



**Sub-Surface Tools, L.L.C.
STANDARD TERMS AND CONDITIONS
(Purchase of Services)**

1. ACCEPTANCE OF TERMS.

- 1.1 Seller agrees to be bound by and to comply with all terms set forth herein and in the purchase order, to which these terms are expressly incorporated by reference (collectively, the "Order"), including any amendments, supplements, specifications and other documents referred to in this Order. Acknowledgement of this Order, including without limitation, by beginning performance of the work called for by this Order, shall be deemed acceptance of this Order. The terms set forth in this Order take precedence over any alternative terms in any other document connected with this transaction unless such alternative terms are (a) part of a written master service or other similar agreement ("Service Agreement"), which has been negotiated between the Parties and which the Parties have expressly agreed may override these terms in the event of a conflict and/or (b) set forth on the face of the Order.
- 1.2 Seller shall perform its activities under this Order (the "Services") at Buyer's designated location (the "Site"). In the event these terms are part of a written Service Agreement between the Parties, the term "Order" used herein shall mean any purchase or work order issued under the Service Agreement.
- 1.3 This Order does not constitute an acceptance by Buyer of any offer to sell, any quotation, or any proposal. Reference in this Order to any such offer to sell, quotation or proposal shall in no way constitute a modification of any of the terms of this Order. **SELLER'S ACCEPTANCE OF THIS ORDER IS EXPRESSLY LIMITED TO THE TERMS AND CONDITIONS OF THIS ORDER. ANY ATTEMPTED ACKNOWLEDGMENT OF THIS ORDER CONTAINING TERMS INCONSISTENT WITH OR IN ADDITION TO THE TERMS OF THIS ORDER IS NOT BINDING UNLESS SPECIFICALLY ACCEPTED BY BUYER IN WRITING. IF THIS ORDER IS CONSTRUED TO BE AN ACCEPTANCE BY BUYER OF AN OFFER BY SELLER, BUYER EXPRESSLY LIMITS SUCH ACCEPTANCE TO THE EXPLICIT TERMS OF THIS ORDER AND REJECTS ANY ADDITIONAL OR VARIED TERMS SET FORTH IN SELLER'S OFFER. NOTHING IN THIS ORDER WILL INDICATE THAT THIS ORDER IS AN ACCEPTANCE; RATHER, IT WILL BE CONSTRUED TO BE AN OFFER TO THE EXTENT POSSIBLE. BUYER HEREBY OBJECTS TO ANY ATTEMPT BY SELLER TO ADD TO OR VARY ANY TERM OF THIS ORDER AND EXPRESSLY REJECTS ALL SUCH MODIFICATIONS UNLESS AGREED TO IN WRITING BY BUYER.**

2. STATUTORY EMPLOYER.

In all cases where any of Seller's personnel, including, without limitation, Seller's direct, borrowed, special, or statutory employees (collectively, "Seller's Personnel") are performing Services for Buyer, the Parties acknowledge and agree that Seller's Personnel shall be statutory employees of Buyer for the sole purpose of any and all workers' compensation laws in effect in the jurisdiction in which the Services are performed (the "Applicable Jurisdiction"). Buyer and Seller agree that all Services performed by Seller and Seller's Personnel pursuant to this Order are a part or process in the trade or business of Buyer, meaning that it is part of an ongoing and integral business process that is regular, ordinary, and routine to the operation of Buyer's business or that is otherwise routinely done by Buyer's direct employees. Without regard to Buyer's status as the statutory employer of Seller's Personnel, Seller shall maintain sole responsibility for the payment of workers' compensation benefits to Seller's Personnel in accordance with the laws and regulations of the Applicable Jurisdiction and shall not be entitled to seek reimbursement or contribution for any such payment from Buyer, and shall fully indemnify Buyer



for any payment made to Seller's Personnel as a result of the statutory employer relationship. Nothing in this provision shall limit, restrict, or supersede any other indemnity, insurance, or other obligation or liability on the part of Seller provided for in this for any injury, loss, or damage to Seller's Personnel arising out of the Services performed under this Order.

3. **PRICES AND PAYMENT.**

3.1 Except as otherwise provided in Section 4, all prices are firm and shall not be subject to change. Seller's price includes all payroll and/or occupational taxes, any value added tax that is not recoverable by Buyer and any other taxes, fees and/or duties applicable to the goods and/or services purchased under this Order; provided, however, that any state and local sales, use, excise and/or privilege taxes, if applicable, will not be included in Seller's price but will be separately identified on Seller's invoice. If Seller is obligated by law to charge any value added and/or similar tax to Buyer, Seller shall ensure that if such value-added and/or similar tax is applicable, that it is invoiced to Buyer in accordance with applicable rules so as to allow Buyer to reclaim such value-added and/or similar tax from the appropriate government authority. Neither Party is responsible for taxes on the other Party's income or the income of the other Party's personnel or subcontractors. If Buyer is required by government regulation to withhold taxes for which Seller is responsible, Buyer will deduct such withholding tax from payment to Seller and provide to Seller a valid tax receipt in Seller's name.

3.2 Invoices shall be payable within ninety (90) days from the date a correct invoice is received and approved by Buyer. Invoices shall be supported by adequate back-up documentation, as reasonably determined by Buyer. Unless otherwise requested by Buyer, invoices shall (a) be rendered separately for completed Services; (b) cover not more than one Order, and (c) be rendered with the Order number noted thereon.

If the invoice is subject to cash discount, the discount period will be calculated from either the date all Services are completed or the date the invoice is received by Buyer, whichever occurs later. Buyer may withhold any amounts that are disputed in good faith. Unless specifically agreed otherwise in writing all prices shall be fixed, firm and not subject to any form of surcharge or variation.

3.3 For a period of five (5) years from the date of this Order, Seller shall maintain and preserve and shall cause its sub-vendors to maintain and preserve in accordance with generally accepted accounting principles ("GAAP") accurate documentation and data concerning all cost-reimbursable goods or work provided hereunder. At all reasonable times during such period Seller shall permit and cause its sub-vendors to permit the representatives of Buyer to have access to its and their offices and work locations to examine, reproduce and retain copies of such documentation and data to verify all cost-reimbursable goods or work including any change orders and any gift, entertainment or travel expenses hereunder.

4. **MOST FAVORED CUSTOMER.**

Seller represents and warrants to Buyer that the terms and conditions of this Order are at least as favorable to Buyer as those applicable to any other customer of Seller, and the price paid by Buyer (the "Price") is not higher than the price charged to any other customer of Seller (including, but not limited to, any Governmental Authority) for services of like type. If Seller offers to any of its customers, or agrees to, terms and conditions more favorable than those set forth in this Order or a price for services of like type lower than the Price, this Order will automatically be revised so as to conform to the requirements of this Section 4.

5. **TIME IS OF THE ESSENCE.**

The time stipulated for the performance of the Services on the face of this Order shall be of the essence of this Order. Without prejudice to Seller's obligation to complete the Services on time, Seller shall give Buyer notice in writing immediately if any delay is foreseeable.



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6. INDIRECT AND CONSEQUENTIAL DAMAGES.

Neither party shall be liable to the other for any indirect, incidental or consequential losses or damages of any type or for loss of profit, loss of use, loss of business, or loss of financial advantage unless such loss or damage is due to the gross negligence or willful misconduct of such party or its supplier(s).

7. REJECTION.

If any of the Services furnished pursuant to this Order are found within a reasonable time after completion to be defective or otherwise not in conformity with the requirements of this Order, including any applicable drawings and specifications, whether such defect or non-conformity relates to scope provided by Seller or a direct or indirect supplier to Seller, then Buyer, in addition to any other rights, remedies and choices it may have by law, contract or at equity, and in addition to seeking recovery of any and all damages and costs emanating therefrom, at its option and sole discretion and at Seller's expense may (a) require Seller to immediately re-perform any defective portion of the Services and/or require Seller to immediately repair or replace nonconforming goods with goods that conform to all requirements of this Order; (b) take such actions as may be required to cure all defects and/or bring the Services into conformity with all requirements of this Order, in which event, all related costs and expenses (including, but not limited to, material, labor and handling and any required re-performance of value added machining or any other services) and other reasonable charges shall be for Seller's account; (c) withhold total or partial payment; (d) reject and return all or any portion of the Services; and/or (e) rescind this Order without liability.

8. WARRANTIES.

8.1 Seller warrants (a) that the Services shall be performed in a good, safe and workmanlike manner and in conformity with the highest industry standards, methods and practices and that the Services shall be free from defects in workmanship and shall be performed in strict compliance with the requirements of this Order, and (b) that all equipment and materials, if any, used in the performance of the Services shall be free of defects, fit for the purposes intended and free of all liens, claims, security interests and encumbrances.

8.2 For any goods to be provided by Seller to Buyer in performance of the Services, Seller warrants and represents that such goods will be new and of merchantable quality, not used, rebuilt or made of refurbished material unless approved in writing by Buyer, free from all defects in design, workmanship and material and will be fit for the particular purpose for which they are intended. Seller acknowledges that it is fully aware of the purposes for which Buyer intends to use the goods and therefore further represents and warrants that all goods will be suitable for, and will accomplish, such purposes. Seller expressly warrants that all goods delivered in connection with this Order will conform to any sample or any specifications, drawings or other description furnished or adopted by Buyer. Seller will assign to Buyer any manufacturers' or other warranties applicable to the goods and will cooperate with Buyer in enforcing such warranties.

8.3 Seller shall, at its sole cost and expense, correct, replace, repair or otherwise remedy, as directed by Buyer, any Services, equipment or materials that fail to conform to the foregoing warranty and any resulting damage and/or required corrective Services caused thereby. The remedies hereunder shall not constitute Buyer's exclusive remedies, but shall be in addition to any rights or remedies hereunder and under the applicable law.

9. PATENTS.

Seller warrants and guarantees that the Services and any materials or equipment associated therewith utilized or provided by Seller hereunder will not infringe any U.S. or other patents, and Seller agrees to defend, release, indemnify and hold Buyer and its customers harmless from any expense (including attorneys' fees and court costs), loss, cost, damage or liability which may be incurred on account of infringement or alleged infringement of patent rights, with respect to the Services or any associated materials or equipment, and Seller will defend, at its



own expense, any action or claim in which such infringement is alleged. Seller further represents and warrants that any labels or trademarks affixed thereto by or on behalf of Seller are free from any valid claim for copyright or trademark infringement. Where development forms part of this Order, the ownership of any invention, design, trade secret or copyright arising from such development shall be transferred to Buyer and the Seller shall cooperate, as necessary, to make such transfer effective as soon as any such right arises.

10. CONFIDENTIALITY AND OWNERSHIP OF DATA.

- 10.1 Seller shall not use or disclose any data, designs, drawings, blueprints, or other information belonging to or supplied by or on behalf of Buyer (the "Data") except in the performance of orders for Buyer, or except in the performance of this Order, make use of information or knowledge relating to details of Buyer's business or that of its subsidiaries or affiliates, suppliers or customers, or of any other confidential or proprietary information of Buyer, its subsidiaries or affiliates, suppliers or customers which shall have been obtained because of this Order. Upon Buyer's request, the Data and any copies thereof shall be returned to Buyer. Where Buyer's Data is furnished to Seller's suppliers for procurement of goods or Services by Seller, for use in the fulfillment of this Order, Seller shall insert the substance of this provision in its orders. In the event persons not specifically authorized by Buyer gain access to the Data, this Order, at the option of Buyer, may be canceled immediately. Such cancellation shall not constitute Buyer's exclusive remedy, but shall be in addition to any rights or remedies hereunder and under the applicable law.
- 10.2 The Data shall remain the property of Buyer and Seller shall be responsible for all loss or damage thereto. Upon completion, cancellation or termination of this Order, all such materials shall be held free of charge by Seller pending instructions by Buyer for the return, retention or destruction of the Data. Buyer accepts no obligation of confidence to Seller with respect to any ideas, data or information divulged by Seller, or equipment, operations or designs witnessed by Buyer at Seller's plant.
- 10.3 Seller hereby specifically acknowledges Buyer's ownership of the Data and that Buyer has a superior interest in all rights, title and interest in and to the Data. Seller agrees and covenants not to contest, challenge or dispute, directly or indirectly, Buyer's ownership, title, right or interest in and to the Data, nor to contest Buyer's sole right to lease, register, use or license others to use the Data. Seller further agrees that it shall not divulge or disclose any trade secrets or confidential information of Buyer made available to Seller hereunder.
- 10.4 Seller shall not release, copy, extract, modify, manipulate or duplicate all or any part of the Data in any way or in any format, either for itself or for others, or suffer or permit such to be done, in a manner inconsistent with Buyer's ownership of the Data, without the prior express written consent of Buyer. Seller acknowledges that some or all of the Data may be protected under federal or other copyright laws and that significant damage and harm would result to the business of Buyer upon the unauthorized release, copying, extraction, modification, manipulation or duplication of any of the Data. Seller acknowledges and agrees that it is obligated to notify Buyer in the event any of the Data is lost or improperly removed from the custody of Seller, including notifying Buyer as to the identity of any individual(s) who may be responsible for losing or improperly removing the Data. Seller agrees to use diligent efforts to recover any lost or improperly removed Data.
- 10.5 **The Parties hereto understand and agree that misuse (including reuse), misinterpretation or modifications to the Data by anyone other than Buyer may result in adverse consequences that Buyer can neither predict nor control.** The Seller, by acceptance of this Order, acknowledges and agrees to bind and obligate itself to release, acquit, forever discharge, hold harmless, defend and indemnify Buyer from any and all suits, claims, losses, costs, damages, expenses (including, but not limited to, all expenses of litigation, court costs and attorneys' fees) or liability of whatsoever nature or kind, whether in contract or in tort or otherwise, whether arising under common law or state or federal statute, or arising out of, as a result of or in connection with any claims in any connected with the use, misuse, modification, misinterpretation, alteration or reuse by Seller or others of the Data. Seller further



acknowledges and agrees that the foregoing indemnification applies, without limitation, to any use of the Data on other sales, excepting only such use as may be authorized in writing by Buyer.

10.6 The obligations of the Seller under this Section 10 shall not apply to Data which:

- (a) is public knowledge at the date of disclosure by the Buyer or lawfully available to the Seller from sources other than the Buyer (whether directly or indirectly) and without restriction against disclosure by the Seller;
- (b) subsequently becomes public knowledge through no act or failure to act on the part of the Seller, or subsequently becomes lawfully available as described;
- (c) is already known by the Seller at the date of its disclosure by the Buyer; or
- (d) the Seller is obliged by law to divulge by government order, valid legislation or compulsory legal process.

11. **FREE ISSUE GOODS AND MATERIALS.**

Notwithstanding any provision to the contrary in this Order, Seller shall be responsible for any damages or losses to Buyer's "free issue" goods and materials occurring from any cause whatsoever while such goods and materials are in the care, custody or control of Seller or Seller's suppliers or contractors. To the extent any such goods and materials are damaged, lost or wasted while in the care, custody or control of Seller or Seller's suppliers or contractors, at Buyer's option and without prejudice to Buyer's additional remedies under this Order or at law, Seller shall repair or replace goods and materials to Buyer's satisfaction or deduct the actual replacement cost thereof from the order price.

12. **INDEMNIFICATION.**

Seller shall defend, indemnify and hold harmless Buyer, its parent, affiliates, subsidiaries and their respective officers, directors, employees and agents (the "Indemnified Parties") from any and all suits, claims, losses, costs, damages, expenses (including, but not limited to, all expenses of litigation, and court costs and attorneys' fees) or liability, (including but not limited to liability for property damage or loss or personal injury, including death, or any loss or damage incurred by Buyer due to Seller's noncompliance with the terms and conditions of this Order) of whatsoever nature or kind arising out of, as a result of or in connection with this Order or any Services performed hereunder, **WHETHER OR NOT CAUSED, BY THE NEGLIGENCE, SOLE, CONCURRENT, ACTIVE OR PASSIVE, OR STRICT LIABILITY OF BUYER, EXCEPT TO THE EXTENT ATTRIBUTABLE TO BUYER'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.** Seller shall at all times keep the Site free and clear of all Liens and encumbrances attributable to the Services and shall defend, indemnify and hold the Indemnified Parties harmless from all such Liens and encumbrances.

13. **CLAIMS AND LIENS.**

If (a) any laborers', materialmen's or mechanics' lien or other claim is filed for or on account of the Services (each, a "Lien"), and (b) Seller neither causes such Lien to be released and discharged, nor files a bond in lieu of such Lien, within ten days after the filing of such Lien, Buyer will have the right (but not the obligation) to pay all sums necessary to obtain the release of such Lien and, at its option, (x) deduct all amounts so paid from amounts due to Seller under this Order, or (y) require immediate cash reimbursement from Seller.

14. **CHANGES.**

14.1 Buyer may, at any time, by written notice to Seller, make changes within the general scope of this Order, in any one or more of the following: (a) drawings, designs or specifications; (b) place of inspection, acceptance or point of delivery; (c) delivery schedule, or (d) scope of Services.



14.2 Should any such change increase or decrease the cost of or the time required for the performance of this Order, an equitable adjustment may be requested by Seller or Buyer in the price, delivery schedule or both. No claim by Seller for such adjustment shall be valid unless submitted to Buyer in writing within thirty (30) days from the date of such change. Every claim must be accompanied by a detailed estimate of charges for redundant materials, Services in progress, or both. Nothing contained in this Section 14 shall relieve Seller from proceeding without delay in the performance of the Order as changed. Any change to this Order shall be made by written amendment signed by both parties.

15. TERMINATION FOR INSOLVENCY.

If a petition for bankruptcy is filed by or against Seller, Seller should make general assignment for the benefit of creditors, a receiver should be appointed in respect of Seller's insolvency, or Seller shall breach any term or condition of this Order, Buyer may, by written notice to Seller, terminate this Order, effective upon the date specified in such notice.

16. TERMINATION FOR CONVENIENCE.

Buyer may terminate this Order at any time by written notice to Seller. Payment for completed Services shall be made at the price specified in this Order.

17. TERMINATION FOR DEFAULT.

17.1 Buyer, without liability, may terminate by written notice of default the whole or any part of this Order if Seller:

- (a) fails to perform within the time specified or any written extension granted by Buyer;
- (b) fails to make progress which, in Buyer's reasonable judgment, endangers performance of this Order in accordance with its terms; or
- (c) fails to comply with any of the terms of this Order.

Such termination shall become effective if Seller does not cure such failure within ten (10) days of receiving notice of default.

17.2 Upon termination pursuant to Section 17.1, Buyer may procure at Seller's expense and upon terms it deems appropriate, Services similar to those so terminated. Seller shall continue performance of this Order to the extent not terminated and shall be liable to Buyer for any excess costs for such similar Services. As an alternate remedy and in lieu of termination for default, Buyer, at its sole discretion, may elect to extend the delivery schedule and/or waive other deficiencies in Seller's performance, making Seller liable for any costs, expenses or damages arising from any failure of Seller's performance. If Seller for any reason anticipates difficulty in complying with the required delivery date, or in meeting any of the other requirements of this Order, Seller shall promptly notify Buyer in writing. Buyer's rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this Order.

18. FORCE MAJEURE.

Neither party shall be liable for any failure or delay in performance under this Order to the extent such failure or delay is caused by circumstances beyond that party's reasonable control and occurring without its fault or negligence, including, but not limited to an act of God (e.g., fire, flood, earthquake, hurricane, or other natural disaster), government restriction (e.g., the denial or cancellation of any export or other necessary license), war, insurrection, terrorist act, blockade, or embargo (collectively and individually, "Force Majeure"); provided that the party asserting Force Majeure shall provide the other party (i) prompt written notice of such event and (ii) evidence of reasonable steps taken to minimize delay or damages. Dates by which performance obligations are scheduled to be met may be extended for a period of time equal to the time lost due to any delay so caused.



Notwithstanding anything herein to the contrary, Buyer may terminate the whole or any part of this Order if such a delay caused by Force Majeure continues for a period of time which Buyer determines, in its sole discretion, to be a commercially unreasonable delay.

19. ASSIGNMENT AND SUBCONTRACTING.

Seller may not assign this Order, in whole or in part, without the prior written consent of Buyer. Seller shall provide written notification to the Buyer of any proposed subcontracting of the work called for under this Order or part thereof which will or may exceed 25% of the total Order value. Seller shall not proceed with any subcontracting in excess of such threshold amount without the prior written approval of the Buyer. Should Buyer grant consent to Seller's assignment or subcontract, such assignee or subcontractor shall be bound by the terms and conditions of this Order. Seller shall not utilize any subcontractors, who are likely to interface with any Government Official in performing this Order to or on behalf of Buyer, without the prior written approval of Buyer. Notwithstanding any written consent of Buyer to any assignment, any payment to an assignee shall be subject to right of set-off of any claim which Buyer may have against Seller except to the extent that such claim is expressly waived in writing by Buyer. In addition, Seller will obtain for Buyer, unless advised to the contrary in writing, written acknowledgement by such assignee, subcontractor and/or supplier to Seller of its commitment to act in a manner consistent with Buyer's integrity policies, and to submit to, from time to time, on-site inspections or audits by Buyer or Buyer's third party designee as requested by Buyer. Buyer may assign this Order to any affiliate upon notice to Seller. If Seller subcontracts any part of the Services outside of the final destination country where the goods purchased hereunder will be shipped, Seller shall be responsible for complying with all customs requirements related to such sub-contracts, unless otherwise set forth in this Order.

20. NON-WAIVER.

No waiver by either Party of any breach of any of the terms or conditions of this Order shall be construed as a waiver of any subsequent breach, whether of the same or any other term or condition of this Order.

21. REMEDIES.

The rights and remedies of Buyer set forth in this Order are not exclusive and are in addition to all rights and remedies of Buyer at law.

22. GOVERNING LAW AND RESOLUTION OF DISPUTES.

22.1 The law governing the interpretation of this Order and any dispute, controversy or claim arising out of, relating to, or in any way connected with this Order including, without limitation, the existence validity, performance, breach, or termination hereof, shall be determined according to the laws of the State of Louisiana, without regard to any conflicts of law principles therein.

22.2 In the event a dispute arises hereunder between the parties, the parties shall attempt to settle such dispute by mutual discussions between senior management representatives. If either party believes that further discussion will not resolve the dispute to its own satisfaction, such party may notify the other party of its intention to refer the dispute to non-binding mediation. Upon such notification the parties shall jointly select a neutral and impartial mediator and schedule the mediation session. Venue for the mediation session shall be the city where Buyer's headquarters is located. The mediation process is confidential, and all such confidential information will be treated as compromise and settlement information for the purposes of any applicable rules of evidence. The parties will jointly and equally share the cost of the mediation services. In the event both the discussion between senior management representatives and non-binding mediation fail to resolve the dispute, either party may seek relief in the courts of the state or country whose laws are governing as provided in this Section 22. The parties agree that such courts shall have exclusive jurisdiction over the dispute. A court judgment may be entered and enforced by any court of competent jurisdiction.



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23. BINDING UPON ASSIGNS.

Subject to the limitations on assignment stated herein, this Order shall inure to the benefit of and be binding upon the parties hereto, their successors and assigns.

24. RIGHT OF SET-OFF.

Seller authorizes Buyer, to the extent permitted by applicable law, to charge or set off any and all claims which Buyer may have against Seller, including any and all sums due and owing Buyer by Seller against any and all accounts which Seller has or may have in the future with Buyer.

25. COMPLIANCE, CODES, ORDINANCES, ETC.

25.1 Seller and all goods and Services provided hereunder shall comply with all applicable laws and regulations (including, without limit, all health, safety and environmental laws and regulations), applicable insurance company requirements and Buyer's requirements for safety, health, environmental, and fire protection. Buyer shall have the right but not the obligation to inspect Seller's operations for compliance with the requirements of this Section 25. Such inspection shall not relieve Seller of any of its obligations hereunder. If Buyer determines that Seller is performing the Services in an unsafe manner or impairing health, safety or the environment, Buyer shall have the right but not the obligation to require Seller at no cost to Buyer to stop performing the Services until the deficiencies are remedied and to take all necessary action to abate the objectionable practice(s) or condition(s). Seller shall not restart the Services until the objectionable practices or conditions are remedied. In no event shall Buyer be obligated under this Order to take any action or omit to take any action the Buyer believes, in good faith, would cause it to be in violation of any applicable laws, rules or regulations, including but not limited to the U.S. Foreign Corrupt Practices Act.

25.2 The accumulation, storage and transportation and disposal of trash, waste or other matter (solid, gaseous or liquid) generated by Seller on Site shall be solely Seller's responsibility. Seller's trash/debris shall be promptly removed and properly disposed of to prevent fire or health and contamination hazards. Hazardous waste shall be at all times properly identified, packaged and disposed of by Seller. Seller's waste is to be transported by an approved transporter and disposed of at an approved disposal facility, without storage at an intermediate or temporary facility. Seller shall not commingle its waste with that of the Buyer and shall not store any wastes at the Site without Buyer's prior written consent. Seller shall conduct its operations in a manner to prevent spills or releases of any material, in whatever form, at the Site. If a release or spill of a hazardous or extremely hazardous material, hydrocarbon or toxic substance under the care and control of the Seller occurs on Site and the release is a reportable quantity, Seller shall make the necessary notifications to the appropriate parties (national response center, state emergency response center and local emergency coordination center and Buyer's Environmental Coordinator) and submit a copy of the action taken to Buyer. Seller shall immediately notify Buyer's environmental coordinator of any spills and take appropriate cleanup action, at its cost and expense. Buyer may interrupt the Services to prevent a spill or for purposes of Seller's cleanup, at no cost to Buyer. Seller shall ensure its subcontractors comply with all of the provisions this Section 25. Seller agrees to indemnify, defend, protect and hold the Indemnified Parties harmless from and against all liability, fines and expenses (including costs, expenses and attorneys' fees) that Buyer may sustain by reason of Seller's breach of its obligations under this Section 25.

25.3 None of Seller's personnel shall be permitted to enter or remain on Site if under the influence of drugs and/or alcohol. No drugs or other controlled substances, alcohol, drug-related paraphernalia, firearms, explosives or weapons ("Prohibited Items") are permitted to be possessed, used, purchased, transferred or distributed on Site. Seller's personnel must consent to searches of personal effects for Prohibited Items on entering or departing Site and, whenever there is an accident or reasonable cause to believe a person is using or under the influence of drugs or alcohol, to drug/alcohol testing, including, without limitation, urine and breath testing. Violation of the foregoing shall result in removal of the person from Site and



refusal of subsequent reentry, at Buyer's discretion. Seller shall notify its employees of the foregoing and obtain their consent, as a condition of Site entry.

26. **INSURANCE.**

26.1 Seller, at its own expense, shall carry with reliable insurance companies satisfactory to Buyer and authorized to do business at the location of the Site, the following types of insurance with at least the following policy limits:

- (a) Workers' Compensation Insurance or equivalent country scheme complying with all statutory benefits to the statutory limits, endorsed to include employer's liability, voluntary compensation, borrowed servant and, if applicable (i) Longshoremen's and Harbor Workers' Act coverage and (ii) Maritime Employers Compensation (Jones Act) endorsement with limits of \$1,000,000 per accident with transportation, maintenance, wages and cure provided, and shall contain a waiver of subrogation against the Indemnified Parties and their insurers; such additional endorsements to have a combined single limit per occurrence of US\$1 million or the equivalent amount in local currency;
- (b) Comprehensive General Liability Insurance with a combined single limit per occurrence of US\$10 million or the equivalent amount in local currency including endorsements for personal injury, completed operations, broad form contract liability, broad form property damage, installation coverage, premises coverage, product liability coverage and contractor protective, which policy shall contain a waiver of subrogation in favor of Buyer and its insurers and shall name Buyer as an additional insured, and
- (c) Automobile Liability Insurance with a combined single limit per occurrence of US\$1 million or the equivalent amount in local currency, with endorsements for owned vehicles, non-owned vehicles and hired vehicles, and shall name Buyer as an additional insured. Seller hereby waives and agrees to have its insurers waive any rights of subrogation against the Indemnified Parties and their insurers.

26.2 Seller also waives any rights of subrogation with respect to deductibles under such policies and with respect to damage to its equipment, including loss of use thereof, whether insured or not. Deductibles on insurance policies shall be for the account of Seller. Seller's insurance shall be primary as to Seller's operations and insurance policies carried by Buyer shall not be called upon for contribution.

26.3 Seller shall furnish Buyer with certificates of insurance certifying that the above insurance is in effect and Seller or Seller's insurers will give Buyer thirty (30) days' prior written notice in the event of cancellation or material change in the Seller's insurance program.

26.4 Seller shall obligate all of its subcontractors to carry the insurance coverage and provide indemnification as above, and to provide Buyer with subcontractor insurance certificates on request.

26.5 Seller shall promptly notify Buyer and will provide Buyer with copies of all accident investigations, insurance claims or reports in any way relating to this order or Seller's performance hereunder.

27. **PROPER BUSINESS PRACTICES.**

Seller shall act in a manner consistent with all laws concerning improper or illegal payments, gifts or gratuities (including without limit the U.S. Foreign Corrupt Practices Act) and agrees not to pay, promise to pay or authorize the payment of any money or anything of value, directly or indirectly, to any person for the purpose of illegally or improperly inducing a decision or obtaining or retaining business in connection with this Order. Seller certifies that neither it nor its principals or owners, nor any of its subcontractors and their principals or owners, nor any other person who will provide services under this Order, are listed on the Specially Designated Nationals, Specially Designated Terrorists, and/or Specially Designated Narcotic Traffickers lists maintained by the Office of



Foreign Asset Controls, United States Department of Treasury. Seller certifies that neither it nor its principals or owners, nor any of its subcontractors and their principals or owners, nor any other person who will provide services under this Order, are the subject of any other U.S. sanctions programs, or of any blocking or denial order by the U.S. government. Failure to comply with this certification or the submission of false supporting documentation shall be grounds for termination of this Order.

28. MISCELLANEOUS.

If this Order constitutes an offer, Seller's acceptance of this Order is hereby expressly limited to the terms of this Order and the performance of any Services covered hereunder shall be deemed to constitute such acceptance. If this Order constitutes an acceptance of an offer, such acceptance is expressly made conditional on Seller's assent to the terms of this Order, and performance of any part of the Services covered hereunder shall be deemed to constitute such assent. Nothing in this Order shall constitute either party the agent or legal representative of the other, and no partnership or joint venture shall be created thereby. Seller shall at all times remain an independent Seller for all purposes.

29. ENTIRE AGREEMENT; SURVIVAL.

- 29.1 This Order constitutes the entire agreement between the parties and supersedes all prior negotiations, representations, or any prior or contemporaneous agreements, whether written or oral, between the parties. No course of prior dealings and no usage of the trade shall be relevant to determine the meaning of this Order even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection.
- 29.2 No amendments to the Order shall be effective unless evidenced in writing and signed by both parties.
- 29.3 The invalidity, in whole or in part, of any of the foregoing Sections or paragraphs of this Order shall not affect the remainder of such Section or paragraphs or any other Section or paragraphs of this Order, which shall continue in full force and effect.
- 29.4 All provisions or obligations contained in this Order, which by their nature or effect are required or intended to be observed, kept or performed after termination or expiration of an Order will survive and remain binding upon and for the benefit of the parties, their successors (including without limitation successors by merger) and permitted assigns including, without limitation, Sections 8 (Warranties), 9 (Patents), 10 (Confidentiality and Ownership of Data) and 12 (Indemnification).



Sub-Surface Tools, L.L.C.
STANDARD TERMS AND CONDITIONS
(Purchase of Goods)

1. ACCEPTANCE OF TERMS.

- 1.1 Seller agrees to be bound by and to comply with all terms set forth herein and in the purchase order, to which these terms are expressly incorporated by reference (collectively, the “Order”), including any amendments, supplements, specifications and other documents referred to in this Order. Acknowledgement of this Order, including without limitation, by beginning performance of the work called for by this Order, shall be deemed acceptance of this Order. The terms set forth in this Order take precedence over any alternative terms in any other document connected with this transaction unless such alternative terms are: (a) part of a written supply agreement (“Supply Agreement”), which has been negotiated between the Parties and which the Parties have expressly agreed may override these terms in the event of a conflict and/or (b) set forth on the face of the Order.
- 1.2 In the event these terms are part of a written Supply Agreement between the Parties, the term “Order” used herein shall mean any purchase order issued under the Supply Agreement.
- 1.3 This Order does not constitute an acceptance by Buyer of any offer to sell, any quotation, or any proposal. Reference in this Order to any such offer to sell, quotation or proposal shall in no way constitute a modification of any of the terms of this Order. **SELLER’S ACCEPTANCE OF THIS ORDER IS EXPRESSLY LIMITED TO THE TERMS AND CONDITIONS OF THIS ORDER. ANY ATTEMPTED ACKNOWLEDGMENT OF THIS ORDER CONTAINING TERMS INCONSISTENT WITH OR IN ADDITION TO THE TERMS OF THIS ORDER IS NOT BINDING UNLESS SPECIFICALLY ACCEPTED BY BUYER IN WRITING. IF THIS ORDER IS CONSTRUED TO BE AN ACCEPTANCE BY BUYER OF AN OFFER BY SELLER, BUYER EXPRESSLY LIMITS SUCH ACCEPTANCE TO THE EXPLICIT TERMS OF THIS ORDER AND REJECTS ANY ADDITIONAL OR VARIED TERMS SET FORTH IN SELLER’S OFFER. NOTHING IN THIS ORDER WILL INDICATE THAT THIS ORDER IS AN ACCEPTANCE; RATHER, IT WILL BE CONSTRUED TO BE AN OFFER TO THE EXTENT POSSIBLE. BUYER HEREBY OBJECTS TO ANY ATTEMPT BY SELLER TO ADD TO OR VARY ANY TERM OF THIS ORDER AND EXPRESSLY REJECTS ALL SUCH MODIFICATIONS UNLESS AGREED TO IN WRITING BY BUYER.**

2. DELIVERY AND PASSAGE OF TITLE.

- 2.1 All goods ordered shall be subject to inspection or verification by Buyer or its authorized agent (a) during the period of manufacture, (b) prior to shipment, and (c) at destination, notwithstanding any prior payment, inspection or terms of shipment. Inspection by Buyer or its authorized agent, failure of Buyer or its agent to make adequate inspection, or acceptance by Buyer shall in no event limit or discharge the obligations of Seller to comply with the provisions of this Order. **Payment for any goods hereunder shall not be deemed acceptance thereof. All risk of loss or damage to the goods will remain Seller’s until delivered to and accepted by Buyer at the point specified in the Order, unless Buyer and Seller agree otherwise in writing.**
- 2.2 Title to the goods shall pass to Buyer no later than the time of delivery provided that any passing of title shall not prejudice either Buyer’s right to reject Nonconforming Goods or any other right that Buyer may have; and in those instances where advances or progress payments are made, title, but not risk of loss or



damage, shall pass to Buyer as soon as items are identified to the Order. All items so identified shall be adequately marked and recorded as being the property of Buyer. "Nonconforming Goods" shall mean any goods that fail to conform in any respect to one or more of the warranties set forth in Section 8 or any other requirement of this Order.

- 2.3 Each package shall be numbered and labeled with Buyer's Order number and unit shipped to, shall contain an itemized packing list, and shall be properly packaged for shipment to protect against damage and deterioration. No charges of any kind including charges for inspection or for packaging, crating, freight, express or cartage will be allowed unless specified on the face of the Order. Unless otherwise provided in the Order, all containers and packing supplied by Seller shall be considered as non-returnable and their cost shall be included in the price.

3. **PRICES AND PAYMENT.**

- 3.1 Except as otherwise provided in Section 4, all prices are firm and shall not be subject to change. Seller's price includes all payroll and/or occupational taxes, any value added tax that is not recoverable by Buyer and any other taxes, fees and/or duties applicable to the goods and/or services purchased under this Order; provided, however, that any state and local sales, use, excise and/or privilege taxes, if applicable, will not be included in Seller's price but will be separately identified on Seller's invoice. If Seller is obligated by law to charge any value added and/or similar tax to Buyer, Seller shall ensure that if such value-added and/or similar tax is applicable, that it is invoiced to Buyer in accordance with applicable rules so as to allow Buyer to reclaim such value-added and/or similar tax from the appropriate government authority. Neither Party is responsible for taxes on the other Party's income or the income of the other Party's personnel or subcontractors. If Buyer is required by government regulation to withhold taxes for which Seller is responsible, Buyer will deduct such withholding tax from payment to Seller and provide to Seller a valid tax receipt in Seller's name.
- 3.2 Invoices shall be payable within ninety (90) days from the date a correct invoice is received and approved by Buyer. Unless otherwise requested by Buyer, invoices shall (a) be rendered separately for each delivery, (b) cover not more than one Order, (c) be rendered with the Order number noted thereon, and (d) be accompanied by a copy of receipt of transportation charges. If the invoice is subject to cash discount, the discount period will be calculated from either the date all goods ordered are received by Buyer or the date the invoice is received by Buyer, whichever occurs later. Buyer may withhold any amounts that are disputed in good faith. Unless specifically agreed otherwise in writing all prices shall be fixed, firm and not subject to any form of surcharge or variation. Progress payments, if agreed to, are subject to the condition that payment will be made when items have been allocated to the Order and title has passed to Buyer, free from any third party claims.

For a period of five (5) years from the date of this Order, Seller shall maintain and preserve and shall cause its sub-vendors to maintain and preserve in accordance with generally accepted accounting principles ("GAAP") accurate documentation and data concerning all cost-reimbursable goods or work provided hereunder. At all reasonable times during such period Seller shall permit and cause its sub-vendors to permit the representatives of Buyer to have access to its and their offices and work locations to examine, reproduce and retain copies of such documentation and data to verify all cost-reimbursable goods or work including any change orders.

4. **MOST FAVORED CUSTOMER.**

Seller represents and warrants to Buyer that the terms and conditions of this Order are at least as favorable to Buyer as those applicable to any other customer of Seller, and the price paid by Buyer (the "Price") is not higher than the price charged to any other customer of Seller (including, but not limited to, any Governmental Authority) for products of like grade and quality. If Seller offers to any of its customers, or agrees to, terms and conditions more favorable than those set forth in this Order or a price for products of like grade and quality lower than the Price, this Order will automatically be revised so as to conform to the requirements of this Section 4.



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5. TIME IS OF THE ESSENCE.

The terms and conditions for shipment are stated on the face of the Order. The time stipulated for delivery of the goods in the Order shall be of the essence, and failure of Seller to complete delivery of the goods herein ordered within the time specified, or within a reasonable time if no time is specified, shall, at the option of Buyer, without liability, in addition to Buyer's other rights or remedies, relieve Buyer of any obligation to accept and pay for any such goods. Without prejudice to Seller's obligation to deliver the goods on time, Seller shall give Buyer notice in writing immediately if any delay is foreseeable. Buyer shall not be required to make any payment in respect of goods shipped by Seller in advance of this specified shipping date until the date specified in this Order for such goods.

6. INDIRECT AND CONSEQUENTIAL DAMAGES.

Neither party shall be liable to the other for any indirect, incidental or consequential losses or damages of any type or for loss of profit, loss of use, loss of business, or loss of financial advantage unless such loss or damage is due to the gross negligence or willful misconduct of such party or its supplier(s).

7. REJECTION.

If any of the goods and/or services furnished pursuant to this Order are found within a reasonable time after delivery to be defective or Nonconforming Goods, including any applicable drawings and specifications, whether such defect or non-conformity relates to scope provided by Seller or a direct or indirect supplier to Seller, then Buyer, in addition to any other rights, remedies and choices it may have by law, contract or at equity, and in addition to seeking recovery of any and all damages and costs emanating therefrom, at its option and sole discretion and at Seller's expense may (a) require Seller to immediately re-perform any defective portion of the services and/or require Seller to immediately repair or replace Nonconforming Goods with goods that conform to all requirements of this Order, (b) take such actions as may be required to cure all defects and/or bring the goods and/or services into conformity with all requirements of this Order, in which event all related costs and expenses (including, but not limited to, material, labor and handling and any required re-performance of value added machining or other services) and other reasonable charges shall be for Seller's account, (c) withhold total or partial payment, (d) reject and return all or any portion of such goods and/or services, and/or (e) rescind this Order without liability. For any repairs or replacements, Seller, at its sole cost and expense, shall perform any tests requested by Buyer to verify conformance with this Order.

8. WARRANTIES.

Seller warrants that all goods and services provided pursuant to this Order, whether provided by Seller or a direct or indirect supplier of Seller, will be free of any claims of any nature, including without limitation title claims, and will cause any lien or encumbrance asserted to be discharged, at its sole cost and expense, within thirty (30) days of its assertion (provided such liens do not arise out of Buyer's failure to pay amounts not in dispute under this Order or an act or omission of Buyer). Seller warrants and represents that all such goods and services will be new and of merchantable quality, not used, rebuilt or made of refurbished material unless approved in writing by Buyer, free from all defects in design, workmanship and material and will be fit for the particular purpose for which they are intended. Seller acknowledges that it is fully aware of the purposes for which Buyer intends to use the goods and therefore further represents and warrants that all goods will be suitable for, and will accomplish, such purposes. Seller expressly warrants that all goods delivered in connection with this Order will conform to any sample or any specifications, drawings or other description furnished or adopted by Buyer. Seller will assign to Buyer any manufacturers' or other warranties applicable to the goods and will cooperate with Buyer in enforcing such warranties. The warranty herein shall also apply to any replaced or corrected goods. The design, manufacture, production, testing, sale and delivery of the goods and Seller's performance of its obligations under this Order will comply with all applicable laws. Any attempt by Seller to limit, disclaim or restrict any such warranties or remedies by acknowledgment or otherwise shall be null, void and ineffective.



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9. PATENTS.

Seller warrants and guarantees that the sale or use of goods or the use of any process or method utilized or provided by Seller hereunder will not infringe any U.S. or other patents, and Seller agrees to defend, release, indemnify and hold Buyer and its customers harmless from any expense (including attorneys' fees and court costs), loss, cost, damage or liability which may be incurred on account of infringement or alleged infringement of patent rights with respect to such goods, processes or methods, and Seller will defend, at its own expense, any action or claim in which such infringement is alleged. Seller further represents and warrants that any labels or trademarks affixed thereto by or on behalf of Seller are free from any valid claim for copyright or trademark infringement. Where development forms a part of this Order, the ownership of any invention, design, trade secret or copyright arising from such development shall be transferred to Buyer, and Seller shall cooperate as necessary to make such transfer effective as soon as any such right arises.

10. CONFIDENTIALITY AND OWNERSHIP OF DATA.

10.1 Seller shall not use or disclose any data, designs, drawings, blueprints, or other information belonging to or supplied by or on behalf of Buyer (the "Data") except in the performance of orders for Buyer or except in the performance of this Order, make use of information or knowledge relating to details of Buyer's business or that of its subsidiaries or affiliates, suppliers or customers, or of any other confidential or proprietary information of Buyer, its subsidiaries or affiliates, suppliers or customers which shall have been obtained because of this Order. Upon Buyer's request, the Data and any copies thereof shall be returned to Buyer. Where Buyer's Data is furnished to Seller's suppliers for procurement of goods by Seller, for use in the fulfillment of this Order, Seller shall insert the substance of this provision in its orders. In the event persons not specifically authorized by Buyer gain access to the Data, this Order, at the option of Buyer, may be canceled immediately. Such cancellation shall not constitute Buyer's exclusive remedy but shall be in addition to any rights or remedies hereunder and under the applicable law.

10.2 The Data shall remain the property of Buyer, and Seller shall be responsible for all loss or damage thereto while in Seller's care, custody or control. Upon completion, cancellation or termination of this Order, all such materials shall be held free of charge by Seller pending instructions by Buyer for the return, retention or destruction of the Data. Buyer accepts no obligation of confidence to Seller with respect to any ideas, data or information divulged by Seller, or equipment, operations or designs witnessed by Buyer at Seller's plant.

10.3 Seller hereby specifically acknowledges Buyer's ownership of the Data and that Buyer has a superior interest in all rights, title and interest in and to the Data. Seller agrees and covenants not to contest, challenge or dispute, directly or indirectly, Buyer's ownership, title, right or interest in and to the Data, nor to contest Buyer's sole right to lease, register, use or license others to use the Data. Seller further agrees that it shall not divulge or disclose any trade secrets or confidential information of Buyer made available to Seller hereunder.

10.4 Seller shall not release, copy, extract, modify, manipulate or duplicate all or any part of the Data in any way or in any format, either for itself or for others, or suffer or permit such to be done in a manner inconsistent with Buyer's ownership of the Data without the prior express written consent of Buyer. Seller acknowledges that some or all of the Data may be protected under federal or other copyright laws and that significant damage and harm would result to the business of Buyer upon the unauthorized release, copying, extraction, modification, manipulation or duplication of any of the Data. Seller acknowledges and agrees that it is obligated to notify Buyer in the event any of the Data is lost or improperly removed from the custody of Seller including notifying Buyer as to the identity of any individual(s) who may be responsible for losing or improperly removing the Data. Seller agrees to use diligent efforts to recover any lost or improperly removed Data.

10.5 **The Parties hereto understand and agree that misuse (including reuse), misinterpretation of or modifications to the Data by anyone other than Buyer may result in adverse consequences that Buyer can neither predict nor control.** The Seller, by acceptance of this Order, acknowledges and



agrees to bind and obligate itself to release, acquit, forever discharge, hold harmless, defend and indemnify Buyer from any and all suits, claims, losses, costs, damages, expenses (including, but not limited to, all expenses of litigation, court costs and attorney's fees) or liability of whatsoever nature or kind, whether in contract or in tort or otherwise, whether arising under common law or state or federal statute, or arising out of, as a result of or in connection with any claims in any way connected with the use, misuse, modification, misinterpretation, alteration or reuse by Seller or others of the Data. Seller further acknowledges and agrees that the foregoing indemnification applies, without limitation, to any use of the Data on other sales, excepting only such use as may be authorized in writing by Buyer.

10.6 The obligations of the Seller under this Section 10 shall not apply to Data which:

- (a) is public knowledge at the date of disclosure by the Buyer or lawfully available to the Seller from sources other than the Buyer (whether directly or indirectly) and without restriction against disclosure by the Seller;
- (b) subsequently becomes public knowledge through no act or failure to act on the part of the Seller, or subsequently becomes lawfully available as described;
- (c) is already known by the Seller at the date of its disclosure by the Buyer; or
- (d) the Seller is obliged by law to divulge by government order, valid legislation or compulsory legal process.

11. **FREE ISSUE GOODS AND MATERIALS.**

Notwithstanding any provision to the contrary in this Order, Seller shall be responsible for any damages or losses to Buyer's "free issue" goods and materials occurring from any cause whatsoever while such goods and materials are in the care, custody or control of Seller or Seller's suppliers or contractors. To the extent any such goods and materials are damaged, lost or wasted while in the care, custody or control of Seller or Seller's suppliers or contractors, at Buyer's option and without prejudice to Buyer's additional remedies under this Order or at law, Seller shall repair or replace goods and materials to Buyer's satisfaction or deduct the actual replacement cost thereof from the order price.

12. **INDEMNIFICATION.**

Seller shall defend, indemnify and hold harmless Buyer, its parent, affiliates, subsidiaries and their respective officers, directors, employees and agents (the "Indemnified Parties") from any and all suits, claims, losses, costs, damages, expenses (including, but not limited to, all expenses of litigation, and court costs and attorneys' fees) or liability (including, but not limited to, liability for property damage or loss or personal injury, including death or any loss or damage incurred by Buyer due to Seller's noncompliance with the terms and conditions of this Order), of whatsoever nature or kind arising out of, as a result of or in connection with this order or any goods supplied hereunder, **WHETHER OR NOT CAUSED BY THE NEGLIGENCE, SOLE, CONCURRENT, ACTIVE OR PASSIVE, OR STRICT LIABILITY OF BUYER, EXCEPT TO THE EXTENT ATTRIBUTABLE TO BUYER'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.**

13. **CLAIMS AND LIENS.**

If (a) any laborers', materialmen's or mechanics' lien or other claim is filed for or on account of the goods or services (each, a "Lien"), and (b) Seller neither causes such Lien to be released and discharged, nor files a bond in lieu of such Lien, within ten days after the filing of such Lien, Buyer will have the right (but not the obligation) to pay all sums necessary to obtain the release of such Lien and, at its option, (x) deduct all amounts so paid from amounts due to Seller under this Order, or (y) require immediate cash reimbursement from Seller.



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14. **CHANGES.**

- 14.1 Buyer may, at any time, by written notice to Seller, make changes within the general scope of this Order, in any one or more of the following: (a) drawings, designs or specifications, (b) method of shipping or packing, (c) place of inspection, acceptance or point of delivery, (d) delivery schedule, (e) amount of Buyer's furnished equipment or property, (f) quality, (g) quantity, or (h) scope or schedule of goods and/or services.
- 14.2 Should any such change increase or decrease the cost of or the time required for the performance of this Order, an equitable adjustment may be requested by Seller or Buyer in the price, delivery schedule or both. No claim by Seller for such adjustment shall be valid unless submitted to Buyer in writing within thirty (30) days from the date of such change. Every claim must be accompanied by a detailed estimate of charges for redundant materials, work in progress, or both. Nothing contained in this Section 14 shall relieve Seller from proceeding without delay in the performance of the Order as changed. Any change to this Order shall be made by written amendment signed by both parties.

15. **TERMINATION FOR INSOLVENCY.**

If a petition for bankruptcy is filed by or against Seller, Seller should make general assignment for the benefit of creditors, a receiver should be appointed in respect of Seller's insolvency, or Seller shall breach any term or condition of this Order, Buyer may by written notice to Seller terminate this Order, effective upon the date specified in such notice.

16. **TERMINATION FOR CONVENIENCE.**

Buyer may terminate this Order at any time by written notice to Seller. Payment for delivered goods shall be made at the price specified in this Order.

17. **TERMINATION FOR DEFAULT.**

- 17.1 Buyer, without liability, may terminate by written notice of default the whole or any part of this Order if Seller:
- (a) fails to perform within the time specified or any written extension granted by Buyer;
 - (b) fails to make progress which, in Buyer's reasonable judgment, endangers performance of this Order in accordance with its terms; or
 - (c) fails to comply with any of the terms of this Order.

Such termination shall become effective if Seller does not cure such failure within ten (10) days of receiving notice of default.

- 17.2 Upon termination pursuant to Section 17.1, Buyer may procure at Seller's expense and upon terms it deems appropriate, goods or services similar to those so terminated. Seller shall continue performance of this Order to the extent not terminated and shall be liable to Buyer for any excess costs for such similar goods or services. As an alternate remedy and in lieu of termination for default, Buyer, at its sole discretion, may elect to extend the delivery schedule and/or waive other deficiencies in Seller's performance, making Seller liable for any costs, expenses or damages arising from any failure of Seller's performance. If Seller for any reason anticipates difficulty in complying with the required delivery date, or in meeting any of the other requirements of this Order, Seller shall promptly notify Buyer in writing. If Seller does not comply with Buyer's delivery schedule, Buyer may require delivery by fastest method and charges resulting from the premium transportation must be fully prepaid by Seller. Buyer's rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this Order.



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18. FORCE MAJEURE.

Neither party shall be liable for any failure or delay in performance under this Order to the extent such failure or delay is caused by circumstances beyond that party's reasonable control and occurring without its fault or negligence, including, but not limited to an act of God (e.g., fire, flood, earthquake, hurricane, or other natural disaster), government restriction (e.g., the denial or cancellation of any export or other necessary license), war, insurrection, terrorist act, blockade, or embargo (collectively and individually, "Force Majeure"); provided that the party asserting Force Majeure shall provide the other party (i) prompt written notice of such event and (ii) evidence of reasonable steps taken to minimize delay or damages. Dates by which performance obligations are scheduled to be met may be extended for a period of time equal to the time lost due to any delay so caused. Notwithstanding anything herein to the contrary, Buyer may terminate the whole or any part of this Order if such a delay caused by Force Majeure continues for a period of time which Buyer determines, in its sole discretion, to be a commercially unreasonable delay.

19. ASSIGNMENT AND SUBCONTRACTING.

Seller may not assign this Order, in whole or in part, without the prior written consent of Buyer. Seller shall provide written notification to the Buyer of any proposed subcontracting of the work called for under this Order or part thereof which will or may exceed 25% of the total Order value. Seller shall not proceed with any subcontracting in excess of such threshold amount without the prior written approval of the Buyer. Should Buyer grant consent to Seller's assignment or subcontract, such assignee or subcontractor shall be bound by the terms and conditions of this Order. Seller shall not utilize any subcontractors, who are likely to interface with any Government Official in performing this Order to or on behalf of Buyer, without the prior written approval of Buyer. Notwithstanding any written consent of Buyer to any assignment, any payment to an assignee shall be subject to a right of set-off of any claim which Buyer may have against Seller except to the extent that such claim is expressly waived in writing by Buyer. In addition, Seller will obtain for Buyer, unless advised to the contrary in writing, written acknowledgement by such assignee, subcontractor and/or supplier to Seller of its commitment to act in a manner consistent with Buyer's integrity policies, and to submit to, from time to time, on-site inspections or audits by Buyer or Buyer's third party designee as requested by Buyer. Buyer may assign this Order to any affiliate upon notice to Seller. If Seller subcontracts any part of the work under this Order outside of the final destination country where the goods purchased hereunder will be shipped, Seller shall be responsible for complying with all customs requirements related to such sub-contracts, unless otherwise set forth in this Order.

20. NON-WAIVER.

No waiver by either Party of any breach of any of the terms or conditions of this Order shall be construed as a waiver of any subsequent breach, whether of the same or any other term or condition of this Order.

21. REMEDIES.

The rights and remedies of Buyer set forth in this Order are not exclusive and are in addition to all rights and remedies of Buyer at law.

22. GOVERNING LAW AND RESOLUTION OF DISPUTES.

22.1 The law governing the interpretation of this Order and any dispute, controversy or claim arising out of, relating to, or in any way connected with this Order including, without limitation, the existence validity, performance, breach, or termination hereof, shall be determined according to the laws of the State of Louisiana, without regard to any conflicts of law principles therein.

22.2 In the event a dispute arises hereunder between the parties, the parties shall attempt to settle such dispute by mutual discussions between senior management representatives. If either party believes that further discussion will not resolve the dispute to its own satisfaction, such party may notify the other party of its intention to refer the dispute to non-binding mediation. Upon such notification the parties shall jointly select a neutral and impartial mediator and schedule the mediation session. Venue for the mediation



session shall be the city where Buyer's headquarters is located. The mediation process is confidential, and all such confidential information will be treated as compromise and settlement information for the purposes of any applicable rules of evidence. The parties will jointly and equally share the cost of the mediation services. In the event both the discussion between senior management representatives and non-binding mediation fail to resolve the dispute, either party may seek relief in the courts of the state or country whose laws are governing as provided in this Section 22. The parties agree that such courts shall have exclusive jurisdiction over the dispute. A court judgment may be entered and enforced by any court of competent jurisdiction.

23. BINDING UPON ASSIGNS.

Subject to the limitations on assignment stated herein, this Order shall inure to the benefit of and be binding upon the parties hereto, their successors and assigns.

24. RIGHT OF SET-OFF.

Seller authorizes Buyer, to the extent permitted by applicable law, to charge or set off any and all claims which Buyer may have against Seller, including any and all sums due and owing Buyer by Seller against any and all accounts which Seller has or may have in the future with Buyer.

25. COMPLIANCE.

25.1 Seller and all goods provided hereunder shall comply with all applicable laws and regulations (including, without limit, all health, safety and environmental laws and regulations), applicable insurance company requirements and Buyer's requirements for safety, health, environmental, and fire protection. Buyer shall have the right but not the obligation to inspect Seller's operations for compliance with the requirements of this Section 25. Such inspection shall not relieve Seller of any of its obligations hereunder. If Buyer determines that Seller is performing the services in an unsafe manner or impairing health, safety or the environment, Buyer shall have the right but not the obligation to require Seller at no cost to Buyer to stop performing the work until the deficiencies are remedied and to take all necessary action to abate the objectionable practice(s) or condition(s). Seller shall not restart the services until the objectionable practices or conditions are remedied. In no event shall Buyer be obligated under this Order to take any action or omit to take any action the Buyer believes, in good faith, would cause it to be in violation of any applicable laws, rules or regulations, including but not limited to the U.S. Foreign Corrupt Practices Act.

25.2 Seller warrants that all goods manufactured in or for delivery to the U.S.A. or its territories are in full compliance with all applicable hazardous materials/toxic substance laws and regulations, and shall be properly labeled, packaged, transported and otherwise handled or processed. Seller shall not ship to Buyer or bring onto Buyer's premises any materials which are classified by the U.S. Environmental Protection Agency ("EPA") as a hazardous substance or that will generate a hazardous waste without the prior written approval of Buyer. Seller shall fully comply with the U.S. Occupational Safety and Health Administration's Hazardous Material Communication Standard and shall furnish Buyer with copies of Material Safety Data Sheets ("MSDS") for all items Seller ships to Buyer five (5) days prior to the initial shipment and a MSDS copy shall accompany the initial shipment. Seller represents on a continuing basis that its operating facilities in the U.S.A. or its territories are not designated as Clear Air/Clean Water Act violating facilities by the EPA.

26. INSURANCE.

26.1 Seller, at its own expense, shall carry with reliable insurance companies satisfactory to Buyer, the following types of insurance with at least the following policy limits:

- (a) Workers' Compensation Insurance or equivalent country scheme complying with all statutory benefits to the statutory limits, endorsed to include employer's liability, voluntary compensation, borrowed servant and, if applicable (i) Longshoremen's and Harbor Workers' Act coverage and



(ii) Maritime Employers Compensation (Jones Act) endorsement with limits of \$1,000,000 per accident with transportation, maintenance, wages and cure provided, and shall contain a waiver of subrogation against the Indemnified Parties and their insurers; such additional endorsements to have a combined single limit per occurrence of US\$1 million or the equivalent amount in local currency;

(b) Comprehensive General Liability Insurance with a combined single limit per occurrence of US\$10 million or the equivalent amount in local currency including endorsements for personal injury, completed operations, broad form contract liability, broad form property damage, installation coverage, premises coverage, product liability coverage and contractor protective, which policy shall contain a waiver of subrogation in favor of Buyer and its insurers and shall name Buyer as an additional insured, and

(c) Automobile Liability Insurance with a combined single limit per occurrence of US\$1 million or the equivalent amount in local currency, with endorsements for owned vehicles, non-owned vehicles and hired vehicles, and shall name Buyer as an additional insured. Seller hereby waives and agrees to have its insurers waive any rights of subrogation against the Indemnified Parties and their insurers.

26.2 Seller also waives any rights of subrogation with respect to deductibles under such policies and with respect to damage to its equipment, including loss of use thereof, whether insured or not. Deductibles on insurance policies shall be for the account of Seller. Seller's insurance shall be primary as to Seller's operations and insurance policies carried by Buyer shall not be called upon for contribution.

26.3 Seller shall furnish Buyer with certificates of insurance certifying that the above insurance is in effect and Seller or Seller's insurers will give Buyer thirty (30) days' prior written notice in the event of cancellation or material change in the Seller's insurance program.

26.4 Seller shall obligate all of its subcontractors to carry the insurance coverage and provide indemnification as above, and to provide Buyer with subcontractor insurance certificates on request.

26.5 Seller shall promptly notify Buyer and will provide Buyer with copies of all accident investigations, insurance claims or reports in any way relating to this order or Seller's performance hereunder.

27. **PROPER BUSINESS PRACTICES.**

Seller shall act in a manner consistent with all laws concerning improper or illegal payments, gifts or gratuities (including without limit the U.S. Foreign Corrupt Practices Act) and agrees not to pay, promise to pay or authorize the payment of any money or anything of value, directly or indirectly, to any person for the purpose of illegally or improperly inducing a decision or obtaining or retaining business in connection with this Order. Seller certifies that neither it nor its principals or owners, nor any of its subcontractors and their principals or owners, nor any other person who will provide services under this Order, are listed on the Specially Designated Nationals, Specially Designated Terrorists, and/or Specially Designated Narcotic Traffickers lists maintained by the Office of Foreign Asset Controls, United States Department of Treasury. Seller certifies that neither it nor its principals or owners, nor any of its subcontractors and their principals or owners, nor any other person who will provide services under this Order, are the subject of any other U.S. sanctions programs, or of any blocking or denial order by the U.S. government. Failure to comply with this certification or the submission of false supporting documentation shall be grounds for termination of this Order.

28. **MISCELLANEOUS.**

If this Order constitutes an offer, Seller's acceptance of this Order is hereby expressly limited to the terms of this Order, and shipment of any part of the goods covered hereunder shall be deemed to constitute such acceptance. If this Order constitutes an acceptance of an offer, such acceptance is expressly made conditional on Seller's assent to the terms of this Order, and shipment of any part of the goods covered hereunder shall be deemed to



constitute such assent. Nothing in this Order shall constitute either party the agent or legal representative of the other, and no partnership or joint venture shall be created thereby. Seller shall at all times remain an independent contractor for all purposes.

29. ACCESS.

Seller agrees that during normal working hours it will permit employees or representatives of Buyer to visit Seller's facilities in order to verify and determine whether the required standards of quality and workmanship are being met by Seller.

30. ENTIRE AGREEMENT; SURVIVAL.

30.1 This Order constitutes the entire agreement between the Parties and supersedes all prior negotiations, representations, or any prior or contemporaneous agreements, whether written or oral, between the parties. No course of prior dealings and no usage of the trade shall be relevant to determine the meaning of this Order even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection.

30.2 No amendments to the Order shall be effective unless evidenced in writing and signed by both Parties.

30.3 The invalidity, in whole or in part, of any of the foregoing Sections or paragraphs of this Order shall not affect the remainder of such Section or paragraphs or any other Section or paragraphs of this Order, which shall continue in full force and effect.

30.4 All provisions or obligations contained in this Order, which by their nature or effect are required or intended to be observed, kept or performed after termination or expiration of an Order will survive and remain binding upon and for the benefit of the parties, their successors (including without limitation successors by merger) and permitted assigns including, without limitation, Sections 8 (Warranties), 9 (Patents), 10 (Confidentiality and Ownership of Data) and 12 (Indemnification).