



Purchase Order Terms and Conditions

By accepting this Standard Form of Purchase Order (hereinafter referred to as "the Order") the Vendor accepts the Terms and Conditions included herein, unless the Vendor notifies Florida's Natural Growers, Inc. (hereinafter referred to as "the Buyer") of the Vendor's objections.

1. ACKNOWLEDGMENT AND ACCEPTANCE OF ORDER This Order constitutes an offer from the Buyer that is expressly limited to the Terms and Conditions contained herein. The Terms and Conditions of this Order are those that apply to the purchase of materials, items, products, components or services (hereinafter referred to as "Material"). All exhibits, attachments, technical specifications, drawings, notes, instructions, or information referenced in the Order are incorporated herein by reference. These Terms and Conditions control unless they are specifically varied or contradicted by one of the following methods in the listed order of precedence; 1) Varying terms on the face of this Order, 2) A current existing Master Purchase Agreement, 3) Another valid contract between the Buyer and the Vendor to which this Order applies. All other prior oral or written statements varying the Order are specifically rejected and disclaimed.

2. CHANGES/AMENDMENTS The Buyer shall have the right at any time, by written notice, in the form of a Change Order, to the Vendor, to make any changes it deems necessary, including, but not limited to, changes in specifications, design, delivery, testing methods, packing or destination. If any such required changes cause an increase or decrease in the cost of or the time required for performance, an equitable adjustment shall be made in the contract price or delivery schedule, or both. Any claim by the Vendor for adjustment under this clause shall be deemed waived unless asserted in writing within ten (10) days from receipt by the Vendor of notice of change. Price increases, extensions of time for delivery and change in quantity shall not be binding on the Buyer unless evidenced by a form of Change Order issued and signed by the Buyer.

3. DELIVERY/FORCE MAJEURE If any Material is not delivered by the date specified herein, the Buyer reserves the right, without liability, to cancel this Order as to any Material not yet shipped or tendered, and to purchase substitute Material and to charge the Vendor for any loss incurred. Oral cancellation notices, made by the Buyer or the Vendor, are effective when made, but must be confirmed in writing. Any price hereof for delivery by installment shall not be construed as making the obligations of the Vendor self-liquidating. The Buyer shall have the right to refuse deliveries made more than one week in advance of any delivery.

schedule appearing in this Order unless arrangements for such early delivery have been confirmed with the receiving party. The Vendor shall notify the Buyer in writing promptly of any delays (however caused) and of any actual potential labor dispute which delays or threatens to delay the timely performance of this Order. If the Vendor is unable to complete performance at the time specified for delivery hereunder, by reason of strikes, labor disputes, riot, war, fire or other causes beyond the Vendor's reasonable control, the Buyer, at his option, may elect to take delivery of Material hereunder in its unfinished state and to pay such proportion of the contract price as the work then completed bears to the total work hereunder and to cancel this Order without liability as to the balance of the Material covered hereunder.

4. TITLE AND RISK OF LOSS Title to and risk of loss of all materials hereunder shall pass to FNG upon deliver, subject however to FNG's right of inspection. Title to all rejected materials shall revert back to Seller upon such rejection.

5. PRICE/TAXES Prices stated on the Order hereof are firm and shall remain firm until deliveries have been completed unless otherwise expressly agreed to in writing by both parties. The Vendor agrees that any price reduction made with respect to Material covered by this Order subsequent to placement will be applied to this Order. All prices specified herein include all charges for, but not limited to, inspection, and packaging. Prices set forth are exclusive of applicable sales, use, excise, value-added or similar taxes. The Buyer will furnish the Vendor with a tax exemption certificate upon request or as indicated by our electronic tax status tracking system when applicable to the given transaction. Seller agrees to accept and pursue tax exemption certificates when supplied by FNG if acceptable to the taxing authorities. In case it shall ever be determined that any tax included in the Purchase Order Sum herein was not required to be paid by the seller, Seller agrees to notify FNG and to make prompt application for the refund thereof and to take all proper steps to procure the same and when received to pay the same to FNG.

6. WARRANTIES The Vendor warrants that any Material supplied hereunder shall conform to the generally recognized manufacturing and safety standards of the Vendor's industry in the United States and shall meet or exceed the Vendor's specifications on performance as detailed in the Vendor's brochures, sales literature and other specifications as may be available to the Buyer.

In addition to any other express or implied warranties, the Vendor warrants that the Material furnished pursuant to this Order will be: (a) free from defects in title, workmanship and material; (b) free from defects in design except to the extent that such items comply with detailed designs provided by the Buyer; (c) of merchantable quality and suitable for the purposes, if any, which are stated on this Order.

If any material covered by this Order is found not to be as warranted, the Buyer may, by written notice to the Vendor: (a) rescind this Order as to such non-conforming Material; (b) accept such Material at an equitable reduction in price; (c) reject such non-conforming Material and require the delivery of suitable replacements.

If the Vendor fails to deliver suitable replacements promptly, the Buyer, with notice of five business days, may replace or correct such Material and charge the Vendor the additional cost occasioned the Buyer thereby, or terminate this Order for default.

Any items corrected or furnished in replacement are subject to all the provisions of this article entitled WARRANTIES to the same extent as items initially furnished or originally ordered.

Cost of replacement, rework, inspection, repackaging and transportation of such corrected Material shall be at the Vendor's expense.

Where such goods are intended for human consumption, that such goods will be wholesome, unadulterated and fit for human consumption in all respects and that the same will not at the time of shipment or delivery thereof be adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetic Act, as amended, and within the meaning of any other similar state and local law or regulation, and the laws and regulations of any other country where the materials were serviced, manufactured or are to be used; further that the materials purchased hereunder may, at the time of shipment, be properly introduced into interstate commerce under applicable provisions of the Federal Food, Drug and Cosmetic Act; that at the time of delivery, You will have the full right and power to convey title to the goods, and that such title when conveyed shall be free and clear of all liens and encumbrances and not subject to any claims whatever including but not limited to those arising from patent, trademark or copyright infringement; that the goods and the production, packaging and delivery thereof, are in full compliance with all applicable federal, state and local laws, rules, regulations, requirements, ordinances or orders, including, without limitation, all provisions of (i) the Occupational Safety and Health Act of 1970, as amended, (ii) the Executive Order 11246 issued September 24, 1965, as amended (41 CFR Chapter 60), (iii) the Federal Food, Drug and Cosmetic Act, as amended, (iv) the Fair Labor Standards Act, as amended, (v) Title 42, U.S.C.A. § 2000, et. seq., as amended, (vi) the Immigration Reform and Control Act, as amended; (vii) the affirmative action clause in Part 60-741.4 of 41 C.F.R., relating to the Rehabilitation Act of 1973, and (viii) all applicable Safety Orders of the State of California and warnings required under California's Safe Drinking Water and Toxic Enforcement Act of 1986, Health and Safety Code Section 25249.5, et. seq. ("Proposition 65"); (ix) any other similar state and local laws and regulations, and the laws and regulations of any other country where goods or materials were serviced, manufactured or are to be used; and (x) all rules, regulations and orders under the foregoing (collectively, "Applicable Laws").

This warranty provision shall survive any inspection, delivery, acceptance, payment, expiration or earlier termination of this Order and such warranties shall run to the Buyer, its successors, assigns, employees, and users of the Material. Nothing herein, however, shall limit the Buyer's rights in law or equity for damages resulting from delivery of defective goods or damage caused during the delivery of goods or provision of services.

Rights granted to the Buyer in this article entitled WARRANTIES are in addition to any other rights or remedies provided elsewhere in this Order or in Law.

7. INSPECTION AND ACCEPTANCE The Vendor shall inspect all Material prior to shipment to the Buyer. All Material covered by this Order may be inspected and tested by the Buyer or its designee. If the Buyer so elects to inspect or test successful completion of such inspection and testing shall be a prerequisite to the Buyer's acceptance of the Material. If deemed necessary by the Buyer, the Vendor shall provide without charge, all reasonable facilities and assistance for such inspection and test.

Any inspection records relating to Material covered by this Order shall be available to the Buyer during the performance of this Order and for such longer periods as specified by the Buyer.

If any Material covered by this Order is defective or otherwise not conforming with the requirements of this Order, the Buyer may, by written notice to the Vendor: (a) rescind this Order as to such non-conforming Material; (b) accept such Material at an equitable reduction in price; (c) reject such non-conforming Material and require the delivery of suitable replacements. If the Vendor fails to deliver suitable replacements promptly, the Buyer, with notice of five business days, may replace or correct such Material and charge the Vendor the additional cost occasioned the Buyer thereby, or terminate this Order for default.

No inspection (including source inspection) test, approval (including design approval) or acceptance of Material shall relieve the Vendor from responsibility for defects or other failures to meet the requirements of this Order. Rights granted to the Buyer in this article entitled INSPECTION are in addition to any other rights or remedies provided elsewhere in this Order or in Law.

8. BUYER'S PROPERTY IN SELLER'S POSSESSION All tools, special dies, molds, patterns, jigs and any other property furnished to the Vendor by the Buyer or specifically paid for by the Buyer for use in the performance of this Order shall be and remain the property of the Buyer; shall be subject to removal at any time upon the Buyer's demand; shall be used only in filling orders for the Buyer; shall be maintained in good order and condition and shall be clearly identified as the property of the Buyer. The Vendor assumes all liability for loss or damage to such property.

9. PATENT INDEMNITY The Vendor agrees to indemnify, hold harmless and defend the Buyer, its employees, directors, officers, Agents and students with respect to all claims, suits, actions and proceedings of actual or alleged infringements of any Letter, Patent, Registered or Industrial Design, Trademark or Trade Name, Trade Secret, Copyright or other protected right in any country resulting from any sale, use or manufacture of any Material delivered hereunder and to pay and discharge all judgments, decrees, and awards rendered therein or by reason thereof and bear all expenses and legal fees (including the Buyer's) associated herewith. The Buyer reserves the right to be represented in any such action by its own counsel at its own expense.

10. INDEMNITY The Vendor will indemnify, defend and hold the Buyer, its directors, officers, employees, agents and students harmless from any loss, expense, claim or damage including reasonable defense costs, arising from any claim or action based on any acts or omissions of the Vendor, its employees, servants, agents or subcontractors. The Buyer reserves the right to be represented in any such action by its own counsel at its own expense.

11. ASSIGNMENT/SUBCONTRACTING The Vendor shall not assign this Order, any rights under this Order or any monies due or to become due hereunder nor delegate or subcontract any obligations or work hereunder without the prior written consent of the Buyer. No purported assignment nor delegation by the Vendor shall be binding on the Buyer without such consent.

12. CANCELLATIONS The Buyer may cancel this Order in whole or in part, for no cause, upon written, FAX, or telex notice to the Vendor, effective when sent, provided such notice is sent at least fourteen (14) days prior to the delivery date specified on the face of this Order.

The Buyer may cancel this Order in whole or in part at any time for cause by written, FAX, or telex notice to the Vendor, effective when sent, in the event that the Vendor: (a) fails to comply with any term or condition of this Order including, but not limited to, delivery terms; or (b) appoints a receiver, liquidator or trustee in bankruptcy or other similar officer over any or all of its property or assets; or (c) files a voluntary petition in bankruptcy; or (d) has had filed against it an involuntary petition in bankruptcy which remains in effect for thirty (30) days; or (e) voluntarily ceases trading; or (f) merges with or is acquired by a third party; or (g) assigns any of its rights or obligations under the Order to a third party without the Buyer's advance written consent.

Upon the occasion of any one of the aforesaid and in addition to any remedies which the Buyer may have in Law or in Equity, the Buyer may also cancel this order or any outstanding deliveries hereunder by notifying the Vendor in writing of such cancellation and the Vendor shall thereupon transfer title and deliver to the Buyer such work in progress or completed material as may be requested by the Buyer. The Buyer shall have no liability to the Vendor beyond payment of any balance owing for Material purchased hereunder and delivered to and accepted by the Buyer prior to the Vendor's receipt of the notice of termination, and for work in progress requested for delivery to the Buyer.

13. RESCHEDULING The Buyer may without liability at least fourteen (14) days prior to the scheduled delivery date appearing on the Order defer delivery on any or every item under said Order by giving oral notice to the Vendor (confirmed in writing within ten (10) working days) of any necessary rescheduling.

14. PROPRIETARY INFORMATION/TITLE TO SPECIFICATIONS All written information obtained by the Vendor from the Buyer in connection with this Order and which is identified as proprietary, including, but not limited to, any specifications, drawings, blueprints and software programs, shall remain the property of the Buyer, shall be used by the Vendor only to the extent necessary for performance of this Order and shall not be disclosed to any third parties without prior written consent of the Buyer.

The Vendor shall not make or authorize any news release, advertisement, or other disclosure which shall deny or confirm the existence of this Order without prior written consent of the Buyer except as may be required to perform this Order.

15. SHIPPING, PACKAGING AND LABELING All Material purchased hereunder must be packed and packaged to ensure its safe delivery in accordance with good commercial practice and where incorporated, the Buyer's packaging specification.

The Vendor shall mark on all containers, handling and loading instructions, shipping information, part number, purchase order number and item number, quantity in box, shipment date, and names and addresses of the Vendor and the Buyer. An itemized packing list must accompany each shipment. Each packing slip shall include; this Order number, quantity, item description, order date, shipping date and delivery address, but shall not include pricing information.

All shipments of hazardous materials under this Order shall comply with current U.S. Department of Transportation (DOT) regulations as published in 49 CFR 100-199, and the labeling shall meet the current U.S. Occupational Safety and Health Administration (OSHA) regulations as published in 29 CFR 1910. 1200, for the transporting and labeling of hazardous materials.

Material Safety Data Sheets (MSDS) shall be supplied with the first shipment of all hazardous materials, and these sheets shall be resubmitted if any changes or updates, as required, are made. A second copy must be sent to the Buyer Office of Environmental Health and Safety.

16. THE VENDOR AS AN INDEPENDENT CONTRACTOR The Vendor shall perform the obligations of this Order as an independent contractor and under no circumstances shall it be considered an agent or employee of the Buyer. The Terms and Conditions of this Order shall not, in any way, be construed as to create a partnership or any other kind of joint undertaking or venture between the parties hereto. The Vendor expressly waives any and all rights which may or may not exist to claim any relief under the Buyer's comprehensive insurance policy, worker's compensation or unemployment benefits.

17. STANDARDS OF CONDUCT The Vendor must reassign its employees, agents and subcontractors working on the Buyer's premises if any such personnel are deemed to be disruptive, dangerous, incompetent, or otherwise noncompliant with reasonable conduct guidelines and FNG's safety rules or policies and procedures. At the Buyer's request, the Vendor will distribute publications supplied by the Buyer regarding the Buyer's policies, practices, and procedures, including, but not limited to, Affirmative Action, Sexual Harassment policies and Safety Rules.

18. INVOICING/PAYMENTS/SET-OFFS Payment of invoice shall not constitute acceptance of Material ordered and shall be subject to appropriate adjustment, if the Vendor failed to meet the requirements of this Order. The Buyer shall have right at any time to set-off any amounts due to the Vendor, (or any of its associated or affiliated companies) against any amounts owed by the Buyer with respect to this Order or any subsequent Order or any other contractual agreement between the parties hereto unless such set-off violates local law or regulations.

19. INSURANCE AND STATUTORY OBLIGATIONS If any part of this Order involves the Vendor's performance on the Buyer's premises or at any place where the Buyer conducts operations, or with material or equipment furnished to the Vendor by the Buyer, the Vendor shall take all necessary precautions to prevent injury to persons or property during the progress of such work. The Vendor shall maintain public liability, personal injury, and property damage insurance and employer's liability and compensation insurance, in an amount determined by the Buyer to be appropriate, to protect the Buyer from said risks and from any statutory liabilities whatsoever arising there from. The Vendor shall produce evidence of such insurance upon request by the Buyer.

20. WAIVER The failure of the Buyer to insist in any instance upon the strict performance of any provision of this Order, or to exercise any right or privilege granted to the Buyer hereunder shall not constitute or be construed as a waiver of any such provision or right and the same shall continue in force.

21. NOTIFICATION OF HAZARDOUS PRODUCT The Vendor hereby agrees to notify the Buyer of any inherent hazard related to the Material being purchased herein that would expose the hazard during handling, transportation, storage, use, resale, disposal or scrap. Said notice shall be sent to the Buyer's Director of Purchasing and shall specify the product name and part number, the nature of the hazard, proper precautions that must be undertaken by the Buyer or others and any additional information that the Buyer should reasonably expect to know to protect its interest.

22. COMPLIANCE WITH LAWS You agree to abide by and follow such safety, fire and other regulations as may be from time to time issued by FNG and supplied by it to You. You further agree to comply with the requirements of all applicable laws, regulations or ordinances of whatsoever nature, of federal, state and local governments, including, but not limited to those related to equal employment opportunities. If applicable to this Purchase Order, the following laws, orders and regulations are incorporated herein by reference: (i) Affirmative Action Clause prescribed by the Vietnam Era Veterans Readjustment Assistance Act of 1974 (41 CFR Chapter 60), (ii) Minority Business Enterprises Clause requirements of E.O. 11625 (41 CFR Part 1), (iii) Affirmative Action Clause prescribed by E.O. 13201 (41 CFR Chapter 60), (iv) the Lilly Ledbetter Fair Pay Act of 2009, (v) the Union Dues Clause prescribed by E.O. 13201 (29 CFR Part 470) and (vi) the Employee Notice Clause requirements prescribed by E.O. 13496 (29 CFR 471, Appendix A to Subpart A). Whether or not the Buyer provides a specification, if materials, services or containers furnished by the Vendor are required to be constructed, packaged, labeled or registered in a prescribed manner, the Vendor shall comply with the applicable federal, state, county and local laws, ordinances, regulations and codes. The Vendor further agrees to indemnify and hold the Buyer and its customers harmless from any loss or damage that may be sustained by the Buyer, by reason of the Vendor's failure to comply with any federal, state, county or local laws, ordinance, regulations and codes.

The Buyer encourages the Vendor to provide opportunities and assistance to minority and women owned businesses in accessing the necessary channels to allow their maximum participation in the provision of goods and services. A minority owned business is defined as a business owned and operated by a person(s) who is a member of a minority group such as African American, Hispanic, Native American (American Indian), Asian American (Chinese, Korean, from India, Japanese, Pacific Islander), or Cape Verdean (from the Cape Verde Islands off the coast of Africa).

23. MANDATORY CLAUSES REQUIRED UNDER GOVERNMENT CONTRACTS OR SUBCONTRACTS If a governmental contract number is shown on the face of this Order, clauses contained in the current issue of the Federal Acquisition Regulations (FAR) and supplements thereto, which the government makes mandatory for a contractor under a government contract to include in its subcontracts there under, will apply to this Order.

24. REPRODUCTION OF DOCUMENTATION The Buyer shall have the right at no additional charge to use or incorporate all or portions of material found in the Vendor's literature and/or reproduce the Vendor's applicable literature such as operating and maintenance manuals, technical publications, prints, drawings, training manuals and other similar supporting documentation and sales literature. The Vendor agrees to advise the Buyer of any updated information relative to the foregoing literature and documentation with timely written notice.

25. LAW OF THE CONTRACT This Order shall be governed by and interpreted in accordance with the laws of the State of Florida. In the event of any law suit for damages or enforcement of the Purchase Order, the parties agree that the Purchase Order was made in Polk County, Florida and the parties agree to Polk County as the exclusive location of any litigation. Further the parties agree that the prevailing party in litigation shall be entitled to reasonable attorney's fees.

Acknowledge acceptance of the terms and conditions by signing below as indicated and returning the signed copy by Fax to the buyer.

Phone No.: (863) 676-1411 x3642 Fax No.: (863) 676-7105

Company Name_____

Company Address _____

Authorized Vendor Signature_____

Leave a Reply

You must be logged in (<https://floridasnaturalgrowersinc.com/wp-login.php?>

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