

MODIFICATION

**State of Maine**



**Master Agreement**

**Effective Date:** 06/22/18

**Expiration Date:** 07/31/20

**Master Agreement Description:** Bridge Expansion Joint System - EMSEAL

**Buyer Information**

William Allen 207-624-7871 ext. NULL WJE.Allen@maine.gov

**Issuer Information**

SHARON KRECHKIN 207-624-3038 ext. sharon.krechkin@maine.gov

**Requestor Information**

Sharon Krechkin 207-624-3038 ext. sharon.krechkin@maine.gov

**Authorized Departments**

17A TRANSPORTATION

**Vendor Information**

**Vendor Line #:** 1

**Vendor ID**

VC0000200104

**Vendor Name**

EMSEAL JOINT SYSTEMS LTD

**Alias/DBA**

**Vendor Address Information**

25 BRIDLE LANE

WESTBOROUGH, MA 01581

US

**Vendor Contact Information**

JEAN BELEC

508-836-0280 ext.

jbelec@emseal.com

**Payment Discount Terms**

**Discount 1:** 2.0000 % 10 Days

**Discount 2:** % 0 Days

**Discount 3:** % 0 Days

**Discount 4:** % 0 Days

## Commodity Information

**Vendor Line #:** 1

**Vendor Name:** EMSEAL JOINT SYSTEMS LTD

**Commodity Line #:** 1

**Commodity Code:** 96712

**Commodity Description:** Bridge Expansion Joint System - EMSEAL

**Commodity Specifications:**

**Commodity Extended Description:** Bridge Expansion Joint Systems and Supplies. 2019 Extension prices are 1.25% off May 24, 2018 Quote # Q-12653.

<b>Quantity</b>	<b>UOM</b>	<b>Unit Price</b>
0.00000		\$0.00
<b>Delivery Days</b>	<b>Free on Board</b>	
0		
<b>Contract Amount</b>	<b>Service Start Date</b>	<b>Service End Date</b>
\$0.00	06/22/18	07/31/20
<b>Catalog Name</b>	<b>Discount</b>	
	0.0000 %	
	<b>Discount Start Date</b>	<b>Discount End Date</b>

Bureau of Business Management – Division of Procurement Services  
State of Maine – Department of Administrative and Financial Services  
9 State House Station  
Augusta, Maine 04333-0009

Contract Number  
MA 180606\*144

Tel. (207) 624-7340  
Fax.# (207) 287-6578

### EXTENSION OF ANNUAL CONTRACT

**Commodity Item:** Bridge Expansion Joint System

**Contractor:** EMSEAL Joint Systems LTD

**Contract Period Extended To:** 07/31/20

**New Lower Pricing:** 1.25% Discount from prior year Master Agreement

**Extension Clause:** The State reserves the right to extend this contract for a period of one year, with the consent of the contractor.

**Agreement to Extend Contract:**

In accordance with the above referenced Extension Clause, the undersigned agrees to continue in effect said Contract No # MA 180606\*144 through July 31, 2020 with all terms, conditions remaining as shown in the original contract.

**Quarterly Report:** The Division of Purchases **requires a quarterly report of sales** be faxed to 207-287-6578 within 30 days of the end of each calendar quarter. It will be the responsibility of the vendor to produce a quarterly report. The report must include the dollar value of goods purchased, broken down by Department as well as the total dollar value of purchases made by all Departments.

By: (Print Name) Andy Castillo

By: (Signature) Andy Castillo

E-mail Address: ACASTILLO@EMSEAL.COM

Date: 8-1-19

Dollar value the State has spent on this contract from **08/01/18** to present: \$ N/A

## **TERMS & CONDITIONS**

**MA 180606-144**

**COMMODITY ITEM:** Bridge Expansion Joint System - EMSEAL

**CONTRACT PERIOD:** Through July 31, 2019. The State of Maine with vendor approval can opt to issue up to two (2) one (1) year extensions. *First Extension through July 31, 2020. Prices for extension period are 1.25% off Quote Q-12653 dated May 24, 2018.*

**CONTACT PERSON:** The contact person will help consumers place orders, inquire about orders that have not been delivered, all shipping issues, quality issues, and any issues pertaining to this Master Agreement. All orders not submitted through a DO will be sent through the contractor's contact person. The contact person will be: Andy Castillo, **Tel:** 508-830-7900, **Email:** [ACASTILLO@EMSEAL.COM](mailto:ACASTILLO@EMSEAL.COM)

**EXTENSION OF CONTRACT:** The Director of Procurement Services may, with the consent of the contractor extend the Contract period beyond the indicated expiration date.

**CANCELLATION OF CONTRACT:** The Division of Procurement Services reserves the right to cancel a contract with a thirty-day written notice OR cancel immediately if the contractor does not conform to terms and conditions and specifications of contract.

**PRICES:** Prices shown are to be net including transportation charges fully pre-paid by the contractor FOB destination. Prices are to remain firm for the duration of the contract.

**QUANTITIES:** It is understood and agreed that the contract will cover the **actual quantities** required by State Agency over the length of the contract.

**ORDERING PROCEDURE:** Delivery orders (DO) will be created in AdvantageME for all orders over \$5000.00. If a DO is used, the DO will be e-mailed to the email address set up in AdvantageME by the Vendor as a .pdf file. Orders less than \$5000.00 can be ordered using a P-Card.

**FEDERAL EXCISE TAX CERTIFICATE:** Any purchasing agency or department must sign and mail back the required Federal Excise Tax Certificate with each Purchase. They are order specific and must have original signatures

**DELIVERY:** The Contractor will be responsible for the delivery of material in first class condition at the point of delivery, and in accordance with good commercial practice.

**QUARTERLY REPORT:** The Division of Procurement Services **requires a quarterly report of sales** be faxed to 207-287-6578 within 30 days of the end of each calendar quarter. It will be the responsibility of the vendor to produce a quarterly report. The report must include the dollar value of goods purchased, broken down by Department as well as the total dollar value of purchases made by all Departments.

**PROCUREMENT CARD:** State policy requires vendors to accept the State of Maine Procurement Card (P-Card) as a form of payment, with very rare exceptions. Your company will be required to accept these cards. The pricing offered to the State of Maine shall be the final cost to the State of Maine regardless of payment method. No surcharge or other compensation will be allowed. The State of Maine reserves the right to reject your bid if you are unwilling to accept this condition.

## Product Specification

The pre-compressed sealant shall be BEJS as manufactured by EMSEAL or approved equivalent. The expansion joint system shall be comprised of three components:

- 1) Cellular polyurethane foam impregnated with hydrophobic 100% acrylic (free in composition of any waxes or asphalts), water based emulsion, and factory coated with highway-grade, fuel resistant silicone.
- 2) Field-applied epoxy adhesive primer.
- 3) Field-injected silicone sealant bands.

Impregnation agent is to have proven non-migratory characteristics. Silicone coating to be highway-grade, low-modulus, fuel resistant silicone applied to the impregnated foam sealant at a width greater than maximum allowable joint extension and which when cured and compressed will form a bellows. Depth of seal shall be as recommended by manufacturer. The foam seal shall be installed into manufacturer's standard field-applied epoxy adhesive. The sealant system is to be installed recessed from the surface such that when the field applied injection band of silicone is installed between the steel and the foam-and-silicone-bellows, the system will be ½ inches down from the pavement surface. Material shall be capable of movements of +50%, -50% (100% total) of nominal material size. Transitions shall be warranted to be watertight at inside and outside comers through the full movement capabilities of the product.

Payment will be paid by the Linear Foot. Included in this price will be manufactured recommendation of an amount of epoxy adhesive, which is field applied both sides of joint, and silicone bead and band, which is field applied forced down along both sides. Eight sizes: ½", 1", 1 ½ ", 2", 2 ½ ", 3", 3 ½ ", 4" will each have a linear foot price as described above. A price, including manufacturer recommendations for an appropriate amount of epoxy adhesive and silicone bead and band, shall be established for the following 2 specialized transitions:

- (1) Universal-90 Transitions are cut at 90-degrees with both ends open for a butt-connection to another stick or another Universal-90. (Either leg can be trimmed in the field to connect to straight run material or to another Universal-90 when going, for example, up and over a curb, into a parapet, or up and down treads and risers.)
- (2) Universal-90 Terminations end, on the 6-inch leg, in a 45° sealed and mitered end. (This allows termination as a stand alone upturn or provides a surface against to which a wall joint system can be married. Flipped over, the Universal-90 termination unit can be alternatively installed as a downturn termination where a joint runs off the deck. In this use, the sealed, mitered end provides a drip edge for drainage of water off the joint.)

These 2 factory-fabricated single-piece 90-degree units above, have a 12-inch long leg and a 6-inch vertical piece on each end of the elbow. The Universal-90's are symmetrically coated on both sides. This allows them to be installed as an upturn or as a downturn.

- (3) **At an additional cost, we would also like to add a custom option:**

**We want a 15-degree turn-up at the ends of our seal in the gutter line (not a 90 degree). The**

turned-up portion is to be 16” long and the roadway portion is 36” long. The turn-up portion is coated on 3 sides as well.

**Physical Properties of Foam:**

Property	Value	Test Method
Base Material	Cellular, high density polyurethane foam	N/A
Impregnation	Proprietary, modified, water-based, acrylic	N/A
Temperature Service Range High: Low:	185 degrees F (85 deg C) -40 degrees F (-40 deg C)	ASTM C711
UV Resistance	No Changes – 2000 hours	ASTM G155-00A
Accelerated Weatherometer (resistance to aging)	No Changes – 2000 hours	ASTM G155-00A
Bleeding: -40 deg to 180 deg F (-40 deg to 85 deg C)	No bleeding when compressed to minimum of claimed movement i.e. -50% of nominal size and when simultaneously heated to 180 deg F (85 deg C) for 3 hours.	N/A
Compression Set:	Material Recovers to +50% of nominal size within 24 hours of compression to -50% and simultaneous heating to 180 deg F (85 deg C) for 3 hours.	N/A

**Physical Properties of Silicone Coating:**

Property	Value
Color	Black
Percent Solids (minimum)	96%
Specific Gravity	1.26 – 1.34
<b>Following tests Conducted on Sealant Cured after 21 days at 77 degrees F (25 deg C) and 50% RH:</b>	
Elongation percent Minimum	1400
Joint Modulus at 50% Elongation, psi (kPa) Maximum	7(48)
Joint Modulus at 100% Elongation, psi (kPa) Maximum	8(55)
Joint Modulus at 150% Elongation, psi (kPa) Maximum	9(62)
Adhesion to Concrete, minimum percent Elongation	+600
Adhesion to Asphalt, minimum percent Elongation	+600
Joint Movement Capability: +100/-50 %, 10 cycles	No Failure
Weatherability	Unaffected by climatic extremes
Flexibility	Cured sealant stays rubbery from -50 to 300 deg F (-45 to 149 deg C)

**Approximate Volume Change of Silicone Coating After Fluid Exposure:**

Fluid	Silicone Joint Sealant	
JP – 4	5-20%	
Skydrol B	None	
50/50 Glycol/H2O	None	
Hydraulic Fluid	None	After drying, all samples passed +100/-50% movement testing

Appendix E

STATE OF MAINE  
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES  
DIVISION OF PROCUREMENT SERVICES

MUNICIPALITY POLITICAL SUBDIVISION and SCHOOL DISTRICT PARTICIPATION  
CERTIFICATION

RFQ # 17A 180509-606

**Bridge Expansion Joint System - EMSEAL or Equivalent**

The Division of Procurement Services is committed to providing purchasing opportunities for **municipalities, political subdivisions and school districts** in Maine by allowing them access, through our vendors, to our contract pricing. A bidder's willingness to extend contract pricing to these entities will be taken into consideration in making awards.

Will you accept orders from political subdivisions and school districts in Maine at the prices quoted?

Yes

Yes, with conditions as follows:

No

Name of Company:

EMSEAL JOINT SYSTEMS, LTD.

Address:

25 BRIDLE LN. WESTBOROUGH, MA 01581

Signature:

 Andy Castillo

Date: 5/24/2018



-QUOTATION-

EMSEAL JOINT SYSTEMS, LTD.
25 Bridle Lane
Westborough, MA 01581-2603
PH: 508-836-0280 FX: 508-836-0281
www.emseal.com

Table with 2 columns: Date: 24 May 2018, To: Maine DOT (Houlton), Steve Nason, Phone/Email: 207-446-1853, steve.nason@maine.gov, Project: ME Master Agreement; Quote #: Q-12653, From: Kevin Bock, Phone/Email: , kbock@emseal.com

BUDGET QUOTE: With the mutual interests of the contractor, manufacturer, designer and owner at hand, the materials offered herein will not be supplied until full disclosure of the specific requirements of the job have been made to EMSEAL. The information can be provided on a properly completed EMSEAL "Checklist" and include all supporting documentation and/or pictures as will provide the necessary information that will ensure the proper material and details for transitions and terminations can be determined. Therefore, the following quote is made for budgetary estimate only.

We are pleased to quote as follows:

Part 1: Materials Known to be Required Based on Information Provided:

Table with 6 columns: Part #, Product and Description, Net Price, Qty, UOM, Extended Price. Includes sections for C-18035, CUST-15°-BEJS-0050, C-18036, CUST-15°-BEJS-0100, and C-18038.

Expansion Joint and Sealant Systems For:

Parking & Plaza Deck Joints
Façade & Abutment Joints

Interior Movement Joints
Masonry Joints

Acoustic & Anti Vibration Joints
Specialty Applications





-QUOTATION-

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<b>CUST-15°-BEJS-0150</b>	<b>Foam: Q-12653-11</b>			
U90-BEJS-0150	15° Custom Transition - Universal Transition U90-BEJS-0150: Tread: 36" x Riser: 16"	\$ 220.92	1.00 EA	\$ 220.92
<hr/>				
<b>C-18039</b>	<b>Foam: Q-12653-5</b>			
BEJS-0200	BEJS SYSTEM Nominal size: 50 mm x 50 mm (2 in x 2 in). Ship Unit: 2 m (6.56 lf) stick	\$ 20.90	6.56 FT 1.00 EA	\$ 137.10
U90-BEJS-0200	UNIVERSAL 90 - U90-BEJS-0200 - Length: 150 mm (6 in) riser & 300 mm (12 in) tread	\$ 68.28	1.00 EA	\$ 68.28
	NOTE: Pricing for 90° and 45° transitions are the same			
<b>CUST-15°-BEJS-0200</b>	<b>Foam: Q-12653-10</b>			
LAB-FOAM-CUST-TRANS	15° Custom Transition - Universal Transition U90-BEJS-0200: Tread: 36" x Riser: 16"	\$ 264.45	1.00 EA	\$ 264.45
<hr/>				
<b>C-18040</b>	<b>Foam: Q-12653-6</b>			
BEJS-0250	BEJS SYSTEM Nominal size: 65 mm x 60 mm (2 1/2 in x 2 3/8 in). Ship Unit: 2 m (6.56 lf) stick	\$ 25.75	6.56 FT 1.00 EA	\$ 168.92
U90-BEJS-0250	UNIVERSAL 90 - U90-BEJS-0250 - Length: 150 mm (6 in) riser & 300 mm (12 in) tread	\$ 72.82	1.00 EA	\$ 72.82
	NOTE: Pricing for 90° and 45° transitions are the same			
<b>CUST-15°-BEJS-0250</b>	<b>Foam: Q-12653-14</b>			
U90-BEJS-0250	15° Custom Transition - Universal Transition U90-BEJS-0250: Tread: 36" x Riser: 16"	\$ 309.02	1.00 EA	\$ 309.02
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<b>C-18041</b>	<b>Foam: Q-12653-7</b>			
BEJS-0300	BEJS SYSTEM Nominal size: 75 mm x 70 mm (3 in x 2 3/4 in). Ship Unit: 2 m (6.56 lf) stick	\$ 29.56	6.56 FT 1.00 EA	\$ 193.91
U90-BEJS-0300	UNIVERSAL 90 - U90-BEJS-0300 - Length: 150 mm (6 in) riser & 300 mm (12 in) tread	\$ 92.60	1.00 EA	\$ 92.60
	NOTE: Pricing for 90° and 45° transitions are the same			
<b>CUST-15°-BEJS-0300</b>	<b>Foam: Q-12653-15</b>			
U90-BEJS-0300	15° Custom Transition - Universal Transition U90-BEJS-0300: Tread: 36" x Riser: 16"	\$ 368.10	1.00 EA	\$ 368.10

**Expansion Joint and Sealant Systems For:**

Parking & Plaza Deck Joints  
Façade & Abutment Joints

Interior Movement Joints  
Masonry Joints

Acoustic & Anti Vibration Joints  
Specialty Applications



-QUOTATION-

EMSEAL JOINT SYSTEMS, LTD.
25 Bridle Lane
Westborough, MA 01581-2603
PH: 508-836-0280 FX: 508-836-0281
www.emseal.com

Table with columns for Item Code, Description, Price, Quantity, and Total Price. Includes items like C-18042, CUST-15°-BEJS-0350, C-18043, CUST-15°-BEJS-0400, and EPOXY-ADHESIVE-UNIT.

\*All Pricing includes freight. Orders expected to ship within 10 business days of having received a PO for the release of materials from Maine DOT.

This pricing reflects the above specified materials/services only.
Transition and any additional accessory pricing is found in the subsequent literature.
If included in the above quote, on-site inspection and installation training does not include round-trip travel charges.

Part 2: Terminations, Transitions, Site Inspection, and Installation Training:

Factory Fabricated Transitions and Terminations: Any factory-fabricated transitions or terminations would be fabricated to field-measurements and drawings on centerlines provided by the contractor.

Additional Materials: Additional materials may be needed following clarification of conditions. Consult EMSEAL for additional material type, quantity and availability.

Site Inspection and Installation Training: Other than specifically quoted above, on-site inspection and/or installation training and supervision by EMSEAL may be required per the specification or at the owner's or owner's agent's request would be billed at \$825.00/day (\$550.00/day for BEJS/BOR projects) plus roundtrip travel charge and is billed from the time the technician leaves and returns to base portal.

Installation training by an EMSEAL Field Technician is required for this project unless waived by EMSEAL in writing. Installation in part or in full without the presence of training provided by EMSEAL will result in an unwarrantable installation.

Installation of any FP system in below-grade applications, or in any application in which the material will be buried, requires the completed installation of materials be inspected by an EMSEAL Field Technician prior to back filling or obscuring of the system.

Expansion Joint and Sealant Systems For:

- Parking & Plaza Deck Joints
Façade & Abutment Joints
Interior Movement Joints
Masonry Joints
Acoustic & Anti Vibration Joints
Specialty Applications



**-QUOTATION-**

**EMSEAL JOINT SYSTEMS, LTD.**  
25 Bridle Lane  
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[www.emseal.com](http://www.emseal.com)

**Part 3: Additional Terms and Conditions:**

**Additional Generic Terms and Conditions:**

Supply: Material is quoted on the assumption that product models quoted correspond to field-verified joint sizes at mean temperature or are adjusted for mean temperature. Contractor to verify joint movement, joint size, and blockout size prior to placing product order. EMSEAL materials will be custom-made to specified dimensions. As such this material is NON-RETURNABLE.

Delivery: Manufacturing lead times are updated and posted daily on our website [www.emseal.com](http://www.emseal.com). We estimate a further week for ground delivery to destination depending on location. The delivery times are estimates only and are calculated from receipt of order and of all information enabling work to proceed including including credit approval and approval of all drawings as may be necessary. We would do our utmost to meet or improve on above delivery times.

Price Basis: F.O.B our factory. Unit prices quoted above are valid subject to purchase of a single shipment of not less than quantities specified. State and local taxes not included. All orders are subject to a minimum \$20.00 shipping fee without exception.

Validity: This quote is valid for 90 days from date hereon.

Payment Terms: Net 30 days, subject to approval by our credit department.

Warranty: The above-quoted EMSEAL material is subject to EMSEAL's standard 1 year limited warranty against material defect and workmanship therein which is in lieu of all other written or oral expressed or implied warranties including any warranties of merchantability or fitness for purpose. EMSEAL shall not be liable for and expressly disclaims any liability for any damage including incidental, consequential, or other damages whether in contract or in tort, including negligence and strict liability. EMSEAL will not provide any project specific warranty or honor any warranty of any term until the materials and technical support supplied and all applicable taxes are paid in full.

IMPORTANT: THESE MATERIALS CANNOT PERFORM THEIR INTENDED FUNCTION IF NOT INSTALLED PROPERLY. ON SITE INSTALLATION TRAINING IS AVAILABLE FROM EMSEAL AS A PAID SERVICE. PHONE AND WEBINAR INSTALLATION REVIEW IS ALSO AVAILABLE. INSTALLATION INSTRUCTIONS ARE SHIPPED WITH THE MATERIAL AND ARE AVAILABLE AT ALL TIMES AT [www.emseal.com](http://www.emseal.com). DO NOT INSTALL THE MATERIALS UNTIL YOUR FOREMAN AND CREW HAVE READ AND UNDERSTAND THE INSTALLATION INSTRUCTIONS. EMSEAL WILL NOT BE HELD RESPONSIBLE FOR PRODUCT PERFORMANCE ISSUES CAUSED BY A FAILURE OF THE APPLICATOR TO INSTALL MATERIALS PROPERLY.

Sincerely,

Kevin Bock

EMSEAL Joint Systems, Ltd.

**Expansion Joint and Sealant Systems For:**

Parking & Plaza Deck Joints  
Façade & Abutment Joints

Interior Movement Joints  
Masonry Joints

Acoustic & Anti Vibration Joints  
Specialty Applications

## Allen, WJE

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**From:** Andy Castillo <acastillo@emseal.com>  
**Sent:** Friday, June 22, 2018 2:45 PM  
**To:** Allen, WJE  
**Subject:** Re: State of Maine RFQ 17A 180509-606

Allen,

EMSEAL would like to formally agree to the terms and conditions you emailed me for this award. I have reviewed all information and everything is correct and up to date.

Please let me know if you need any other forms of acceptance from EMSEAL Joint Systems.

Regards,

### **Andy Castillo**

*Bridge and Highway Division  
Northeast Regional Sales Manager  
EMSEAL Joint Systems, LTD  
25 Bridle Lane, Westborough, MA USA 01581  
Mobile: (508) 330-7900  
Fax: (508) 836-0281  
E-mail: [acastillo@emseal.com](mailto:acastillo@emseal.com)  
Visit [www.emseal.com/bridge](http://www.emseal.com/bridge)*

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**From:** Allen, WJE <WJE.Allen@maine.gov>  
**Sent:** Wednesday, June 6, 2018 3:09 PM  
**To:** Andy Castillo  
**Subject:** State of Maine RFQ 17A 180509-606

Good afternoon Mr. Castillo,

The State of Maine would like to accept the bid submitted by EMSEAL for RFQ 17A 180509-606 Bridge Expansion Joint System. Please read the attached documents and let me know if you agree with them. Please double check the contact person information to make sure I have the correct information.

If you agree to these terms I will make the final award.

Feel free to contact me if you have any questions.

Bill Allen, Procurement Analyst II  
Division of Procurement Services  
Department of Administrative and Financial Services  
State of Maine  
207-624-7871

# STATE OF MAINE

## GENERAL TERMS AND CONDITIONS FOR GOODS AND/OR SERVICES UNDER BUYER PURCHASE ORDERS (BPOs) AND MASTER AGREEMENTS (MAs)

1. **DEFINITIONS:** The following definitions are applicable to these standard terms and conditions:
  - a. The term “Buyer” or “State” shall refer to the Government of the State of Maine or a person representing the Government of the State of Maine.
  - b. The term “Department” or “DAFS” shall refer to the State of Maine Department of Administrative and Financial Services.
  - c. The term “Bureau” or “BGS” shall refer to the State of Maine Bureau of General Services.
  - d. The term “Division” shall refer to the State of Maine Division of Purchases.
  - e. The term “Contractor”, “Vendor”, or “Provider” shall refer to the organization that is providing goods and/or services through the contract to which these standard terms and conditions have been attached and incorporated.
  - f. The term “Contract” or “Agreement” shall refer to the contract document to which these standard terms and conditions apply, taking the format of a Buyer Purchase Order (BPO) or Master Agreement (MA) or other contractual document that is mutually agreed upon between the State and the Contractor.
  
2. **WARRANTY:** The Contractor warrants the following:
  - a. That all goods and services to be supplied by it under this Contract are fit and sufficient for the purpose intended, and
  - b. That all goods and services covered by this Contract will conform to the specifications, drawing samples, symbols or other description specified by the Division, and
  - c. That such articles are merchantable, good quality, and free from defects whether patent or latent in material and workmanship, and
  - d. That all workmanship, materials, and articles to be provided are of the best grade and quality, and
  - e. That it has good and clear title to all articles to be supplied by it and the same are free and clear from all liens, encumbrances and security interest.

Neither the final certificate of payment nor any provision herein, nor partial nor entire use of the articles provided shall constitute an acceptance of work not done in accordance with this agreement or relieve the Contractor liability in respect of any warranties or responsibility for faulty material or workmanship. The Contractor shall remedy any defects in the work and pay any damage to other work resulting therefrom, which shall appear within one year from the date of final acceptance of the work provided hereunder. The Division of Purchases shall give written notice of observed defects with reasonable promptness.

3. **TAXES:** Contractor agrees that, unless otherwise indicated in the order, the prices herein do not include federal, state, or local sales or use tax from which an exemption is available for purposes of this order. Contractor agrees to accept and use tax exemption certificates when supplied by the Division as applicable. In case it shall ever be determined that any tax included in the prices herein was not required to be paid by Contractor, Contractor agrees to notify the Division and to make prompt application for the refund thereof, to take all proper steps to procure the same and when received to pay the same to the Division.

4. **PACKING AND SHIPMENT:** Deliveries shall be made as specified without charge for boxing, carting, or storage, unless otherwise specified. Articles shall be suitably packed to secure lowest

transportation cost and to conform to the requirements of common carriers and any applicable specifications. Order numbers and symbols must be plainly marked on all invoices, packages, bills of lading, and shipping orders. Bill of lading should accompany each invoice. Count or weight shall be final and conclusive on shipments not accompanied by packing lists.

**5. DELIVERY:** Delivery should be strictly in accordance with delivery schedule. If Contractor's deliveries fail to meet such schedule, the Division, without limiting its other remedies, may direct expedited routing and the difference between the expedited routing and the order routing costs shall be paid by the Contractor. Articles fabricated beyond the Division's releases are at Contractor's risk. Contractor shall not make material commitments or production arrangements in excess of the amount or in advance of the time necessary to meet delivery schedule, and, unless otherwise specified herein, no deliveries shall be made in advance of the Division's delivery schedule. Neither party shall be liable for excess costs of deliveries or defaults due to the causes beyond its control and without its fault or negligence, provided, however, that when the Contractor has reason to believe that the deliveries will not be made as scheduled, written notice setting forth the cause of the anticipated delay will be given immediately to the Division. If the Contractor's delay or default is caused by the delay or default of a subcontractor, such delay or default shall be excusable only if it arose out of causes beyond the control of both Contractor and subcontractor and without fault of negligence or either of them and the articles or services to be furnished were not obtainable from other sources in sufficient time to permit Contractor to meet the required delivery schedule.

**6. FORCE MAJEURE:** The State may, at its discretion, excuse the performance of an obligation by a party under this Agreement in the event that performance of that obligation by that party is prevented by an act of God, act of war, riot, fire, explosion, flood or other catastrophe, sabotage, severe shortage of fuel, power or raw materials, change in law, court order, national defense requirement, or strike or labor dispute, provided that any such event and the delay caused thereby is beyond the control of, and could not reasonably be avoided by, that party. The State may, at its discretion, extend the time period for performance of the obligation excused under this section by the period of the excused delay together with a reasonable period to reinstate compliance with the terms of this Agreement.

**7. INSPECTION:** All articles and work will be subject to final inspection and approval after delivery, notwithstanding prior payment, it being expressly agreed that payment will not constitute final acceptance. The Division of Purchases, at its option, may either reject any article or work not in conformity with the requirements and terms of this order, or re-work the same at Contractor's expense. The Division may reject the entire shipment where it consists of a quantity of similar articles and sample inspection discloses that ten (10%) percent of the articles inspected are defective, unless Contractor agrees to reimburse the Division for the cost of a complete inspection of the articles included in such shipment. Rejected material may be returned at Contractor's risk and expense at the full invoice price plus applicable incoming transportation charges, if any. No replacement of defective articles of work shall be made unless specified by the Division.

**8. INVOICE:** The original and duplicate invoices covering each and every shipment made against this order showing Contract number, Vendor number, and other essential particulars, must be forwarded promptly to the ordering agency concerned by the Vendor to whom the order is issued. Delays in receiving invoice and also errors and omissions on statements will be considered just cause for withholding settlement without losing discount privileges. All accounts are to be carried in the name of the agency or institution receiving the goods, and not in the name of the Division of Purchases.

**9. ALTERATIONS:** The Division reserves the right to increase or decrease all or any portion of the work and the articles required by the bidding documents or this agreements, or to eliminate all or any portion of such work or articles or to change delivery date hereon without invalidating this Agreement. All such alterations shall be in writing. If any such alterations are made, the contract amount or amounts shall be adjusted accordingly. In no event shall Contractor fail or refuse to continue the performance of the work in providing of articles under this Agreement because of the inability of the parties to agree on an adjustment or adjustments.

**10. TERMINATION:** The Division may terminate the whole or any part of this Agreement in any one of the following circumstances:

- a. The Contractor fails to make delivery of articles, or to perform services within the time or times specified herein, or
- b. If Contractor fails to deliver specified materials or services, or
- c. If Contractor fails to perform any of the provisions of this Agreement, or
- d. If Contractor so fails to make progress as to endanger the performance of this Agreement in accordance with its terms, or
- e. If Contractor is adjudged bankrupt, or if it makes a general assignment for the benefit of its creditors or if a receiver is appointed on account of its insolvency, or
- f. Whenever for any reason the State shall determine that such termination is in the best interest of the State to do so.

In the event that the Division terminates this Agreement in whole or in part, pursuant to this paragraph with the exception of 8(f), the Division may procure (articles and services similar to those so terminated) upon such terms and in such manner as the Division deems appropriate, and Contractor shall be liable to the Division for any excess cost of such similar articles or services.

**11. NON-APPROPRIATION:** Notwithstanding any other provision of this Agreement, if the State does not receive sufficient funds to fund this Agreement and other obligations of the State, if funds are de-appropriated, or if the State does not receive legal authority to expend funds from the Maine State Legislature or Maine courts, then the State is not obligated to make payment under this Agreement.

**12. COMPLIANCE WITH APPLICABLE LAWS:** Contractor agrees that, in the performance hereof, it will comply with applicable laws, including, but not limited to statutes, rules, regulations or orders of the United States Government or of any state or political subdivision(s) thereof, and the same shall be deemed incorporated herein by reference. Awarding agency requirements and regulations pertaining to copyrights and rights in data. Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers and records of the Contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions. Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed. Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h), section 508 of the Clean Water Act, (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000). Mandatory standards and policies relating to energy efficiency which are

contained in the state energy conservation plan issued in compliance with Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

**13. INTERPRETATION:** This Agreement shall be governed by the laws of the State of Maine as to interpretation and performance.

**14. DISPUTES:** The Division will decide any and all questions which may arise as to the quality and acceptability of articles provided and installation of such articles, and as to the manner of performance and rate of progress under this Contract. The Division will decide all questions, which may arise as to the interpretation of the terms of this Agreement and the fulfillment of this Agreement on the part of the Contractor.

**15. ASSIGNMENT:** None of the sums due or to become due nor any of the work to be performed under this order shall be assigned nor shall Contractor subcontract for completed or substantially completed articles called for by this order without the Division's prior written consent. No subcontract or transfer of agreement shall in any case release the Contractor of its obligations and liabilities under this Agreement.

**16. STATE HELD HARMLESS:** The Contractor agrees to indemnify, defend, and save harmless the State, its officers, agents, and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, material men, laborers and other persons, firm or corporation furnishing or supplying work, services, articles, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Contractor in the performance of this Agreement.

**17. SOLICITATION:** The Contractor warrants that it has not employed or written any company or person, other than a bona fide employee working solely for the Contractor to solicit or secure this Agreement, and it has not paid, or agreed to pay any company, or person, other than a bona fide employee working solely for the Contractor any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon, or resulting from the award for making this Agreement. For breach or violation of this warranty, the Division shall have the absolute right to annul this agreement or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gifts, or contingent fee.

**18. WAIVER:** The failure of the Division to insist, in any one or more instances, upon the performance of any of the terms, covenants, or conditions of this order or to exercise any right hereunder, shall not be construed as a waiver or relinquishment of the future performance of any such term, covenant, or condition or the future exercise of such right, but the obligation of Contractor with respect to such future performance shall continue in full force and effect.

**19. MATERIAL SAFETY:** All manufacturers, importers, suppliers, or distributors of hazardous chemicals doing business in this State must provide a copy of the current Material Safety Data Sheet (MSDS) for any hazardous chemical to their direct purchasers of that chemical.

**20. COMPETITION:** By accepting this Contract, Contractor agrees that no collusion or other restraint of free competitive bidding, either directly or indirectly, has occurred in connection with this award by the Division of Purchases.



**21. INTEGRATION:** All terms of this Contract are to be interpreted in such a way as to be consistent at all times with this Standard Terms and Conditions document, and this document shall take precedence over any other terms, conditions, or provisions incorporated into the Contract.