

K J ELECTRIC TERMS AND CONDITIONS OF PURCHASE
Purchase & Purchase Order Terms & Conditions- Rev.06-14-2012

1. **NOTICE:** The within five (5) page K J Electric Terms and Conditions of Purchase Rev. 06/01/12 is posted for Supplier/Seller/Vendor & public access @ www.kjelectric.com. The term "Seller" refers to the VENDOR addressee set forth on the face of a KJ ELECTRIC written PURCHASE ORDER , or the Seller/Supplier/Vendor or recipient of a KJ Electric Purchase Order Number and/or any Seller/Supplier of goods or services to K J Electric; and the term "KJ" or "Buyer" refers to K.J.D.E. CORP. d/b/a K J Electric, a New York Corporation organized 03/16/1981 under the Laws of NY and holding US Federal ID# 16-1159402. Any Seller's sale of any goods, equipment, supplies or services to KJ is expressly conditioned upon Seller's acceptance, recognition and assent to the within K J ELECTRIC TERMS AND CONDITIONS OF PURCHASE. Any KJ acceptance of Seller's offer, quote, Invoice, or delivery of product/service is expressly conditioned upon Seller's acceptance of the within K J TERMS AND CONDITIONS OF PURCHASE. Seller's acceptance of a KJ Purchase Order or Seller's acceptance of a KJ Purchase Order Number, or Seller's delivery of any goods or services to KJ or for KJ's account and/or Seller's acceptance of any KJ payment is deemed to confirm and constitute Seller's assent to the within K J TERMS AND CONDITIONS OF PURCHASE; and any conflicting, different or additional terms proposed by Seller are expressly objected to by KJ and will not be binding upon KJ, and no Seller form or document containing additional, different or conflicting Terms of Sale or of KJ's Purchase shall be binding upon KJ unless specifically assented to in writing by KJ's CEO or President. KJ's failure to specifically object to any such additional, different or conflicting Seller terms of Sale shall not operate as a waiver of the within TERMS AND CONDITIONS OF PURCHASE. The within Terms and Conditions apply to all KJ acquisition or purchases of products, equipment, supplies or services on Purchase Orders or otherwise, in addition to any terms set forth on the face of the individual KJ Purchase Order or in any KJ supplied plans, specifications or other documents incorporated by reference with each KJ purchase transaction, an "Order". Acceptance by KJ of any offer or quotation from Seller is expressly limited to the within Terms and Conditions , and KJ hereby rejects, objects to and shall not be bound by any additional , different or conflicting terms, whether printed or otherwise, in any other communication between the Seller and KJ {including on Sellers forms, correspondence, Quote, offer, letters, emails, faxes, plans, specifications, emails, Internet Online Order Entry System or documents- of any kind or nature, whatsoever}, it being clearly understood that the within K J Terms And Conditions Of Purchase for any KJ Order, KJ Purchase/acquisition or KJ Purchase Order shall prevail to control the transaction, notwithstanding any such additional, different or conflicting terms of or by Seller.
2. **Acceptance And Limitations:** The Order shall be deemed accepted by Seller on the earlier of (a) shipment of goods or rendering of services, in total or in part, or (b) within three (3) days of KJ's placing/issuance of the Order to Seller, absent seller's specific written notification within those three days to KJ, of Seller's rejection and non-acceptance of the KJ Order. The Order and the within Terms And Conditions shall constitute the entire contract between Seller and KJ.
3. **Changes:** KJ may make changes to the Order at any time and Seller shall accept such changes. If a change by KJ causes an increase or decrease in the cost or time required for Seller's performance, within 3 business days the parties shall agree , in writing, on an equitable adjustment of the purchase price and/or delivery schedule, as applicable, and KJ shall incorporate a written modification to the Order. No other form of notification or verbal agreement shall be binding on KJ.
4. **Termination for Convenience:** KJ may provide Notice (defined@ 23.) to Seller to terminate the Order, or any part of thereof, for any or no reason, for KJ's convenience. Upon notice of termination, Seller shall immediately stop, cease and desist any and all work and cause Seller's suppliers and/or subcontractors to stop all work in connection with the Order. KJ shall pay Seller an amount in settlement to be mutually agreed upon by the parties which shall cover Seller's reasonable actual costs {but no anticipated profits} for performance of KJ's Order and the work prior to termination- for goods and services accepted as of the date of termination as proven/documented actual & reasonable out of pocket costs, as proven to have been incurred directly as a result of the Order and specifically due to KJ's termination for convenience. KJ shall have no other responsibility or liability, whatsoever, after Seller's receipt of notice of termination. In no event, whatsoever, shall Seller be entitled to recover any anticipated profits, incidental or consequential damages. Seller shall advise KJ in writing, within five (5) business days after KJ's Notice of termination, of Seller's claim under 5., if

any, for Seller's termination costs and such Seller's claim shall include certified copies of invoices, cancelled checks and other documents that definitively detail, support and prove, under FASB Generally Accepted Accounting Principles and Procedures (GAAP) , those costs incurred by Seller prior to KJ's termination Notice. Any Termination Valuation Cost dispute between Seller and KJ shall be settled in the Supreme Court of Onondaga County, NY ; and in no other venue or jurisdiction.

5. **Termination for Cause:** KJ may, by written notice to Seller, terminate the Order, or any part thereof, if Seller breaches any of the terms and conditions of KJ's Order, becomes insolvent or files for bankruptcy protection. By way of example, (a) failure by Seller to make timely, complete and conforming delivery of goods and services, (b) breach of the representations or warranties set forth in the Order or (c) any breach of the within KJ Terms And Conditions Of Purchase shall entitle KJ to summarily terminate the Order for cause. If KJ terminates for cause, KJ shall have no payment obligations to Seller-whatsoever! Should a court of competent jurisdiction subsequently determine that KJ's termination for cause was wrongful or unjustified, and then such termination shall be automatically considered a termination for convenience under 5. and Seller shall have all rights under that provision, but no other rights or claims for damages.
6. **Sellers Default:** Without limiting KJ's rights and remedies at law or in equity, KJ reserves the right to charge Seller for any loss, expense {including actual Attorney's Fees} or damage sustained as a result of Seller's failure to timely deliver conforming goods or services or any other breach of the Order, including without limitation, expenses incurred in connection with KJ's purchase of substitute goods or services, incidental damages and consequential damages to KJ or KJ's Customer resulting from Seller's failure to specifically perform the Order by the required delivery date or otherwise breach of the Order, or breach of the within KJ Terms And Conditions Of Purchase..
7. **KJ shall not be liable to Seller,** its employees, representatives, agents, suppliers, or subcontractors for any anticipated profits or incidental damages {except to the extent expressly provided in 5.} or consequential damages. Without limiting the foregoing, KJ's liability for any claim arising directly or indirectly under or in connection with the Order shall in no event exceed the cost of the goods or services giving rise to the claim. KJ shall have NO liability for consequential damages, penalties or liquidated damages of any kind or nature whatsoever.
8. **Packing:** KJ's Order number {Purchase Order number} and specific delivery location must appear on the outside of each package and on all packing slips, invoices and allied papers. A packing slip must be included with each shipment. Seller shall pack, mark and prepare all shipments to meet Carrier's and KJ's requirements, at Seller's cost and expense.
9. **Freight Charges:** Except as expressly provided for in the KJ Order, all Orders and purchases are to be shipped Delivered Duty Paid {DDP} to KJ's "SHIP TO" destination, with title and risk of loss or damage transferring to KJ upon KJ's receipt and acceptance at the delivery address; and packing, shipping, unloading, assembling and installation are included in the purchase price set forth in the Order and KJ shall NOT be charged any additional amounts for such services. If KJ's Order requests that the Order be shipped "Collect" by a named Commercial Carrier, then Seller shall use the Commercial Carrier designated by KJ. If Seller does not specifically comply with KJ's delivery instructions, then Seller shall be solely liable for and shall pay (reimburse KJ) for all Freight Charges and Delivery Costs.
10. **Delivery:** Time is of the essence in fulfillment of the Order, to be performed and delivered by KJ's "Delivery Required By" date on the face of the KJ Purchase Order; or as otherwise specified within the body of the Order. KJ may, at its option, and without limitation of any of its other rights, cancel any unfulfilled part of the Order, if conforming delivery is not made within the times specified in the Order. KJ is not required to accept partial or incomplete delivery. Acceptance of any part of the Order shall not bind KJ to accept any future shipments. The rights and remedies of KJ provided herein are in addition to any rights and remedies provided KJ by the Uniform Commercial Code.
11. **Inspection:** KJ shall have the right to inspect and test all goods and/or services delivered under the Order. Neither receipt nor payment for goods and/or services shall constitute acceptance. KJ may reject any or all items that are nonconforming, as determined by KJ's sole reasonable judgment. If

goods are rejected, they will be held at Seller's risk and expense and seller shall bear the risk of loss or damage to such goods. After five (5) business days subsequent to KJ's Notice to Seller of KJ's rejection, the Seller shall be obligated to pay KJ a warehousing/storage fee of \$100.00 per day as compensation to KJ for its safekeeping of Seller's items.

12. **Risk of Loss:** Seller shall bear the risk of loss or damage to all goods and items purchased pursuant to the Order until they are received, inspected and accepted by KJ.
13. **Warranties:** Seller warrants that all material, work, product and merchandise supplied under the Order (a) shall strictly conform to the Order, including specifications, drawings, samples, or other descriptions furnished to and approved and accepted in writing by KJ. Seller represents and warrants that KJ shall have good and marketable title to all goods purchased by KJ pursuant to the Order, free of all liens and encumbrances and that no licenses are required for KJ to use such goods. Seller represents that all services shall be provided in a professional and workmanlike manner, with a degree of skill and care consistent with current good and sound professional procedures. Neither receipt of material, work product or merchandise nor payment therefore shall constitute a waiver of this provision.
14. **Intellectual Property Indemnity:** Seller shall indemnify, defend and hold KJ harmless against all claims, liabilities, and losses. Damages, costs and expenses{including actual Attorney's Fees} resulting from or arising in connection with any actual or claimed infringement of any patent, copyright, mask work, trademark, trade secret or other intellectual property, proprietary or contractual right of any third party, with respect to the goods or services provided under the Order.
15. **Invoice Payments:** Unless otherwise specified in the Purchase Order, KJ's payment terms are 2% 10 / Net 60 from the later date of delivery or KJ's acceptance. All quotes and amounts paid under the Order shall be in U.S. Dollars. Seller shall bear the risk of fluctuation in foreign exchange rate. KJ shall have no obligation to pay any amount prior to KJ's receipt of a correct Invoice prepared in accordance with the Order. Except as expressly provided in the Order, payment shall not be due until final acceptance by KJ. KJ shall have the right to reduce and set off against amounts payable under the Order for any indebtedness or other claim which KJ may have against Seller, however and whenever arising.
16. **Import/Export in Compliance with U.S. Government Laws and Regulations;** As a condition of Sale, Seller represents and warrants to KJ, and KJ's Customers: that items purchased from Seller have been or will be imported, exported or re-exported in strict compliance with all U.S Government Import and Export Laws and Regulations; including but not limited to those imposed, governed, regulated or administered by: U.S. Denied/Restricted List, U.S. Department of State, U.S. Department of Commerce, U.S. Department of Energy, U.S. Department of Homeland Security, U.S. Federal Trade Commission, U.S. Department of Treasury, U.S. Customs Service or U.S. International Trade Administration; and shall furnish to KJ upon request information or documentation of the Seller's compliance.. Seller stipulates and agrees to hold KJ and its Customers harmless from any and all costs, liabilities, penalties, sanctions, and fines related to Seller's non-compliance with U.S. Government Import and Export Laws and Regulations.
17. **Confidentiality:** Seller shall preserve in strict confidence all verbal and written information/documents, of every kind and nature, received from KJ, whether or not marked "Propriety" or "Confidential"; and Seller shall not disclose or cause to be disclosed at any time the information obtained from KJ, without KJ's prior specific written consent and approval.
18. **Choice of Law:** Seller and KJ agree and stipulate that KJ's Order and/or purchase of goods, supplies or services is initiated and consummated in Onondaga County, NY and therefore all matters arising under or related to the Order or purchase shall be governed by, construed and enforced in accordance with the Laws of the State Of New York, US. Seller and KJ agree to specifically and expressly exclude the application of the United Nations Convention On Contracts For The International Sale Of Goods [CIGS] to Order(s), Contracts and all other Transactions between

Seller and KJ. Seller and KJ also agree and consent to submit exclusively to the jurisdiction and venue of the Supreme Court of the County of Onondaga in New York State, USA.

- 19. Entire Agreement: The Order {KJ's Purchase Order} shall represent the entire agreement between Seller and KJ with respect to the goods and services described in the Order, as well as ALL aspects of Seller's and KJ's performance of the transaction contemplated by the Order.**
- 20. Assignment: Seller may not sell, assign or transfer or subcontract any part of the Order without the prior written consent of KJ, and any assignment in violation of this provision shall be null and void.**
- 21. Severability: If any provision of the Order or the within Terms and Conditions are determined to be invalid, illegal or unenforceable, the remaining provisions of the Order and or this Agreement shall remain in full force and effect, if the essential terms and conditions of this Agreement for each party remain valid, binding and enforceable.**
- 22. Waiver: No waiver by KJ of any provision of the Order or any breach hereunder shall be deemed a waiver of any other provision or subsequent breach, nor shall any such waiver constitute a continuing waiver. Delay or failure of KJ to insist on strict performance of any provision on the Order or to exercise any rights or remedies shall not be deemed a waiver.**
- 23. Notices: All notices will be in writing and deemed delivered/given on the date the notice is hand delivered, mailed , electronically transmitted, facsimile transmitted or emailed to the receiving party at such party's address set forth on the face of the Order.**
- 24. Indemnity: Seller agrees to defend, indemnify and hold harmless KJ (Buyer) and it's Officers, Directors, Employees, Agents, Servants, Contractors, Customers and assigns from and against any and all claims. losses, damages, expenses, costs, and liabilities {including actual Attorney's Fees} arising from or in connection with Seller's performance, breach, error, omission or failure to specifically perform KJ's Order and/or purchase transaction, including without limitation any claims arising from the failure of the goods or services to conform to the Order, or personal injuries or property damage proximately caused by the goods or services or by Seller's failure to provide adequate warnings with respect to the goods or services. Seller shall also defend, indemnify and hold harmless KJ and/ or KJ's Customer or any party on whose property the goods are installed, or services performed, as well as their employees, agents, customers, contractors, or subcontractors from and against all claims, including death, that were in any way connected with any work, product or services performed or supplied under the Order and/or sale transaction with KJ. Seller shall have no obligation to KJ to the extent such losses are attributable to the gross negligence or willful misconduct of Buyer.**
- 25. SELLER PROVIDES BUYER A CERTIFICATE OF INSURANCE: Seller's sale of goods and/or services to Buyer shall cause and accrue to Seller an affirmative obligation and duty to MAINTAIN Product Liability, Auto Liability, Workers Compensation, General Liability and Umbrella Liability Insurance; and Seller shall, as an integral part of any transaction of sale to Buyer, provide Buyer with a Certificate Of Insurance proving that all such Insurance is in force and that Buyer has been named as an Additional Insured on all policies. Seller shall cause the following additional language to be included on the Certificate of Insurance provided to Buyer: "K J Electric as their interests may appear as Buyer and purchaser of Seller's goods and/or services is an additional insured." This obligation for Seller of goods and/or services to K J Electric (Buyer) to carry Such Insurance and to name Buyer as additional Insured, shall in no way limit Seller's liability and Seller's obligation to indemnify Buyer as provided for in these Terms and Conditions of Purchase. Risk that Buyer's ordered goods or services may be lost, damaged, defective or delayed shall be upon Seller until the same are actually received, tested, inspected and accepted by Buyer. Seller is responsible, at Seller's sole cost and expense, for obtaining any permits or business/professional license(s) necessary for performance of the Sale of goods or services to Buyer.**
- 26. Enforcement of the Order: Seller stipulates that if KJ is compelled to incur any costs; whatsoever; (including actual Attorney's Fees) to cause , induce or enforce Sellers strict, specific and timely performance of any of the conditions of the Order, and/or Buyer's purchase of Seller's goods and/or**

services including the above and within “K J ELECTRIC TERMS AND CONDITIONS OF PURCHASE”, then seller agrees to pay or reimburse KJ’s enforcement costs as a part of the damages due and owing by Seller to Buyer because of Sellers default or failure to specifically perform the Order.

27. Severability: If any provision of these terms is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired, and such provision will be deemed to be restated to reflect the original intentions of the parties as nearly as possible in accordance with applicable law.

K J ELECTRIC TERMS AND CONDITIONS OF PURCHASE

Purchase Order Terms & Conditions- Rev.02-10-2010

These three (3) page Terms and Conditions of Purchase (No. 1. Thru 25) are applicable to, and by reference made a part of Purchase Orders placed by K J ELECTRIC ("KJ") of 5894 East Molloy Road, Syracuse, Onondaga County, NY 13211-2124:

1. **Parties:** The term "Seller" refers to the VENDOR addressee set forth on the face of a KJ- PURCHASE ORDER, and the term "KJ" refers to K.J.D.E. CORP. d/b/a K J Electric, a New York Corporation organized 03/16/1981 under the Laws of NY and holding US Federal ID# 16-1159402.
2. **Scope:** The within Terms and Conditions apply to all KJ Purchase Orders, in addition to any terms set forth on the face of the individual Purchase Order or in any plans, specifications or other documents incorporated by reference (each collectively, an "Order"). Acceptance by KJ of any offer or quotation from Seller is expressly limited to the within Terms and conditions and the terms and conditions of the KJ Purchase Order, and KJ hereby objects to and shall not be bound by any additional , different, or conflicting terms, whether printed or otherwise, in any other communication between the Seller and KJ (including on Sellers forms, correspondence, quote, offer, letters, emails, faxes, plans, specifications, or papers of any kind or nature, whatsoever), it being clearly understood that the terms and conditions of the KJ Order shall prevail notwithstanding any such additional, different or conflicting terms.
3. **Acceptance And Limitations:** The Order shall be deemed accepted by Seller on the earlier of (a) shipment of goods or rendering of services ordered, in total or in part, or (b) within three (3) days of issuance of the Purchase Order to Seller by KJ {the Order}, absent seller's specific written notification, within those three days, to KJ, of Seller's rejection and non-acceptance of the Order. The Order and the within Terms And Conditions shall constitute the entire contract between Seller and KJ.
4. **Changes:** KJ may make changes to the Order at any time and Seller shall accept such changes. If a change by KJ causes an increase or decrease in the cost or time required for Seller's performance, within 3 business days the parties shall agree , in writing, on an equitable adjustment of the purchase price and/or delivery schedule, as applicable, and KJ shall incorporate such change(s) as a revision change to and re-issue the Order. No other form of notification or verbal agreement shall be binding on KJ.
5. **Termination for Convenience:** KJ may provide Notice (defined@ 23.) to Seller to terminate the Order, or any part of thereof, for any or no reason, for KJ's convenience. Upon notice of termination, Seller shall immediately stop, cease and desist any and all work and cause Seller's suppliers and/or subcontractors to stop all work in connection with the Order. KJ shall pay Seller an amount in settlement to be mutually agreed upon by the parties which shall cover Seller's reasonable actual costs {but no anticipated profits} for performance of KJ's Order and the work prior to termination- for goods and services accepted as of the date of termination as proven/documented actual & reasonable out of pocket costs, as proven to have been incurred directly as a result of the Order and specifically due to KJ's termination for convenience. KJ shall have no other responsibility or liability, whatsoever, after Seller's receipt of notice of termination. In no event, whatsoever, shall Seller be entitled to recover any anticipated profits, incidental or consequential damages. Seller shall advise KJ in writing, within five (5) business days after KJ's Notice of termination, of Seller's claim under 5., if any, for Seller's termination costs and such Seller's claim shall include certified copies of invoices, cancelled checks and other documents that definitively detail, support and prove, under AICPA generally accepted Accounting Principles and Procedures, those costs incurred by Seller prior to KJ's termination Notice.
6. **Termination for Cause:** KJ may, by written notice to Seller, terminate the Order, or any part thereof, if Seller breaches any of the terms and conditions of the Order {KJ's Purchase Order}, becomes insolvent or files for bankruptcy protection. By way of example, (a) failure by Seller to make timely, complete and conforming delivery of goods and services, or (b) breach of the representations or warranties set forth in the Order, shall entitle KJ to terminate the Order for cause. If KJ terminates for cause, KJ shall have no payment obligations to Seller-whatsoever! Should a court of competent jurisdiction subsequently determine that KJ's termination for cause was wrongful or unjustified, then such termination shall be automatically considered a termination for convenience under 5. and Seller shall have all rights under that provision, but no other rights or claims for damages.
7. **Sellers Default:** Without limiting KJ's rights and remedies at law or in equity, KJ reserves the right to charge Seller for any loss, expense {including actual Attorney's Fees} or damage sustained as a result of Seller's failure to timely deliver conforming goods or services or any other breach of the Order, including without limitation, expenses incurred in connection with KJ's purchase of substitute goods or services,

incidental damages and consequential damages to KJ or KJ's Customer resulting from Seller's failure to specifically perform the Order by the "Delivery Req. By" date or otherwise breach of the Order.

8. KJ shall not be liable to Seller, its employees, representatives, agents, suppliers, or subcontractors for any anticipated profits or incidental damages {except to the extent expressly provided in 5.} or consequential damages. Without limiting the foregoing, KJ's liability for any claim arising directly or indirectly under or in connection with the Order shall in no event exceed the cost of the goods or services giving rise to the claim. KJ shall have NO liability for consequential damages, penalties or liquidated damages of any kind or nature whatsoever.
9. Packing: KJ's Order number {Purchase Order number} and specific delivery location must appear on the outside of each package and on all packing slips, invoices and allied papers. A packing slip must be included with each shipment. Seller shall pack, mark and prepare all shipments to meet Carrier's and KJ's requirements, at Seller's cost and expense.
10. Freight Charges: Except as expressly provided in the Order, all Orders are shipped Delivered Duty Paid {DDP} to KJ's Order "SHIP TO" destination and packing, shipping, unloading, assembling and installation are included in the purchase price set forth in the Order and KJ shall NOT be charged any additional amounts for such services. All shipments on which freight charges are due must be prepaid and allowed. Collect shipments will not be accepted by KJ.
11. Timely Delivery: Time is of the essence in fulfillment of the Order, to be performed and delivered by the "Delivery Req. By" date on the face of the KJ Purchase Order; or as otherwise specified within the body of the Order. KJ may, at its option, and without limitation of any of its other rights, cancel any unfulfilled part of the Order, if conforming delivery is not made within the times specified in the Order. KJ is not required to accept partial or incomplete delivery. Acceptance of any part of the Order shall not bind KJ to accept any future shipments.
12. Inspection: KJ shall have the right to inspect and test all goods and/or services delivered under the Order. Neither receipt nor payment for goods and/or services shall constitute acceptance. KJ may reject any or all items that are nonconforming, as determined by KJ's sole reasonable judgment. If goods are rejected, they will be held at Seller's risk and expense and seller shall bear the risk of loss or damage to such goods. After five (5) business days subsequent to KJ's Notice to Seller of KJ's rejection, the Seller shall be obligated to pay KJ a warehousing/storage fee of \$100.00 per day as compensation to KJ for its safekeeping of Seller's items.
13. Risk of Loss: Seller shall bear the risk of loss of or damage to all goods and items purchased pursuant to the Order until they are received, inspected and accepted by KJ.
14. Warranties: Seller warrants that all material, work, product and merchandise supplied under the Order (a) shall strictly conform to the Order, including specifications, drawings, samples, or other descriptions furnished to and approved and accepted in writing by KJ. Seller represents and warrants that KJ shall have good and marketable title to all goods purchased by KJ pursuant to the Order, free of all liens and encumbrances and that no licenses are required for KJ to use such goods. Seller represents that all services shall be provided in a professional and workmanlike manner, with a degree of skill and care consistent with current good and sound professional procedures. Neither receipt of material, work product or merchandise nor payment therefore shall constitute a waiver of this provision.
15. Intellectual Property Indemnity: Seller shall indemnify, defend and hold KJ harmless against all claims, liabilities, and losses. Damages, costs and expenses {including actual Attorney's Fees} resulting from or arising in connection with any actual or claimed infringement of any patent, copyright, mask work, trademark, trade secret or other intellectual property, proprietary or contractual right of any third party, with respect to the goods or services provided under the Order.
16. Invoice Payments: Unless otherwise specified in the purchase Order, KJ's payment terms are 3% 10 / Net 70 from the later date of delivery or KJ's acceptance. All quotes and amounts paid under the Order shall be in U.S. Dollars. Seller shall bear the risk of fluctuation in foreign exchange rate. KJ shall have no obligation to pay any amount prior to KJ's receipt of a correct Invoice prepared in accordance with the Order. Except as expressly provided in the Order, payment shall not be due until final acceptance by KJ. KJ shall have the right to reduce and set off against amounts payable under the Order for any indebtedness or other claim which KJ may have against Seller, however and whenever arising.
17. Confidentiality: Seller shall preserve in strict confidence all verbal and written information/documents, of every kind and nature, received from KJ, whether or not marked "Propriety" or "Confidential"; and

Seller shall not disclose or cause to be disclosed at any time the information obtained from KJ, without KJ's prior specific written consent and approval.

- 18. Choice of Law: Seller and KJ agree and stipulate that KJ's Order is initiated and consummated in Onondaga County, NY and therefore all matters arising under or related to the Order shall be governed by, construed and enforced in accordance with the Laws of the State Of New York, US. Seller and KJ agree to specifically and expressly exclude the application of the United Nations Convention On Contracts For The International Sale Of Goods [CIGS] to Order(s), Contracts and all other Transactions between Seller and KJ. Seller and KJ also agree and consent to submit exclusively to the jurisdiction and venue of the Supreme Court of the County of Onondaga in New York State, USA.**
- 19. Entire Agreement: The Order {KJ's Purchase Order} shall represent the entire agreement between Seller and KJ with respect to the goods and services described in the Order, as well as ALL aspects of Seller's and KJ's performance of the transaction contemplated by the Order.**
- 20. Assignment: Seller may not sell, assign or transfer or subcontract any part of the Order without the prior written consent of KJ, and any assignment in violation of this provision shall be null and void.**
- 21. Severability: If any provision of the Order or the within Terms and Conditions are determined to be invalid, illegal or unenforceable, the remaining provisions of the Order and or this Agreement shall remain in full force and effect, if the essential terms and conditions of this Agreement for each party remain valid, binding and enforceable.**
- 22. Waiver: No waiver by KJ of any provision of the Order or any breach hereunder shall be deemed a waiver of any other provision or subsequent breach, nor shall any such waiver constitute a continuing waiver. Delay or failure of KJ to insist on strict performance of any provision on the Order or to exercise any rights or remedies shall not be deemed a waiver.**
- 23. Notices: All notices will be in writing and deemed delivered/given on the date the notice is hand delivered, mailed , electronically transmitted, facsimile transmitted or emailed to the receiving party at such party's address set forth on the face of the Order { KJ's Purchase Order}.**
- 24. Indemnity: Seller shall defend, indemnify and hold harmless KJ from and against any and all claims. losses, damages, expenses, costs, and liabilities {including actual Attorney's Fees} arising from or in connection with Seller's performance pursuant to this Order, including without limitation any claims arising from the failure of the goods or services to conform to the Order, or personal injuries or property damage proximately caused by the goods or services or by Seller's failure to provide adequate warnings with respect to the goods or services. Seller shall also defend, indemnify and hold harmless KJ and/ or KJ's Customer or any party on whose property the goods are installed, or services performed, as well as their employees, agents, customers, contractors, or subcontractors from and against all claims, including death, that were in any way connected with any work, product or services performed or supplied under the Order.**
- 25. Enforcement of the Order: Seller stipulates that if KJ is compelled to incur any costs; whatsoever; (including actual Attorney's Fees) to cause , induce or enforce Sellers strict and timely performance of any of the conditions of the Order, including the above and within "K J ELECTRIC TERMS AND CONDITIONS OF PURCHASE", then seller agrees to pay or reimburse KJ's enforcement costs as a part of the damages due and owing by Seller to KJ, because of Sellers default or failure to strictly perform the Order.**