

## PURCHASE ORDER TERMS AND CONDITIONS

The following terms and conditions, together with the foregoing information and provisions, and all attachments and documents incorporated into this Order by reference, including the Standard Blanket for Items if applicable, constitute the entire agreement of the parties with respect to the Items or Products, and are hereinafter collectively referred to as the "Agreement" or in the event of an individual purchase order, a "PO" or "Order". The parties hereto acknowledge that there are no other terms or conditions, agreements or understandings applicable to this Order; including, without limitation, with respect to the scope and subject matter of this Order.

1. Acceptance of this Order is limited to the terms hereof. Amendments to this Order or Agreement must be made in writing. Cancellation of this Order or Agreement may be made only by Buyer's authorized representative.
2. Buyer reserves the right to cancel the Order with respect to all or any part of the undelivered portion of the Items or Products, if Seller does not meet the delivery requirements of this Order, or if Seller breaches any of the terms of this Order. The Buyer's right to cancel is in addition to any and all other rights and remedies that Buyer may have at law or in equity. 3. Buyer may terminate this Purchase Order or this Agreement, in whole or in part, at any time, at its sole discretion, by providing written notice of termination to Seller. The notice of termination will specify the Effective Date of any termination. Seller shall not deliver any Items or Products after the date identified in Buyer's notice. In the event this Order or Agreement is terminated, Buyer's only liability will be to pay Seller the unpaid balance due for Items or Products shipped (or specially manufactured Items or Products ordered at the request of Buyer) or labor incurred prior to the date identified in Buyer's notice.
4. Delay in receiving invoices, or errors or omissions on same, will be considered just cause for Buyer withholding payment without loss of cash discount privileges. The cash discount period will date from Buyer's receipt of a correct invoice, or receipt of the Items or Products, whichever occurs last.
5. At the discretion of Buyer, this Order will be subject to physical expediting. Further, prior to shipment of the Items or Products, Buyer may, at its discretion (whether directly or through its authorized representative) inspect the Items or Products, and witness all tests, analyses, or other evaluations of the Items or Products. Such efforts on the part of Buyer, as described in this Paragraph 4, will not relieve Seller from full responsibility for conforming the Items or Products to the requirements of the Order nor prejudice any claim, right or privilege which Buyer may have as a result of Seller's breach of any of the terms of this Order.
6. Title to the Items or Products will pass to Buyer at such time as the Items or Products are accepted by Buyer's designated representative or agent, at the location designated by Buyer's designated representative or agent.. Risk of loss will remain with Seller until such time as title to the Items or Products has passed to Buyer.
7. Seller will immediately notify Buyer of any circumstances that may cause a delay in delivery of the Items or Products, stating the estimated period and reasons for that delay. If requested by Buyer, Seller will use additional effort to avoid or minimize that delay to the maximum extent possible, all at no change in the purchase price for the Items or Products, and without prejudice to any of Buyer's rights or remedies.
8. Seller will invoice Buyer for the purchase price of the Items or Products at such time as those Items or Products have been delivered to Buyer, in accordance with all requirements of this Order. Buyer will pay all undisputed portions of such invoices within sixty (60) days of receiving those invoices or per payment terms stated on the Order.
9. Seller agrees to and will defend, hold harmless, and indemnify Buyer, its officers, directors, employees, and agents, and each of its affiliates and each of their respective officers, directors, employees and agents (collectively, "Buyer Group") from and against all claims, damages, or causes of action arising out of or incident to, or related in any way to, directly or indirectly, this Order, or the Items or Products to be supplied hereunder, including, without limitation, for: (a) bodily injury, death, or property damage; or (b) actual or alleged infringement of any patent, trademark, copyright, or trade secret (collectively, "CLAIMS"); **FURTHER, IT IS THE EXPRESS INTENT OF THE PARTIES THAT FOR THE PURPOSES OF THIS PARAGRAPH, CLAIMS, AND SELLER'S OBLIGATIONS TO DEFEND, PROTECT, INDEMNIFY, AND HOLD HARMLESS, WILL INCLUDE, BUT NOT BE LIMITED TO, CLAIMS ARISING OUT OF OR RESULTING FROM BUYER GROUP'S SOLE OR CONCURRENT (A) NEGLIGENCE OF ANY TYPE OR DEGREE; (B) STRICT LIABILITY, OR (C) OTHER FAULT OF ANY NATURE.** In the event that Buyer's use of all or any part of the Items or Products is enjoined or otherwise restricted, due to an allegation or determination that Buyer's use of the Items or Products constitute infringement, Seller will promptly and at its own expense: (i) procure for Buyer the right to continue using the Items or Products; or (ii) replace the Items or Products with non-infringing equipment or goods satisfactory to Buyer; or (iii) modify the Items or Products in a way satisfactory to Buyer so they become non-infringing. In the event that any of the terms or provisions of this paragraph 8 section are determined to be invalid, illegal, unenforceable or in conflict with the law of any court of competition jurisdiction, the validity, legality and enforceability of the remaining terms and provisions shall not in any way be affected or impaired, and remain in full force and effect.
10. Seller warrants that the Items or Products will be fully satisfactory, in all respects, for their intended purposes, and will also conform in all respects to the promises or affirmations of fact made on any container, label, or other documentation prepared or used for or by Seller with respect to the Items or Products. Seller further warrants that it has absolute title to and the full right to sell the Items or Products, and that there are no liens, claims, or encumbrances of any kind whatsoever against or applicable to the Items or Products. No limitation or waiver of any express or implied warranty will be binding upon Buyer, unless expressly agreed to in a revision to this Order, acknowledged and accepted by Buyer's authorized representative.
11. No charges will be allowed for packaging, crating or drayage, unless specifically authorized in this Order. Shipment is to be made by the most economical means of transportation, unless otherwise specified, and Buyer will not be responsible for transportation charges unless Items or Products are shipped according to Buyer's express written instructions.
12. Seller will comply with all laws and regulations applicable to the sale and delivery of the Items or Products, as well as Seller's other obligations pursuant to the Order. In particular but without limitation:
  - a. Seller expressly agrees that it will comply with the Equal Employment Opportunity and Affirmative Action obligations of Executive Order 11246, as amended, the Rehabilitation Act of 1973, as amended, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, where applicable. In particular:
    - i. 41 CFR 60-741.5(a). **Buyer and Seller shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.**

ii. 41 CFR 60-300.5(a). **Buyer and Seller shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.**

- b. If this Order exceeds \$150,000 and Seller will subcontract any portion of its performance hereunder, Seller will comply with the applicable requirements of Federal Acquisition Regulation ("FAR") Clause 52.219-8.
- c. If the total amount of this Order exceeds \$700,000 and Seller will subcontract any portion of its performance hereunder, Seller (except Small Business Concerns) will adopt a subcontracting plan in accordance with the requirements set forth in FAR Clause 52.219-9.
- d. If the total amount of this Order is equal to or greater than \$100,000, Seller will comply with the requirements of FAR Standard Clause 52.222-35, 48 C.F.R. 52.222-35.
- e. If the total amount of this Order exceeds \$15,000, Seller will comply with the requirements of FAR Standard Clause 52.222-36, 48 C.F.R. 52.222-36.
- f. Seller expressly acknowledges and agrees that it will comply, whenever applicable, to the Comprehensive Environmental, Response, Compensation, and Liability Act of 1980 ("CERCLA"), the Resource Conservation and Recovery Act of 1976, the Toxic Substances Control Act, the National Environmental Policy Act, the Hazardous Materials Transportation Act, the Atomic Energy Act, the Occupational Safety and Health Act of 1990, Section 114 of the Clean Air Act, as amended by Public Law 91-604 and Section 308 of the Federal Water Pollution Control Act, as amended by Public Law 92-500.
- g. Seller agrees to comply with the Immigration Reform and Control Act of 1986.
  - h. If a Safety Data Sheet (SDS) or Material Safety Data Sheet (MSDS) is applicable to any Item or Product on the Order, please send an electronic copy of the SDS to [msdsupdates@safetec.net](mailto:msdsupdates@safetec.net) for Generation or Mining groups. For Comanche Peak PO's, please send a copy to:  
Comanche Peak Power Company LLC  
PO Box 1002  
Glen Rose, TX 76043  
ATTN: Safety Services

13. BUYER AND SELLER AGREE THAT THIS ORDER WILL BE SUBJECT TO AND GOVERNED BY THE LAWS OF THE STATE OF TEXAS. THE PARTIES AGREE THAT THE PROVISIONS OF ARTICLE 2 OF THE UNIFORM COMMERCIAL CODE (AS CONTAINED IN THE TEXAS BUSINESS AND COMMERCE CODE) SHALL APPLY TO THE ORDER IRRESPECTIVE OF WHETHER SUCH TRANSACTIONS ARE DEEMED TO BE A SALE OF GOODS OR THE PROVIDING OF A SERVICE; HOWEVER, IN THE EVENT OF A CONFLICT, THE TERMS AND PROVISIONS OF THE AGREEMENT SHALL CONTROL OVER THOSE CONTAINED IN THE UCC. NOTWITHSTANDING THE FOREGOING, THE PARTIES ACKNOWLEDGE AND AGREE THAT ALL IMPLIED RIGHTS RELATING TO FINANCIAL ASSURANCES ARISING FROM SECTION 2.609 OF THE UNIFORM COMMERCIAL CODE (AS CONTAINED IN THE TEXAS BUSINESS AND COMMERCE CODE) OR APPLICABLE CASE LAW APPLYING SIMILAR DOCTRINES, ARE HEREBY WAIVED.

14. Without the written consent of Buyer, Seller will not divulge to any third party, including any affiliate of Buyer (excepting, as appropriate, only Vistra Corporate Services Company of purposes relating to this Order), any information obtained from or through Buyer that relates to the technical or business activities of Buyer (including, without limitation, information pertaining to any customer of Buyer), or is otherwise developed by Seller in connection with its performance of the Order, unless: (a) the information is known to Seller prior to obtaining it from Buyer; (b) the information is, at the time of disclosure by Seller, then in the public domain; or (c) the information is obtained by Seller from a third party who did not receive it directly or indirectly from Buyer and who has no obligation of secrecy with respect to that information. THIS PROVISION WILL NOT RESTRICT IN ANY MANNER WHATSOEVER THE REPORTING OF ENVIRONMENTAL OR SAFETY-RELATED CONCERNS to the appropriate governmental authorities in accordance with applicable law. If so requested by Buyer, Seller further agrees to require its employees to execute a nondisclosure agreement prior to performing any of performing any of Seller's obligations under this Order.

15. Seller (a) represents, as of the date hereof, that (i) Seller has provided to Buyer for inclusion in Buyer's electronic systems of record, a completed copy of Buyer's Supplier Diversity Status Profile in respect of such Seller ("SDSP"), and (ii) the size or socioeconomic representations and certifications made in such SDSP are current, accurate, and complete as of the date hereof, and (b) covenants that Seller shall provide to Buyer an updated SDSP within 30 days any changes to Seller's size or socioeconomic status or of Buyer's request, each of which updated SDSPs shall be current, accurate and complete as of the date of submission by Seller to Buyer.

**STATE OF TEXAS  
DIRECT PAYMENT EXEMPTION CERTIFICATE  
LIMITED SALES, EXCISE AND USE TAX**

Buyer hereby claims exemption from the payment of state, local and MTA sales and use taxes upon its purchases of taxable materials, equipment or labor. The Permit Holder agrees not to permit others (including its contractors and repairmen) to use Buyer's direct payment authorization to purchase materials tax free. This certificate is not valid for lump sum new construction projects to improve real property and/or any nontaxable service. Buyer agrees to accrue and pay the tax to the State of Texas as required by statute.

3-20600-9993-7	LA FRONTERA HOLDINGS LLC	1-75-0835281-6	VISTRA CORPORATE SERVICES COMPANY
3-20-1789874-6	OAK GROVE MANAGEMENT COMPANY LLC	3-20598-7954-7	COMANCHE PEAK POWER COMPANY LLC
1-75-2967821-5	LUMINANT MINING COMPANY LLC	1-26-0494257-8	TXU ENERGY RETAIL COMPANY LLC
3-20-1997560-9	SANDOW POWER COMPANY LLC	1-75-2967820-7	LUMINANT GENERATION COMPANY LLC

## UNIT OF MEASURE

1B CAR COUNT	CL COIL	GLL GALLON	MTR METER	SAN HALF YEAR (6 MONTHS)
1I FIXED RATE	CMT CENTIMETER	GRM GRAM	ONZ OUNCE	SET SET
A9 RATE	CQ CARTRIDGE	GRO GROSS	OT OVERTIME HOUR	SMI MILE (STATUTE MILE)
ANN YEAR	CS CASE	HUR HOUR	PD PAD	SO SPOOL
AY ASSEMBLY	CT CARTON	INH INCH	PF PALLET	SQ SQUARE
BAR BAR	CY CYLINDER	KG KEG	PK PACKAGE	ST SHEET
BD BUNDLE	D63 BOOK	KT KIT	PL PAIL	TL THOUSAND FEET
BFT BOARD FOOT	DAD TEN DAY	LBR POUND	PR PAIR	TN TON
BG BAG	DAY DAY	LF LINEAR FOOT	PT PINT	TU TUBE
BL BALE	DMT DECIMETER	LK LINK	QAN QUARTER (OF A YEAR)	WEE WEEK
BO BOTTLE	DR DRUM	LO LOT	QH QUARTER HOUR	WM WORKING MONTH
BR BARREL	DZN DOZEN	LTR LITER	QT QUART	YDK SQUARE YARD
BUA BUSHEL (US)	E48 SERVICE UNIT	MGM MILLIGRAM	RL REEL	YDQ CUBIC YARD
BX BOX	EA EACH	MIL THOUSAND	RM REAM	YRD YARD
C62 ONE PIECE/UNIT	EC EACH PER MONTH	MIN MINUTE	RO ROLL	
CA CAN	FOT FOOT	MLT MILILITRE	SA SACK	
CG CARD	FTK SQUARE FOOT	MMT MILLIMETER		
CH CONTAINER	FTQ CUBIC FOOT	MON MONTH		

Revised Feb 2017