

PURCHASE ORDER TERMS AND CONDITIONS

In consideration of the terms and conditions set forth herein, the parties agree:

1. Terms and Conditions. All work will be performed in accordance with the Contract Documents as defined in Section 2, below. Reference to Vendor's proposal is for the purpose of scope definition only. Vendor's terms and conditions attached to Vendor's proposal are null, void and unenforceable, and are superseded in their entirety by the terms and conditions of this Purchase Order and the Contract Documents set forth in Section 2, below.
2. Contract Documents. Where any terms of a Master Subcontract Agreement and/or Master Purchase Agreement and/or any other written agreements which are operable between the parties are inconsistent with the terms of this Order, the terms of the Master Subcontract Agreement and/or Master Purchase Agreement and/or any other written agreements shall prevail and supersede the inconsistent terms of this Order. Notwithstanding the prior sentence, any Insurance Terms attached to this Order shall govern even if they are inconsistent with the terms of the Master Subcontract Agreement and/or Master Purchase Agreement.
3. Prices. CEI shall not be billed at prices higher than those stated on the face sheet of this Order or as otherwise stated herein. If no price is shown, Vendor must notify CEI of the price and CEI's acceptance must be obtained in writing before filling the Order. The price shall not in any event be higher than the lowest price Vendor provides to any of Vendor's other Buyers ordering similar quantities, after taking into consideration all rebates, discounts and allowances. Except as clearly specified, the price stated includes all charges for packing, hauling, storage, transportation, insurance, and other costs requisite to delivery on site. The price stated includes all taxes except state and local sales or use taxes which Vendor is required by law to collect from CEI. Such taxes, if any, shall be separately stated in Vendor's invoice and paid by CEI unless an exemption is available. Vendor agrees that any price reduction made with respect to the materials and/or equipment and/or services covered by this Order subsequent to its placement, but prior to payment will be applicable to this Order.
4. Invoices. Each invoice shall state the Order number, line number, product part number, complete bill-to address, description of products or services, quantities, unit prices, extended totals, and any applicable taxes or other charges. Taxes that are to be collected by Vendor shall be stated separately and shall be timely remitted by Vendor to the appropriate taxing authority. All invoices shall comply with the requirements of each relevant taxing authority. All invoices shall be sent to the email or street address on the Order. Failure to comply with the above may result in delayed payment or returned invoices. Vendor must submit invoices to CEI within 45 days of shipment of goods or pursuant to project closing letter instructions provided to Vendor, if applicable. Failure to comply with the above may result in delayed payment or returned invoices.
5. Payment. As full consideration for Vendor's satisfactory provision of the products or performance of the services, and upon presentation of all required invoicing and supporting documentation, CEI will pay Vendor's invoice in accordance with the terms expressed on the face of the Order.
6. Delivery. Substitutions will not be accepted. The Order must be shipped completely or staged in accordance with the dates specified. Orders may not be delivered in advance of the date or dates specified without CEI's prior approval. Except as otherwise provided herein, CEI shall not be obligated to accept untimely, excess, or under shipments and CEI may return such shipments to Vendor or hold such shipments for disposition at Vendor's expense and risk. A copy of the invoice must be attached to the original bill of lading or other shipping document.
7. Changes. CEI may make changes in drawings, specifications, quantities, delivery schedules, place of delivery, and methods of shipment or packaging at any time. If such changes result in an increase or decrease in cost, an equitable adjustment of price and delivery schedules may be made, or CEI may, at its option, terminate the Order if agreement on the adjustment of price and/or delivery schedule cannot be reached. Claims for equitable adjustment of price and/or delivery schedules must be received in writing from Vendor within ten (10) days of notification of the change Order.
8. Warranties. Vendor warrants that the materials and/or equipment and/or services covered hereunder will conform to the applicable specifications, instructions, drawings, data, and all other specifications, instructions, drawings, and data inferred therein. Vendor also warrants that the materials and/or equipment and/or services set forth in this Purchase Order will be merchantable, of good material and workmanship, free from defects, fit, and sufficient for the purpose intended. The warranty period shall extend to a period of twelve (12) months after the equipment and/or materials and/or services are placed or such longer time as is specified in the Contract Documents. Acceptance or inspection of the equipment and/or materials and/or services delivered, or payment of the invoice relating to them shall not constitute a waiver of any breach of warranty. Upon failure of materials and/or equipment and/or services of this Order or service to conform to the warranty requirements during the warranty period, Vendor shall pay for the cost of replacement, including costs of removal and reinstallation as applicable, and shall reimburse any costs incurred by CEI.
9. Inspection and Testing. All equipment, materials, and services ordered which are the subject of this Order shall be subject to inspection and testing by CEI to the extent practicable at all times and places, including during the period of manufacturing

PURCHASE ORDER TERMS AND CONDITIONS

and/or prior to acceptance. Vendor agrees to permit access to Vendor's facilities at all reasonable times for inspection and testing by CEI's employees or agents and will make available all facilities reasonably necessary to accommodate such inspection and testing. All materials, equipment and services shall be subject to final inspection and testing after delivery. If the materials, equipment or services delivered do not meet the specifications or otherwise do not conform to the requirements in the Order, CEI shall have a right to reject such materials, equipment or services. Any rejected materials and/or equipment and/or services may be, at CEI's option, either be returned to Vendor or held for Vendor's disposition, at Vendor's risk and expense. From issuance of this Order until three (3) years after its completion, CEI shall have a right to examine Vendor's books and records to the extent necessary to determine compliance with this Order. Such examination shall be during normal business hours and shall be at CEI's cost unless the examination reveals that Vendor has overcharged five percent (5%) or more, in which case Vendor shall pay for the cost of the examination and refund such overcharge.

10. Quality and Non-Conformance - Vendor's goods must comply with all CEI-provided technical specifications and drawings ("Specifications") and quality control criteria pertaining to manufacturing, testing, delivery, acceptance and service of such goods ("Quality Requirements"). Vendor's services shall comply with the scope of services (as agreed upon or attached hereto) and shall be performed by qualified, certified and adequately supervised personnel. Any goods not in conformance with this Order on the date of delivery may be rejected and returned at Vendor's expense. Any services not in conformance with this Order on the date of performance may be rejected and suspended.

CEI shall notify Vendor of the grounds for rejection. CEI may (i) permit Vendor to cure the non-conformance, (ii) cancel such non-conforming goods or services without cost or liability, (iii) or accept them with a reasonable reduction in the purchase price; provided that Vendor's repeated non-conformance may, at CEI's option, result in cancellation of all Orders without cost or liability.

11. CEI's Property. Title to and right of immediate possession of any property, including without limitation, patterns, tools, equipment, materials, or services furnished or paid for by CEI shall remain in CEI. No articles made therefrom shall be furnished by Vendor to any other party without CEI's written consent. Vendor shall keep adequate records of such property, which shall be made available to CEI upon request, and shall store, protect, preserve, repair, and maintain such property in accordance with sound business practices, all at Vendor's expense. Unless otherwise agreed to in writing, Vendor shall insure CEI's interests in such property against all risks of theft, loss, or damage. Copies of insurance evidencing this coverage shall be furnished to CEI on demand. Vendor agrees to repair or replace all such property damaged or lost due to any cause. At the conclusion of the Order(s) related to such property, Vendor shall contact CEI for disposition and will either dispose of or return such property to CEI as directed, at CEI's expense.

12. Drawings and Specifications Review. If, during the term of this

Order, CEI representatives review drawings, specifications, or other data developed by Vendor and make suggestions, comments, or recommendations, such actions are only expressions of opinion and shall not relieve Vendor of any duty of performance or other requirements under this Order. Changes in specification must be clearly designated in writing by CEI.

13. Drawings and Data. Vendor shall keep confidential all information, drawings, specifications, and data furnished by CEI or prepared by Vendor in connection with the performance of this Order, and shall not divulge or use such information, drawings, specification, or data for the benefit of any other party or itself except to the extent necessary to perform this Order. All such information, drawings, specifications, and data shall be returned to CEI upon CEI's demand or upon termination of the parties' relationship.
14. Use of Information. Vendor agrees that all information provided or disclosed to CEI in connection with the placing or fulfillment of this Order is furnished for the consideration included in this Order, that such information is not to be considered confidential except as agreed to in writing by a separate agreement, and that Vendor shall assert no claim related to the use or disclosure of such information by CEI.
15. Advertisement. Vendor shall not in any manner advertise or publish the fact that it has or will furnish CEI with any terms or services except as approved in writing. Vendor shall not disclose any details connected to this Order except as necessary to complete its obligations hereunder.
16. Tooling. Unless otherwise specified in this Order, all tooling and other articles required for the performance of this Order shall be furnished and maintained by Vendor.
17. Termination. CEI may terminate the performance of the work under this Order in whole at any time, or from time to time in part, by written notice to Vendor. Upon receipt of such notice, Vendor shall, unless the notice specifies otherwise, immediately discontinue all work and the placing of orders for equipment, material, services, facilities, and supplies in connection with the performance of this Order, proceed to promptly cancel all existing orders, terminate all subcontracts or other agreements, and take other action as commercially practicable to prevent costs insofar as they are chargeable under this Order. Upon the termination of work under this Order, full and complete settlement of all claims of Vendor with respect to the terminated work shall be made as follows:
- As compensation to Vendor for such termination, unless such termination is for the default of Vendor, CEI shall pay Vendor the percentage of the total Order price corresponding to the proportion of the amount of work completed on the date of termination to the total work to be done, to the extent not reasonably recoverable in the normal course of Vendor's business, as Vendor's full compensation under this Order; and
 - Upon CEI's payment to Vendor as above, title to all equipment, materials, services, work-in-progress, finished products, plans, drawings, specifications, information, special tooling and other things for which CEI has paid shall vest in CEI.
18. Default – Cancellation. CEI reserves the right, by written notice of default, to cancel this Order, without liability to

PURCHASE ORDER TERMS AND CONDITIONS

CEI, in the event of any of the following: a) insolvency of Vendor; b) the filing of a voluntary petition in bankruptcy by Vendor; c) the filing of an involuntary petition to have Vendor declared bankrupt; d) the appointment of a Receiver or Trustee for Vendor, or e) the execution by Vendor of an assignment for the benefit of creditors. If Vendor fails to perform as specified herein, or if Vendor breaches any of the terms hereof, CEI reserves the right, without any liability to CEI, upon giving Vendor written notice, to cancel this Order in whole or in part. Upon such cancellation, Vendor shall be responsible to CEI for all damages, costs, and liabilities arising from Vendor's breach, including, without limitation, the cost to cover with replacement materials, equipment, services, costs of delays, and other related costs.

19. Force Majeure. Neither party shall be liable to the other for delays or defaults due to acts of God, war, insurrection, riots, epidemics, pandemics, or acts or threats of terrorism.
20. Compliance with Laws. Vendor shall, at all times during the term of this Order, comply with all applicable laws and regulations and shall refrain from engaging in any illegal, unethical, or deceptive practices. Such laws include but are not limited to: a) Department of Labor Standards; b) Government Procurement Provisions; c) Occupational Safety and Health Act Standards; d) Environmental Compliance regulations; e) Customs regulations, and f) Immigration and other government standards and regulations.
21. Indemnification. Vendor will defend, hold harmless, and indemnify CEI, its directors, officers, employees, and agents, as well as all parties for whom indemnity is required under the Contract Documents, from and against any liability and expenses, including, without limitation court, attorney, and other professional fees and costs, arising from or in connection with any damages, injuries, third party claims, or demands to recover for personal injury, death, or property damage allegedly or actually caused by or arising out of any of the goods or services provided by Vendor. This indemnity shall not apply to the extent that it is finally determined that such damages or claims were caused by the active negligence or willful misconduct of CEI or anyone under its direct control.
22. Insurance. Vendor shall provide and maintain insurance as detailed in Exhibit "1" hereto.
23. Drawings and Manuals - Vendor will supply proper operating, training and maintenance manuals, drawings and any other document required with respect to the goods or services ordered.
24. Intellectual Property Indemnification. Vendor shall defend, hold harmless, and indemnify CEI, its customers, and users from and against all losses, liabilities, or damages, including costs and expenses resulting from alleged or actual infringement of any third-party rights related to performance by Vendor of this Order. Vendor shall, when notified, immediately provide a defense with counsel approved by CEI, which approval shall not be unreasonably

withheld. Additionally, Vendor shall: a) obtain licenses or other permissions to avoid infringement of third party rights; b) replace such elements of the materials, equipment or services as are necessary to avoid such infringement; or c) shall reimburse the cost of CEI's procurement of replacement material and/or equipment and/or services that do not infringe upon third party rights.

25. Assignment. Neither this Order nor any related rights or obligations may be assigned by Vendor, nor may Vendor delegate the performance of any of its duties hereunder without CEI's written permission.
26. Dispute Resolution. In the event of any dispute arising under this Order, the parties agree to meet within five (5) days after either party provides written notice to the other of such dispute to undertake a good faith effort to resolve the dispute. If those efforts fail, both parties agree to submit the dispute in a timely manner for resolution by mediation through JAMS utilizing its Construction Mediation Rules. If not then resolved, the dispute shall be submitted for resolution in a timely manner through binding arbitration at JAMS using its Construction Arbitration rules or filed in the proper court.
27. Applicable Law and Venue. The parties agree that this Order shall be governed by the laws of the State of California without reference to its conflict of law provisions and agree that any action related to this order shall be maintained in the federal or state courts in Santa Clara County, California.
28. Attorneys' Fees and Costs. In the event that the parties find it necessary to pursue any legal action pertaining to the performance of or default in any terms of this Order, the prevailing party in such action shall be entitled to recover its cost from the other party. Such costs shall include, without limitation, attorney fees, experts and other professional fees, court costs, and all costs reasonably necessary to affect such an action.
29. Remedies. Any remedy that is set forth in this Order is not exclusive of any remedies that are provided by law.
30. Correspondence and Notices. All correspondence regarding this Order must be addressed to CEI at the address indicated on the face of the Order. The parties agree that facsimile signatures shall be accepted with the same force as an original signature and that orders may be transmitted and received electronically. Notices shall be deemed received upon confirmation of delivery through overnight courier services, five (5) days after certified proof of mailing in the USPS, or upon reply confirmation by the addressee of email. All notices to CEI shall be sent to:
Cupertino Electric, Inc.
1132 N. 7th Street
San Jose, CA 95112
Attn: General Counsel
31. Severability. In case any one or more of the provisions herein is found to be invalid or otherwise unenforceable, the validity and enforceability of the remaining provisions shall not be affected. If the provision at issue is integral to the Order, it shall be submitted to interpretation pursuant

PURCHASE ORDER TERMS AND CONDITIONS

to the Dispute Resolution process detailed herein.

32. Schedule, Delay, Force Majeure - Vendor will comply with the schedule set forth in the Order or as otherwise directed by CEI. CEI may change the schedule if required by changes in job conditions. Vendor may not back order any Orders without the express written authorization of CEI. Vendor understands that if Vendor does not deliver materials, equipment and/or services in a timely manner, CEI's work will be disrupted and delayed. CEI may cancel all or any part of an Order if deliveries are delayed and Vendor will pay CEI any damages sustained as a result. Vendor shall notify CEI immediately of any anticipated late deliveries or facility shutdowns. If necessary, to ensure timely delivery, Vendor shall deliver via expedited transit at its cost, except that CEI will pay such cost if necessitated solely by CEI's delay or request. In the event of delay in delivery of products or services under this Order, CEI may also incur liability to CEI's customers, and in such event, Vendor will indemnify CEI against such damages. Neither party shall be liable for any costs, losses, damages, claims or liabilities ("Damages") due to non-performance caused by events beyond its reasonable control ("Force Majeure") as long as such party is reasonably diligent and gives immediate notice of anticipated or actual Force Majeure events.
33. Integrated Agreement. This Order constitutes the entire Order between Vendor and CEI with respect to the matters covered hereby. All prior negotiations, representations and agreements with respect hereto not incorporated herein are hereby canceled. This Order can only be modified or amended by a written document duly executed on behalf of the parties hereto. CEI and Vendor shall both be deemed to have participated in the drafting of this Agreement; hence, in the event any provision of this Agreement is deemed to be ambiguous, it shall not be construed against either party.
34. Compliance With Laws. Vendor shall observe and abide by and perform all of its obligations hereunder in accordance with all applicable laws, rules and regulations of all governmental authorities having jurisdiction.
35. Captions and Titles. The captions of articles, sections, divisions, paragraphs, subparagraphs, clauses in this Order (including documents incorporated by reference into this Order) are for convenience only and shall in no way define the content or limit the meaning or construction of the wording of the sections, divisions, articles, paragraphs, subparagraphs, clauses and the like.
36. Independent Contractor. The equipment and materials and services shall be performed by Vendor as an independent contractor at its sole risk, cost and expense.
37. No Third-Party Beneficiaries. Nothing contained in this Order shall be deemed to create any third party contract rights for Vendor or any subcontractor, supplier or other provider of labor, services, materials or equipment under this Order, except as required by the Contract Documents.
38. Waiver. No waiver, express or implied, by either party to this Order by CEI of any term or provision in this Order, or

any breach or default by the other in the performance of any obligations hereunder, shall be deemed or construed to be a waiver of any other term or provision in this Order. Failure on the part of CEI hereto to complain of any act or failure to act of Vendor, or to declare Vendor in default hereunder, irrespective of how long such failure continues, shall not constitute a waiver of CEI's rights hereunder. Inspection or failure of CEI to perform any inspection hereunder shall not release Vendor of any of its obligations hereunder.

EXHIBIT 1
CUPERTINO ELECTRIC, INC. INSURANCE REQUIREMENTS

1. **Insurance Coverage Required and Minimum Limits.** Vendor must procure and maintain in effect, without interruption, at its own expense, throughout the life of each Project and period of applicable statutes, insurance policies complying with all requirements set forth in this Exhibit 1, as required by the Order and providing at least the following coverages, terms, conditions and limits:

2. **Workers' Compensation and Employer's Liability Insurance**
 - 2.1.1. Scope. Workers' Compensation insurance coverage covering Vendor's legal liability under applicable state or federal workers' compensation or occupational disease laws (including, if applicable, Longshore and Harbor Workers' Compensation Act, The Jones Act, Maritime Employer's Liability and Federal Employer's Liability Act) for personal injury or death claims in amounts required by statute. Coverage must also include Employer's Liability insurance coverage to cover injury, disease, or death of an employee which, for any reason, may not fall within the provisions of the applicable workers' compensation law.
 - 2.1.2. Minimum Required Limit.

Workers' Compensation:	Statutory
Employer's Liability:	\$1,000,000 each accident, bodily injury by accident
	\$1,000,000 each employee, bodily injury by disease
	\$1,000,000 policy limit, bodily injury by disease
 - 2.1.3. Waiver of Subrogation. The insurance must provide that insurer waives all rights to recover any payment made from CEI Parties.
 - 2.1.4. Utilization of Professional Employer Organization (PEF) or Similar Service. If Vendor utilizes a Professional Employer Organization (PEO) or similar service, an Alternate Employer endorsement, NCCI Form WC 00 03 01 A or equivalent, is required in favor of Cupertino Electric, Inc. under the PEO workers' compensation insurance policy. Vendor shall also maintain a separate workers' compensation policy in its name.
 - 2.1.5. When Workers' Compensation Coverage Not Required by Applicable Law. If applicable law does not require workers' compensation coverage and Vendor has none, then Vendor, before performing services, must receive written authorization from CEI and provide an acceptable waiver and release.

3. **Commercial General Liability Insurance**
 - 3.1.1. Scope. Commercial general liability insurance written on Insurance Services Office, Inc. (ISO) Form CG 00 01 (or a substitute occurrence form providing equivalent coverage) covering liability arising from premises, operations, products-completed operations, property damage, independent contractors, personal and advertising injury and contractual liability, including oral and written contracts, defense in addition to policy limit, and a general aggregate per project. The policy shall provide that all provisions thereof, except the limits of liability, shall operate in the same manner as if there was a separate policy covering each insured.
 - 3.1.2. Minimum Required Limit

\$2,000,000 per occurrence
\$2,000,000 personal and advertising injury
\$4,000,000 general aggregate
\$4,000,000 products and completed operations aggregate
 - 3.1.3. Additional Insured and Primary and Non-Contributory Coverage. The insurance must include CEI Parties as additional insureds via the combination of ISO Forms CG 20 10 04 13 and CG 20 37 04 13 or a substitute form(s) providing equivalent coverage. This insurance must apply as primary insurance without any contribution from any other insurance or self-insurance afforded to such additional insured. There must not be any endorsement or modification of this insurance to make it excess over any other insurance available to such additional insured. Insurance or self-insurance maintained by CEI Parties or other additional insureds is in excess of Vendor's insurance, contingent and non-contributory.
 - 3.1.4. Waiver of Subrogation. The insurance must provide that insurer waives all rights to recover any payment made from **CEI Parties**.
 - 3.1.5. Additional Requirements for Blasting, Explosive Conditions and Underground Operations. If any work or services involve or require blasting, explosive conditions or underground operations, then coverage must not contain any exclusion relative to blasting, explosion, the collapse of buildings or damage to underground structures.

EXHIBIT 1
CUPERTINO ELECTRIC, INC. INSURANCE REQUIREMENTS

- 3.1.6. Additional Requirements for Crane and Rigging Operations. If any work or services involve lifting, lowering, rigging, or hoisting of property or equipment belonging to others, then coverage must include rigger's liability with limits not less than \$5,000,000 per occurrence and a \$5,000,000 general aggregate. This requirement may be met through purchasing a standalone rigger's liability policy.
- 3.1.7. Wrap-Up Insurance Programs. For projects insured under a wrap-up insurance program (OCIP, CCIP, CIP, etc.), vendor's commercial general liability coverage, and if applicable, umbrella / excess liability coverage, must apply excess of any wrap-up insurance program.

4. Auto Liability Insurance

- 4.1.1 Scope. Automobile Liability insurance written on ISO Form CA 00 01 (or a substitute occurrence form providing equivalent coverage) covering liability arising out of any auto (including owned, hired, and non-owned autos) used in connection with the work or services. The policy shall provide that all provisions thereof, except the limits of liability, shall operate in the same manner as if there was a separate policy covering each insured.
- 4.1.2 Minimum Required Limit.
\$2,000,000 combined single limit
- 4.1.3 Additional Insured and Primary and Non-Contributory Coverage. The insurance must include CEI Parties as additional insureds. This insurance must apply as primary insurance without any contribution from any other insurance or self-insurance afforded to such additional insured. There must not be any endorsement or modification of this insurance to make it excess over any other insurance available to such additional insured. Insurance or self-insurance maintained by CEI Parties or other additional insureds is in excess of Vendor's insurance, contingent and non-contributory.
- 4.1.4 Waiver of Subrogation. The insurance must provide that insurer waives all rights to recover any payment made from CEI Parties.
- 4.1.5 Transportation of Chemicals, Hazmat or Similar Pollutants. If Vendor is transporting chemicals, hazardous materials or similar pollutants, then the Auto Liability Insurance must include pollution liability coverage at least as broad as the coverage provided under the ISO endorsement CA 99 48 03 06 "Pollution Liability – Broadened Coverage for Covered Autos".

5. CEI's Pollution Liability Insurance

- 5.1.1 Scope. CEI's pollution liability insurance to cover claims arising from the discharge, dispersal, release or escape of any pollutant, irritant or contaminant into or upon land, any structure, the atmosphere, watercourse or body of water, including groundwater arising out of the acts, errors or omissions of Vendor or its lower-tier subcontractors in connection with the materials and/or equipment and/or services. The policy must provide coverage for: bodily injury, sickness or disease sustained by any person, including death; property damage, including physical injury to or destruction of tangible property, including the resulting loss of use thereof; on and offsite cleanup costs and the loss of use of tangible property that has not been physically injured or destroyed including diminution of value and natural resources damages; defense costs, including costs, charges and expenses incurred in the investigation, adjustment or defense of claims; contractual liability coverage; claims arising from owned and non-owned disposal sites utilized in connection with the work or services (if applicable); claims arising from transportation of pollutants, irritants or contaminants in connection with the work or services (if applicable); and claims arising from above ground and below ground storage tanks (if applicable).

The policy may not contain restrictions for insured versus insured actions (however, exclusions for claims made between insured within the same economic family are acceptable), any form of fungus, including mold, or completed operations in any coverage part of the policy for either the insured or an additional insured or work performed by vendors.

- 5.1.2 Minimum Required Limit.
Vendors, including their lower-tier subcontractors, that perform demolition, hazardous material remediation or perform any work using or involving hazardous waste material:
\$5,000,000 per claim
\$5,000,000 aggregate

Vendors, including their lower-tier subcontractors, that perform excavation or trench work:
\$2,000,000 per claim
\$2,000,000 aggregate

All other vendors:
\$2,000,000 per claim

EXHIBIT 1
CUPERTINO ELECTRIC, INC. INSURANCE REQUIREMENTS

\$2,000,000 aggregate

- 5.1.3 Additional Insured and Primary and Non-Contributory Coverage. The insurance must include CEI Parties as additional insureds. This insurance must apply as primary insurance without any contribution from any other insurance or self-insurance afforded to such additional insured. There must not be any endorsement or modification of this insurance to make it excess over any other insurance available to such additional insured. Insurance or self-insurance maintained by CEI Parties or other additional insureds is in excess of Vendor's insurance, contingent and non-contributory
- 5.1.4 Waiver of Subrogation. The insurance must provide that insurer waives all rights to recover any payment made from CEI Parties.
- 5.1.5 Claims-Made Policies. If coverage is written on a claims-made basis, then the retroactive date shall precede the effective date of the Order and prior to the delivery of the equipment and/or materials and prior to the commencement of work or service and coverage shall continue uninterrupted for a period ending three (3) years after the date of completion.

If coverage is cancelled or non-renewed within three (3) years after the date of completion and not replaced with another claims-made policy form with a retroactive date prior the effective date of the Subcontract and the commencement of work or services, then Vendor must purchase an extended reporting period / tail coverage for minimum of three (3) years after the date of completion.

6. Professional Liability Insurance

- 6.1.1. When Coverage is Required. Vendors providing or subcontracting design, engineering, surveying, or testing services must maintain professional liability (errors & omissions) insurance coverage.
- 6.1.2. Scope. Professional liability insurance covering claims arising from Vendor's acts, errors, or omissions in connection with the work or services. The policy must not contain any restrictions for bodily injury, property damage or environmental liability.
- 6.1.3. Minimum Required Limit.
 - \$2,000,000 per claim
 - \$2,000,000 aggregate
- 6.1.4. Claims-Made Policies. If coverage is written on a claims-made basis, then the retroactive date shall precede the effective date of the Order and prior to the delivery of the materials and/or equipment and/or prior to the commencement of work or service and coverage shall continue uninterrupted for a period ending three (3) years after the date of completion.

If coverage is cancelled or non-renewed within three (3) years after the date of completion and not replaced with another claims-made policy form with a retroactive date prior the effective date of the Order and delivery of the materials and/or equipment and/or the commencement of work or services, then Vendor must purchase an extended reporting period / tail coverage for minimum of three (3) years after the date of completion.

7. Aircraft Liability Insurance

- 7.1.1 When Coverage is Required. Vendors utilizing any owned, leased, chartered, or hired aircraft of any type (including unmanned aircraft / drones) in the performance of this Agreement shall maintain aircraft liability insurance.
- 7.1.2 Scope. Aircraft liability insurance must be written on an occurrence basis covering liability arising from claims for injuries to persons, including passengers if manned aircraft are being utilized, property damage and invasion of privacy arising from or in connection with the ownership, maintenance or use of aircraft.
- 7.1.3 Minimum Required Limit.
 - Vendors utilizing manned aircraft: \$10,000,000 per occurrence
 - Vendors only utilizing unmanned aircraft (including drones): \$2,000,000 per occurrence
- 7.1.4 Additional Insured and Primary and Non-Contributory Coverage. The insurance must include CEI Parties as additional insureds. This insurance must apply as primary insurance without any contribution from any other insurance or self-insurance afforded to such additional insured. There must not be any endorsement or modification of this insurance to make it excess over any other insurance available to such additional insured. Insurance or self-insurance maintained by CEI Parties or other additional insureds is in excess of Vendor's insurance, contingent and non-contributory
- 7.1.5 Waiver of Subrogation. The insurance must provide that insurer waives all rights to recover any payment made from CEI Parties.

EXHIBIT 1
CUPERTINO ELECTRIC, INC. INSURANCE REQUIREMENTS

8. Cyber Liability Insurance

- 8.1.1. When Coverage is Required. Vendors whose scope of work involves access to computer or information systems, sensitive or confidential information shall maintain cyber liability insurance.
- 8.1.2. Scope. Cyber liability insurance covering liability arising from theft, wrongful dissemination and/or unauthorized use of confidential information and liability arising from the introduction of a computer virus into, or otherwise causing damage to a third person's computer, computer system, network or similar computer related property and software and programs stored thereon.
- 8.1.3. Minimum Required Limit.
\$2,000,000 per claim
\$2,000,000 annual aggregate

- 9. **Excess or Umbrella Insurance.** The required minimum coverages, terms, conditions and limits outlined in this Exhibit 1 may be met through any combination of primary or excess insurance policies.
- 10. **Acceptable Deductibles and Self-Insured Retentions.** Deductibles and self-insured retentions greater than \$25,000 (\$50,000 for professional liability) require prior written approval of CEI.
- 11. **Responsibility for Deductibles and Self-Insured Retentions.** With respect to any insurance policy(s) required in this Exhibit 1, Vendor must bear all costs of all deductibles or self-insured retentions.
- 12. **Acceptable Insurers.** All insurance required in this Exhibit 1 must be obtained from insurers duly authorized to do business in the state in where the Project is located and which maintain a minimum financial strength rating of "A- VIII" by the A.M. Best Key Rating Guide.
- 13. **Notice of Cancellation.** No insurance policy providing coverage required in this Exhibit 1 may be cancelled or materially modified unless Vendor or insurer(s) provide at least thirty (30) days prior written notice to CEI. Ten (10) day notice for non-payment of premium is acceptable.
- 14. **Certificates of Insurance.** Prior to commencing any Work, and within ten (10) days of each renewal date of all policies providing insurance required in this Section, Vendor must furnish CEI with a Certificate of Insurance evidencing compliance with the requirements set forth in this Exhibit 1. Endorsements confirming primary additional insured coverage, waiver of subrogation, and excess wrap-up insurance (or limited Wrap-up exclusion) must be attached to the insurance certificate and are subject to approval.

Vendor shall continue to provide evidence of insurance required by this Order for a period of three (3) years from the expiration of the warranty period as defined in this Order.

Vendor shall ensure that its lower-tier subcontractors maintain insurance in accordance with this and furnish copies of lower-tier subcontractors insurance certificates upon CEI's request.

Certificates for All Operations under this Order are acceptable in lieu of project specific certificates.

Certificate Holder: Cupertino Electric, Inc.
Attn: riskmanagement@cei.com
1132 North 7th Street
San Jose, CA 95112

Please file certificates via email – do not mail hard copy documents

- 15. **Certified Copies of Insurance Policies.** CEI shall have the right to request and Vendor shall provide, upon request, certified copies of all insurance policies required under this Order at any time.
- 16. **Certificate Acceptance.** The acceptance of insurance certificates by CEI shall in no way limit or relieve Vendor of the duties and responsibilities imposed under this Order. If higher limits or other forms of insurance are required by the Contract Documents, Vendor will comply with such requirements.
- 17. **No Waiver.** CEI's failure to demand a Certificate of Insurance or to identify a deficiency from a Certificate of Insurance or other evidence provided will not be deemed a waiver of Vendor's obligations. Furthermore, the insurance requirements referenced in this Section must not be construed in any manner as waiving, restricting, or limiting CEI's rights or Vendor's obligations under this Agreement.

EXHIBIT 1
CUPERTINO ELECTRIC, INC. INSURANCE REQUIREMENTS

18. **No Representation of Coverage Adequacy.** CEI does not represent that the insurance coverage and limits required in this Section will be adequate to protect Vendor's interest nor shall the requirements be construed as a limitation of Vendor's liability under the Order. Vendor remains responsible for any liability not paid by insurance policies required herein.
19. **Cooperation.** Vendor shall assist and cooperate in every manner possible in connection with the adjustment of all claims arising out of its operations conducted under or in connection with the Work and shall cooperate with CEI, Owner, General Contractor, their insurance representatives and insurance carriers. Said cooperation shall include, but not be limited to the adjustment, settlement, arbitration, or litigation of all said claims, including responsibility for deductibles or self-insured retention payments, appearance in arbitration or court proceedings, and participation in settlement conferences as may be required.
20. **Lower-Tier Subcontractors.** Vendor shall, subject to the terms set forth in Exhibit 1, as required by Contract Documents and applicable to Vendor's Work, maintain at its own expense throughout the life of each Project and period of applicable statutes, the minimum types and minimum amounts of insurance described herein. Vendor agrees to include these insurance requirements, in their entirety, in any lower-tier subcontract and/or purchase order executed by Vendor for any part of its scope of Work to be performed by Vendor or said lower-tier subcontractors under this Order. Vendor agrees to enforce with its employees and all lower-tier subcontractors all requirements, obligations and as specified in this Exhibit 1.
21. **CEI Parties.** CEI Parties includes Cupertino Electric, Inc., its subsidiaries, officers, directors, and employees as well as all parties for whom Cupertino Electric, Inc. is required by the contract documents to provide additional insured coverage.
22. **Damage to Vendor's Work.** Builder's Risk insurance, if purchased by others in accordance with the Contract Documents, may or may not provide coverage for loss or damage to Vendor's Work. Vendor shall be responsible for the insurance policy deductible amount applicable to damage to Vendor's Work, and applicable to damage to other work caused by Vendor or its lower-tier subcontractors.
23. **Vendor Property.** Vendor and its lower-tier subcontractors are solely responsible for insuring and protecting its and their equipment and tools from damage and shall arrange for waivers of subrogation in favor of CEI, Owner, and General Contractor on any property insurance policies carried by Vendor and its lower-tier subcontractors for such equipment and tools. Vendor hereby releases and shall cause its lower-tier subcontractors to release, CEI, Owner, and General Contractor from all claims, causes of action, liability, and damage resulting from or relating to any loss or damage to equipment or tools at the Project, regardless of whether such loss or damage was caused by the negligence of CEI, Owner, General Contractor.
24. **Wrap Up Insurance Programs.** If a Wrap-Up insurance program (OCIP, CCIP, CIP, etc.) is implemented for a project, Vendor shall comply with the requirements as further described in the program manual and other Contract Documents. Insurance requirements under this Exhibit 1 remain in effect for insurance that is not part of the Wrap-Up program. If the Wrap-Up terminates before Vendor's operations are complete, Vendor shall furnish proof of insurance for both on and off-site operations effective as of the termination date for the Wrap-Up program. Vendor agrees to include the Wrap-Up program requirements, in their entirety, in any lower-tier subcontracts and/or purchase orders issued by it for any part of Vendor's scope under the Order. Vendor is responsible for enforcing compliance of its lower-tier subcontractors with the Wrap-Up program.