

PURCHASE ORDER TERMS & CONDITIONS (Hereinafter the “Terms”)

1.0 Scope of Agreement. The parties to the Purchase Order referred to as Contractor and Company for which these Terms are attached or referenced agree that these Terms shall apply to the goods, work and/or services as described in the Purchase Order and any attachments thereto. In addition, Contractor and Company agree that all provisions as set forth in the General Services Agreement between the parties shall be incorporated herein by reference as if set forth in their entirety herein, and shall be considered as part of these Terms. No pre-printed terms, conditions or the like of Contractor shall apply to the Purchase Order unless signed by the Company with a reference to both the corresponding General Services Agreement between the parties and these Terms.

2.0 Acceptance. Contractor's commencement of work, services or shipment of goods subject to this Purchase Order, whichever occurs first, shall be deemed an effective mode of acceptance of this Purchase Order. Any acceptance of this Purchase Order is limited to acceptance of the express terms contained in the Purchase Order, attachments to the Purchase Order as provided by the Company, and these Terms. Any proposal for additional or different terms or any attempt by Contractor to vary in any degree any of the terms of this offer in Contractor's acceptance is hereby objected to and rejected.

Contractor shall notify the Company in writing within two (2) business days after receipt of this Purchase Order if Contractor is unable to accept the Company's requested Delivery Due Date. Failure of Contractor to object to the requested Delivery Due Date within two (2) “Business Days” shall constitute Contractor's acceptance of the Delivery Due Date. For purposes of these Terms and Conditions and this Purchase Order, a “Business Day” shall be considered a weekday, Monday – Friday, excluding Federal Holidays.

Contractor is to accept the area of the work in its present condition and Contractor has examined the area of work and determined to Contractor's satisfaction all existing conditions visually discernible and/or reasonably expected from Contractor's understanding of the scope of the project covered by this Purchase Order and/or Contractor's particular knowledge of this particular type of project.

3.0 Termination for Convenience. The Company reserves the right to terminate this Purchase Order or any part hereof for its sole convenience. In such event, Contractor shall, and shall cause any of its suppliers, contractors or subcontractors to immediately cease work pursuant to this Purchase Order. For items included in the scope which Company requests to delete, Contractor shall provide quotation for change order on a cost plus 8% basis for the credit. If material intended for the work cannot be returned (or not purchased) and cannot be used elsewhere by Contractor, the quote shall include a list of material intended for the cancelled work but not included in the credit. Such material will be submitted to and become the property of Company. Notwithstanding the foregoing, however, in the event the items in the scope of work which Company requests to delete has been assigned a specific value as set forth in the Schedule of Prices and Payment Terms attached hereto as Exhibit B, the value associated with such cancelled item shall be equal to the value assigned to the item in the Schedule of Prices and Payment Terms. Any advance payments paid by the Company to Contractor in excess of the afore-referenced amount due to Contractor in the event of termination shall be refunded to the Company by Contractor within five (5) Business Days of termination of this Purchase Order. CONTRACTOR AGREES TO DEFEND, INDEMNIFY (INCLUDING THE PAYMENT OF ALL ATTORNEYS' FEES, COURT COSTS AND LITIGATION EXPENSES) AND HOLD HARMLESS THE COMPANY, AND ALL OF ITS AFFILIATED AND RELATED ENTITIES, AND ITS/THEIR OFFICERS, DIRECTORS, AGENTS, EMPLOYEES AND VESSELS (WHETHER OWNED, CHARTERED OR MANAGED) FROM ANY CLAIMS AND/OR DEMANDS BROUGHT BY CONTRACTOR AND/OR CONTRACTOR'S CONTRACTORS, SUBCONTRACTORS OR AGENTS RESULTING FROM TERMINATION OF THIS PURCHASE ORDER IN ACCORDANCE WITH THIS PROVISION.

4.0 Termination for Cause. If Contractor does not comply with the Company's Delivery Due Date or any associated performance and/or milestone progress schedule, or in the event it becomes apparent that delivery or completion cannot be accomplished within the time specified, the Company, at its option, may either approve a revised Delivery Due Date

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(including any associated performance and/or milestone progress schedule) or may terminate this Purchase Order either in whole or in part without penalty or liability to the Company, except for materials received and accepted or work completed and accepted, and Contractor shall, within five (5) Business Days of termination of this Purchase Order, refund to the Company any advances or progress payments not so earned in accordance with this provision.

5.0 Warranty. Contractor warrants that: (a) it owns all rights, title and interest in the goods provided hereunder and that it has the legal authority to sell, license or otherwise transfer the right to use, sell or otherwise benefit from the goods to the Company; (b) all goods provided hereunder shall be (1) free from all defects in workmanship, design and materials, (2) new, unless expressly permitted otherwise by the Company and (3) in full compliance and conformity with the Purchase Order specifications or of the best grade of their respective kinds if no quality is specified; and (c) all services shall be performed in a good, workmanlike and diligent manner using sound engineering and/or technical principles where applicable. No inspections, acceptance or rejection of any goods at any stage by the Company or any designated representatives, agents or other third parties shall relieve Contractor of its warranty obligations under the Purchase Order. All warranties shall be construed to be conditions and will not be deemed exclusive. To the extent assignable, all rights and remedies available to Contractor from its suppliers and manufacturers shall also be passed directly to the Company. All warranties shall run to the Company, its successors and assigns. The foregoing warranties are in addition to all other warranties, express or implied, by applicable laws, and shall survive delivery, inspection, acceptance and/or payment by the Company. Contractor shall promptly replace or correct or re-perform, without any expense to the Company, any goods or services not conforming to the requirements of the Purchase Order when notified by the Company within twelve (12) months from the date of final commissioning of the project. In the event Contractor fails to timely deliver or correct or replace or re-perform goods or services as required herein, the Company may procure the goods from another source or repair or replace or have re-performed the non-conforming goods or services and charge the cost thereof to Contractor, without voiding the warranties herein. Vendor will further warrant all replacement or repaired goods in accordance with the terms hereof for a further period of twelve (12) months from

delivery of the replacement or repaired goods and acceptance thereof by the Company.

6.0 Invoicing. Invoicing terms shall be as per the corresponding "Terms and Conditions" regarding invoicing as set forth in the Proposal. Contractor shall include Contractor's Tax ID Number and all documentation reasonably necessary for the Company to evaluate and audit Contractor's invoice so as to determine whether the invoice should be paid.

All invoices (save and except the invoice Contractor submits to Company "upon completion of the installation") shall be accompanied by a duly executed Contractor's Interim Lien and Claim Waiver in the form of Exhibit "C" attached hereto and Subcontractor's Interim Lien and Claim Waivers executed by any and all subcontractors and/or materialmen and equipment providers used by Contractor through the date of the invoice in the form of Exhibit "D" attached hereto (excluding any subcontractor or materialman the invoices of which are less than \$10,000.00 in the aggregate).

The payment owed to Contractor "upon completion of the installation" as contemplated in the Proposal shall be made by Company only after an executed Contractor's Final Lien and Claim Waiver in the form provided in Exhibit "E" and Subcontractor's Final Lien and Claim Waivers executed by any and all subcontractors and/or materialmen and equipment providers used by Contractor through the date of the completion of installation in the form provided in Exhibit "F" are provided by Contractor to Company.

7.0 Variations/Extras. No variations as to quantities, description, prices, destination for delivery or any other term of the Purchase Order shall be made, nor shall any charge for extras, freight or transportation be allowed, unless same have been authorized in writing by an authorized representative of the Company, and the proper price adjustment stated in such writing. The Company reserves the right at any time to make variations in the Purchase Order by written notice to Contractor, and Contractor agrees to comply with same. If such variations cause a material increase or decrease in Contractor's costs or time of performance, Contractor shall notify the Company immediately. Deletions to the work shall result in a credit/refund due to Company as contemplated above in Section 3, and additions to the work Contractor is perform shall be quoted by Contractor on a cost plus 10% basis. Contractor's change order quote, both for additions to

and deletions of work, shall specify schedule impact and include subtotals of each direct cost (labor, material, rental, tax, other) as well as markup. The Company reserves the right to request quotes for material and back up documentation for direct costs. Company must accept change order before change order becomes part of the contract agreement. Contractor's failure to so notify the Company shall constitute a waiver of Contractor's right to thereafter make any claim in connection with such variation. Contractor shall not suspend performance of this Purchase Order while the Company and Contractor are in the process of making such variations and any related adjustment, and Contractor shall comply with and perform such variation in accordance with the terms of this Purchase Order and the Terms during such time.

8.0 Delivery/Shipping. Contractor shall promptly deliver all such goods in accordance with the shipping terms specified in the Purchase Order. Contractor shall complete its obligations under the Purchase Order by the specified Delivery Due Dates.

Contractor shall immediately notify the Company in writing of any anticipated delay in meeting the Delivery Due Date as set forth in the Purchase Order, stating the root cause of such delay and the corrective action Contractor will take to remedy the delay. Contractor agrees that for all such orders failing to meet the Delivery Due Date, Contractor shall expedite shipment of such goods at no additional cost to the Company. Similarly, Contractor shall immediately notify the Company in writing of all changes in lead-times.

Combined shipments are not allowed unless requested by the Company. Contractor shall, upon the Company's request, and to the extent not previously agreed upon by Company and Contractor when entering into this Purchase Order, provide the Company with a schedule indicating major milestones (e.g. engineering, receipt of materials, fabrication, inspection, completion of fabrication, testing, readiness for shipment, shipment, installation and final testing). Delays in any milestones shall be reported promptly by Contractor to Company and shall be subject to the terms and conditions of Provision 4.0 above. The established price for the goods and materials covered by the Purchase Order shall include proper packing for safe transportation via the mode designated in the Purchase Order or as otherwise agreed upon by the parties to this Purchase Order, and shall also include all customary loading and securing on the carrier's equipment at the shipping point and, except to the extent agreed upon to the contrary by Company and Contractor, unloading at the delivery point. No allowance will be made for packing, cartage or crating costs of items covered by this Purchase Order unless specifically authorized on the face of this Purchase Order. Contractor

agrees to ship all goods and materials covered in this Purchase Order via the specified mode, carrier and routing, and to maintain a complete file of all delivery and shipping documents in the event proof of delivery is required. C.O.D. and cash collect shipments are prohibited. Contractor warrants that goods and materials will be adequately contained, packaged and labeled, and are suitably packed to assure safe transit. The Company's count shall be accepted as final and conclusive on shipments not accompanied by Contractor's itemized packing list. Contractor shall show the Purchase Order number on all invoices and packages, include priced packing list, tag each item with part number and on part number changes show old part number in parenthesis. Export symbols, serial numbers, weights, measurements and other identification shall be clearly stenciled on each box, crate, bundle, package, etc., as directed by the Company prior to shipment. No extra charge for marking shall be allowed unless agreed to and specified in this order.

9.0 Inspections, Acceptance, Rejection. Company has the right, but not the obligation, to inspect all goods and the results of all services on both an interim and final basis to determine whether the goods/services are defective or damaged and whether the goods/services are conforming to the Purchase Order. Said inspection may be performed, at the Company's option, during manufacture, at the time of shipment, prior to accepting delivery or reasonably soon thereafter (usually before the goods are placed in use), including at the Contractor's plant, shipping point, delivery location, storage location or at the Company's worksite or location. The Company may reject and/or return any goods that the Company, in its sole and reasonable judgment, considers non-conforming, defective or damaged, and may either repair such goods, return them to Contractor for full credit, return them for replacement, or handle such nonconformities in accordance with Provision 4.0. Any and all costs and expenses of inspection, repair or return and re-shipment shall be borne by Contractor and shall be payable to the Company within five (5) Business Days of the Company making demand for such payment. The making or failure to make any inspection of, and/or payment for, the items covered by the Purchase Order shall in no way impair the Company's right to reject nonconforming or defective goods or work, nor be deemed to constitute acceptance by the Company of the goods or work.

10.0 Removal of Refuse. For all work which is to be conducted at the Company's Terminal or worksite, Contractor agrees to clean up the work as it progresses from day-to-day,

and to remove therefrom and from the adjoining premises, driveways and streets all debris, rubbish and waste materials; and when the work is finished, Contractor agrees to remove from the site of the work all tools, machinery, debris, rubbish and all waste materials for which, in the opinion of the Company, the Contractor or its contractors or sub-contractors are responsible, and Contractor agrees to leave the site of the work free and clear from all obstructions and hindrances. In addition, Company reserves the right to stop all work until the site of the work is restored to a neat and orderly appearance.

11.0 Prohibition Against Assignment. The performance of Contractor's obligations under the Purchase Order or Contractor's rights or benefits under the Purchase Order shall not be assigned, novated, subcontracted or delegated by Contractor without the prior written consent of the Company, which may be withheld in Company's sole discretion. Any assignment, novation, subcontracting or delegation of Contractor's obligations, rights or benefits under the Purchase Order, in whole or in part, voluntarily, by operation of law or otherwise, without the prior written consent of the Company, shall be void. Any such assignment, delegation or subcontracting shall not in any way relieve Contractor of its obligations under or in connection with the Purchase Order, and Contractor shall remain fully liable for the acts and omissions of its assignees, novatees and subcontractors.

12.0 Liquidated Damages for Late Delivery.

Contractor, unless actually delayed by reason of (i) changes to the Work Scope which are agreed to by the parties pursuant to a mutually signed change order, (ii) Company's failure to timely perform the work Company has agreed to perform as defined in the scope of work or agreed to between the owner and contractor in writing (iii) work stoppages / interruptions caused by Company (collectively, and individually, a "Permissible Delay") shall perform the work made subject of this Purchase Order by the Delivery Due Date. To the extent Contractor is delayed in performing the work made subject of this Purchase Order because of a Permissible Delay, Contractor's sole remedy (regardless of any term or provision to the contrary as contained in this Purchase Order) shall be to receive an extension to the Delivery Due Date equal to the lesser of a day-for-day extension to the Delivery Due Date equal to the number Permissible Delay days (e.g., the duration of a work stoppage caused by Company or the number of days Company is late in performing its work as set forth in Exhibit

G) or the actual delay Contractor experiences based upon the Permissible Delay.

In the event the goods and/or services made subject of this Purchase Order are not provided in accordance with the specifications and conditions of the Purchase Order and these Terms by the corresponding Delivery Due Date, the parties acknowledge that the Company will suffer damages as a result of such delays which may be difficult to quantify. Accordingly, if the goods and/or services are not provided in accordance with the specifications and conditions of the Purchase Order and these Terms by the corresponding Delivery Due Date, Contractor shall, in addition to any other remedies the Company may be entitled to receive, reduce the Purchase Order's total price by \$10,000 per day until such good and/or services are so provided, capped at 5% of the total Purchase Order's price. Liquidated damages will only apply to the duration the barge unloader is out of service during the on-site construction phase.

13.0 Notices. All notices shall be in writing and shall be deemed duly given, delivered and received on the date received when delivered (by hand, by certified mail-return receipt requested, by courier or express delivery service or by e-mail) to the address or e-mail address set forth on the face of the Purchase Order. Notices to be provided to the Company pursuant to this Purchase Order shall also be provided to the Company contact as set forth and identified in the General Services Agreement as entered into by and between Company and Contractor in order for the notice provided pursuant to this Purchase Order to be deemed valid.

14.0 Work Product. All documents, information, data, analyses and permitting instruments arising out of the goods and/or work as contemplated by this Purchase Order shall be owned by Company as and when produced.

15.0 Conflict of Interest. Contractor represents that there is no actual or potential conflict of interest to its best information and belief between Company and Contractor, Contractor's parent, affiliated or related businesses or the financial interest of Contractor or its parent, affiliated or related businesses. In the event of any change in Contractor's status, any potential conflicts shall be reported to Company as soon as Contractor becomes aware of them.

16.0 Reporting & Communication. When on site, the contractor will be required to report to UBT on a daily basis, progress achieved, any activities which will have an impact on

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operations, any particular system which will not be available to operations or any other item not explicitly written here of significance to UBT Operations & Maintenance crews.