

1. ACCEPTANCE

This Proposal, which includes these General Terms and Conditions, may be accepted only by signing one copy of the Proposal and returning it to mageba North America Corp. ("mageba") so that it is received by mageba no later than the date specified on the Proposal. The Proposal may also be accepted by either Buyer's providing written notice to mageba to proceed or Buyer's oral notice to proceed and mageba's commencing of work on the Project. Upon acceptance, this Proposal shall become the Contract between the parties.

2. WRITTEN ASSENT TO ADDITIONAL TERMS REQUIRED

This Proposal is subject to acceptance only on the terms and conditions stated in this Proposal. Any additional or different terms and conditions proposed by Buyer are hereby rejected, and shall be of no force or effect unless expressly assented to in writing by mageba. There shall be no contract except upon the terms and conditions provided in this Proposal.

3. LIABILITY FOR PAYMENT

Buyer agrees that Buyer is liable to mageba for the Total Price and the terms of payment thereof as set forth in this Contract. If Buyer fails to make payment to mageba when due, or if, in mageba's sole and reasonable opinion, Buyer's ability to make future payment becomes impaired, Buyer shall be in default of this Contract. mageba shall be entitled to cancel this Contract without any liability whatsoever to Buyer, and mageba shall be entitled to recover from Buyer its damages.

4. DELAY OR FAILURE TO PERFORM

mageba shall be excused for any delay or failure in performance due to an act of God, war, riot, embargo, an act of any civil or military authority, fire, flood, accident, quarantine restriction, mill condition, strike, difference with workers, delay in transportation, shortage of cars, fuel, labor, material or equipment, delay by Buyer in the approval of any redesign or shop drawing of mageba (when such is part of mageba's obligation) or any other cause beyond the reasonable control of mageba.

5. MAGEBA INSPECTION AND TESTING

The material to be furnished under this Contract shall be subject to mageba's standard quality control at the place of manufacture, and any other inspection shall be at the expense of Buyer.

6. INSURANCE

Buyer agrees, at Buyer's option, to insure against loss from fire and extended coverage perils, Buyer's

interest, including mageba's interest, in the entire structure on which the work of this Contract is to be done, including all property, material and supplies. If Buyer does not maintain such insurance in an adequate amount, Buyer shall reimburse mageba for any loss which would have been recoverable therefrom. mageba is protected by Worker's Compensation Insurance (and/or Employers' Liability Insurance); Public Liability Insurance for Bodily Injury with limits of One Million Dollars/Three Million Dollars (\$1,000,000/3,000,000); Public Property Damage Insurance with limits of Five Hundred Thousand Dollars (\$500,000); and Automobile Casualty Insurance and Property Damage Insurance, and will furnish certificates evidencing such coverage upon request. If Buyer's contract or purchase order places greater responsibility upon mageba or requires further insurance coverage, mageba, if specifically directing in writing by Buyer, shall obtain additional insurance (if procurable) to protect mageba at Buyer's expense, but mageba shall not be responsible for property damage from any cause, including fire and explosion, beyond the amounts and coverages of mageba's insurance, and Buyer agrees to hold mageba harmless from the cost of any such damage, including all expenses related thereto.

7. DESIGN

mageba shall not have any liability whatsoever for the design or details of others, and Buyer shall defend, indemnify, and hold mageba free and harmless of any such liability.

8. INDEMNIFICATION

mageba shall indemnify and save harmless Buyer against any liability, loss or expense incurred or suffered in consequence either of bodily injury to any person (including death), or damage to any property, to the extent that (1) materials supplied by mageba are defective and have failed; (2) installation of materials by mageba are not provided in accordance with standard practices and the installation is defective. For any and all other claims which arise by reason or in consequence of mageba's work, Buyer agrees to hereinafter indemnify, defend and hold harmless and release mageba (including mageba's successors and assigns and personal representatives), from and against any and all claims, demands, liabilities, losses, obligations, damages of whatever nature, costs (including, but not limited to, fees and expenses of attorneys to be chosen by mageba), actions and causes of actions of any nature whatsoever, known or unknown, and whether for compensatory or punitive damages.

In claims against mageba by any employee of Buyer, its subcontractors, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation hereunder shall not be in any way limited by any limitation on the amount or type of damages, compensation or benefits payable by or for Buyer or its subcontractors under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

9. SAFETY

Buyer agrees to indemnify and hold mageba harmless for any fines, penalties, damages, attorneys' fees, or any other expense incurred as a result of Buyer's failure to comply with any federal or state OSHA regulation or any other governmental or industrial safety requirement or standard.

10. COMPLIANCE WITH LAWS

mageba shall comply with Federal, State and local tax laws, social security acts, unemployment compensation acts and workers' or workmen's compensation acts insofar as applicable to the performance of this Contract.

11. MODIFICATIONS

This Contract, including in particular the Scope of Work, can be modified or rescinded only by a writing signed by both of the Parties or their duly authorized agents.

12. WAIVER

No claim or right arising out of a breach of this Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by a consideration and is in writing signed by the aggrieved party.

13. ATTORNEYS' FEES AND COSTS

In the event any legal action arises out of this Contract, the prevailing party shall be entitled to recover from the other its reasonable attorneys' fees and costs of suit.

14. TIME OF ESSENCE

With respect to all matters in this Contract, time is of the essence.

15. APPLICABLE LAW

This Contract shall be governed by the laws of the State of California, including the Uniform Commercial Code as adopted in the State of California as effective and in force on the date of this Contract.