

**THE HOME DEPOT
PURCHASE ORDER TERMS AND CONDITIONS (U.S.)**

The Purchase Order and these Purchase Order Terms and Conditions (collectively, the “PO”) sets forth the complete agreement between vendor (“Vendor”) and The Home Depot entity issuing this PO (“THD”) that provides for the purchase of products (“Products”) and/or services (“Services”), and, subject to Section 1 below, supersedes any prior agreement, written or oral, with respect to its subject matter. This PO is an offer by THD to purchase the specified Products and/or Services on the terms herein and can only be accepted on such terms. Any additional or different terms in Vendor’s acknowledgment, invoice or other document will have no effect, subject to Section 1 below. Vendor’s timely shipment or other performance hereunder shall be deemed acceptance of all terms of this PO.

1. **Master Agreement.** If the parties have executed a separate written agreement covering the Products and/or Services governed by a purchase order, including but not limited to, a Master Products and Services Agreement, the terms of that agreement will prevail over the terms of any purchase order or any other agreement in the event of conflict.
2. **Strict Compliance.** Time is of the essence. Vendor shall perform in strict compliance with the terms of this PO.
3. **Cancellation.** THD may cancel this PO, in whole or in part, at any time, with or without cause, upon written notice to Vendor without any liability to Vendor.
4. **Representations and Warranties.** Vendor represents and warrants the following for two (2) years from acceptance of the Products by THD and/or performance of the Services, as applicable:
 - (a) the Products will (i) comply with all applicable Laws (as defined in Section 32 below), (ii) meet the specifications, drawings, samples or other descriptions contained in this PO, or provided or approved by THD, (iii) will be merchantable, of satisfactory quality, of good material and workmanship, and free from defect and any liens or security interests, (iv) will be fit for THD’s intended purpose, if known to Vendor, (v) not infringe or misappropriate a third party’s intellectual property rights, and (vi) not in any way originate from or be provided by any country(including Cuba), person or entity that would cause THD to be in violation of or penalized under U.S. or other applicable economic sanctions laws;
 - (b) the Services will be performed (i) in a professional and workmanlike manner by qualified personnel, (ii) in compliance with Laws, including, immigration laws, THD’s Onsite Provider Standards, if applicable, and any safety or other requirements communicated to Vendor;
 - (c) Vendor will (i) deliver the Products and perform the Services by the dates set forth in this PO, (ii) at its own expense, obtain and maintain all necessary permits, licenses or other approvals, and provide all required labor, materials, and equipment; (iii) not dispose of any material on THD’s premises absent THD’s written consent; and (iv) upon completion of the Services, immediately return THD’s premises to its original state, normal wear and tear excepted;
 - (d) no liens or claims will be filed, maintained or enforced by Vendor or its suppliers or contractors for any Service performed, or materials supplied;
 - (e) its obligations under this PO do not conflict with any agreement or restriction to which it is subject; and
 - (f) this Purchase Order, when signed by the parties, will be valid, enforceable, and binding.

These warranties survive delivery, inspection, payment, and acceptance.

5. **Responsible Sourcing Standards.** Vendor shall, to the extent applicable, comply with THD’s Responsible Sourcing Standards at <https://corporate.homedepot.com/page/responsible-sourcing-standards>.
6. **Acceptance.** THD will have a reasonable period of time after performance within which to inspect and accept the Products and/or Services. Receipt of, or payment for, the Product(s) and/or Services shall not constitute acceptance and will not affect THD’s remedies.
7. **Price.** Unless otherwise set forth herein, the price is fixed and all-inclusive (other than with respect to taxes); no additional fees or charges apply. In lieu of paying taxes, THD may tender its tax exemption certificate. The price is exclusive of taxes legally imposed on THD, which will be disclosed, collected and submitted by the Vendor. The price set forth herein is the lowest charged by Vendor for similar quantities of the Product and/or Services to similar customers.
8. **Payment.** Vendor will invoice THD for the amounts due hereunder within 120 days of the Product shipment date or Services performance date or waive its right to payment for the same. Except as otherwise set forth herein, THD will pay all undisputed amounts within forty-five (45) days of the later of the date of (a) receipt of the applicable invoice, or (b) Product delivery or performance of Services. THD will receive a two percent (2%) discount on all invoices paid within thirty (30) days of receipt.
9. **Invoicing.** All invoices must be itemized and contain the following: (a) PO number; (b) Vendor’s name; (c) address where payment should be sent; (d) as applicable, a detailed description of the Services and performance date, and each Product shipped, including size, quantity, SKU or item number, and unit price; (e) as applicable, the amount and a description of all taxes payable on the Products and/or Services; and (f) bill of lading with carrier’s name and shipment date. THD will not be responsible for paying any invoice submitted by Vendor more than one hundred and twenty (120) days after Products and/or Services have been delivered. THD reserves the right to offset any amounts owed by Vendor (or its affiliates) to THD hereunder. Vendor must submit invoices electronically through the Ariba Network at <https://service.ariba.com/> or through another THD approved vendor management system. If using the Ariba Network for invoice submission, Vendor must use the Supplier Information and Performance Management tools on the Ariba Network to change Vendor’s payment remit to address. Vendor’s use of the Ariba network or any other third party vendor management system is at Vendor’s sole risk. For questions about this PO, please visit <https://support.ariba.com/TheHomeDepot>.

10. **Shipment Details.** Each package within each shipment shall clearly reference the Product(s) within it, THD’s PO number, and Vendor’s packing list number. All Products shall be suitably packed in a manner sufficient to ensure that the Products are delivered in undamaged condition. Shipments which arrive at destination with

broken, missing, or unreadable seals may be rejected, and Vendor will be liable as if there had been a total loss of shipment.

11. Inventions. For new or modified Products or Services, all rights, title, and interest in any and all inventions (including discoveries, ideas, or improvements, whether patentable or not), which are conceived or made during or after the term of this PO and (a) arise from THD's information, or (b) are developed specifically for THD, will belong to THD. In the event that Vendor produces works of authorship specifically for THD ("Works"), the same will be deemed "works made for hire" and THD will receive all rights, title, and interest thereto. Vendor agrees to assign, and hereby assigns, to THD and its successors all rights, title, and interest, in and to the Works. Nothing in this PO will affect the pre-existing intellectual property rights of the parties.

12. Confidentiality. Vendor will keep confidential the terms of this PO and all THD non-public and proprietary information. Vendor will not use this information for any purpose other than in performance hereof and will not disclose this information except to the extent required by law, and only after prior written notice to THD.

13. Audit. THD will have the right to audit and inspect ("Audit") the records and facilities of Vendor and its agents and contractors used in performance of this PO, or relating to the Products and/or Services, to the extent reasonably necessary to determine Vendor's compliance with this PO. Vendor will provide THD or its representative conducting the Audit with reasonable assistance. THD's Audit, or failure to conduct any Audit, will not release Vendor from any its obligations.

14. Risk of Loss; Title. Title and risk of loss to the Product(s) pass upon acceptance by THD.

15. Indemnification. Vendor will indemnify, defend, and hold harmless THD, its affiliates, successors and assigns, and their directors, officers, employees, and agents, from any and all liability, losses, damages, fines, penalties, costs and expenses (including reasonable attorneys' fees) arising out of (a) any nonconforming Products or Services; (b) any alleged or actual infringement or misappropriation of any third party's intellectual property rights; (c) any leak or spill or emission on THD's premises or elsewhere caused by Vendor, its employees, agents or contractors; (d) any breach by Vendor of any term of this PO; (e) personal injury or property damage resulting from any act or omission of Vendor, its contractors, employees, agents, representatives. Vendor shall not settle any claim without THD's consent. If Vendor fails to assume its obligations hereunder within a reasonable time, THD may proceed on its own behalf to defend itself.

16. Force Majeure. A party will be excused from a failure or a delay in performance to the extent caused by events beyond its reasonable control. The party claiming force majeure must (a) make reasonable efforts to remove the cause of its inability to perform or its delay in performance, and (b) give prompt written notice to the other party specifying its nature and anticipated duration. Vendor's economic hardship and changes in market conditions are **not** force majeure events.

17. Remedies. THD may: (a) reject defective Product(s) and/or Services by written notice to Vendor, (b) require Vendor to immediately replace, repair or make good the same, at Vendor's sole cost and expense, (c) terminate this PO and seek damages, (d) return or destroy rejected Product at Vendor's expense, (d)

purchase substitute Product(s) or Services from a third party, or (e) require Vendor to procure for THD the right to use infringing product, or modify the Product to remove the infringement.

18. Transfer. Any transfer by Vendor of its obligations hereunder, in whole or part, without THD consent, is null and void.

19. Non-Exclusive-No Minimum. This PO is not an exclusive agreement or volume commitment.

20. Governing Law. The laws of the State of Georgia (disregarding its conflict of law rules) govern this PO, including the Uniform Commercial Code as adopted. Any legal proceeding shall be instituted in the State or Federal courts of the State of Georgia; Vendor irrevocably submits to the jurisdiction of such courts.

21. Publicity. Vendor shall not use the trademarks, trade names, or product names of THD or its affiliates without the prior written consent of THD. If Vendor does so, THD may (a) terminate this PO, in whole or part, without further liability to Vendor; or (b) issue a retraction in Vendor's name or require Vendor to issue a retraction.

22. Waiver. Any waiver of a right or remedy of THD must be in writing and signed by a corporate officer of THD.

23. Notice. Any notice must be in writing and delivered by overnight courier to THD's Legal Department, 2455 Paces Ferry Road, Mailstop C-20, Atlanta, GA 30339.

24. Changes. This PO may be modified only by a duly executed written agreement of the parties.

25. Disputes. Any dispute concerning this PO shall, as a condition precedent to any arbitration or court proceeding, be mediated by the parties. Any dispute which is not resolved by mediation may, at the sole option of THD, be resolved by arbitration administered in Atlanta, Georgia, by the American Arbitration Association under its commercial arbitration rules, and judgment on the award may be entered in any court having jurisdiction thereof. If THD does not elect to submit a dispute to arbitration, then any civil action to decide such dispute shall be brought in either the U.S. District Court for the Northern District of Georgia, Atlanta Division, or the Superior Court of Cobb County, Georgia.

26. Cumulative Remedies. All remedies under this PO are cumulative, not exclusive or substitutive.

27. THD Affiliates. THD's rights under this PO extend to its affiliates. No other third party beneficiaries exist.

28. Independent Contractor. Vendor is an independent contractor. Vendor's employees shall not be deemed employees or agents of THD. This PO shall not be construed as creating a partnership, limited partnership, joint enterprise, agency, employment or fiduciary relationship between the parties.

29. Interpretation. If any term of this PO is held to be invalid, the remaining terms will continue to be valid and enforceable. The headings in this PO are for reference purposes only; they do not affect its meaning or construction.

30. Exclusion of Conventions. The following do **not** apply to this PO: (a) the Uniform Law on the Sale of Goods, and the Uniform Law on the Formation of Contracts for the International Sale of Goods, (b) the United Nations Convention on Contracts for the International Sale of Goods of 1980 and (b) the United Nations Convention on the Limitations Period in the International Sale of Goods, concluded in

New York on 14 June, 1974, and (c) the Protocol Amending the Convention on the Limitations Period in the International Sale of Goods, concluded in Vienna on 11 April, 1980.

31. Survival. The terms of this PO that by their nature should apply beyond its term will remain in effect after its expiration or earlier termination.

32. Compliance with Laws. Vendor agrees that the Products and/or Services provided under this PO will comply with all applicable federal, state, and local laws, codes, ordinances, rules, regulations and requirements of the country of origin, the country of transit, the country of destination, or any applicable country or jurisdiction (collectively, the "Laws"), including, but not limited to the following:

- Only to the extent applicable, Vendor shall comply with the following (which are incorporated herein by reference): (i) the Equal Opportunity Clauses set forth in 41 CFR parts 60-1.4(a); and (ii) the requirements of 41 CFR §§601.4(a)(7) and 29 CFR Part 471 Appendix A to Subpart A.
- Only to the extent applicable, **Vendor shall abide by the requirements of 41 CFR § 60-300.5(a) and 41 CFR § 60-741.5(a), which prohibit discrimination against qualified protected veterans and qualified individuals on the basis of disability and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.**

- Vendor shall provide to Home Depot only workers for whom Vendor has confirmed legal eligibility to perform services in the United States pursuant to the Immigration Reform and Control Act of 1986 ("**IRCA**"), and for whom all required record keeping under IRCA has been performed and maintained. Home Depot is not responsible for sponsorship of any workers who perform Services for it at the request of Vendor.

33. Insurance. Vendor shall maintain at its sole cost Commercial General Liability Insurance, including Products Liability and Completed Operations coverage, on an occurrence basis with limits of \$5,000,000 for property damage and bodily injury or death, with an A+ rated insurer. Such policies shall be primary without right of contribution from THD. A certificate of insurance shall be provided upon demand.

34. Limitation of Liability. EXCEPT FOR BODILY INJURY OR PROPERTY DAMAGE DUE TO THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THD, THD SHALL HAVE NO LIABILITY WHATSOEVER TO VENDOR OR ITS AFFILIATES IN AN AMOUNT OF DAMAGES IN EXCESS OF THE AMOUNT OF THIS PURCHASE ORDER. THD SHALL HAVE NO LIABILITY IN ANY AMOUNT FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT (INCLUDING LOSS OF PROFITS AND LOSS OF GOODWILL), OR EXEMPLARY OR PUNITIVE DAMAGES, HOWEVER ARISING, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE PARTIES AGREE TO THE ALLOCATION OF LIABILITY SET FORTH IN THIS PROVISION.