

General Terms and Conditions

1. Incorporation. These General Terms and Conditions are incorporated into and are a part of the estimate to which they are attached or referenced. Acceptance of the estimate by the customer ("Contractor") shall be deemed acceptance of each of these General Terms and Conditions.

2. Contract Documents. This estimate is based solely on the information referenced in the estimate. Contractor must supply all applicable contract documents for review by VFC ("Subcontractor") and Subcontractor reserves the right to adjust the estimate based on documents supplied subsequent to the estimate.

3. Changes in the Work: Contractor may only add to, subtract from, or change the scope of the work by written change order and Subcontractor shall only comply with such order once all parties have agreed to pricing, scope of work, and contract time. For changes in the work, the contract price will be equitably adjusted.

4. Extra Work: This is a fixed price contract and no extra work shall be performed unless a written change order is signed by Contractor and Subcontractor to the work being performed.

5. Inspection and Testing: Subcontractor, at its own expense, will facilitate only the installation, inspection and testing required to obtain a UL Certificate.

6. Invoices. Upon completion of the various stages of completion, Subcontractor will deliver an itemized invoice for payment to the Contractor. Subcontractor shall be entitled to payment for materials obtained by Subcontractor for the job, whether delivered to the project site or not. Contractor shall not have the right to make joint payments to Subcontractor and any supplier of labor, equipment, or materials.

7. Payments. All payments are due thirty (30) days from invoice and Subcontractor shall have the right to assess a 1½ percent finance charge compounded monthly (or the maximum allowed by law).

8. Final Payment. The final payment, including any retention, will be due and payable thirty (30) days after appropriate inspection by Underwriters Laboratories. The appropriate UL certification will only be delivered to Contractor or Owner upon full payment to Subcontractor. Delivery of the UL certification and payment by Contractor shall constitute acceptance of Subcontractor's work and proof of Subcontractor's compliance with the project specifications. If no UL Inspection is required, then final payment shall be due within thirty (30) days of completion.

9. Prior Agreements. This agreement constitutes the full and complete understanding of all rights and obligations between the parties and supersedes all prior negotiations, proposals, and understandings.

10. Soil Conditions. All excavation bids are based on the use of a DitchWitch or similar trencher, unless clearly stated otherwise. If job or soil conditions do not allow the use of this trencher, there will be an additional charge. Any required compaction will be an extra charge unless specifically addressed in the estimate.

11. Remedies of Subcontractor. If Contractor, the project's General Contractor or the Owner shall fail to strictly perform any obligation to be performed by Contractor, General Contractor or Owner, under this agreement and the Contractor's, General Contractor's or Owner's substantial performance shall not be adequate to deprive Subcontractor of its rights hereunder, or shall breach any condition of this agreement, or if Contractor, the General Contractor or the Owner shall be adjudged bankrupt or shall file, or there be filed against him or her, any proceedings under any of the acts of bankruptcy, or if Contractor, the General Contractor or the Owner shall make a general assignment for the benefit of creditors, or if a receiver be appointed over Contractor, the General Contractor or the Owner any of such events shall constitute a material breach of this agreement and shall entitle Subcontractor to elect any one or more of the following remedies:

a. Without terminating this agreement or the obligations of Contractor hereunder, Subcontractor may stop all work on the project and remove all materials (whether installed or not) from the project until Contractor, General Contractor and/or Owner make assurances to the Subcontractor, satisfactory in Subcontractor's sole judgment, that Subcontractor will be paid all sums due under this agreement upon Subcontractor's performance as required hereunder;

b. Subcontractor may terminate this contract by written notice to Contractor and recover all damages suffered by Subcontractor as a

result of such breach together with all other sums payable to Subcontractor hereunder; and

c. Subcontractor may waive such breach, but any such waiver shall not prevent Subcontractor from exercising any of the remedies available hereunder in the event of any future breach by Contractor.

12. Security Interest. Title in any materials supplied by Subcontractor passes to the Contractor, General Contractor and/or Owner only when Subcontractor has been paid in full for all materials and labor provided by Subcontractor and of all other sums due to Subcontractor by the Contractor on any account whatsoever. Until all sums due to Subcontractor by the Contractor have been paid in full, Subcontractor has a security interest in all materials supplied to the project.

a. If the materials are attached, fixed, or incorporated into the project, by way of any manufacturing or assembly process by the Subcontractor, the Contractor or any third party, title in the materials shall remain with Subcontractor until Subcontractor has been paid for all materials and labor supplied to the Project.

b. The Contractor gives irrevocable authority to Subcontractor to enter any premises occupied by the Contractor or on which materials are situated at any reasonable time after default by the Contractor or before default if Subcontractor believes a default is likely and to remove and repossess any materials and any other property to which materials are attached or in which materials are incorporated. Subcontractor shall not be liable for any costs, damages, expenses or losses incurred by the Contractor or any third party as a result of this action, nor liable in contract or in tort or otherwise in any way whatsoever unless by statute such liability cannot be excluded. Subcontractor may either resell any repossessed materials and credit the Contractor's account with the net proceeds of sale (after deduction of all repossession, storage, selling and other costs) or may retain any repossessed materials and credit the Contractor's account with the invoice value thereof less such sum as Subcontractor reasonably determines on account of wear and tear, depreciation, obsolescence, loss or profit and costs.

c. Where materials are retained by Subcontractor pursuant to clause b of paragraph 12 the Contractor waives the right to receive notice under any applicable statute and to object under any applicable statute.

d. The following shall constitute defaults by the Contractor:

- i. Non payment of any sum by the due date.
- ii. The Contractor intimates that it will not pay any sum by the due date.
- iii. Any materials are seized by any other creditor of the Contractor or any third party or any other creditor intimates that it intends to seize materials.
- iv. Any materials in the possession of the Contractor are materially damaged while any sum due from the Contractor to Subcontractor remains unpaid.
- v. The Contractor is bankrupt or put into liquidation or a receiver is appointed to any of the Contractor's assets.
- vi. A Court judgment is entered against the Contractor and remains unsatisfied for seven (7) days.
- vii. Any material adverse change in the financial position of the Contractor.

13. Security. Contractor agrees to provide security for all materials stored or installed on the project and further agrees to indemnify Subcontractor for any loss.

14. Applicable Law. This agreement shall be governed by and construed in accordance with the laws of the State of Utah.

15. Venue. Any action filed to enforce the terms of this agreement shall be filed in the county of Davis, State of Utah.

16. Costs. All and any costs incurred in the enforcement of any provision of these General Terms and Conditions, including without limitation, collection costs, attorney's fees, filing fees, court costs, costs on appeal, etc., shall be awarded to the prevailing party.

17. Warranty. Subcontractor warrants only that all materials, facilities, work, and equipment will be adequate to pass inspection by an UL inspector and to obtain a UL Certificate. Subcontractor shall for one (1) year after issuance of the UL Certificate correct and displaced air terminal bases or cable supports. Subcontractor is not responsible and shall not repair any damage done by others or replace materials removed by others.

18. Terms. The price given herein is valid for thirty (30) calendar days. After thirty (30) days, material and labor prices are subject to increase to current values and rates.