not of Buyer's design, composition, or manufacture shall be free and clear of infringement of any valid patent, copyright, trade mark, or other proprietary rights. Seller shall defend, indemnify and save Buyer and its customers harmless from any and all expenses, liability, and loss of any kind (including all costs and expenses including attorneys' fees) related to or arising out of claims, suits, or actions alleging such infringement. Seller may, at Buyer's option, replace or modify infringing Parts with comparable Parts acceptable to Buyer of substantially same form, fit, and function so as to remove the source of infringement, and shall extend this provision thereto. If the use or sale of any Parts is enjoined as a result of such claim, suit or action, Seller, at no expense to Buyer, shall use all reasonable efforts to obtain for Buyer and its customers the right to use and sell the affected Parts.
- (b) Any invention or intellectual property first made or conceived by Seller in the performance of this Purchase Order or which is derived from or based on the use of information supplied by Buyer shall be considered to be the property of Buyer and Seller shall execute such documents necessary to perfect Buyer's title thereto.

19. Taxes

Seller agrees to pay all local, state, and Federal excise, sales, and use taxes when applicable (unless otherwise agreed in writing). All such taxes shall be listed separately on Seller's invoice.

20. Assignments

Seller may not assign any rights or obligations due or to become due under this Purchase Order without the prior written consent of Buyer. Any purported assignment by Seller without such consent shall be void. Buyer may assign this Purchase Order to (i) any affiliated entity (ii) any successor in interest, or (iii) Buyer's customer. Buyer shall have the right at any time to set off any amount owing from Seller to Buyer or Buyer's subsidiaries and/or affiliates against any amount due and owing to Seller or any of its subsidiaries pursuant to this Purchase Order or any other contractual agreement between Buyer and Seller or their respective subsidiaries and/or affiliates.

21. Compliance with Laws

- (a) Seller warrants that the goods to be furnished and the services to be rendered under this Purchase Order shall be manufactured, sold, and used in compliance with all relevant federal, state, local laws and regulations.
- (b) Seller certifies that all equipment and materials delivered under this Purchase Order are in conformance with OSHA requirements.
- (c) Seller shall defend, indemnify and save Buyer harmless from any loss, damage, fine, penalty, or expense whatsoever that Buyer may suffer as a result of Seller's failure to comply with any federal, state or local laws, rules or regulations.

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- (d) Seller warrants that it has not offered or given and will not offer or give to any employee, agent, or representative of Buyer any gratuity or any kickback within the meaning of the federal Anti-Kickback Act of 1986. Any breach of any warranty of this section 20 shall be a material breach of each and every purchase order or other agreement between Buyer and Seller.

22. Indemnity against Claims

- (a) Seller shall defend, indemnify, and hold harmless Buyer and Buyer’s directors, officers, employees, and agents from and against any personal injury or property damage claims, suits, actions, expenses, losses, or damages whatsoever (collectively, “ Claims”), including but not limited to such Claims under strict liability or products’ liability, together with attorney’s fees, arising out of or in any way related to Seller’s performance or failure to perform this Purchase Order or that of Seller’s agents, employees, or subcontractors. Seller shall be responsible for the actions and failure to act of all parties retained by, through, or under Seller in connection with the performance of this Purchase Order.
- (b) Seller shall without limitation as to time, defend, indemnify and save Buyer and Buyer’s directors, officers, employees, and agents harmless from and against all Claims which may be asserted against Buyer’s property, including without limitation mechanic’s liens or Claims arising under workers’ compensation or occupational disease laws and from all Claims for injury to persons or property arising out of or related to such property unless the same are caused solely and directly by Buyer’s negligence.

23. Insurance

- (a) When services are performed on Buyer’s premises or goods are or may be delivered by Seller to Buyer at Buyer’s premises, Seller agrees to maintain the following insurance:

Type of Insurance	Amount Not Less Than
Workers’ Compensation	Michigan Statutory Limits
Employers’ Liability	\$500,000 each disease \$500,000 each person \$500,000 each accident
Commercial General Liability Insurance (Broad Form Comprehensive)	\$1,000,000 each occurrence \$1,000,000 personal/advertising injury \$2,000,000 general aggregate \$2,000,000 products/completed ops aggregate
Automobile Liability Insurance (covering all owned, hired and non-owned vehicles)	\$1,000,000 combined single limit
Umbrella/Excess Liability Insurance	\$1,000,000 each occurrence \$1,000,000 aggregate

- (b) The commercial general liability insurance policy shall:
 - (i) Include an endorsement naming the "Great Lakes Water Authority", its directors, officers and employees as additional insureds. The additional insured endorsement shall provide coverage to the additional insureds with respect to liability arising out of the named insured’s ongoing work or operations performed for the additional insureds under the terms of this Purchase Order; and
 - (ii) Provide contractual liability insurance for all written contracts.
- (c) For any claims related to this Purchase Order, Seller’s insurance coverage shall be primary and non-contributory insurance. This requirement applies to Seller’s primary and excess coverages.
- (d) A waiver of subrogation is required for Seller’s commercial general liability, automobile liability and workers’ compensation insurance coverages. Seller’s workers’ compensation and automobile liability policies shall be endorsed with a waiver of subrogation in favor of the Buyer.
- (e) Seller shall provide 30 days’ written notice to Buyer of the cancellation of any insurance policy required by this Purchase Order, and 10 days’ written notice to Buyer for cancellation due to non-payment of premium.
- (f) All insurance policies shall name Seller as the insured, be effected at Seller’s expense, under valid and enforceable policies, and issued by insurers either licensed to conduct business in Michigan or which are otherwise acceptable to Buyer. Certificates of insurance evidencing the coverage required by this section shall, in a form acceptable to Buyer, be submitted to Buyer prior to the delivery of the goods or commencement of the services provided under this Purchase Order and within a reasonable time prior

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to the expiration dates of expiring policies. If during the term of this Purchase Order changed conditions or other pertinent factors should, in the reasonable judgment of Buyer, render inadequate the insurance limits, Seller shall furnish on demand such additional coverage or types of coverage as may reasonably be required under the circumstances.

- (g) If any work is subcontracted in connection with this Purchase Order, the Seller shall require each subcontractors to effect and maintain the types and limits of insurance set forth in this section and shall require documentation of same, copies of which documentation shall be promptly furnished the Buyer.
- (h) The Seller shall be responsible for payment of all deductibles contained in any insurance required under this Purchase Order. The provisions requiring the Seller to carry the insurance required under this section shall not be construed in any manner as waiving or restricting the liability of the Seller under this Purchase Order.
- (i) If Seller maintains higher limits than the minimums shown above, Buyer requires and shall be entitled to coverage for the higher limits maintained by Seller. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Buyer.

24. Non-exclusive Agreement

This Purchase Order is a non-exclusive contract and Buyer reserves the right to purchase same or like materials and/or services from other sources as Buyer deems necessary.

25. Insolvency

If Seller becomes insolvent, files a petition in bankruptcy, or makes an assignment for the benefit of creditors, or if a receiver or trustee is appointed of or for any of Seller's property or business, this Purchase Order may be cancelled at Buyer's sole option without liability to Seller.