

The following are Matson's current terms and conditions for contracts, purchase orders, work orders, and service purchase orders issued to suppliers of labor, workmanship, materials, equipment, supplies, transportation and supervision for all Matson entities. The terms and conditions are incorporated in each purchase order, work order or service purchase order issued by the companies.

STANDARD TERMS AND CONDITIONS

1. **DEFINITIONS.** As used herein and on the reverse side, "Matson" means Matson Navigation Company, Inc. or its parent or any subsidiary or affiliated company if it is acting for such company in connection with this Contract, this Purchase Order, this Work Order or this Service Purchase Order (the "Order"). "Contractor" means the person, firm or corporation or other entity accepting this Order for the merchandise or work described on the face hereof. The term "merchandise" and the term "work" include all labor, workmanship, materials, equipment, supplies, transportation and supervision necessary to the proper and complete fulfillment of the requirements of this Order.

2. **GENERAL STATEMENT REGARDING MERCHANDISE AND WORK.** Contractor shall supply all merchandise and furnish all work called for by this Order in strict accordance with the terms hereof for the consideration herein stated. Contractor expressly warrants that work covered by this Order shall be performed in a workmanlike manner and in accordance with good commercial practice, and merchandise supplied against this Order shall be of merchantable quality and shall strictly conform to stated specifications and shall properly serve the purpose intended for the normal useful life of said merchandise and shall be new, suitable and of the best quality for the purpose intended. In cases in which a master agreement exists, all merchandise supplied or work performed by Contractor under this Order shall be in accordance with the terms and conditions of the master agreement between Matson and Contractor, which terms and conditions are incorporated herein by reference. In case of conflict, the terms of such master agreement shall prevail.

3. **INSPECTION.** All merchandise supplied and work performed hereunder shall be subject to inspection and tests at any time or place by Matson or any person or agency designated by Matson, even though payment therefore has already been made. Final inspection shall be made upon delivery and acceptance of the merchandise or completion of the work. If upon inspection the merchandise or work is defective or is unsatisfactory because it fails to conform to the plans and specifications or express or implied warranties, Matson shall, in addition to all other legal remedies, be entitled to reject such portion of the merchandise or work and, at its option, either require Contractor to cure such defect or failure to conform or refund to Matson any part of the contract price previously paid for such defective or unsatisfactory work and reimburse Matson for any charges which may have been incurred by Matson in connection therewith, including, without limitation, transportation, handling, insurance, installation, removal and storage. Failure to inspect or failure to discover any defects shall in no way limit Matson's right to recover against Contractor and to assert any legal remedies Matson may have.

4. **INVOICES.** Payment will be made only on invoices stating Order number appearing on the face of this Order. All items assigned the same Order number must be billed on a common invoice. Each invoice shall include (i) a complete description of the merchandise delivered or work

accomplished under each separate item authorized on the face of this Order; (ii) the dates of delivery of the merchandise or commencement and completion of the work; (iii) overtime differential, if any, applicable to each item for which overtime work was authorized by Matson; and (iv) discount terms of payment, if any. Cash discount periods shall begin from a date not earlier than the date Matson receives a correct and complete invoice and, for merchandise, the bill of lading or other document evidencing shipment or receipt covering any part of the merchandise.

5. DELAYS OR SHORTAGES, FAILURE TO PERFORM. Time is of the essence in the performance of this Order. Contractor shall advise Matson immediately of any shortage or delay in shipment of merchandise or in performance of work in accordance with the terms and conditions of this Order. Matson reserves the right to cancel all or any part of this Order for any material delay. Materiality shall be determined with respect to the merchandise or work to be supplied under this Order and not with respect to the business or assets of Matson. Matson may, at its option, accept delayed delivery or performance from the Contractor without thereby waiving its right to demand strict compliance with the delivery or performance schedule as set forth in this Order with respect to all other deliveries or performances and without prejudice to Matson's right to recover damages for any delays.

6. EXTENSION OF TIME FOR COMPLETION. The date for delivery of the merchandise or completion of work stated on the face of this Order shall be extended in the event of any delay caused by Matson, or in the event of delay beyond the control of Contractor due to government priorities, intervention or delays caused by civil, naval, or military authorities, acts of God (other than ordinary storms), earthquakes, explosions, lightning, flood, fire, strikes or other industrial disturbances, riots, insurrections, war, sabotage, vandalism, blockades, embargoes and epidemics, and only if and to the extent caused by one or more of the foregoing causes. Upon the occurrence of any such delaying event, when knowledge thereof has come to Contractor, written notice shall be given promptly by Contractor to Matson. With the cessation of any such event, written notice thereof and of the anticipated effect thereof shall be given promptly by Contractor to Matson. With the cessation of any event, written notice thereof and of the anticipated effect thereof shall be given promptly by Contractor to Matson. Matson shall notify Contractor promptly of Matson's agreement or disagreement with Contractor's claim for extension of the date for completion of work or delivery of the merchandise.

7. LIABILITY AND INSURANCE

(a) Contractor shall defend, indemnify and hold harmless Matson, its affiliated companies and their officers, directors, agents and employees, from and against all claims, suits (including counsel fees and other expenses of claims or suits, whether groundless or not), liabilities, judgments, and awards on account of and damage to property or any injury or death to persons, together with incidental and consequential damages, which may be caused or be alleged to have been caused in whole or in part by the negligence or other fault of Contractor or any subcontractor or by any failure of merchandise or work performed to conform to warranty.

(b) Contractor shall continuously insure its general public liability risks (including products and completed operations) with limits of not less than \$1,000,000 per accident or occurrence for bodily injury and property damage, unless other amounts are stated in this Order. Contractor shall

require that any subcontractors meet the insurance requirements set forth in this paragraph. At Matson's request, Contractor shall provide Matson with evidence of such insurance satisfactory to Matson.

8. PATENT, TRADEMARK, COPYRIGHT OR TRADE SECRET RIGHTS.

(a) Indemnity. Contractor shall defend and indemnify Matson from and against any claims and demands for infringement of any patents, trademarks, copyrights or trade secrets covering the whole or any portion of the merchandise or work unless the acts giving rise to the asserted infringement were required or specified by Matson. Contractor shall be responsible for all costs, expenses, including attorneys' fees and damages incurred or expended in connection with such claims and demands and for procuring the right for Matson to continue to use the product embodying the work. Matson shall defend and indemnify Contractor from and against any claims and demands for infringement of any patents, trademarks, copyrights or trade secrets covering the whole or any portion of the merchandise or work if the acts giving rise to the asserted infringement were required or specified by Matson.

(b) License. Unless otherwise expressly agreed in writing, Contractor grants Matson a perpetual, non-exclusive and royalty free license to use, modify and sell or assign any work or merchandise embodying any patents, trademarks, copyrights or trade secrets created or developed by Contractor, or any subcontractor, in the performance of the work or as part of the merchandise. Contractor shall promptly disclose to Matson each such patent, trademark, copyright or trade secret and each invention, design, discovery or improvement eligible for patent, trademark, copyright or trade secret protection. If any part of the work is to be performed by a subcontractor, Contractor shall cause to be included in the subcontract a like provision by which the subcontractor undertakes the same obligations as Contractor undertakes by reason of the provisions in this subparagraph.

(c) Confidential Information. Contractor shall maintain in strict confidence both during and after the term of this Order, and shall not disclose to third parties except with the prior written approval of Matson, all confidential business and trade information which it receives from Matson or which is invented, made or developed pursuant to this Order. At Matson's request Contractor, Contractor's employees and subcontractors shall execute confidentiality agreements.

9. LIENS. This order is issued upon the express condition that no liens or rights *in rem* of any kind shall lie or attach upon or against the merchandise, the work, any property, equipment or worksite, or any part thereof, for or on account of any merchandise supplied or work done pursuant to this Order, or for or on account of any other cause, or thing or any claims or demands of any kind, except the claims of Matson.

10. SAFETY. Contractor shall be solely responsible for compliance with all applicable safety laws, regulations and standards in the performance of its work, or the work of its subcontractors or vendors and shall indemnify Matson for any loss, cost or expense resulting from Contractor's failure to comply.

11. ADDITIONAL REQUIREMENTS FOR WORK ON MATSON VESSELS OR FACILITIES

The following additional requirements shall apply with respect to any work done on facilities, vessels or other premises owned, chartered or leased or otherwise used by Matson:

(a) Insurance. Contractor shall maintain at its sole expense (and shall cause each of its subcontractors performing any services hereunder to maintain) the following insurance policies with insurance companies having a B+ or better A.M. Best rating:

- (1) Commercial General Liability insurance, including contractual liability coverage, with a minimum limit of \$1,000,000 per occurrence for bodily injury, personal injury and property damage.
- (2) Commercial Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per occurrence covering all vehicles owned or used by Contractor in performing work.
- (3) Statutory Workers' Compensation as required by (and which insurance shall be in conformity with) applicable law to further include voluntary compensation coverage, other states coverage for all employees. If the work is performed on or adjacent to navigable waterways, then the policy must include U.S. Longshore and Harbor Workers' Compensation coverage and Maritime coverage.
- (4) Employers' Liability insurance with limits of \$1,000,000 for each employee, \$1,000,000 policy limit by disease, and \$1,000,000 for each accident.
- (5) Other insurance policies or increased insurance limits may be prescribed by the Matson from time to time based on the materials ordered or work to be performed.

The above limits of insurance shall be in no way construed as Contractor's maximum liability under this Order. Before commencing work under this Order, Contractor will have caused its insurance companies to deliver to Matson certificates of insurance evidencing all insurance required under paragraph a). All such insurance will provide Matson with 30 days' prior written notice of cancellation/non-renewal and 10 days' advance written notice of cancellation for non-payment of premiums. The insurance required under paragraphs a)(1) and (2) will be endorsed to name Matson as additional insured with respect to liability arising out of work performed by Contractor. Contractor shall require that any subcontractors meet the insurance requirements set forth in this paragraph. Contractor's insurance shall be primary insurance and not excess over or contributory with any other valid, existing and applicable insurance carried by Matson. All insurance policies of Contractor shall be endorsed to include a waiver of subrogation in favor of Matson. Contractor waives all rights of recovery against Matson to the extent any losses, claims or damages are i) covered by any policy of insurance available to Contractor and/or ii) not covered by Contractor's insurance because of deductibles, the inadequacy of policy limits, policy limitations or exclusions, or failure to maintain or preserve coverage as required by this Order or by policy terms.

(b) Security Training. Contractor must provide annual certifications to Matson that their employees have attended security awareness training as required by Matson. Contractor is

responsible for maintaining training records and providing proof of training if requested by Matson.

12. **DEFAULT.** In the event of any default by Contractor hereunder, Matson may, in addition to any other remedies which it has, (i) terminate this Order upon written notice to Contractor; (ii) cancel any part of this Order upon written notice to Contractor; (iii) accept delivery of merchandise or performance of work from Contractor, and make payment therefore, provided such acceptance or payment therefore shall not be deemed to be a waiver of Matson's right to cancel, nor bind Matson to accept the remainder of the merchandise or work; (iv) reject the merchandise or work, whereupon Contractor shall refund to Matson any part of the contract price previously paid on account thereof, and Contractor shall reimburse Matson for any expenses incurred by Matson in connection therewith, including, without limitation, transportation, handling, insurance, installation, removal and storage; (v) require the merchandise or work to be satisfactorily corrected by Contractor at no additional expense to Matson and within a reasonable time; and (vi) take such steps, at Contractor's expense, to remedy such default as shall be reasonably necessary to minimize Matson's damages, including special damages, and including steps necessary to meet Matson's vessel and fleet schedules, without prejudice to its cause of action against Contractor for damages, including special damages. The following shall, without limitation, constitute a default hereunder: (i) failure of Contractor to use due diligence in proceeding with performance of this Order; (ii) delay which Matson deems to be unreasonable; (iii) failure of the merchandise or work to conform to this Order; (iv) existence of a defect, latent or patent, in the merchandise or work; (v) breach of express or implied warranties by Contractor; (vi) failure of Contractor to perform any of the covenants on its part to be performed under this Order; (vii) the causing of any lien or encumbrance to attach to any property of Matson, including any property transferred to Matson under this Order, as a result of Contractor's failure to pay, when due, any charge for labor, material or services incurred in connection with Contractor's performance hereunder; (viii) receipt of a notice of termination or suspension of any required insurance coverage; and (ix) Contractor is dissolved or makes a general assignment for the benefit of its creditors; a receiver or custodian of any kind whatsoever is appointed, whether or not appointed in bankruptcy, common law or equity proceedings, whether temporary or permanent, for a substantial portion of the property of Contractor; Contractor files a petition for relief, reorganization or liquidation under any chapter of the U. S. Bankruptcy Code or any other bankruptcy, reorganization, liquidation, debt, moratorium, arrangement or similar law of any jurisdiction ("Debtor Relief Law"); a petition for relief is filed against Contractor under any Debtor Relief Law and such petition is not dismissed by the court within sixty (60) days after the date on which such petition was filed; the admission by Contractor in writing of its inability to pay debts generally as they become due; the failure of Contractor generally to pay its debts as they become due; or if Contractor fails to assume this Order within thirty (30) days after the filing of a petition by or against Contractor under any Debtor Relief Law.

13. **ASSIGNMENT.** Contractor shall not assign its rights or delegate its duties under this Order without the prior written consent of Matson.

14. COMPLIANCE WITH LAWS AND REGULATIONS

(a) Contractor and Matson, each for its own part, shall, to the extent applicable, comply with and give all representations and further assurances required by any law or regulation applicable to

federal contracts and subcontracts, including, without limitation, the following:

(1) The Fair Labor Standards Act of 1938, as amended (29 U.S.C. §§ 201-219); the McNamara-O'Hara Service Contract Act of 1965, as amended (41 U.S.C. §§ 35-358); the Walsh-Healy Act, as amended (41 U.S.C. §§ 35-45); and the Contract Work Hours and Safety Standards Act, as amended (40 U.S.C. §§ 327-333).

(2) Executive Order No. 11246 dated September 24, 1965, as amended, relating to affirmative action in the employment of persons without regard to race, creed, color or national origin; Executive Order No. 11701 dated January 24, 1973, relating to affirmative action in the employment of certain veterans; Executive Order No. 1758 dated January 15, 1974, relating to affirmative action in the employment of qualified handicapped individuals, and all applicable regulations of the Secretary of Labor, including without limitation, those appearing at 41 C.F.R. § 60-1.4 relating to equal employment opportunity, 41 C.F.R. § 60-1.7 relating to equal employment opportunity reporting, 41 C.F.R. § 60-1.40 relating to affirmative action programs, 41 C.F.R. § 60-1.8 relating to non-segregation of facilities, 41 C.F.R. §§ 60-250.5 and 60-250.6 relating to employment of qualified Vietnam Era Veterans, 41 C.F.R. §§ 60-741.5 relating to the employment of qualified handicapped individuals, and Executive Order 13201, dated February 17, 2001, and 29 CFR Part 470 relating to employee rights concerning payment of union dues or fees.

(b) By acceptance of this Order, Contractor certifies to Matson that it does not and shall not maintain any facilities provided for employees which are unlawfully segregated, or permit employees to perform services at any location in the United States of America under control of Contractor or its subcontractors where unlawfully segregated facilities are maintained, and that Contractor will require its nonexempt subcontractors performing work in the United States of America to furnish a similar certification prior to the award of any nonexempt subcontract.

(c) Contractor hereby certifies to Matson that Contractor complies with respect to its employment of personnel within the United States of America with all applicable provisions of federal, state and local equal employment opportunity and affirmative action laws and that persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, age or physical handicap. Contractor agrees to post a copy of its certification as to employment practices in conspicuous places at any worksite available to employees and applicants for employment and at any Matson worksite in the United States of America.

15. ENTIRE AGREEMENT. This Order contains the entire agreement of the parties with respect to the merchandise or work. This Order may not be modified or terminated orally, and no claimed modification, termination or waiver shall be binding unless in writing and signed by the party against whom such claimed modification, termination or waiver is sought to be enforced. NEITHER MATSON NOR CONTRACTOR SHALL BE BOUND BY ANY ORAL OR OTHER WRITTEN TERMS OR CONDITIONS NOT SET FORTH HEREIN IMPOSING, EXCLUDING, REGULATING, OR LIMITING LIABILITY UNLESS ASSENT THERETO IS EXPRESSLY SET FORTH IN WRITING SIGNED BY BOTH PARTIES.

16. **APPLICABLE LAW.** The interpretation, construction, and enforcement of these terms and conditions shall be governed by the laws of the State of California exclusively, without reference to laws of any other state, subject to the laws, rules or regulations of the United States to the extent applicable.