



Sale or lease of any goods or equipment (collectively “**Products**”) or the performance of services (collectively “**Services**”) is expressly conditioned on Customer’s acceptance of these Terms and Conditions (“**Terms and Conditions**”). Any additional or different terms proposed by Customer in any document, including but not limited to terms shown on Customer’s sales order or any other Customer document(s), are objected to, null and void, and rejected and will not be binding upon Company unless agreed to in writing by Company. These Terms and Conditions supersede all prior terms and conditions and shall be the sole Terms and Conditions which apply to any sale, lease, or other furnishing of Products or Services. Company’s performance of any work or delivery of any Products or Services shall constitute acceptance by Customer of these Terms and Conditions. No modifications to this Agreement shall be effective unless such modification is made in writing and signed by an authorized representative of Company.

1. Definitions and Interpretation.

“**Affiliate**” means any subsidiary or parent or holding company of any company or any other subsidiary of such parent or holding company. For the purposes of the Agreement “subsidiary” and “holding company” shall each have the meaning assigned to them under Section 1159 of the Companies Act 2006 and a company shall be treated, for the purposes only of the membership requirement contained in Subsections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of: (a) another person (or its nominee), whether by way of security or in connection with the taking of security; or (b) a nominee.

“**Agreement**” means the agreement between the Company and Customer for the sale or lease of any Products and/or the furnishing of any Services, the specifications, prices, and details of the order of the Products or Services (but excluding any legal terms expressed or referenced by Customer), as evidenced in a written Quotation and/or Sales Order Acknowledgement, and in each and every instance, incorporating these Terms and Conditions together with any special terms which may be agreed in writing between the Customer and Company.

“**Claims**” means all demands, allegations, proceedings, and/or suits of any kind, including but not limited to equity, tort, or contract with damages such as actual damages, injury, disease, or death to persons, property damage (including but not limited to underground or surface).

“**Company**” means Forum US, Inc., a company registered in Delaware, USA having its registered office at 920 Memorial City Way Suite 1000, Houston, Texas 77024 and any Affiliate (as well as trading companies) of Forum US, Inc. selling, renting, repairing or leasing Products to the Customer.

“**Company Group**” means the Company and any parent, subsidiary, affiliated companies, suppliers and contractors, and Company’s agents, servants, employees, officers, directors, and insurers.

“**Customer**” means any person or company to which the Company has undertaken to provide Products or services, which are the subject to this Agreement.

“**Customer Group**” means Customer and any

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parent, subsidiary, affiliated companies, suppliers and contractors, and Customer’s agents, servants, employees, officers, directors, and invitees.

“**Delivery**” means delivery of the Products to the place specified in the Sales Order Acknowledgement, unless otherwise agreed between the Parties. “**Deliver**” and “**Delivered**” shall be construed accordingly.

“**INCOTERMS**” means the International Commercial Terms published by the International Chamber of Commerce (ICC).

“**Product(s)**” means the sale or lease of any goods or equipment, and which are the subject of the Agreement.

“**Quotation**” means the Company’s written quotation for the supply of Products or Services and any written amendments and special conditions applicable to the quotation agreed to by the Parties in writing.

“**Sales Order Acknowledgement**” means the final document sent by the Company to the Customer detailing the Products to be purchased.

“**Terms and Conditions**” means Company’s terms and conditions, as contained in this document.

The above-defined terms do not exclude any further terms that are separately identified and defined below.

2. Pricing. Each Product and Service shall be invoiced at (and Customer shall pay) the respective price shown on the Quotation or at the price shown on the Sales Order Acknowledgement based on the current price list of Company.

PRICES ARE SUBJECT TO CHANGE. Company reserves the right to change any price for any reason. In addition, Customer shall pay any and all additional charges for mileage, transportation, freight, packing and other related charges, as well as any federal, state or local tax, excise, or charge applicable on the sale, transportation, or use of Products and Services, including but not limited to any permits, licenses or fees, unless otherwise specified. Subject to the above, prices quoted for Products are based on receiving orders for the quantity specified and are valid for 30 days from the Quotation date, unless canceled in writing by Company. Stock materials included in a quotation are subject to prior sale.

Company may cancel any pending order at any time (regardless of whether a Quotation or Sales Order Acknowledgement has been issued) if there is an event under Section 26 (Force Majeure) which would cause a material delay in performance of the order or significantly change the underlying assumptions relied on in preparing the order (including, assumptions underlying Company’s rate schedule). In the alternative, if circumstances arise where costs, fees, or tariffs are reasonably anticipated to result in a Force Majeure event, Company may in its sole discretion pass through any and all such costs, fees, or tariffs onto the Customer for payment. If such amounts are fully and timely paid by the Customer, then the Force Majeure event is moot, and the parties may then proceed with further performance pursuant to the Agreement.

3. Terms of Payment. Customer agrees to pay Company any and all payments due on or before thirty (30) days from invoice date at the designated address of Company. Amounts unpaid after such

thirty (30) day period shall bear interest at the lesser of (i) one and one-half percent (1½%) per month or (ii) the maximum rate allowed by law. Customer shall also pay any and all of Company’s attorney’s fees and court costs if any amounts hereunder are collected by an attorney or through legal proceedings. Company reserves the right, among other remedies, either to terminate this agreement or to suspend further deliveries upon failure of Customer to make any payment as provided herein. Company shall issue an invoice at time of notification of readiness for shipment, or upon completion of or interruption to services rendered, even if Customer requests that shipment be delayed or services resumed at a later date.

4. Cancellation of Orders. Orders cannot be cancelled by Customer under any circumstances without Company’s written consent. Customer agrees to pay a minimum charge as follows of the order amount on standard items: Acceptance of PO – 15%; Engineering Complete – 25%; Initial Material(s) Ordered – 45%; Production Initiated – 55%; Test / Paint Initiated – 90%; Finished Production of Goods complete – 100%. Higher cancellation charges may apply. Special orders may not be cancelled. The cancellation fee for items made to order will be determined on a case-by-case basis in Company’s sole discretion, and Customer agrees to pay up to 100% of the order amount if cancellation is allowed.

5. Return of Goods. Products may not be returned without prior written agreement of Company and after passing an inspection by Company to determine if the Goods are returnable. All returns must be requested within 30 days of delivery and be undamaged, appropriate for re-sale, and in new condition. In the event Company agrees to a return, Customer agrees to make Company whole, and to pay all shipping charges and a minimum restocking charge of 25% of the invoice amount. Higher return fees may apply. Under no circumstances may any goods be returned that are used, damaged, specially ordered or manufactured, or not regularly stocked by Company.

6. Limited Warranty. COMPANY MAKES NO WARRANTY, EXPRESSED OR IMPLIED, AS TO THE MERCHANTABILITY, FITNESS FOR PURPOSE, DESCRIPTION, QUALITY, PRODUCTIVENESS, ACCURACY OR ANY OTHER MATTER WITH RESPECT TO PRODUCTS OR SERVICES, ALL SUCH WARRANTIES BEING HEREBY SPECIFICALLY AND EXPRESSLY DISCLAIMED BY COMPANY. COMPANY MAY OFFER TECHNICAL ADVICE OR ASSISTANCE AND/OR PROVIDE DRAWINGS OR GENERAL INFORMATION TO CUSTOMER WITH REGARD TO THE PRODUCTS AND SERVICES BASED ON LABORATORY AND/OR FIELD EXPERIENCE AND CUSTOMER UNDERSTANDS AND AGREES THAT SUCH ADVICE REPRESENTS ONLY GOOD FAITH OPINIONS AND DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE. THE SOLE AND EXPRESS WARRANTY PROVIDED BY COMPANY IS THE FOLLOWING LIMITED PRODUCT WARRANTY:



A. VALVE PRODUCTS OFFERED BY COMPANY: Company warrants new valve products of its manufacture to be free from material defects in workmanship and material for a period of twelve (12) months from installation of the Goods by the end user or eighteen (18) months from the date of delivery per the Parties' agreed Incoterm of delivery, whichever is earlier;

B. ALL OTHER PRODUCTION AND INFRASTRUCTURE PRODUCTS OFFERED BY COMPANY: Company warrants all other production and infrastructure Products not included in (A) above of its manufacture to be free from material defects in workmanship and material for a period of twelve (12) months from the date of delivery per the Parties' agreed Incoterm of delivery.

These warranties and remedies are conditioned upon: (a) the proper storage, installation, operation, and maintenance of the product, in accordance with the manuals and information provided by or available from Company or its suppliers or vendors (any such manuals or information are available upon request, review, and comply with same); (b) Customer keeping accurate records of the operation and maintenance of the product during the warranty period and providing such records to Company on request; (c) modification or repair of any product only as authorized by Company in writing, (d) Customer promptly notifying the Company of any defect in writing within ten (10) days of Customer discovery of any defects during the warranty period, and (e) Customer keeping such goods or the results of services in a condition that can be examined by Company and, upon request by Company, returning the Product to a facility designated by Company for testing and inspection. Any repair, replacement or performance by Company shall not extend the warranty period.

These warranties shall not apply to the following: (i) the product or result of service had been subject to misuse, negligence, modification, or use other than as specified by Company, (ii) Customer uses the goods with components which are not manufactured or approved by Company, (iii) requires replacement due to normal wear and tear, (iv) the design or any part of it was provided by Customer or Customer's behalf to Company or designs were made Company but subject to Customer approval, (v) to any Service work, (vi) to used equipment, and (vii) to painting, coating, or lining of the Product.

Company does not warrant components manufactured by others but will use its best efforts to assign any component manufacturer's warranty or guarantee to Customer.

This section provides the exclusive remedy for all claims based upon a failure of or defects in Products or Services, whether the failure or defect occurs during the warranty period, and whether a claim is based upon contract, warranty, indemnity, tort, extra-contractual liability (including negligence), strict liability, or otherwise.

7. Change of Design. Company expressly reserves the right to (i) change or modify the design and construction of any of its goods without obligation to furnish or install such change or modification on goods previously sold and (ii) make substitutions and modifications to its Product or Services, so long as

the changes do not adversely affect the performance of those items.

8. Remedy. The exclusive remedy for the warranty for Products as provided in section 6 above shall be limited to, in Company's sole discretion and judgment, the replacement of defective part(s). Ex Works Company's fabrication plant (transportation, redesign, dismantling, disposal of material and installation are not included and shall be borne and paid for by Customer), or repair of defective part(s). Any such repeat of services or replacement or repair of goods shall not include any materials not sold by Company hereunder, and specifically excludes any obligation by Company related to other property of the Customer or any property of third parties. **IN ANY EVENT AND NOTWITHSTANDING ANY LANGUAGE TO THE CONTRARY HEREIN, CUSTOMER ACKNOWLEDGES THAT ANY CLAIM IT MAY HAVE ARISING OUT OF OR IN CONNECTION WITH ANY ORIGINAL PRODUCTS AND SERVICES, ANY REPLACEMENT PRODUCTS OR REPEAT OF SERVICES AND THESE TERMS AND CONDITIONS SHALL BE LIMITED TO AND NOT EXCEED THE AMOUNT CUSTOMER HAS ACTUALLY PAID TO COMPANY FOR SUCH PRODUCTS AND/OR SERVICES PURSUANT HERETO.** Unless Customer is an authorized reseller of Company, Company's liability in connection with Products and Services shall extend only to Customer.

9. Limitation of Liability. The total liability of Company for any loss of any kind to Customer, Customer's property, or any other person or person's property, from Company's product or services' failure to conform to any specification, breach of warranty, negligence or other failure to conform to any standard of care, strict liability, or patent infringement, shall not exceed the amount received by Company from Customer for such goods and services. If Company uses goods of other manufacturers or suppliers in Company's goods, and such goods are defective, Company's liability shall exist only to the extent that Company is able to recover from such manufacturer or suppliers for such defects. This limitation of liability shall apply regardless of whether a loss or damage is caused by the sole, joint, or concurrent fault or negligence of Company or third parties or is based upon contract, warranty, indemnity, tort/extra-contractual liability (including negligence), strict liability, or otherwise. **CUSTOMER HEREBY INDEMNIFIES AND HOLDS COMPANY (AND ITS AGENTS, REPRESENTATIVES, OFFICERS DIRECTORS AND EMPLOYEES) HARMLESS FOR ANY LOSS, EXPENSE OR DAMAGE (WHETHER OF CUSTOMER OR OF ANY THIRD PARTY) ARISING FROM OR IN CONNECTION WITH PRODUCTS AND SERVICES, INCLUDING WITHOUT LIMITATION ANY FAILURE OF SUCH PRODUCTS AND SERVICES TO CONFORM TO CUSTOMER'S ORDER OR SPECIFICATION OR ANY OTHER STANDARD, OR ANY NEGLIGENCE OR BREACH OF WARRANTY BY COMPANY WITH RESPECT TO ANYTHING DONE OR FAILED TO HAVE BEEN DONE BY COMPANY, IF AND TO THE EXTENT THAT SUCH LOSS, EXPENSE OR DAMAGE EXCEEDS THE AMOUNT CUSTOMER HAS ACTUALLY PAID COMPANY**

PURSUANT HERETO FOR SUCH PRODUCTS OR SERVICES.

10. Inspection. The results of any inspection or testing reported by the Company to Customer represents only good faith opinions and are not to be construed as warranties or guarantees of the quality, classification, merchantability, fitness for purpose, condition, or liability of any equipment or material that has been inspected or tested by the Company.

11. Insurance. Each party agrees to maintain comprehensive general liability insurance in the amount of \$1,000,000 each occurrence, \$2,000,000 general aggregate, and Workers Compensation insurance per statutory requirements providing coverage for the indemnity obligations in this agreement. The Company (and such of its affiliates as it shall designate) including their officers, directors, members, shareholders, partners, joint ventures, employees, agents and representatives shall be named as additional insureds under the policies of Customer on a primary basis to the extent of its indemnification obligations set forth in these Terms and Conditions, and the policies shall also provide a waiver of subrogation rights in favor of the Company (and such of its affiliates as it shall designate) and their officers, directors, members, shareholders, employees, agents and representatives. **The provisions of this Section 11 shall apply and the obligation to maintain insurance of each party in the coverages and amounts set forth herein shall remain in force regardless and independent of the validity or enforceability of the indemnity provisions of Section 12. The obligation to obtain insurance is a separate and independent obligation. If the insurance required herein is more or less than allowed by prevailing law, the indemnity obligations in Section 12 below shall be effective only to the maximum extent permitted under applicable law.**

12. Indemnification. The following indemnifications and releases of liability will apply to any Products or Services provided under this Agreement. **COMPANY AND CUSTOMER EXPRESSLY AGREE THAT, TO THE EXTENT REQUIRED BY APPLICABLE LAW TO BE EFFECTIVE, THE INDEMNITIES AND DISCLAIMERS OF WARRANTIES CONTAINED HEREIN ARE "CONSPICUOUS."**

a. Customer Indemnity Obligations. Customer hereby releases Company from any liability for, and shall protect, defend, indemnify, and hold harmless Company Group from and against all Claims, arising out of or resulting from or related, directly or indirectly, to (i) injury to, illness or death of Customer Group, or (ii) loss of or damage to any property of any member of Customer Group, **REGARDLESS OF THE CAUSE OF SUCH CLAIMS, INCLUDING THE NEGLIGENCE (WHETHER SOLE, JOINT OR CONCURRENT, ACTIVE OR PASSIVE, ORDINARY OR GROSS) STRICT LIABILITY, OR ANY OTHER LEGAL FAULT OR RESPONSIBILITY OF ANY MEMBER OF COMPANY GROUP.**

b. Catastrophic Loss. Customer shall assume all responsibility for, and shall protect, defend and indemnify Company Group from and against all



Claims arising directly or indirectly from: i) all pollution or contamination which may occur during the conduct of operations hereunder, including, but not limited to, that which may result from fire, blowout, cratering, seepage or any other uncontrolled flow of oil, gas, water or other substance, or wild well, including regaining control thereof, debris removal and property restoration and remediation; ii) damage to or loss of the hole (including any fixtures or equipment), and iii) injury to, destruction of, or loss or impairment of any property right in or to oil, gas or other mineral substance or water, if at the time of the act or omission causing such injury, destruction, loss or impairment said substance has not been reduced to physical possession above the surface of the earth, and for any loss or damage to any formation, strata, or reservoir beneath the surface of the earth, **EVEN IF THE LOSSES, DAMAGES, CLAIMS, DEMANDS, COSTS, FEES, AND EXPENSES ARE CAUSED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF COMPANY GROUP.**

c. Compliance With Laws, Rules and Regulations. Customer expressly agrees to comply with and abide by all of the laws of the United States and of the state in which goods are delivered or services are performed, including, but not limited to, OSHA, EPA and all rules and regulations now existing or that may be hereafter promulgated under and in accordance with any such law or laws, and **Customer hereby agrees to indemnify and hold Company Group harmless from any and all claims, demands, or damages incurred by Company Group arising from Customer Group's failure to comply with all laws and governmental regulations.**

d. The foregoing indemnities set forth in these Terms and Conditions are intended to be enforceable against the parties hereto in accordance with the express terms and scope hereof notwithstanding Texas' Express Negligence Rule or any similar directive that would prohibit or otherwise limit indemnities because of the negligence (whether sole, concurrent, active or passive, ordinary or gross) or other fault or strict liability of Company or Customer.

e. If a claim is asserted against one of the parties to this agreement which may give rise to a claim for indemnity against the other party hereto, the party against whom the claim is first asserted must notify the potential indemnitor in writing and give the potential indemnitor the right to defend or assist in the defense of the claim.

f. Anti-Indemnity Savings Provision. Notwithstanding anything else herein to the contrary, if any tribunal determines that any provision to release, protect, defend, indemnify, and/or hold harmless herein (or any part of such provision) is unenforceable because such provision provides for any person to be protected, defended, indemnified and/or held harmless for its own negligence, gross negligence or other fault, then such provision shall be construed as written, except to the extent found to be void or unenforceable under state law.

The Parties agree that any anti-indemnity statute which makes the indemnity agreements provided herein unenforceable against the other Party

personally shall not have any effect or limit the insurance obligations of each Party under this Agreement. Each Party shall still be able to take advantage of additional insured coverage obtained for the benefit of the other (covering contractual liabilities as originally written in this Agreement) to the full extent allowed by law regardless of the enforceability of the underlying indemnity against the indemnitor personally.

g. Addendums. The above Indemnity provisions are, depending upon the location of the worksite(s) in question, further modified by venue-specific addendum, which are attached to this Agreement. These documents are fully incorporated herein and, to the extent required by the addendum language, apply hereto.

13. Title and Risk of Loss.

a. Title and risk of loss shall pass to Customer upon delivery as specified in Section 15. Customer's receipt of any material delivered hereunder shall be an unqualified acceptance of and a waiver by Customer of any and all claims with respect to, such material unless Customer gives Company written notice of claim within fifteen (15) days after such receipt. Notwithstanding the foregoing, installation or use of materials or equipment shall unequivocally constitute irrevocable acceptance of said materials. In addition, Customer assumes all risk and liability for the results obtained by the use of any material or products delivered hereunder in work performed by on behalf of Customer or in combination with other substances or products.

b. If Customer fails to take delivery or otherwise delays delivery after the Parties agreed delivery date, Company reserves the right to immediately place such goods in storage and charge Customer storage fees at a rate of \$500.00 per day. During such storage time, title to the goods will remain with Company until actually delivered to Customer, but risk of loss shall shift to Customer upon original agreed delivery date. Company assumes no liabilities while maintaining temporary storage of Customer's equipment. Company also reserves the right to invoice Customer after the Parties agreed delivery date if such delay in delivery is not due to Company's fault.

c. For services, Company shall not be liable for loss or deterioration of any equipment and material of Customer under Company's control or stored on Company's premises after Company has completed its work.

14. Termination. Company reserves the right to terminate the order at issue, or any part hereof, solely for its convenience at any time without cause with notice to Customer. Company shall have the right to cancel any unfilled order without notice to Customer in the event that Customer becomes insolvent, adjudicated bankrupt, petitions for or consents to any relief under any bankruptcy reorganization statute, violates a term of these Terms and Conditions, or is unable to meet its financial obligations in the normal course of business. In the event of such termination, Company shall immediately stop all work hereunder.

15. Delivery. All sales are "Ex Works" Company's location. This means Company fulfills its obligation of delivery when it has made the goods subject of the order available at its premises (i.e. works, factory,

warehouse, etc.), and shall constitute full and final delivery as provided in INCOTERMS, unless otherwise agreed in a writing signed by Company and Customer. All prefabricated packages or skid-mounted assemblies shall be assembled in Company's plant to the extent practicable. These assembled units shall be disassembled before shipping, but only to the extent required to facilitate the chosen means of transportation. All field reassembly necessary to place units in operable condition shall be done by and at Customer's expense. Upon notification by Company of delivery, Customer shall become liable and shall bear all risk of loss associated with the goods at issues regardless of whether the goods are at a location controlled by Company. Excess packing, marking, shipping, and transportation charges resulting from compliance with Customer's request shall be for Customer's account. Freight charges will be supported by appropriate shipping documents and an administrative fee, as solely determined by Company, will be added to prepaid freight shipments. Unless otherwise agreed in writing, delivery time is not of the essence.

16. Delays. Shipping dates and schedules are subject to prior orders received, availability of adequate labor and equipment and to other unavoidable contingencies as set forth in Section 26. Dates of delivery are estimates only, and are dependent upon prompt receipt by Company of materials and information necessary, in Company's sole discretion, to proceed with the work. Company does not warrant or, in any other way, guarantee delivery dates. Company reserves the right to choose the facility from which it ships goods to Customer.

17. Consequential Damages. Notwithstanding any other provision contained herein, **Company shall not be liable to Customer Group or any third party for consequential (whether direct or indirect damages), indirect, incidental, special or punitive damages, howsoever arising, including, but not limited to loss of profits (whether direct or indirect damages), revenues, production or business opportunities, WHETHER OR NOT SUCH LOSSES ARE THE RESULT IN WHOLE OR IN PART FROM THE NEGLIGENCE (WHETHER SOLE, JOINT, CONCURRENT OR COMPARATIVE, ACTIVE OR PASSIVE, ORDINARY OR GROSS) OF COMPANY GROUP, OR ANY DEFECT IN THE PREMISES, PRE-EXISTING CONDITIONS, PATENT OR LATENT, BREACH OF STATUTORY DUTY, STRICT LIABILITY OR ANY OTHER THEORY OF LEGAL LIABILITY OF COMPANY GROUP (EXCLUDING ONLY LOSSES CAUSED BY THE WILLFUL MISCONDUCT OF COMPANY GROUP).** In addition, in no event shall Company be liable to Customer for delays, curtailment of plant operations, process failure, pollution, cost for removing any parts or equipment to be repaired or replaced, transportation, or installation charges in connection with the repair, replacement, or servicing of any parts or equipment.

18. Security Interest. Customer grants to Company a security interest in all of Customer's equipment and material delivered pursuant to the Agreement. Customer agrees to sign all documents and do all things which in the opinion of the Company may be



necessary or desirable for Company to perfect such security interest and in connection therewith authorizes (to the extent permitted by applicable law) Company to sign and publicly file any financing statement on Customer's behalf as Customer's attorney-in-fact. Company shall retain this interest until Company has been paid in full.

19. Patent And Intellectual Property.

a. Company agrees to indemnify and hold harmless Customer from and against all claims, suits, and costs of patent infringement related to goods or services provided by Company, expressly subject to the following conditions: (i) Customer must promptly notify Company in writing upon receipt of any claim for infringement or service of any suit for infringement, (ii) Customer must make no admission of liability and must unconditionally afford Company the opportunity, at Company's sole option and expense, to answer such claim or suit, assume control of the defense, and settle, compromise, or try such matter as Company sees fit, (iii) Customer must provide Company with full disclosure and assistance that may reasonably be required to defend and claim or suit.

b. This indemnity shall not apply to (i) any product not manufactured by Company, (ii) any product specially made, in whole or in part, to Customer's design specifications, (iii) any product used in combination with other goods or materials in such a manner that the combination (and not the product manufactured by Company) is the basis for the claim of infringement, (iv) any product for which Company has offered an update or change, which would prevent the claim or suit, and (v) any product that has been altered, modified, or revised by Customer.

c. Section 17 of these terms and conditions excluding any liability for consequential damages is incorporated by reference as if fully set forth here. Company's liability under this indemnity shall not exceed the amount received by Company for such Product or Services claimed to be infringing.

d. Company may, at its option, (i) procure for Customer the right to continue using the product or service, (ii) modify or replace it in whole or in part to avoid infringement, or (iii) take back the product or discontinue service and refund any fees received by Company for the infringing product or services.

e. This indemnity is in lieu of any other warranty or indemnity, express or implied, with respect to infringement and states Company's entire liability for indemnification for patent, trademark, copyright, and trade secret infringement for goods and services.

f. The sale of any products hereunder does not convey any license by implication, estoppel or otherwise covering combinations of the products with other equipment data or programs. Company retains the copyright in all documents, catalogs and plans supplied to Customer pursuant to or ancillary to the contract. Unless otherwise agreed in writing, Customer shall obtain no interest in any tooling used in the production of any Company product.

20. Ownership Of Customer Developments. All copyrights, patents, trade secrets, or other intellectual property rights associated with any ideas, concepts, techniques, inventions, processes, or works of

authorship developed or created by Company during the course of performing work for Customer (collectively the "**Work Product**") shall belong exclusively to Company and shall not, to the extent possible, be considered a work made for hire for Company within the meaning of Title 17 of the United States Code. Customer agrees to assign, and hereby assigns at the time of creation of the Work Product, without any requirement of further consideration, any right, title, or interest Customer may have in such Work Product. Upon request of Company, Customer shall take such further actions, including execution and delivery of declarations, instruments of conveyance, and the like for any applications or registrations Company may, at its expense, apply for and as may be appropriate to give full and proper effect to such assignments.

21. Taxes. Unless otherwise specifically provided for herein, Customer shall be liable for all federal, state, or local taxes or import duties assessed by any governmental entity of any jurisdiction in connection with the goods or services furnished hereunder.

22. Deceptive Trade Practices. Customer acknowledges the application of Section 17.45(4) of the Texas Deceptive Trade Practices Act (Texas Business Commission Code §17.41 et. seq.) (the "**Act**") to any transaction contemplated hereby and represents that it is not a "consumer" for the purposes of the Act.

23. No Waiver. Failure to enforce any or all of the provisions in these Terms and Conditions in any particular instance shall not constitute or be deemed to constitute a waiver of or preclude subsequent enforcement of the same provision or any other provision of these Terms and Conditions. Should any provision of these Terms and Conditions be declared invalid or unenforceable all other provisions of these Terms and Conditions shall remain in full force and effect.

24. Choice of Law and Jurisdiction. This Agreement (including all schedules, exhibits, attachments and Purchase Orders), and all matters arising out of or relating to this Agreement, whether sounding in contract, tort, or statute, are governed by and construed in accordance with, the laws of the State of Texas (including its statute of limitations), excluding any choice of law rules or principles which would refer the matter to the laws of another jurisdiction, and shall be performable in Harris County Texas. The Parties agree that the United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. IN CONNECTION WITH ANY MATTER ARISING OUT OF OR RELATING TO THIS AGREEMENT (INCLUDING ALL SCHEDULES, EXHIBITS, ATTACHMENTS OR PURCHASE ORDERS), WHETHER SOUNDING IN CONTRACT, TORT, OR STATUTE, EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF—AND AGREES TO BRING ANY ACTION, LITIGATION, OR PROCEEDING ONLY IN—HOUSTON, TEXAS (FOR ARBITRATION – SEE SECTION 33 BELOW), THE COURTS OF THE STATE OF TEXAS IN HARRIS COUNTY, TEXAS AND THE FEDERAL COURTS IN AND FOR THE SOUTHERN DISTRICT OF TEXAS SITTING IN HOUSTON, TEXAS.

25. Authority. Customer warrants and represents that the individual receiving this order at issue on behalf of Customer has the authority to enter into the Agreement (including these Terms and Conditions) on behalf of Customer, and that upon receipt these Terms and Conditions shall be binding upon Customer.

26. Force Majeure. Company shall not be liable for any delay, inability to tender delivery or other failure of performance, or any loss or damage, where such delay, failure of performance, loss or damage results from any cause beyond Company, its suppliers, or contractor's control, including, but not limited to, the elements, weather, lack of or inability to obtain materials, fuel, transportation or supplies, acts of Customer, acts of civil or military authorities, acts of terrorism, insurrection, or war, pandemic, government orders or regulations (including sanctions and tariffs), or other shutdowns, Acts of God, power or utility failures, breakdown of equipment, machinery, tools, or production facilities, differences with workmen, strikes, boycotts, fire, flood, or other casualty, labor shortages, government regulations or requirements, whether similar or dissimilar to those enumerated, and whether or not foreseeable.

27. Confidentiality. Customer acknowledges the highly secretive and valuable nature of all proprietary inventions, methods, processes, designs, know-how, and trade secrets embodied in the Company's equipment, products and services and its components (hereinafter referred to as "**Confidential Data**"). Accordingly, Customer agrees not to disclose or use any Confidential Data. Customer further agrees to take any and all necessary precautions to prevent disclosure of the Confidential Data associated with the Company's equipment, products and services and components thereof to persons other than those employees of Customer for whom such disclosure is necessary for performance of the work hereunder.

28. Compliance. Customer expressly agrees to comply with and abide by, all of the laws of the United States and of the State of Texas, including, but not limited to, OSHA, EPA and all rules and regulations now existing or that may be hereafter promulgated under and in accordance with any such law or laws, and hereby agrees to indemnify and hold Company harmless from any and all claims, demands, or damages incurred by Company arising from Customer's failure to comply with all laws and governmental regulations. The indemnities in this paragraph shall be in addition to any other indemnity obligations between Customer and Company, including any other indemnity obligations contained herein.

29. Export Laws. It is the Customer's responsibility to comply with applicable export control regulations and comply with any restrictions in the Company's export license for Goods shipped internationally, including from and to the United States and/or United Kingdom. The Customer shall be responsible for and shall save, indemnify, defend and hold harmless the Company from and against all Claims in connection with any failure by the Customer to comply with applicable export control regulations or the Company's export license arising from, relating to or in connection with this agreement. The Customer represents that it is knowledgeable and has



expertise regarding all export control laws, regulations, procedures, international sanctions, embargoes and restrictions, prohibited party lists and international shipping practices applicable to the Company, including but not limited to the laws of the United Kingdom and the laws of the United States of America ("Export Controls"), and confirms its obligations to the Company to monitor and screen all customers, suppliers, subcontractors and other parties and entities, including banks and vessels, which the Customer interfaces with, selects, or uses in connection with the Contract for compliance with the requirements of all Export Controls. The Customer shall promptly alert the Company to any violations or suspected violations of Export Controls and shall obtain all necessary licenses, permits, forms and applications required pursuant to Export Controls. The Customer further represents that it is not currently aware of and shall continually monitor any transactions it or its customers, suppliers or subcontractors are involved in for possible violations of Export Controls and shall report any questionable transactions or suspicious circumstances immediately to the Company insofar as they relate to this agreement. The Customer agrees to keep records of its export control related activities for a period of five (5) years and records pertaining to export licenses, re-export licenses, and project licenses for a period of five (5) years from the expiration date of such license. The Customer shall make such records available to the Company upon request for inspection and copying.

30. HAZARDOUS WASTE AND/OR MATERIALS.

Customer shall be solely responsible for management of any hazardous or toxic waste or material or any component thereof, or radioactive waste including but not limited to such waste generated before (including delivery of Customer's product to Company's site) or during cleaning or servicing of Customer's equipment ("Waste"). This does not include the management of any hazardous or toxic waste or material or any component thereof that is owned by Company. As used in this provision, the term "management" shall include, but is not limited to, transporting, collecting, processing, treating, using, reselling, or storing. Company is not permitted, certified, or otherwise licensed to manage or dispose of Waste generated when cleaning or servicing Customer's equipment and shall bear no liability for the same. CUSTOMER AGREES THAT IT SHALL BE TOTALLY RESPONSIBLE FOR ANY AND ALL WASTE AND/OR HAZARDOUS SUBSTANCES DIRECTLY INTRODUCED BY CUSTOMER OR BY A CUSTOMER EMPLOYEE OR CUSTOMER PRODUCT PROVIDED TO COMPANY FOR SERVICES AND SHALL PERFORM ALL CLEAN-UP AND REMOVAL OF SUCH SUBSTANCES. IN THE EVENT CUSTOMER DOES NOT PERFORM SUCH CLEAN-UP AND/OR REMOVAL, CUSTOMER SHALL INDEMNIFY CUSTOMER FOR ALL LOSSES, DAMAGES, CLAIMS, DEMANDS, COSTS, CHARGES, AND OTHER EXPENSES, INCLUDING ATTORNEYS' FEES, AS WELL AS EXPERTS AND CONSULTANT FEES, INCURRED BY COMPANY RELATED TO SUCH CLEAN-UP AND/OR REMOVAL, EVEN IF THE LOSSES, DAMAGES, CLAIMS, DEMANDS, COSTS, FEES, AND EXPENSES ARE CAUSED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF COMPANY.

31. **Anti-Corruption.** Customer agrees to comply with the U.S. Foreign Corrupt Practices Act of 1977, as amended (the "FCPA"), U.K. Bribery Act 2010 ("UKBA"), U.K. Criminal Finances Act 2017 ("UKCFA") and all other anti-corruption and/or anti-bribery laws applicable in the jurisdiction in which Customer is purchasing or using the goods sold by Company. Customer hereby declares that it has read and understood the provisions of the FCPA, UKBA, UKCFA and, on that basis, it further represents and covenants that neither it nor any of its employees or agents have taken or will take any action to cause Customer to be in violation of any of these. Specifically, Customer hereby certifies that it has not paid, nor offered or agreed to pay, nor has caused to be paid, or offered or agreed to be paid, directly or indirectly, in respect of this Agreement, any political contributions, fees or commissions to any public or governmental employee or official anywhere for the purpose of influencing such official's act or decision to provide business to Customer or Company nor has it facilitated the evasion of any taxation by another party. Customer hereby agrees to indemnify and hold Company harmless from any and all claims, demands, or damages incurred by Company arising from Customer's failure to comply with this section and governmental regulations and requirements.

32. General Clauses.

Independent Contractor. Customer is an independent contractor and not an employee, agent, joint venturer, or partner of Company.

Assignment. These terms and conditions and applicable work order shall not be assigned by Customer without the prior written consent of Company.

Notices. Any notices required by this Agreement shall be considered given when received by the other party.

Entire Agreement. This is the entire agreement of the parties and supersedes all prior oral or written agreements. Customer acknowledges that it has not relied on any representations other than those in this agreement. There are no understandings or agreements which are not expressed herein.

33. Dispute Resolution.

(a) **Mediation.** In the event Customer or Company contend that the other has committed a material breach of this Agreement, the party alleging such breach shall, as a condition precedent to filing any lawsuit, request mediation of the dispute. The mediation will be held in Houston, Texas or other mutually agreeable location. To initiate, the request for mediation shall be in writing, and shall request that the mediation commence not less than thirty (30) or more than ninety (90) days following the date of the request, except upon written agreement of the parties. If a party fails to attend mediation in compliance with this provision, that party waives any right(s) to demand or collect any legal costs for any subsequent litigation, including but not limited to court costs, arbitration costs, charges, expenses, attorneys' fees, and expert fees.

(b) **Arbitration.** All Claims, disputes, controversies, disagreements, grievances, or other matters (of any and every kind or type, whether based on contract, tort, statute, regulation, or otherwise) arising out of

or relating in any way to this Agreement (including the construction, validity, interpretation, termination, enforceability, or breach of this Agreement) and that have not been resolved by agreement of the parties shall be resolved by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The parties acknowledge that this Agreement evidences a transaction involving interstate commerce and that this agreement to arbitrate is enforceable under 9 U.S.C. §§ 1, et seq. The arbitration shall be presided over by a single arbitrator. The place of arbitration shall be in Houston, Texas, in a location set by mutual agreement or as ordered by the arbitrator. The arbitrator shall decide any questions or issues concerning the validity or enforceability of this agreement to arbitrate, the conduct of the arbitration and the arbitrability of any dispute. Absent agreement of the parties to the contrary, the arbitrator is hereby specifically empowered and authorized by the parties to award injunctive relief and compensatory damages, including attorney's fees, expert witness fees, and arbitration costs, to the extent allowed by the Agreement or applicable law. Any award made by the arbitrator shall be made in accordance with the Texas choice of law as set forth in these Terms and Conditions, and no award shall be made except as allowed under this agreement. The arbitrator does not have authority to (i) award consequential, punitive, or exemplary damages; (ii) to apply or consider the law of other states outside of Texas, including the anti-indemnity acts or any other statute(s) which would vitiate the Parties' contractually agreed-to defense and indemnity obligations; or (iii) to apply a cause of action or remedy not expressly provided for under existing Texas state law.

(c) **Legal Costs.** In the event of any dispute involving Customer and Company under any of the provisions of this Agreement, the prevailing party is entitled to recover its reasonable court costs, arbitration costs, charges, expenses, attorneys' fees, and expert fees.

This Section shall survive the termination of the Agreement for any reason.



TEXAS ADDENDUM

This addendum to Agreement shall apply (as described below) to work being performed at a worksite in Texas or work which is otherwise held to be subject to the Anti-Indemnity laws of the state of Texas.

1.1. If and to the extent the work is covered by The Texas Oilfield Anti-Indemnity Act ("TOIA"), both parties agree that: In order to be in compliance with the requirements of TOIA regarding indemnification assumed for the other party's sole or concurrent negligence:

1.1.1. With regards to mutual indemnity obligations for Claims other than those listed in 1.1.3, each party agrees to carry supporting insurance in equal amounts of the types and in the minimum amounts as specified in this Agreement; and each party agrees that the maximum amount of such supporting insurance carried in equal amounts shall be the lower of the maximum amount carried by either party as long as such amount is in excess of the minimum amount specified. It is agreed that the monetary limits of insurance required hereunder shall automatically be amended to conform to the maximum monetary limits permitted under law;

1.1.2. With regards to unilateral indemnity obligations for Claims other than those listed in 1.1.3, Customer agrees to carry insurance for the benefit of Company in at least the minimum amount of \$500,000.00;

1.1.3. With regards to Claims arising out of: (a) personal injury, death, or property injury that results from radioactivity; (b) property injury that results from pollution, including cleanup and control of the pollutant; (c) property injury that results from reservoir or underground damage, including loss of oil, gas, other mineral substance, or water or the well bore itself; (d) personal injury, death, or property injury that results from the performance of services to control a wild well to protect the safety of the general public or to prevent depletion of vital natural resources; or (e) cost of control of a wild well, underground or above the surface, Customer agrees to carry supporting insurance in at least the minimum amounts as specified in this Agreement. To the extent Customer has insurance coverage in greater amounts than the dollar amounts specified in Exhibit A, then it is agreed that the minimum amount of insurance required of Customer by this Agreement shall automatically increase to the full value of such insurance. The indemnity obligations for Claims of the nature listed in this Clause 1.1.3 shall not be limited by the amount of insurance procured.

1.1.4. If Customer does not carry insurance in the minimum amounts as specified in this Contract with regard to the mutual indemnity obligations, then it is agreed that Customer has approved Self-insurance as stated in the TOIA.

1.2. In the alternative, and solely to the extent the work is deemed to be part of a "construction contract" and falls within the applicability of Tex. Ins. Code § 151.101 *et seq.* (known as the Texas Construction Anti-Indemnity Act), the following indemnity provisions shall replace those found in the Terms and Conditions, regarding indemnity for bodily injury or property damage to Customer Group:

1.2.1. Indemnity for Bodily Injury:

1.2.1.1. EMPLOYEE CLAIMS. TO THE FULL EXTENT ALLOWED BY THE PROVISIONS OF TEX. INS. CODE § 151.103, CUSTOMER AGREES TO INDEMNIFY, HOLD HARMLESS, AND DEFEND COMPANY GROUP FROM AND

AGAINST ANY CLAIMS ARISING OUT OF BODILY INJURY OR DEATH OF AN EMPLOYEE OF CUSTOMER, ANY OF CUSTOMER'S AGENTS OR ANY OF ITS LOWER TIER CONTRACTORS (INCLUDING ALL SUBCONTRACTORS, SUB-SUBCONTRACTORS, AND THEIR EMPLOYEES), REGARDLESS OF WHETHER OR NOT ANY LOSS OR DAMAGES WERE CAUSED IN WHOLE OR IN PART BY THE SOLE, JOINT, OR CONCURRENT, ACTIVE OR PASSIVE, ORDINARY OR GROSS NEGLIGENCE OF COMPANY GROUP OR ANY OTHER PERSON OR ENTITY.

1.2.2. Indemnity for Property Damage:

1.2.2.1. CUSTOMER'S EXCLUSIVE REMEDY FOR DAMAGE TO OR LOSS OF THE WORK ITSELF ARE THOSE PROVIDED IN THE LIMITED WARRANTY (SECTION 6). CUSTOMER HEREBY RELEASES ALL OTHER CLAIMS AGAINST ANY MEMBER OF COMPANY GROUP TO THE EXTENT SUCH CLAIMS WOULD PROVIDE REMEDIES GREATER THAN THOSE PROVIDED FOR IN THE LIMITED WARRANTY.

1.2.2.2. COMPANY WILL INDEMNIFY CUSTOMER FOR DAMAGES AND LOSSES TO CUSTOMER'S PROPERTY OTHER THAN THE WORK ITSELF, TO THE EXTENT CAUSED BY COMPANY GROUP'S BREACH OF WARRANTY, NEGLIGENCE, OR WILLFUL MISCONDUCT; PROVIDED, HOWEVER, THAT COMPANY'S MAXIMUM LIABILITY FOR SUCH CLAIMS IS NOT TO EXCEED THE LESSER OF: i) THE COMPENSATION AGREED TO BE PAID TO COMPANY UNDER THE AGREEMENT; OR ii) FIVE-HUNDRED THOUSAND UNITED STATES DOLLARS (U.S. \$500,000); AND, SUBJECT TO COMPANY FULFILLING SUCH INDEMNIFICATION OBLIGATION, CUSTOMER SHALL (TO THE FULLEST EXTENT ALLOWED BY LAW, ON BEHALF OF ITSELF AND ALL OF ITS AFFILIATES, JOINT VENTURERS, PARTNERS, CO-OWNERS, AND CO-LESSEES) RELEASE AND HOLD HARMLESS THE MEMBERS OF COMPANY GROUP FOR DAMAGE TO CUSTOMER'S PROPERTY, REGARDLESS OF WHETHER OR NOT ANY LOSS OR DAMAGES WERE CAUSED IN WHOLE OR IN PART BY THE SOLE, JOINT, OR CONCURRENT, ACTIVE OR PASSIVE, ORDINARY OR GROSS NEGLIGENCE OF COMPANY GROUP OR ANY OTHER PERSON OR ENTITY.



LOUISIANA ADDENDUM

This addendum to Agreement shall apply (as described below) to work being performed at a worksite in Louisiana or work which is otherwise held to be subject to the Anti-Indemnity laws of the state of Louisiana.

- 1.1. Notwithstanding anything to the contrary in this Agreement, in all cases where Customer's employees (defined to include Customer's direct, borrowed, special or statutory employees) are covered by the Louisiana Worker's Compensation Act, La. R.S. 23:1021 *et seq.*, Company and Customer agree that all work and operations performed by Customer and its employees pursuant to the Agreement are an integral part of and are essential to the ability of Company to generate Company's goods, products and services for purposes of La R.S. 23:1061(A)(1). Furthermore, Company and Customer agree that Company is the statutory employer of Customer's employees for the purposes of La. R.S. 23:1061(A)(3). Irrespective of Company's status as the statutory employer or special employer (as defined in La. R.S. 23:1061(c)) of Customer's employees, Customer shall remain primarily responsible for the payment of Louisiana workers' compensation benefits to its employees, and shall not be entitled to seek contribution for any such payments from Company.
- 1.2. If and to the extent the work is covered by the Louisiana Oilfield Anti-Indemnity Act (La. Rev. Stat. 9.2780) or the Louisiana Construction Anti-Indemnity Act (La. Rev. Stat. 9.2780.1), both parties agree that:
 - 1.2.1. Company may request to pay the premium for the extension of Customer's insurance to cover Company Group as an additional insured on Customer's insurance, such coverage extending to cover the liabilities assumed by Customer for Claims of personal or bodily injury to the members of Customer Group arising out of or caused Customer Group's or Company Group's sole or concurrent negligence. Customer warrants that such premium shall constitute all material costs for such extension of coverage. Company and Customer acknowledge that any failure to invoice or pay for such coverage is not a material breach and can be cured after notification of the deficiency, even if payment is made for the first time after the occurrence of the event giving rise to the Claim. If and only to the extent Company elects not to purchase the extension of coverage, then the indemnity obligations of this Agreement shall be amended such that Customer is not required to indemnify Company for Claims of personal or bodily injury to the extent required herein.
 - 1.2.2. For the avoidance of doubt, the preceding paragraphs are not intended to waive the Parties' choice of law provided in the Terms & Conditions, which is intended to apply to all disputes between the Parties regardless of where the work is performed, and the preceding shall only be applicable if and to the extent an arbitrator or court applies Louisiana law over, and in disregard to, the express intent of the Parties.

WYOMING ADDENDUM

This addendum to Agreement shall apply (as described below) to work being performed at a worksite in Wyoming or work which is otherwise held to be subject to the Anti-Indemnity laws of the state of Wyoming.

- 1.1. If and to the extent the work is covered by the Wyoming Oilfield Anti-Indemnity Act (Wyo. Stat. Ann. § 30-1-131), any agreement to indemnify a party against loss or liability for damages will not extend to personal liability for claims arising from:
 - 1.1.1. The sole or concurrent negligence of the Company or the agents or employees of the Company or any independent contractor who is directly responsible to the Company; or
 - 1.1.2. From any accident which occurs in operations carried on at the direction or under the supervision of the Company or an employee or representative of the Company or in accordance with methods and means specified by the Company or employees or representatives of the Company.
- 1.2. The Parties agree that any anti-indemnity statute which makes the indemnity agreements provided herein unenforceable against the other Party personally shall not have any effect or limit the insurance obligations of each Party under this Agreement. Each Party shall still be able to take advantage of additional insured coverage obtained for the benefit of the other (covering contractual liabilities as originally written in this Agreement) to the full extent allowed by law regardless of the enforceability of the underlying indemnity against the Customer personally.
- 1.3. For the avoidance of doubt, the preceding paragraphs are not intended to waive the Parties' choice of law provided in the Terms & Conditions, which is intended to apply to all disputes between the Parties regardless of where the work is performed, and the preceding shall only be applicable if and to the extent an arbitrator or court applies Wyoming law over, and in disregard to, the express intent of the Parties.



NEW MEXICO, PENNSYLVANIA, AND MINNESOTA ADDENDUM

This addendum to Agreement shall apply (as described below) to work being performed at a worksite in New Mexico, Pennsylvania, or Minnesota or work which is otherwise held to be subject to the Anti-Indemnity laws of the state(s) of New Mexico, Pennsylvania, or Minnesota.

- 1.1. Notwithstanding anything to the contrary, all Claims amongst the Parties (including any Claims for defense and indemnity) shall be resolved by binding arbitration in accordance with the Terms and Conditions.
- 1.2. Any award made by the arbitrator shall be made in accordance with the Texas choice as law as set forth in the Terms and Conditions, and no award shall be made except as allowed under this Agreement. The arbitrator does not have authority to apply any law, cause of action, or remedy not expressly provided for under this Agreement or existing Texas state law.
- 1.3. Nothing in this addendum shall limit a party's right to file a statutory mineral/mechanic's lien for non-payment prior to initiation of an arbitration proceeding and, upon confirmation of such amount being due and the validity of the lien by the arbitrator in the arbitration proceeding, moving to foreclose on the lien in a court of law.
- 1.4. For the avoidance of doubt, the preceding paragraphs are not intended to waive the Parties' choice of law provided in the Terms & Conditions, which is intended to apply to all disputes between the Parties regardless of where the work is performed, and the preceding shall only be applicable if and to the extent an arbitrator or court applies law over, and in disregard to, the express intent of the Parties.