



ENGINEERED SOLUTIONS GROUP
COMPRESSOR REVAMPING | GAS COMPRESSION | ROTORDYNAMICS
PROCESS REFRIGERATION | POWER GENERATION | LASER & VIBRATION

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Engineered Solutions Group

Terms and Conditions of Purchase

1. DEFINITIONS

- a. "ESG" means ESG Engineered Solutions Group, the party placing the Purchase Order. From time to time, ESG Energy Solutions SE (including its group companies), its successors and assigns may be identified as the party to this Terms and Conditions jointly or separately with ESG Engineered Solutions Group
- b. "Vendor" or "Supplier" means the party providing the items and/or services listed in the Purchase Order. For the purpose of this document, both terms Vendor and Supplier can be used interchangeably.
- c. "Purchase Order": means a written offer from ESG to purchase Deliverables from Vendor which Vendor may choose to accept in accordance with these Terms and Conditions of Purchase.
- d. "Order" means the Purchase Order, these Terms and Conditions of Purchase, the scope of work, if attached to the Purchase Order, and all documents and papers referenced and described in or attached thereto, including plans and specifications and attached drawings.
- e. "Deliverable(s)" means the material(s), equipment, articles, services, and/or items supplied according with the Purchase Order.

2. STATEMENT OF WORK

Vendor, at its own risk and expense, shall furnish all labor, materials, supplies and equipment, and perform all work necessary to manufacture and/or otherwise provide and deliver to ESG, at the place of delivery specified, the supplies covered by this Purchase Order (including any spare parts, special tools, plans, drawings, technical manuals, technical services, and other data specified in or required with this Purchase Order) in strict accordance with the plans, drawings and specifications and requirements hereof, and will assume all responsibility and do all things required of Vendor by this Purchase Order.

Vendor shall be responsible for carefully and critically reviewing all the Purchase Order documents upon receipt. In any case of error, omission, discrepancy or lack of clarity in the documents, Vendor shall immediately notify ESG. Any work performed, prior to correction or clarification of such error, omission, discrepancy or lack of clarity, shall be at Vendor's own risk and cost.

No Order shall be deemed to have been completed until all equipment, materials, services, and documents (e.g. manuals, as-built drawings, certificates, test and inspection reports, etc.) have been received and accepted by ESG.

No approval of plans, acceptance, payment, passage of title or other act shall relieve Vendor of its responsibility to furnish the Deliverables in strict accordance with the specifications and with the provisions of this Order and no waiver by ESG of any breach on the part of Vendor of any of its obligations, and no payment made hereunder shall be deemed to constitute an acceptance or approval of any defective or unsatisfactory Deliverables, or a waiver of the rights to ESG to reject the same later.

3. WARRANTY

Vendor warrants and guarantees to, and agrees with, ESG as follows:

- a. Vendor warrants, guarantees, and agrees that all Deliverables have been or will be manufactured, fabricated, produced, and assembled in a good and workmanlike manner, and that only new and unused material and equipment will be included therein (unless specified otherwise in the Purchase Order);
- b. If a purpose for the Deliverables is specified in the Order, Vendor warrants, guarantees, and agrees that the Deliverables will be fit for such purpose, and if no purpose for the Deliverables is specified in the Order, Vendor warrants, guarantees, and agrees that the Deliverables are fit for the ordinary purposes for which the Deliverables are used;
- c. Vendor warrants, guarantees, and agrees that the Deliverables (and each unit or units therein) will conform to and meet the specifications;
- d. Vendor warrants, guarantees, and agrees that the Deliverables will be free from defects in design, materials and workmanship; and
- e. Vendor warrants, guarantees, and agrees that the Deliverables are adequately contained, packaged, and labeled and conform to any promises or affirmations made on the container or label.

Payment for, inspection or testing of, or receipt of the Deliverables shall not constitute a waiver of any breach of warranty, guarantee, or agreement. Notwithstanding anything contained herein to the contrary, it is specifically agreed and understood that the warranties, guarantees, and agreements of Vendor set forth in this Clause 3 shall expire eighteen (18) months after the goods and/or services are put into commercial operation or twenty four (24) months after delivery, whichever occurs first.

In the event that any Deliverable supplied by the Vendor fail to meet above stated warranties and guarantees, Vendor will, at ESG's discretion, and at Vendor's sole cost and expense, either repair or replace same or the applicable parts or components thereof. Vendor will be given access to the job site for the purpose of making repairs or replacements. In the event that the making of such repairs or replacements requires the removal of materials and equipment and/or the uncovering, reinstallation, and/or recovering of any work in place, the same shall be done at Vendor's sole cost and expense. In the event that the Vendor requests ESG to return the materials and equipment (or any parts or components thereof) to Vendor, ESG will do so in conformance with Vendor's instructions and at Vendor's sole cost and expense. The foregoing remedies are cumulative and are in addition to any other remedies available to ESG at law, in equity or under the Order.

4. ACCEPTANCE

If Vendor accepts the Purchase Order for the Deliverables, the Vendor or its duly authorized agent shall acknowledge, sign and return via email a scanned signed copy of the Purchase Order. Additionally, non-receipt by ESG of a written acknowledgement or rejection of the Order within five (5) business days, Additionally, commencing performance of the Purchase Order by Vendor, or shipment of the goods and/or completion of the services by Vendor, whichever comes first, shall be deemed to be complete acceptance by the Vendor of the Order and all of its terms and conditions, including, but not limited to, these Terms and Conditions of Purchase. No modification of this Purchase Order shall be effective unless agreed to in writing by ESG.

5. ORDER OF PRECEDENCE

Except as otherwise expressly provided, to the extent of any inconsistency between these Terms & Conditions of Purchase and any other provisions of the Purchase Order, these Terms & Conditions of Purchase shall prevail. If any discrepancy, difference or conflict exists in this Purchase Order, such discrepancy, difference or conflict shall be immediately brought to the attention of ESG and pending ESG's decision, Vendor shall not proceed except at Vendor's own risk and cost.

6. MODIFICATIONS AND/OR REVISIONS

No deviation from the item description, specifications, quantity or any other requirements contained in the Order shall be made without the prior written consent of ESG.

ESG may at any time, by written order only, make changes to this Purchase Order. If such change(s) cause any variation in price or time required Vendor's performance or any other obligation, Vendor shall notify ESG within five (5) business days after receiving such notice of variation from ESG. If Vendor fails to notify ESG within such five (5) day period, it shall be deemed that no such variations will be claimed by the Vendor.

If any such variation will cause a change in the price or delivery date or other obligations and Vendor has notified ESG of such impact as required, Vendor shall not proceed with any such variation until written acceptance and duly signed Purchase Order amendment is received from ESG confirming the adjustment in the price and/or time for performance and/or any other obligations of the Vendor.

If the Vendor gives notice of a variation in price or delivery date or other obligations, ESG shall be entitled to confirm or withdraw the variation to the Order.

7. PRICE AND TAXES

Unless otherwise expressly agreed in writing by ESG, Vendor's price shall include all charges and taxes applicable to the Deliverables. Any required documents for a tax exemption/zero rating for a supply (e.g. exemption certificates, proof of export) shall be provided and/or procured by ESG, as determined by ESG or local tax authorities without delay. Vendor shall be responsible for paying for any and all export and import duties, licenses permits or other official authorization and completing of customs clearance formalities for all imported equipment in accordance with the INCOTERMS or importer of record which is necessary in the performance of this Purchase Order. It is agreed in addition and not in limitation of any generality in this Purchase Order, that the price includes any and all applicable tariff(s) or duties imposed upon the Deliverables by any government.

ESG is entitled to set-off against any amounts owing to Vendor, any amounts owing by Vendor to ESG.

Vendor and ESG shall each be solely responsible for any taxes based on their respective income. In case any payments are subject to withholding taxes, ESG is only allowed to withhold the tax amount as required by local law of country of residence or the country of Vendor's onsite activity (as the case may be). All payments of such withholding taxes to the relevant tax office have to be made in the name of the Vendor. Vendor is responsible for any withholding taxes paid on behalf of the Vendor to the relevant tax office.

ESG shall then submit to Vendor the official/original tax receipts(s), which confirms the tax payment in the name of the Vendor, promptly as required by that country's tax laws and without further request.

8. PAYMENTS AND DOCUMENTS

Vendor's invoices will be paid in accordance with the payment terms on the face of the Purchase Order, provided that the Vendor fulfilled the specified conditions and that such invoice is accurate and complete and is accompanied by the required supporting documents. If invoices and/or supporting documents require correction, the time of payment will be calculated from the date of receipt of the corrected invoice and/or supporting documents.

All individual line items from Purchase Order shall be shown on Vendor's invoice as individual line items, unless agreed otherwise.

Vendor shall promptly furnish for ESG's account such payment and/or performance bond security or other security as ESG may require from time to time protecting the interest of ESG.

Invoices for payment shall be supported by such documents in such form as ESG may reasonably request and shall bear such certifications as may be required by law, governmental regulations or the Purchase Order. Except as otherwise expressly provided in the Purchase Order, all payments are contingent on final acceptance of the Deliverables by ESG. Drafts on ESG will not be honored by ESG unless otherwise agreed by ESG in writing. If no payment terms are listed on the face of the Purchase Order, payment terms shall be Net 30 days.

If required by ESG prior to final payment under the Purchase Order, Vendor will furnish to ESG a release discharging ESG from any liabilities, obligations, and claims arising under the Purchase Order. Vendor shall issue separate invoices for each shipment against the Purchase Order, and each such invoice shall show the amount of Deliverables shipped. ESG's Purchase Order number and part number shall appear on all invoices, packages, crates, boxes, bills of lading, express receipts, correspondence and other instruments issued in connection with the Purchase Order. Bills of Lading and a notice of shipment shall be sent to ESG on the date the shipment is dispatched, which shall state the Purchase Order number, the kind of Deliverables shipped, part numbers, Vendor's name, shipper, and shipping route. Chemical and physical reports (if required), shall be sent to ESG by Vendor not later than the day after a shipment goes forward, or, in the case of services, on the day after completion. ESG's count will be conclusive on all shipments not accompanied by a packing list. Invoices shall be sent to ESG within ten (10) days after shipment goes forward.

9. GUARANTEES FOR ADVANCE PAYMENT, PERFORMANCE AND WARRANTY

If required, in order to assure ESG that the Vendor's obligations under the Purchase Order shall be performed and fulfilled, the Vendor shall include with their first and last invoices, as set out in the payment terms of the Purchase Order, an irrevocable stand-by guarantee (in the form of Letter of Credit (L/C) or Letter of Guarantee (L/G) or Bank Guarantee), from an institution and in the form acceptable to ESG, to cover their first payment, performance and warranty obligations (as applicable), in favor of ESG.

Any financial and/or insurance institution is subject for final approval by ESG.

a. The first (advance payment) guarantee shall be submitted by the Vendor with the Vendor's first invoice and shall be for an amount equal to the value of the first invoice and have validity up to the confirmed date of the completion of services and/or delivery plus ninety (90) days.

b. The second (performance) guarantee shall be submitted by the Vendor with the first invoice and shall be for an amount of ten percent (40%) of the Purchase Order value and have validity from provisional date of SAT (Site Acceptance Test) plus ninety (90) days.

c. The third (warranty) guarantee shall be submitted by the Vendor with the last invoice or upon the completion of services and/or delivery, whichever comes first, and shall be for an amount of ten percent (10%) of the Purchase Order value and have validity from date of the completion

of services and/or delivery to the end of the Warranty Period plus sixty (60) days.

Guarantee(s) shall be payable to ESG upon submission by ESG of a signed statement indicating that the Vendor is liable for a claim under the terms of the guarantee and has not performed its obligations under the Purchase Order or is liable for payment against a claim in accordance with the terms and conditions of the Purchase Order. Partial withdrawals must be permitted.

10. SUSPENSION OF PERFORMANCE

ESG may, by written notice to Vendor, suspend further performance of all or any portion of this Purchase Order. The suspension notice shall specify the commencement date and estimated duration of the suspension.

Upon receiving a suspension notice, Vendor shall immediately suspend performance of the specified portion of the Purchase Order, and during the suspension period shall properly care for and protect all work in progress and materials, supplies, and equipment Vendor has on hand for performance of the Purchase Order.

Vendor shall use its best efforts to utilize its material, labor and equipment in such a manner as to mitigate costs associated with suspension.

ESG may at any time withdraw the suspension as to all or part of the suspended performance by written notice to Vendor specifying the effective date and scope of the withdrawal, and Vendor shall, on the specified date of withdrawal, resume diligent performance of the work for which the suspension is withdrawn.

If Vendor believes that any such suspension or withdrawal of suspension justifies modification of the Purchase Order amount or time for performance, substantiated by documentation satisfactory to and verified by ESG, Vendor shall notify ESG within three (3) working days or earlier if reasonably possible. In such case, ESG shall be entitled to confirm or withdraw the suspension. In case of confirmation from ESG the Purchase Order amount or delivery date shall be modified based on mutual agreement between the parties.

In no event shall Vendor be entitled to any loss of prospective profits, contributions to overhead or any incidental, consequential or other damages due to such suspensions or withdrawals of suspension.

11. TERMINATION FOR CONVENIENCE

ESG may at any time terminate this Purchase Order in whole or in part for the convenience of ESG by giving a written notice thereof to Vendor. On the cancellation date stated in the notice, Vendor shall discontinue all cancelled work, shall (with respect to the cancelled work) place no additional orders, and preserve and protect materials purchased for or committed to the cancelled work, work in progress, and completed goods, and shall dispose of these materials and goods in accordance with ESG's instructions.

ESG will pay and Vendor will accept as final payment the total amount of Purchase Order prorated to the portion of the entire scope of Purchase Order satisfactorily performed to the date of cancellation (substantiated by documentation and verified by ESG), disposition of work and material on hand, and amounts previously paid by ESG. Vendor shall not be entitled to any loss of prospective profits, contribution to overhead or incidental, consequential or other damages due to such cancellation.

This provision does not apply when ESG is rejecting the Deliverables, revoking acceptance or asserting its legal rights for breach order fault.

12. TIME IS IMPORTANT

Vendor acknowledges that ESG needs to receive the Deliverables in its entirety, and work fully completed and delivered by the date(s) specified on this Purchase Order and will do its utmost to do so.

13. TERMINATION FOR DEFAULT

In the event that Vendor is in material default of any provision or requirement of this Purchase Order, or Vendor shall be sequestered or liquidated as insolvent or placed under judicial management, whether provisionally or finally, or shall commit any act of insolvency or shall make, or prepare to make an arrangement or composition with, or assignment in favor of creditors, ESG shall have the right, by written notice, to cancel the order, in whole or in part, without prejudice to any of its other rights.

In the event of such termination, ESG may complete this Purchase Order by such means as ESG selects, and Vendor shall pay ESG for any additional costs incurred by ESG in completing the Purchase Order. Vendor shall not be entitled to receive any further payment until the Purchase Order is completed. If the unpaid balance of the Purchase Order exceeds the cost (including compensation for additional engineering, managerial and administrative services expended by ESG) such excess shall be paid to Vendor.

If this Purchase Order is terminated as provided in this Clause, ESG, in addition to any other rights provided herein, may require Vendor to transfer title and deliver to ESG in the manner and to the extent directed by ESG (1) any completed Deliverables, and (2) such partially completed Deliverables and materials, parts, tools, dies, jigs, fixtures, plans, drawing information and contract rights as Vendor has specifically produced or specifically acquired for the performance of such part of this Purchase Order as has been terminated, and the Vendor shall upon direction of ESG, protect and preserve property in possession of the Vendor in which ESG has an interest. After notice of termination of this Order under the provisions of this Clause, if it is determined for any reason that Vendor was not in default under the provisions of this Clause, or that the default was excusable under the provisions of this Clause, the rights and obligations of the parties shall be determined as if the notice of termination had not been issued pursuant to this Clause.

14. RIGHTS WITH RESPECT TO ENGINEERING DATA

All design/engineering data furnished to Vendor by ESG shall be the sole property of ESG. All plans, including working plans (including reproducible) and other specified design/engineering data, produced by the Vendor in the performance of this Purchase Order, shall be the sole property of ESG and ESG shall have the full right to use same in such manner as they may deem proper, including without limitation to the generality of the foregoing, the right to make reproducible copies, and right to publish, or to withhold from publication, and the right to alter therein, additions thereto, or other changes.

At the sole discretion of ESG, Vendor may be permitted to retain copies or duplicates of such plans, working plans and data thereof for its own office records. Vendor shall have no right to sell or transfer such plans, working plans and data to any other person.

15. INSPECTION AND REJECTION

All Deliverables shall be subject to inspection, testing, expediting, and witnessing by ESG and/or its representatives upon five (5) business days written notice to Vendor, to assess work quality, conformance with specifications, and conformance with all of Vendor's representations, warranties and covenants herein. The Vendor shall provide ESG with copies of all documents required for efficient expediting, including non-priced purchase orders if required and shall provide ESG's representative free access to relevant shop drawings.

No such verification shall relieve Vendor of its obligations and warranties hereunder. If any Deliverables or parts thereof are found at any time to be defective in material or workmanship or otherwise not in conformity with the requirements set out herein, in addition to any other rights which it may have under applicable warranties, or under law, ESG shall have the right to reject and return such Deliverables for either full credit or a refund (at ESG's discretion) at Vendor's

expense including payment of shipping charges incurred by ESG.

Without limiting the foregoing, ESG shall also have the right to require that Vendor promptly and at its own expense repair, replace or restore any defective or deficient portion of Deliverables. Neither the failure of ESG to inspect, nor acceptance of, nor payment for any Deliverables shall prejudice ESG's rights under this paragraph. Vendor's records relating to the manufacture or provision of Deliverables shall be maintained for a minimum of six (6) years following delivery unless otherwise agreed in writing by ESG

16. CONFIDENTIALITY AND USE OF INFORMATION

Unless otherwise expressly stated in writing, all information including general business information, financial data, technical data, reports, photographs, electronic files, specifications, software, drawings, tools, dies, patterns, plans methods or other intellectual property (hereinafter "Information"), supplied, conceived or prepared by Vendor or by ESG or both in connection with the Purchase Order, shall be the property of ESG, shall be considered confidential, shall not, at any time, be disclosed to a third party by the Vendor or ESG without written consent of the other party (unless such information was already obtained by the disclosing party from third party who was not under any confidentiality obligations with regard to the Information) and shall be used solely for the purpose of supplying Deliverables. Upon termination of the Purchase Order, ESG may request Vendor to deliver all the Information to ESG and such Information shall not be utilized, directly or indirectly, by Vendor for the use or benefit of Vendor or any other person.

17. PATENT INFRINGEMENT

Vendor shall be responsible for any liability with respect to any and all claims against ESG for infringement of patents or of patent rights involving the Deliverables and Vendor shall defend and save harmless and indemnify ESG against all such claims and costs, expenses, charges and damages which ESG may be obligated to pay by reason thereof, including expenses of litigation, if any, provided that upon any such claim being made ESG shall be notified promptly of such claim and also of any suit in connection therewith and shall be given an opportunity to defend the same and provided further that Vendor shall make payment on account of any such claims unless either with the consent of ESG or pursuant to the decree of a proper court or tribunal.

18. DELIVERY DATE

Vendor shall deliver the Deliverables covered by this Purchase Order no later than the date or dates specified in the Purchase Order as "Delivery Date". Unless otherwise expressly provided, the Delivery Date as shown on the face of the Purchase Order shall be construed as date of arrival at the destination specified in this Purchase Order. Vendor shall commence and prosecute the contract work, including furnishing of drawings, with due diligence and dispatch and make deliveries as specified.

If Vendor encounters or anticipates difficulty in meeting the Purchase Order delivery schedule, Vendor shall immediately notify ESG in writing giving pertinent details; provided, however, that this data shall be informational only in character and shall not be construed as a waiver by ESG of any delivery schedule or date of any rights or remedies provided by law or by this Purchase Order.

If Vendor fails to meet the delivery schedule required by this Purchase Order with the result that ESG elects to call upon the Vendor for expedited shipments, without diminution of ESG's other remedies at law and under this Purchase Order, Vendor shall pay the difference between the method of shipping specified in the Purchase Order and premium transportation rates.

Deliverables fabricated or performed beyond ESG's written releases shall be at Vendor's risk. ESG reserves the right, without loss of discount privileges, to pay invoices covering supplies shipped in advance of the schedule on the normal maturity after the date specified for delivery. If any delivery is made which is not in all respects in accordance with the provisions of the



Purchase Order (including time of delivery), ESG reserves the right to reject such delivery and, in addition, if ESG so elects, ESG may treat this Purchase Order as repudiated by Vendor and cancel any outstanding deliveries hereunder, without prejudice to ESG's rights to claim damages or to enforce any other remedy provided by law. All expenses and storage, if any, resulting therefrom shall be for Vendor's account.

19. POINT OF DELIVERY - RISK OF LOSS

Point of delivery shall be as stated on the face of the Purchase Order. Notwithstanding any other provision to the contrary Vendor shall bear the risk of loss until the Deliverables have been delivered to such destination as may be specified elsewhere in this Purchase Order.

20. LIENS AND TITLE

Title to the Deliverables, free and clear of any and all liens and encumbrances, shall pass to ESG from the Vendor at the point of delivery specified by this Purchase Order. Passage of title to the Deliverables (or any part thereof) shall not in any way relieve Vendor of its obligations under this Purchase Order, nor be treated as a waiver by ESG of the right later to reject any part of the Deliverables which fail to meet any requirements.

Vendor shall assume and pay for any loss or damage to the Deliverables until delivery at the delivery point specified by the Purchase Order, or until title otherwise passes from Vendor to ESG, whichever occurs later. If any lien or encumbrance is asserted against the Deliverables or any part thereof, ESG shall have the right to discharge the same, by (1) filing a bond or other security or (2) in its discretion, paying full amount thereof. If ESG should so discharge any such lien or encumbrance, Vendor shall bear the cost. If ESG has not yet paid the Purchase Order price, ESG may deduct the amount of such cost from the Purchase Order price. If ESG has paid the Purchase Order price, Vendor shall promptly pay ESG the amount of such cost.

21. NOTICES

Notices given under this Purchase Order will be effective upon receipt of notice.

22. NON-WAIVER OF REMEDIES

Failure or delay by either party in enforcing any right or provision hereof shall not be deemed a waiver of such provision or right. A determination that any provision herein may be unenforceable or invalid shall not affect the enforceability or validity of the remaining provisions hereof.

23. INDEMNITY

VENDOR AGREES TO DISCHARGE AND HOLD HARMLESS, DEFEND AND INDEMNIFY ESG, ITS AFFILIATES AND THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, CONSULTANTS AND SUBCONTRACTORS FROM AND AGAINST ALL LIENS, CLAIMS, DAMAGES, SUITS (INCLUDING WITHOUT ANY LIMITATION THE LEGAL FEES AND OTHER EXPENSES INCIDENT THERETO), JUDGMENTS, AWARDS AND LIABILITY, WHETHER GROUNDLESS OR NOT, THAT ARISE OUT OF OR RELATE TO THE PURCHASE ORDER OR THE GOODS AND SERVICES PROVIDED UNDER THE PURCHASE ORDER (COLLECTIVELY, "CLAIMS"), INCLUDING, BUT NOT LIMITED TO, CLAIMS: (A) BY SUBCONTRACTORS, MATERIALMEN, SUPPLIERS, LABORERS AND OTHERS RELATING TO THE PAYMENT FOR THE DELIVERABLES ("PAYMENTS"); (B) BY AN INDIVIDUAL OR ENTITY ON ACCOUNT OF ANY DAMAGE TO PROPERTY OR INJURY (INCLUDING DEATH) TO PERSONS (INCLUDING ANY DAMAGE OR INJURY TO THE PROPERTY OR PERSON OF ANY EMPLOYEE OF VENDOR); OR (C) FOR BREACH OF ANY REPRESENTATION, WARRANTY, COVENANT OR OBLIGATION OF VENDOR HEREUNDER.

24. LAW AND FORUM

This Purchase Order shall be interpreted in accordance with the laws of the State of Texas. In the event of any dispute or controversy relating to or arising under this Purchase Order, including any challenges to the validity hereof, the parties hereto mutually consent to the exclusive jurisdiction of the courts in the State of Texas and of the federal courts within Texas. In the event any of the provisions of this Purchase Order or the application of any such provisions to the parties hereto with respect to their obligations, shall be held by a court of competent jurisdiction to be contrary to the laws of the State of Texas or federal law, the remaining provisions of this Purchase Order shall remain in force and effect.

Vendor shall comply with all applicable state, federal and local laws, rules and regulations. Vendor represents that it has complied with and will continue to comply during the performance of this Purchase Order with all export laws and regulations, directives and other applicable administrative actions issued thereunder, including but not limited to the International Traffic in Arms Regulations (22 C.F.R. Parts 121 - 130) and the Export Administration Regulations (22 C.F.R. 2751-2794), and any other standards issued pursuant thereto.

TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, ESG AND VENDOR HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY RIGHT TO TRIAL BY JURY THAT ESG AND VENDOR MAY HAVE IN ANY ACTION OR PROCEEDING, IN LAW OR IN EQUITY, IN CONNECTION WITH THESE TERMS AND CONDITIONS OF PURCHASE. ESG AND VENDOR EACH REPRESENT AND WARRANT THAT NEITHER PARTY HAS

REPRESENTED, EXPRESSLY OR OTHERWISE, THAT IT WILL NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THIS RIGHT TO JURY TRIAL WAIVER. EACH PARTY ACKNOWLEDGES THAT THE OTHER PARTY HAS BEEN INDUCED TO ENTER INTO THIS ORDER BY, AMONG OTHER THINGS, THE PROVISIONS OF THIS WAIVER.

25. EXPEDITING

The work furnished under this Purchase Order, including all warranty work, shall be subject to expediting by ESG. ESG's representatives shall be afforded free access during working hours to Vendor's plants, and Vendor agrees to procure a similar right for ESG, for expediting purposes with respect to Vendor's subcontractors and sub-suppliers. If required by ESG, Vendor shall supply schedules, progress reports and unpriced copies of Vendor's purchase orders and subcontract for ESG's use in expediting. Vendor shall notify ESG in writing of any actual or anticipated delays immediately upon discovery. Such notice shall include an estimated period of delay, cause, and corrective actions being taken. Delay in Vendor's schedule may be deemed to be reasonable grounds for cancellation for good cause in which event ESG may demand in writing that Vendor provide adequate assurances that Vendor will perform on time.

26. COPYRIGHTS

Vendor warrants that ESG and its customers may freely use, resell or otherwise deal with Deliverables without infringement of USA, Canadian or EU patents, copyrights, trademarks, industrial designs, trade secrets or other intellectual property rights, foreign or domestic, owned or controlled by any other corporation, firm or person, and held by Vendor or any third party.



27. INSURANCE

Prior to commencing any onsite work for ESG and continuing until the onsite work is completed, Vendor (in its name and at its sole expense) shall maintain broad form insurance policies with public bodies or insurance carriers authorized to do business in the state in which the services are to be performed and that are acceptable to ESG. Such insurance shall fully protect Vendor from and against any and all claims arising out of Vendor's services, including coverage for contractual liability, bodily injury, product and completed operations liability and property damage with a minimum limit of two million US Dollars (USD 2,000,000) or its equivalent per occurrence. Upon request, Vendor shall provide ESG with a certificate evidencing such insurance coverage, which shall state that thirty (30) days' notice of cancellation or modification of the insurance coverage shall be given to ESG.

28. FORCE MAJEURE

Neither party hereto shall be liable to perform any obligation hereunder in the event and to the extent that such failure is caused by a condition of force majeure. A condition of force majeure shall arise from any circumstances beyond the reasonable control of the affected party including ESG's customer(s) and Vendor's sub-contractor(s), which prevents or impedes the execution of the Purchase Order, limited to the following:

- War, hostilities, or military mobilization.
- Riot, insurrection, seizure by non-governmental groups, or civil disturbance.
- Earthquake, flood, fire or other natural physical disaster.
- Embargo, prohibition on import and exportation of materials or equipment or services.
- Act of terrorism.
- Epidemics.

The mere shortage of labor, materials or utilities, including the failure of any sub-supplier to deliver, shall not constitute force majeure unless caused by circumstances which are themselves force majeure events.

The party claiming force majeure shall immediately give notice in writing to the other party of the occurrence of any force majeure event which causes or is likely to cause any failure to perform any obligation hereunder. Such notice shall include the nature of the event, the expected duration and any anticipated impact on performance of the Order. Within five (5) working days after the cessation of the force majeure event, the affected party shall give a further notice specifying the final impact on the performance of the Order and a plan for recovery, including any cost impacts for such recovery plan. Failure to give either of the above notices may cause denial of any relief for the force majeure event, at the affected party's discretion.

Should Vendor be unable, due to such a cause, to meet all of its delivery commitments for Deliverables ordered herein, Vendor shall not give preference to any other customer in making deliveries of such Deliverables.

In the event of a force majeure event or events causing a delay or foreseeable delay in excess of thirty (30) cumulative days in performance of the Order, ESG reserves the right to terminate the Order as provided under Clause 13: Termination for Default hereof.

29. PACKING

All items shall be packed to meet the carrier's requirements and to assure lowest transportation rates consistent with adequate protection against loss or damage.

30. ASSIGNMENT AND SUBCONTRACTING

Vendor may not assign or subcontract this Purchase Order or any portion thereof without prior written consent from the ESG. Any attempted, unpermitted assignment shall be void from the date of attempted assignment.

31. HEALTH, SAFETY, AND ENVIRONMENT

Vendor is responsible for safety during the execution of the work and prevention of damage/loss to any persons and property.

Vendor shall comply with all health, fire and other safety regulations and shall adhere to all regulations (legal or otherwise) applicable on the site.

Vendor shall inform ESG of any special dangers which the execution of the work may entail, before commencement of work.

During the execution of the work, Vendor shall devote maximum care to the environment in general, apply as little as possible materials that may weigh upon the environment, safely store such materials at the site during construction and promptly remove all superfluous materials in a responsible manner.

At any time, Vendor shall comply with all applicable local, state, and international regulations for the health, safety, and environment.

ESG shall be entitled to charge to Vendor any extra costs that may result from Vendor's failure to observe this obligation.

32. SEVERANCE / VALIDITY OF PROVISIONS

If any provision of this Purchase Order, even after its termination, cancellation, completion, or expiration is held to be invalid, void or otherwise unenforceable, the remaining portions of that provision and all other provisions shall nevertheless continue in full force and effect and the parties shall thereafter come to mutual agreement regarding replacement of such unenforceable provision.

33. LIMITATION OF LIABILITY

In no event shall either party or any of its affiliates be liable for loss of other party's profits, loss of goodwill, loss of expected savings or expected profits, business interruption, lost business, lost profits or indirect, special, consequential, incidental, punitive or exemplary losses, damages or expenses incurred or suffered arising out of these terms or the Purchase Order.

For any claim related to these Terms or the Purchase Order, Vendor shall be entitled to recover actual and direct damages only from ESG. The limit of the ESG's liability to the Vendor in any manner related to these Terms or the Purchase Order, for any and all claims, shall not in the aggregate exceed the value of the Purchase Order issued in relation to these Terms.

The limitations, exclusions and disclaimers set out in this paragraph shall apply irrespective of the nature of the cause of action, demand or claim, including but not limited to, breach of contract, tort (including negligence) or any other legal theory and shall survive termination of these Terms, a fundamental breach or breaches and/or failure of the essential purpose of these Terms or any remedy contained herein. The allocations of liability in this paragraph represent the agreed and bargained for understanding of the parties.

The limitation of liability set forth in this Clause shall prevail over any conflicting or inconsistent provisions contained in any documents in any documents comprising the Order. In case of a contradiction to compulsory law, this limitation of liability does apply to the maximum extent permitted by the applicable compulsory law.

34. INDEPENDENT CONTRACTOR

Vendor is an independent contractor and not an agent of or employee of, partner of or joint venture with ESG. Vendor bears all of the rights, obligations, and liabilities applicable to it as an independent contractor and employer of its personnel in accordance with all laws, including exclusive liability for payroll taxes, workers' compensation, and contributions for unemployment insurance, old age pensions, or annuities. If ESG pays any of said taxes or contributions, Vendor shall promptly reimburse ESG for same.

Subject to the requirements set forth in these Terms and Conditions of Purchase, the provision and performance of all Deliverables shall be under the exclusive control and direction of Vendor.

35. REACH

REACH is the European Chemical Regulation for registration, assessment, approval and restriction of chemical substances. REACH also includes provisions for the distribution of material data within the supply chain. The "candidate list" is an inventory of all substances identified as being of particular concern. These are described as SVHC substances (substances of very high concern), or simply as candidate substances: <https://echa.europa.eu/candidate-list-table>. ESG kindly requests that if any of the substances listed on the "candidate list" are contained in any part of Vendor's product or work that Vendor provide to ESG, Vendor notifies ESG and advise the nature and relevant information. The candidate list is generally updated twice per year.

36. DRAWINGS

Any drawing, or blueprints revised by the Vendor must be approved by ESG representative; otherwise, the Vendor is fully responsible for any loss, or damage.

37. COMPLIANCE

In connection with the performance of this Purchase Order, Vendor agrees it shall, and ensure that all Vendor's representatives shall, comply with all applicable laws, including anti-corruption laws, and ESG's Code of Conduct for Suppliers and Business Partners (copies of ESG's Code of Conduct for Suppliers and Business Partners are available on ESG's website at [compliance/code-of-conduct-for-suppliers-and-business-partners](#)).