



EDUCATION &  
RESEARCH FOUNDATION

# Terms & Conditions

## Case Study:

### The Tale of TED Electric Supply

This research study has been generously sponsored by the NAED Education & Research Foundation's Channel Advantage Partnership and the Western Regional Council.

Research Electric is a large electrical contractor with over 100 employees that has been in business for over 35 years. Research is a very large customer for our company, TED Electric Supply, averaging approximately \$2 million in sales per year.

Research Electric has a contract with General Construction Inc. (GCI) involving the building of an addition to an existing building at an Air Force Base. GCI, in turn, has a contract with the Air Force. Our sales representative quoted the project in 2010 using our standard quotation form, which references our Standard Terms and Conditions. The customer sent us a purchase order dated December 5, 2011. Unlike orders received in the past, this purchase order contained a revised format which included new terms and conditions.

Our sales rep, believing that this was “business as usual,” confirmed to the customer via email that the purchase order was accepted by TED Electric Supply. The customer purchase order was then processed and purchase orders were released to the appropriate manufacturers. Shipments to the jobsite soon followed.

Several months later, the customer notified our sales rep that a shipment of panels had arrived on the job site with no shrink-wrap or tarp visible, after having been driven through a light rain. Because of this, the panels were determined to be unusable. The sales rep notified the manufacturer and assumed that the problem had been addressed. One week later you receive a phone call from the customer who notifies you that the funding for this project expires at the end of 2012 unless a key milestone is attained. He has been told that the replacement of the panels will cause the project to be delayed into 2013, thus not meeting a critical milestone required for funding. The manufacturer confirms that the panels include components made offshore, and will take several weeks. Even if you placed an order today, the earliest we could receive new panels would be February 1. You ask the manufacturer for alternatives.

Today the manufacturer advises that in order to maintain the factory warranty, there are no other options. Coincidentally the customer advises today that any delay beyond this year will cost \$4.5 million in lost funding. Despite your appeals, he also mentions that he will hold TED Electric Supply fully responsible for any and all damages according to our contract.

You immediately begin to review the documentation faced with the potential for substantial economic damages and the loss of a key customer. You only have the attached information (Purchase Order #5150-1000 and Appendix A) from which to review.

Here are some additional details which may or may not be helpful:

- Lighting portion includes 80% from key suppliers
  - Manufacturers normal terms and conditions apply
  - All shipments are to the job site
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## Questions

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1. Who has the authority to accept this purchase order in its original condition? Why?
  2. Are we bound to this contract?
  3. Based on the customer's purchase order, what are our potential risks and monetary costs?
  4. Which exceptions to the customer's purchase order should have been taken prior to order acceptance?
  5. How would you go about approaching the customer to resolve this situation?
  6. What changes would you recommend which would improve our ability to anticipate and respond to this type of situation in the future?
  7. What other questions would you ask to obtain critical information?
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# PURCHASE ORDER

Research Electric  
500 Century Blvd  
Los Angeles, CA 90001  
Tel: 213-555-1212  
Fax: 213-555-1213

PO Number: 5150-100  
PO Date: 12/05/11  
Vendor ID: 12345

*The P.O. number must appear on all related correspondence, shipping papers, and invoices*

**Purchase From:**

TED Electric Supply  
1111 Cheryl Ave  
Los Angeles, CA

**Ship To:**

Research Electric  
c/o: AFB  
Consolidated Support Facility  
3rd and Main St  
Anywhere, CA

**Contact Name:**  
Joe Sales Rep

**Contact Name:**  
Project Manager  
Jobsite Phone #: 456-555-1111

Shipping Method	Payment Terms	F.O.B. POINT
Best Way	2% 10/Net 30	FOB jobsite

Item Description	Quantity	Unit Price	Amount
Lighting package	1 lot	\$ 1,980,000.00	\$ 1,980,000.00
Switchgear package	1 lot	\$ 1,135,000.00	\$ 1,135,000.00

Approved By: *Project Manager*  
X \_\_\_\_\_

Subtotal	\$	3,115,000.00
Freight		-
Sales Tax		-
<b>Order Total</b>	<b>\$</b>	<b>3,115,000.00</b>

1. Please send two (2) copies of your invoice
2. Enter this order in accordance with the prices, terms, delivery method, and specifications as included in the prime contract
3. See Appendix A for additional terms of contract
4. Send all correspondence to:  
Project Manager  
500 Century Blvd  
Los Angeles, CA 90001  
Tel: 213-555-1212  
Fax: 213-555-1213



**Research Electric**

**500 Century Blvd.**

**Los Angeles, CA**

**Appendix A**

1. This contract includes the Prime Contract terms and conditions, specifically the General Conditions and Special Conditions, Plans and Specifications, and Drawings.
2. Seller's acceptance is limited to the terms and conditions contained in this purchase order.
3. Buyer may terminate or suspend at its convenience all or any portion of this order not shipped as of the date of termination or suspension of the order. If the Owner shall order the Buyer to change, adjust, substitute, add to, delete from, suspend, or terminate the work included in this order, Seller shall comply with Owners order and the price for time of performance hereunder shall only be adjusted as allowed by Owner.
4. The price herein specified shall include taxes.
5. Seller's right to payment is subject to the same payment provisions enforced upon Buyer.
6. Risk of loss shall pass to Buyer only after material is delivered to the job site and accepted by Buyer.
7. Time is of the essence of this agreement.
8. Seller warrants to Buyer that it has fully and carefully reviewed the provisions, specifications, drawings, samples or other descriptions contained in this Agreement. Seller warrants to Buyer of the materials that the same shall be free from all defects, shall be of the quality specified, shall be inappropriate for the purpose intended and shall conform to the provisions, specifications, performance standards, drawings, samples or other descriptions contained herein. Seller further warrants that the materials will be complete in all respects necessary to make the materials fully functional if installed in accordance with the contract documents.
9. Seller warrants that the materials will be complete in all respects necessary to make the materials fully functional if installed in accordance with the contract documents.
10. Seller's warranty shall in all respects meet the terms of the warranty requirements for the materials and services ordered for a period of two years.
11. Seller assumes all risk in furnishing the materials and services ordered hereunder, and will indemnify, hold harmless and defend Buyer and Owner against any and all losses, damages, liabilities and claims of any kind whatsoever.
12. If the parties become involved in litigation, with each other arising out of this agreement, the prevailing party shall be fully compensated for the cost of its participation in such proceedings including attorney's fees.
13. This agreement is deemed accepted unless written notice is provided within two days from the date of this purchase order.
14. Any claim for adjustment by Seller hereunder must be asserted in writing within 10 days from the date the change or termination is ordered.

15. Seller shall exercise confidentiality on all aspects of this purchase order. No discussion, communication, electronic or otherwise, may be held without written authorization from Buyer.
16. Seller agrees to adhere to the safety and security manuals of Owner.
17. Seller, its employees, agents, and suppliers who come onto Buyers premises in connection with this purchase order shall procure and maintain insurance with companies acceptable to Buyer.
18. Prices are firm for the duration of the job. The prices charged are and will at all times be the lowest prices charged Seller to any buyers purchasing the products specified in the purchase order or similar products.
19. Quantities may be increased or decreased at the same unit price.
20. This order is contingent upon approval by approving authority on all items.
21. Supplier guarantees a complete bill of material per plans and specifications.
22. Supplier agrees that it has accepted a complete set of plans, specifications, and drawings.
23. Supplier agrees to adhere to the Schedule of Values.
24. Appropriate FAR clauses apply.