

Standard Purchase Order Terms and Conditions
(Revised July 2016)

1. **Agreement:** This purchase order ("Purchase Order") may be used by Buyer as an offer or acceptance for the Work, as described on the face of this document. If used as an offer, it is expressly limited to the terms herein and constitutes notice of objection to any additional or different terms. If used as an acceptance, the Purchase Order is expressly conditioned on Contractor's assent to any additional or different terms contained herein. Contractor agrees to provide the Work in accordance with and as specified in this Purchase Order. This Purchase Order, together with the specifications, drawings, detailed scope of Work, or other documents incorporated by reference on the face of this document, constitutes the entire agreement of the Parties and may not be modified, altered, or amended, nor may any changes, deviations or substitutions in the design, process, configuration or material incorporated into any of the Work be made in any way, except as approved in writing signed by a duly authorized Buyer representative. Any reference to Contractor's quotation, bid or proposal, or payment of Contractor's invoice, does not constitute any acceptance of any terms, conditions or instructions contained in that document. If there is an irreconcilable conflict in the Purchase Order, the following order of precedence applies: a) the face of this Purchase Order and any supplemental terms included or expressly incorporated by reference (other than the aforementioned Contractor's terms, conditions or instructions); then b) these "Standard Purchase Order Terms and Conditions". Provided however, that if Contractor is party to a master agreement with Buyer or a Buyer Affiliate (a "Master Agreement"), then this Purchase Order shall only apply to the extent provided for in the Master Agreement or to matters not addressed in the Master Agreement so as necessary to establish pricing, specifications or a detailed scope of Work. If Contractor becomes aware of any ambiguities or discrepancies in the Purchase Order, then Contractor will immediately submit any such ambiguities or discrepancies to Buyer for resolution prior to any performance or shipment of the Work.
2. **Acceptance by Contractor:** Contractor's acceptance of this Purchase Order shall be accomplished by the earlier of (i) execution of the Purchase Order by Contractor, (ii) commencement of any Services or fabrication of Materials, or (iii) shipment of any Materials as specified herein, whether partial or complete.
3. **Definitions:** As used in this Purchase Order the following capitalized terms and expressions shall have the following meanings:
 - (a) "Affiliate" means, with respect to a Person, any other Person that directly or indirectly (i) owns or controls the first Person, (ii) is owned or controlled by the first Person, or (iii) is under common ownership or control with the first Person, where "own" means ownership of fifty percent (50%) or more of the equity interests or rights to distributions on account of equity of the Person and "control" (including, with its correlative meanings, "controlled by" and "under common control with") means the power to direct or cause the direction of the management or policies of the Person, whether through the ownership of voting securities, by contract, or otherwise.
 - (b) "Applicable Laws" means all applicable laws, statutes, regulations, ordinances, constitutions, acts, orders, decrees, licenses, permits, approvals, rules or legislative or administrative actions of any national, regional, state and local governmental or quasi-governmental authorities, whether of an executive, legislative, judicial, administrative, or other nature, including any ministry, court, department, municipality, city, agency, territory, parish, county or political subdivision thereof or any other duly constituted public authority having jurisdiction over Contractor or the performance of the Work.
 - (c) "Buyer Indemnified Parties" means Buyer, its Affiliates, the owners of the facility into which the Work is incorporated, and all of its and their respective co-owners, partners, joint venturers, officers, directors, employees and agents.
 - (d) "Claims" means all liabilities, judgments, costs (including court costs, reasonable attorneys' fees and costs of investigation), fines, penalties, expenses, damages, claims, suits and demands.
 - (e) "Force Majeure" means any act or event that (i) delays the affected Party's performance of its obligations in accordance with the terms hereof, (ii) is beyond the reasonable control of the affected Party and is not due to its fault or negligence, (iii) is not reasonably foreseeable and (iv) could not have been prevented or avoided by the affected Party through the exercise of due diligence, including (to the extent consistent with the foregoing) any act of God, any act or omission of any governmental authority, explosions, fire, riot, and war. Force Majeure shall not include: (a) economic hardship; (b) any labor strike, labor dispute, work stoppages, boycotts, walkouts and other labor difficulties or shortages resulting therefrom, except for nationwide strikes meeting all of the requirements specified in the definition of Force Majeure; (c) the inability to obtain labor, equipment or other materials or supplies for the Work; (d) changes in market conditions; (e) failure to timely apply for permits or approvals; (f) any act or event to the extent resulting from the fault or negligence of any person claiming Force Majeure; or (g) the financial inability of any person to perform its obligations under the Purchase Order.
 - (f) "Materials" means all commodities, consumables, equipment, or other goods provided to Buyer by Contractor.
 - (g) "Party" means either Buyer or Contractor. "Parties" shall mean both Buyer and Contractor.
 - (h) "Person" means any natural person, individual, corporation, limited liability company, joint venture, partnership, unincorporated organization, governmental authority or any other entity with legal capacity.
 - (i) "Services" means those actions, services or obligations to be performed by Contractor for Buyer.
 - (j) "Subcontractors" means Contractor's subcontractors, vendors, suppliers, agents or representatives of any tier.
 - (k) "Work" means the Materials provided by Contractor or the Services performed by Contractor and all obligations, duties and responsibilities required of Contractor.

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4. **Invoicing and Payment:** Contractor shall invoice Buyer each month for all Work performed by Contractor during the prior month. All invoices must refer to the Purchase Order number on the face hereof and shall include sufficient line item detail and supporting documents for Buyer to reasonably verify the basis of the charges, including quantities and pricing. All invoices that include taxes to be paid by Buyer shall list such taxes as a separate line item. Transportation charges paid by Contractor for Buyer's account must be shown as a separate line item on each invoice, and Contractor shall provide supporting documentation for transportation charges exceeding \$50.00. Payment terms are net sixty (60) days from the invoice date unless otherwise specified in the Purchase Order. In the event of a dispute or question regarding any invoice submitted by Contractor, (i) all amounts not disputed or in question shall be promptly paid as and when required by this section, (ii) Buyer shall promptly transmit to Contractor an explanation of the dispute or question, (iii) Buyer and Contractor shall promptly seek to resolve the dispute or question, and (iv) payment of any remaining amount shall be made within ten (10) days of when the dispute is resolved. Return of any invoice to Contractor for any reason not attributable to Buyer's fault, including improper invoicing by Contractor, will extend the discount period (if applicable) and the payment period so that it commences on the date Buyer subsequently receives a proper invoice.
5. **Packaging and Shipping of Materials:** Contractor shall: (a) efficiently and timely prepare Materials for pick up by the transportation carrier; (b) be responsible for proper shipping papers, packaging, labeling, marking, placarding and preparation for shipment of Materials, all of which shall be in compliance with all Applicable Laws; and (c) include with each shipment or delivery such data sheets or other documentation required by Applicable Laws. Contractor shall not charge Buyer for packing, crating, lumber, etc. unless otherwise specified on the face hereof.
6. **Delivery:** Unless otherwise specified on the face hereof, all shipments of Materials shall be delivered as follows: (a) free of expense to Buyer, on board the carrier's conveyance, at the delivery point specified by Buyer; (b) delivery of the Materials in good order and condition to the point of delivery specified by Buyer; (c) Contractor shall be responsible for any loss of and/or damage to the Materials occurring before receipt of the shipment by Buyer at the specified delivery point; (d) Contractor will be responsible for filing, processing and recovering any claims relating to loss or damage to Materials, including without limitation, claims for loss, damage, shortages, overages and any other shipping discrepancies; (e) Contractor shall be solely responsible for scheduling and designation of the carrier; and (f) Contractor shall bear and pay all transportation charges to the specified point of delivery.
7. **Risk of Loss; Title:**
 - (a) Contractor bears the risk of loss or damages to the Materials until they are delivered in conformity with the terms hereof at the designated point after which, risk of loss passes to Buyer. Passing of title shall not constitute acceptance of the Materials by Buyer. Contractor shall not substitute any Materials that have been specified by Buyer without authority from Buyer. All Materials furnished will be subject to Buyer's right of inspection and approval after delivery.
 - (b) Title to all Materials will pass to Buyer upon the earlier to occur of delivery to Buyer or payment by Buyer therefor.
 - (c) As to Services, (i) risk of loss shall pass to Buyer upon completion of such Services, and (ii) title to Services shall pass to Buyer upon the earlier to occur of completion of such Services, or payment by Buyer therefor.
 - (d) Buyer reserves the right (payment notwithstanding) to reject and return, at Contractor's risk and expense, that portion of any shipment that may be defective or that fails to comply with Buyer's specifications or the warranties set forth in the Contract.
 - (e) Neither acceptance nor payment by Buyer, nor its inspection or failure to inspect, limits or excludes Buyer's express warranties provided for in the Contract or any warranties implied by law or waives any of Buyer's rights or remedies.
8. **Compliance with Laws; Subcontracting:**
 - (a) Contractor agrees to comply with all Applicable Laws, and shall have a safety program that complies with all Applicable Laws, industry standards, and Buyer's specific facility or site requirements for the Work. Further, Contractor agrees that the Work specified in the Purchase Order shall be or have been manufactured or performed, priced and sold in accordance with all Applicable Laws.
 - (b) Contractor shall be entitled to retain Subcontractors; however, the creation of any Subcontractor relationship shall not relieve Contractor of any of its obligations hereunder. Contractor shall be fully responsible to Buyer for the acts or omissions of any Subcontractor as if Contractor itself had acted or failed to act.
9. **Warranties; Limitation of Liability:**
 - (a) Contractor represents and warrants that the Work will be performed in a good and workmanlike manner, in accordance with all specifications, terms and conditions for the Services set forth herein, in accordance with accepted industry practices prevailing at the time and place where the Services are being rendered or Materials delivered. Contractor further represents and warrants that any Materials furnished hereunder are free from defects in design, workmanship and materials, are in compliance with all specifications herein and applicable industry standards and that unless otherwise specified are new and have not been refurbished or previously used. If prior to completion of the Work or within one (1) year following the completion of the Services or delivery of the Materials, Buyer shall reasonably determine that: (a) Contractor has not performed the Services or supplied Materials that are in accordance with the standards set forth in this section, or (b) Contractor has made a material error or omission in the performance of the Services, then Contractor, at its own expense, shall promptly undertake and complete such corrective action as is necessary to remedy the error, omission, defect, or non-conformance. However, the aforementioned one (1) year period shall not commence in the case of a latent

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defect in the Work, which was not or would not normally be discovered before the end of such warranty period by reasonable inspection until the discovery of such defect. If Contractor does not complete such required corrective action within ten (10) days following receipt of written notice from Buyer that such corrective action is required, then Buyer may either perform such corrective action itself or hire one or more third parties to perform such corrective action and Contractor shall be liable to Buyer for the cost of such corrective action plus interest at the maximum rate permitted by law from the time such costs are incurred by Buyer until such costs are repaid by Contractor. No acceptance or payment by Buyer shall constitute a waiver of any of the foregoing warranties or Contractor's obligations hereunder. All manufacturer's warranties and remedies applicable to Materials shall be assigned and transferred to Buyer and Contractor agrees to fully assist and cooperate with Buyer in the enforcement of such warranties; provided, however, no such warranty shall in any way relieve Contractor from its obligations to Buyer with regard to any representation or warranty herein.

- (b) NEITHER PARTY SHALL BE LIABLE, EITHER IN CONTRACT OR IN TORT, FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, OR PUNITIVE DAMAGES OR LOST PROFITS ARISING OUT OF OR IN CONNECTION WITH THIS PURCHASE ORDER, WHETHER OR NOT THE POSSIBILITY OF SUCH DAMAGES HAS BEEN DISCLOSED TO THE OTHER PARTY IN ADVANCE OR COULD HAVE BEEN REASONABLY FORESEEN BY SUCH OTHER PARTY, PROVIDED THAT THE LIMITATION SET FORTH IN THE PRIOR SENTENCE SHALL NOT APPLY TO CONTRACTOR'S S INDEMNIFICATION OBLIGATIONS HEREUNDER.
10. **Indemnity:** Contractor shall fully indemnify, defend and hold harmless Buyer and the Buyer Indemnified Parties from and against all Claims directly or indirectly arising out of or resulting from or related to: (a) any act or omission of negligence (of any type) by the willful misconduct of Contractor, its Subcontractors or anyone directly or indirectly employed by them or anyone for whose acts they may be liable arising out of the performance of the Work or this Purchase Order; (b) failure of Contractor or any Subcontractors to comply with Applicable Law or the any other violation of the provisions of Section 8, above; (c) any actual or asserted violation or infringement of any domestic or foreign patents, copyrights or trademarks or other intellectual property, or any improper use of confidential information or other proprietary rights that may be attributable to Contractor or any Subcontractor in connection with the Work; (d) failure of Contractor to remove or discharge any lien or encumbrance against all or any portion of Buyer's property which it is required to remove hereunder; or (e) demands, actions or disputes asserted by any Subcontractors.
11. **Mechanic's Liens:** Contractor shall keep the premises and Work free of all mechanic's and materialmen's liens, claims and encumbrances. Contractor agrees that final payment shall not become due and payable to Contractor until Contractor shall deliver to Buyer satisfactory releases, affidavits, satisfactions or waivers of all mechanic's and materialmen's liens, claims and encumbrances relating to the performance of the Work if requested to do so by Buyer. Final payment to Contractor shall not relieve Contractor of its obligation to discharge any lien filed before or after Contractor is paid.
12. **Default:** Each of the following shall constitute an "Event of Default" hereunder: (i) either Buyer or Contractor shall fail in any material respect to comply with, observe, or perform, or shall default in any material respect in the performance hereof, and such failure or default is not cured within ten (10) days after receipt of notice thereof from the other Party, provided that if such failure is not capable of being cured within such ten day period with the exercise of reasonable diligence, then such cure period shall be extended for an additional reasonable period of time, not to exceed thirty (30) days in the aggregate, so long as the defaulting Party is exercising reasonable diligence to cure such failure or (ii) either Buyer or Contractor becomes insolvent, files for bankruptcy, or is placed in the hands of a receiver or similar governmental authority.
13. **Remedies for Events of Default.**
- (a) Upon the occurrence of an Event of Default by Contractor, Buyer shall have the right to (i) immediately terminate this Purchase Orders by delivery of written notice of such termination to Contractor or (ii) pursue any other remedies at law or in equity. Upon any such termination, the costs necessary for Buyer to complete the Work, at Buyer's option: (i) shall be deducted from the unpaid part, if any, of Contractor's compensation under any Purchase Order or any other contract between Buyer and Contractor; or (ii) if such costs exceed the unpaid amount of Contractor's compensation or if Contractor is being compensated on a time and materials basis, all such costs shall be reimbursed by Contractor to Buyer within thirty (30) days of Contractor's receipt of Buyer's invoice for same. In addition to and without prejudice to any other remedy it may have, Buyer may (but shall not be obligated to) do, or cause to be done, any actions necessary to remedy an Event of Default by Contractor. Contractor shall be responsible for all costs, expenses and disbursements actually incurred by Buyer (including direct and third party labor costs, delivered material costs and equipment rental costs) in taking such remedial action, which, at Buyer's election, shall be paid by Contractor upon demand or deducted from any payment then or thereafter due Contractor.
- (b) Upon the occurrence of an Event of Default by Buyer, Contractor shall have the right to immediately terminate such Purchase Order by delivery of written notice of such termination to Buyer. Upon any such termination, Contractor shall render a final invoice to Buyer reflecting all outstanding amounts incurred under such Purchase Order prior to termination thereof. For the avoidance of doubt, no Event of Default by Buyer hereunder shall constitute an Event of Default under any other agreement between Contractor and Buyer or any Buyer Affiliate, all of which shall remain in full force and effect.
- (c) Upon termination of this Purchase Order, all rights and obligations hereunder or thereunder, as applicable, shall terminate, and neither Party shall have any further obligation or liability hereunder or thereunder, as applicable, to the other Party, except for liabilities that are incurred prior to or upon termination and any other rights, obligations, or liabilities that expressly survive termination of this Purchase Order. Notwithstanding the foregoing, Contractor shall deliver to Buyer (i) all Work completed but not delivered prior to termination and (ii) at Buyer's request, any Work in process at the time of termination.

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14. **Termination for Convenience.** Buyer may terminate this Purchase Order at any time for its sole convenience by giving Contractor at least ten (10) days' prior written notice of such termination. Upon receipt of such notice of termination, Contractor shall, unless otherwise requested by Buyer: (i) immediately stop performance of all terminated Work; and (ii) immediately cancel any orders and commitments related to the performance of the terminated Work. Buyer shall pay Contractor (a) that portion of the total consideration specified herein equal to the portion of the Materials delivered in compliance with the Purchase Order prior to the termination (less any payments made by Buyer prior to such termination), and (b) if Buyer elects to take title of any Work in process, that portion of the total consideration specified in the Purchase Order attributable to such Work in process. Contractor shall not be paid for any terminated Work performed after receipt of any notice of termination unless specifically requested by Buyer. Contractor shall not be entitled to any additional compensation for a termination for convenience.
15. **Time of Performance; Force Majeure:**
- (a) Time is of the essence under this Purchase Order and Contractor shall be liable for any damages caused by any delay in the performance of the Services that is not (i) excused under Section 15 b. or (ii) caused by a Buyer Event of Default.
- (b) Neither party will be in default for any delay or failure to perform due to Force Majeure. Contractor's delay or failure to perform due to Contractor's own labor disputes (or the labor disputes of any Subcontractor) or any change in Applicable Law, will not be an excusable delay regardless of whether or not such Force Majeure was reasonably foreseeable. The Party affected by an excusable delay will promptly provide written notice to the other, explaining in detail the full particulars and expected duration of the excusable delay, and will use its commercially reasonable best efforts to remedy the delay if the delay can be remedied. Buyer shall not be liable for any increased costs, including price escalation, resulting from such excusable delay. If an excusable delay lasts for longer than 3 months, either party may, without liability, cancel all or any part of this Purchase Order affected by such excusable delay.
16. **Confidentiality:** In order for Contractor to perform the Work, it may be necessary for Buyer to disclose to Contractor Buyer's confidential or proprietary business or technical information ("Buyer Proprietary Information"). For a period of two (2) years after the completion or termination of the Work, Contractor shall receive and maintain in strictest confidence all proprietary or technical information of Buyer all copies thereof, and all notes, analyses, studies and other documents prepared by Contractor or its Subcontractors that contain or otherwise reflect such information (collectively the "Confidential Information") and will not disclose the Confidential Information to others, except as otherwise permitted under the terms of this section. Contractor will not use Confidential Information for any purpose other than the performance of the Work will disclose the Confidential Information only to those of its Subcontractors whom Contractor considers to have the need to know the Confidential Information for such purposes of providing the Work, each of whom shall be informed of the confidential nature of the Confidential Information and agree to comply with the terms of this section, and Contractor agrees to be responsible for any breach of this section by its personnel or those of its Subcontractors. The provisions of this section shall not apply to any portion of the Confidential Information: (a) that was developed by Contractor and in Contractor's possession prior to Contractor's first receipt thereof directly or indirectly from Buyer; (b) that is now or hereafter becomes through no act or omission of Contractor or any Subcontractor becomes available on a non-confidential basis to the public; (c) that was furnished to Contractor by a source other than Buyer without restriction on disclosure; or (d) that is required by Applicable Law to be disclosed by Contractor; provided, however, that Contractor timely notifies Buyer of any such requirement in order to provide Buyer a reasonable opportunity to seek an appropriate protective order, and, in the event such protective order or other remedy is not obtained, Contractor agrees to furnish only that portion of the Confidential Information that Contractor is legally required to furnish. Contractor shall, upon Buyer's request, return the Confidential Information to Buyer within thirty (30) days following receipt of Buyer's request or certify in writing by an officer or authorized agent of Contractor that the Confidential Information has been destroyed. This provision shall be extended to and required of Contractor's Subcontractors for the specific and expressed benefit of Buyer.
17. **Intellectual Property:** All Work provided by Contractor, including designs, technical data, reports, blueprints, drawings and customized tooling and dies, shall be "works made for hire," and all rights, title and interest to the work product, including any and all copyrights in the work product, shall be owned by Buyer irrespective of any copyright notices or confidentiality legends to the contrary which may have been placed in or on such work product. If, for any reason, any part of or all of the work product is not considered a work made for hire for Buyer or if ownership of all right, title and interest in the work product shall not otherwise vest in Buyer, then Contractor agrees that such ownership and copyrights in the work product, whether or not such work product is fully or partially complete, shall be automatically assigned from Contractor to Buyer without further consideration. Notwithstanding the foregoing, (i) as between Buyer and Contractor, Contractor shall retain ownership of all proprietary intellectual property rights owned by Contractor and developed by it outside any Purchase Order or any other agreements between the Parties, and (ii) nothing in this section shall result in a transfer of ownership of any proprietary intellectual property owned by third parties and developed by them outside this any other agreements between the Parties. With respect to such intellectual property owned by Contractor or any third party, Contractor hereby grants Buyer an irrevocable, perpetual, worldwide, transferable, sub-licensable, and royalty-free license (including with right to assign its rights without consent to (i) any Affiliate of Buyer, (ii) any Person to which Buyer sells all or substantially all of its assets, (iii) any owner or operator of the facility into which the Work is incorporated, or (iv) any Person with which Buyer is merged or consolidated) to use, reproduce, modify, distribute, sell, make, offer for sale, transfer, publish, import, make derivative works and adapt such intellectual property for the purpose of operating, maintaining, repairing, replacing, expanding, completing or modifying any part of the Work or the facility into which the Work is incorporated. Contractor shall execute such agreements, prepared at the sole cost of Buyer, as Buyer reasonably requests in furtherance of the foregoing rights and obligations without the need for further consideration. In the event Buyer's use of any work product is interrupted as a result of a claim for any actual or asserted violation or infringement of any domestic or foreign patents, copyrights or trademarks or other intellectual property, or any improper use of confidential information or other proprietary rights that may be attributable to Contractor or any Subcontractor in connection with the Work, then, in addition to Contractor's indemnification obligations hereunder, Contractor shall either: (a) procure for Buyer, at no cost to Buyer, the right to continue using the infringing items or Work as though they were non-infringing; or (b) replace or modify the infringing items or Work with substantially equivalent items or Work that are non-infringing.

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18. **Taxes:** Contractor shall be fully responsible for reporting and discharging all local, state and federal income or profit taxes or taxes imposed in lieu of an income or profit tax, franchise tax, licensing fees, qualification or domestication fees, pension benefits, payroll taxes including social security taxes, employment, disability and other customary insurance and for any other taxes (except sales, use, excise and gross receipts taxes addressed below) or payments, together with any interest and penalties, additions to tax, or additional amounts with respect thereto, which may be due and owing by Contractor or which are the result of fees or amounts paid by Buyer hereunder. With respect to federal, state and local sales, use, excise and gross receipts taxes, Contractor is responsible for reporting and discharging taxes statutorily imposed on Contractor. Where such taxes are statutorily imposed on Buyer, Contractor shall collect such taxes from Buyer, unless Buyer presents Contractor with a valid exemption certificate. If Contractor is not required or registered to collect such taxes, Buyer shall remit the applicable taxes to the proper taxing jurisdiction. Both Contractor and Buyer agree to provide each other with the necessary information to determine the taxability of the charges incurred pursuant hereto, which may include providing support for the breakout of materials from labor where requested.
19. **Right to Audit:** Contractor shall, and ensure that its Subcontractors shall, maintain a true and correct set of records pertaining to all activities relating to its performance of the Work. Contractor agrees that all such records pertaining will be subject to audit by Buyer or representatives of Buyer, provided that Buyer shall not have the right to audit Contractor's records in connection with the internal composition of any compensation that is fixed in amount, except to the extent that any such compensation has any bearing with respect to any claims brought by Contractor for extra compensation or schedule relief and such claims depend in whole or in part on the internal composition of any such fixed amounts or if required for compliance with Applicable Law. Should errors, overcharges or undercharges occur, reimbursement shall be made to the appropriate Party.
20. **Governing Law, Jurisdiction and Venue:**
- (a) This Purchase Order shall be governed and construed in accordance with the laws of the State of Texas, and any and all disputes hereunder shall be resolved in accordance with the laws of the State of Texas, except for any such law that would direct the application of the law of a different jurisdiction; provided, however, that any portion of the Work to be provided hereunder that takes place in, upon or over the navigable waters of the United States of America shall be governed and controlled exclusively by the General Maritime Law of the United States of America. However, if Applicable Law requires the application of the substantive laws of the site to the Work, then such substantive laws shall apply only to that portion of the Work as required under Applicable Law.
- (b) Each of the Parties hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of any Texas state court or federal court of the United States of America sitting in Harris County, Texas, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Purchase Order, or for recognition or enforcement of any judgment, and each of the Parties hereby irrevocably and unconditionally agrees that any such Texas state court or, to the extent permitted by law, such federal court, shall be the exclusive venue for all claims that arise hereunder, provided that the foregoing shall not apply to a suit, action, or proceeding brought by a third party where a Party is a defendant and such Party seeks to join the other Party in such suit, action, or proceeding. Each of the Parties agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Each Party irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, (i) any objection that it may now or hereafter have to the laying of exclusive venue of any suit, action or proceeding arising out of or relating to this Purchase Order in any Texas state or federal court sitting in Harris County, Texas, or (ii) the defense of an inconvenient forum to the maintenance of such suit, action or proceeding in any such court and any right to which it may be entitled, on account of place of residence or domicile, provided that the foregoing waiver shall not apply to a suit, action, or proceeding brought by a third party where a Party is a defendant and such Party seeks to join the other Party in such suit, action, or proceeding.
- (c) EACH OF CONTRACTOR AND BUYER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES AND FOREVER RELINQUISHES ANY AND ALL CLAIMS OR RIGHTS THAT SUCH PARTY MAY HAVE TO ANY TRIAL BY JURY ON ANY ISSUE ARISING OUT OF ANY LITIGATION OR DISPUTES OR CLAIMS UNDER PURCHASE ORDER OR IN ANY WAY ASSOCIATED THEREWITH, SUCH PARTIES INTENDING TO WAIVE AND FOREVER RELINQUISH ANY RIGHT UNDER THE SEVENTH AMENDMENT OF THE UNITED STATES CONSTITUTION TO TRIAL BY JURY AND ANY CLAIMS OR RIGHTS TO A TRIAL BY JURY UNDER THE CONSTITUTION OF ANY STATE OR ANY OTHER CONSTITUTIONAL, STATUTORY OR OTHERWISE APPLICABLE LAW PROVIDING FOR A RIGHT OF TRIAL BY JURY.
21. **Assignment.** Contractor shall not assign, in whole or in part, this Purchase Order, or any of Contractor's rights or obligations hereunder or thereunder without the prior written approval of Buyer in its sole discretion. An assignment by Contractor other than as provided in the previous sentence is null and void for all purposes. Buyer shall have the right to assign this Purchase Order without consent of Contractor to (i) any Affiliate, (ii) any Person to which Buyer sells all or substantially all of its assets, (iii) any owner or operator of the facility into which the Work is incorporated, or (iv) any Person with which Buyer is merged or consolidated and Buyer shall thereafter be relieved of its obligations under this Purchase Order, as applicable. Subject to the foregoing, this Purchase Order and the covenants, obligations, undertakings, rights and benefits set forth herein and therein shall be binding on and inure to the benefit of the Parties and their respective permitted successors and assigns.
22. **Notices.** Any notice or other communication required under this Purchase Order shall be in writing and shall be deemed to have been duly given (i) on receipt if given by hand delivery, (ii) on the first day following delivery to a nationally recognized United States overnight courier service, fee prepaid, return receipt or other confirmation of delivery requested, (iii) on the third day following delivery to the U.S. Postal Service as certified or registered mail, return receipt requested, postage prepaid, and (iv) on the second day after it is sent, if it is delivered by email or other means of electronic transmission and a copy is also delivered to a nationally recognized United States overnight courier service or the U.S. Postal Service as certified or registered mail, return receipt requested, postage prepaid, in each case, as applicable if addressed to each Party at the addresses set forth on the face hereof.

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23. Miscellaneous:

- (a) Relationship of the Parties. Contractor is, and shall continue to be, an independent contractor, and any provisions of this Purchase Order which may appear to give Buyer the right to direct Contractor as to details of performing any Work, or to exercise a measure of control over Contractor's performance of the Work, shall be interpreted to mean that Contractor will follow the instructions of Buyer with respect to the results of the Work achieved only and not in the means whereby the Work is to be accomplished, and Contractor shall have complete and authoritative control as to the details of performing the Work.
- (b) Severability. If any term or other provision of this Purchase Order is invalid, illegal, or incapable of being enforced by any Applicable Law or public policy, all other terms or provisions of this Purchase Order shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby and thereby is not affected in any manner materially adverse to either Party. Upon such determination that any term or other provision is invalid, illegal, or incapable of being enforced, the Parties shall negotiate in good faith to modify this Purchase Order, as applicable, so as to effect the original intent of the Parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby and thereby are consummated as originally contemplated to the greatest extent possible.
- (c) Change Orders and Amendments. At any time and for any reason, Contractor may submit to Buyer proposed changes or additions to or deletions from the Work, but no such changes, additions or deletions shall become effective or paid for by Buyer unless authorized by Buyer in advance in writing pursuant to a change order (each a "Change Order") executed by Buyer and Contractor. This Purchase Order may be altered, changed or amended, except by Change Order or another instrument in writing, executed by both Parties.
- (d) No Waiver. Any failure of either Party to enforce any of the provisions of this Purchase Order or to require compliance with any of the terms hereof or thereof at any time shall in no way affect the validity of this Purchase Order, or any part hereof or thereof, and shall not be deemed a waiver of the right of such Party thereafter to enforce each and any such provisions.
- (e) Further Assurances. If any further action is necessary or reasonably desirable to carry out the purposes this Purchase Order, each Party will take such further action (including executing and delivering any further instruments and documents and providing any reasonably requested information) as the other Party may reasonably request, all at the requesting Party's sole cost and expense.
- (f) Construction; Usage. Purchase Order, the following principles shall be followed: (i) pronouns, whenever used and of whatever gender, shall include natural persons, corporations, limited liability companies, partnerships and associations of every kind and character; (ii) documents attached hereto are made a part hereof for all purposes; (iii) the word "or" will have the inclusive meaning represented by the phrase "and/or"; (iv) "including" shall be deemed to be followed by "but not limited to" whether or not it is in fact followed by such words or words of like import; (v) the word "day" shall mean calendar day; and (vi) the terms "hereof", "herein" or "hereunder" refer to this Purchase Order as a whole and not to any particular provision of this Purchase Order.