



AC TECHNICAL SERVICES, INC.
TERMS AND CONDITIONS OF SALE

Any goods and services furnished by AC Technical Services, Inc. (the "Supplier") to any buyer or end-user (the "Customer") are governed by the following terms and conditions.

1. Delivery and Risk of Loss.

a. Goods to be Installed by Supplier. Where goods are to be installed by Supplier, unless otherwise provided expressly on the face hereof, goods shall be shipped by common carrier, F.O.B. the Supplier's plant, freight charges to be prepaid and added or delivered by the Supplier, at the Supplier's option. When delivered directly by the Supplier, title and risk of loss shall pass to Customer upon delivery of the goods to Customer. Title and risk of loss shall pass to Customer upon delivery of goods to the carrier regardless of any obligation upon Supplier to install such goods or to perform any other services or supervision thereof.

b. Goods not to be Installed by Supplier. Where goods are not to be installed by Supplier goods shall be shipped by common carrier F.O.B. the Supplier's plant. Title and risk of loss shall pass to Customer upon delivery of goods to the carrier.

2. Payment. Terms for payment are net 30 days from the invoice date. Invoices not paid within 30 days of receipt by the Customer will accrue interest at a rate of 1% per month on any unpaid balance. In the event that the Customer does not meet its payment obligations, the Customer agrees to pay all costs and expenses associated with collecting any unpaid invoices, including reasonable attorneys' fees. Initial invoice shall be 20% of the contract price for payment of mobilization costs. Additional invoices will be submitted for monthly progress payments or as otherwise agreed to by Supplier and Customer for the remainder of the contract amount.

3. Warranty. Unless otherwise provided in writing by the Supplier, Supplier warrants the goods delivered hereunder against material defects in workmanship or material impacting the proper operation of the goods for a period of 1 year from the date of delivery of such goods. To effect warranty repairs or replacements, Customer shall return defective goods to Supplier at Customer's expense, upon securing the prior written consent and delivery instructions of Supplier. Supplier's sole responsibilities under this warranty shall be to refund the price paid for the goods or to repair or replace, or cause to be repaired or replaced at its option, any component that fails during the warranty period due to a defect in workmanship or material, provided that Customer has reported such defects in writing to Supplier within twenty (20) days of its discovery of such defects and in no event later than the 1 year warranty period set forth above, and that Supplier's inspection has revealed that the goods are defective in workmanship or material impacting the proper operation of the goods. In the event that Supplier's inspection reveals no defect in workmanship or material impacting the proper operation of the goods, Supplier's regular charges for any and all repairs or replacements shall apply.

For a period of 1 year from the date of completion of services, Supplier warrants to Customer that all services will be performed in a workmanlike manner consistent with current and generally recognized standards in the industry. Such warranties are contingent upon proper use of the goods, and proper installation of the goods and do not cover goods that have been modified or altered without Supplier's approval, or that have been subjected to unusual physical or electrical stress, or on which the original identification marks have been removed or altered. Seller is also not responsible for normal wear and tear, any data loss or corruption or personal information data breach, or any alleged defects in any goods or services that arise from Supplier's compliance with designs or other criteria or requirements provided by or through Customer. Goods not created by Supplier are warranted only to the extent of the express written warranties of the manufacturer(s) of such items delivered to Customer by Supplier as part of the project.

THE WARRANTIES IDENTIFIED IN THIS SECTION ARE EXCLUSIVE, AND SUPPLIER MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, FOR ANY GOODS OR SERVICES PROVIDED BY SUPPLIER. EXPRESSLY EXCLUDED ARE ALL WARRANTIES OF MERCHANTABILITY, TITLE/AGAINST INFRINGEMENT, AND FITNESS OF GOODS AND SERVICES FOR A PARTICULAR PURPOSE.

4. Indemnity. Customer agrees to indemnify and hold Supplier harmless from any loss, cost or expense, including without limitation attorneys' fees, arising from any third-party suits, including suits by employees or agents of the Customer, proceedings or claims for damages to person or property, either direct or consequential, arising from or related to any goods or services provided under this contract or Supplier's performance upon Customer's premises, except for claims or damages resulting solely from Supplier's negligence. For example, Customer will indemnify Supplier for all claims to the extent arising from Customer's obligations to maintain the health and safety of its premises, facility, equipment, fixtures, practices and procedures, employees, agents, and independent contractors, or to the extent arising from the pre-existing or current conditions of the Customer's premises, facility, equipment, fixtures, or practices and procedures.

5. Limits of Liability. In no event, regardless of cause, shall Supplier be liable (a) for any punitive damages, penalties or a penalty clause of any description, or (b) for indemnification of customer or others for costs, damages, or expenses each arising out of or related to the goods or services of this contract unless otherwise specifically provided herein, or (c) for lost profits, indirect, incidental, special, or consequential damages, known or unknown, under any circumstances. Supplier's maximum liability, including direct damages, shall not exceed the amount of the purchase order. This limitation of Supplier's liability will apply regardless of Supplier's negligence. The provisions of this contract allocate the risks under this agreement between Supplier and the Customer. Supplier's pricing reflects this allocation of risk and the limitation of liability specified therein.

6. Intellectual Property Rights. Supplier retains all rights, title and interest in its goods and services, including patents and copyrights; however,



upon payment of the agreed compensation to Supplier, Customer will be deemed to have been granted a non-exclusive, non-transferable, royalty-free, perpetual license to use the goods and services for the purposes contemplated in the proposal, except that “off-the-shelf” third-party software or hardware provided through Supplier will be subject to Customer’s compliance, at its own costs, with all applicable third-party licensing requirements. Customer may not sell, sublicense, assign or transfer its license to the goods and services provided by Supplier without the prior written consent of Supplier, nor may Customer reverse engineer or make derivative works from the goods or services.

7. Suspension and Termination. If Customer fails to comply with its obligations under the purchase order or these terms and conditions (including without limitation the full and timely payment to Supplier), Supplier may provide written notice of such default to Customer and may thereafter suspend performance until such default is cured by Customer. When such default is cured by Customer, the amount to be paid for the scope of work will be equitably increased to account for Supplier’s damages arising from such suspension (including without limitation demobilization and remobilization expenses and increased costs of performance) and the time for Supplier to complete the scope of the work will be equitably extended to account for such suspension. If Customer fails to cure such default within 30 days of its receipt of notice, Supplier may terminate the order by providing written notice to Customer. Termination of this order will not terminate the parties’ rights and obligations which are of a continuing nature, including without limitation, the parties’ payment obligations. In the event of any termination of this order, the customer shall pay all Supplier’s invoices (whether issued before or after the effective date of termination) for work performed and services provided prior to the effective date of termination, regardless of whether the services or any phase of the services has been completed as of such date.

8. Force Majeure. Supplier shall bear no liability or responsibility whatsoever to Customer for any failure to perform or delay caused by: fire, earthquake; explosion; flood; hurricane; tornadoes; the elements; acts of God or the public enemy; actions, restrictions, limitations or interference of governmental authorities or agents; war; acts of terrorism; invasion; insurrection; rebellion; riots; strikes or lockouts; inability to obtain necessary materials, goods, services, utilities or labor; or any other cause whether similar or dissimilar to the foregoing which is beyond the reasonable control of the Supplier; and any such failure or delay due to said causes or any of them shall not be deemed a breach of or default in the performance of the contract by the Supplier. Supplier will promptly notify Customer of such circumstances in writing and Supplier will be granted an equitable extension of time to meet its obligations under the purchase order and, where needed to make Supplier whole, a compensation adjustment.

9. Changes in Scope. Changes requested by the Customer that Supplier believes to be beyond the scope of the contract will be addressed by declaring in writing to the Customer the complete scope, cost, and schedule impact of the desired changes. Supplier will only take action on these changes when the Customer has responded in writing it agrees with the scope, cost, and schedule impacts.

10. Access. Following consultation with Customer, Customer shall provide Supplier with such access to Customer’s premises, facilities, equipment and goods as Supplier deems necessary to fulfill its obligations hereunder. Failure to do so will result in additional expense to Supplier and such additional expense will be billed to the Customer.

11. Taxes. Unless otherwise provided on the face hereof, Customer shall be responsible for the payment to Supplier of all governmental charges and taxes related to the production, shipment, installation or purchase of goods hereunder, to the extent that the collection of any such charges or taxes is the responsibility of Supplier.

12. Non-Solicitation of Employees. Supplier’s employees assigned to the project are ineligible for direct hire by the Customer for one year following project completion. Customer will not induce or seek to induce, directly or indirectly, any of Supplier’s employees to leave Supplier’s employment. In the event of breach resulting in the departure of an employee of Supplier, Customer and Supplier agree that, as a reasonable estimate of the damage to Supplier and not as a penalty, Customer shall pay liquidated damages to Supplier in the amount of the solicited employee’s annual salary.

13. Assignment. Neither Customer nor Supplier may assign its respective rights and obligations under their agreement without the written consent of the other party. However, Supplier may subcontract or delegate its work obligations to other persons or entities, but will nonetheless be responsible to Customer for the performance of the work as required by the proposal. Both Customer and Supplier agree that there are no third-party beneficiaries to their agreement.

14. Venue & Jurisdiction. These terms and conditions shall be construed in accordance with the laws of the state of North Carolina. Any disputes will be arbitrated in Charlotte, North Carolina in accordance with the Construction Arbitration Rules of the American Arbitration Association. The prevailing party (as determined by the arbitrator) will be entitled to recover from the other party all costs incurred in resolving the dispute, including reasonable attorneys’ and expert fees and the costs of arbitration. The arbitrator’s award shall be final and may be entered as a judgment in any court with jurisdiction.

15. Entire Agreement; Inconsistent Terms. This contract, including the terms and conditions on the face and reverse hereof, is the complete and exclusive statement of the agreement between Customer and Supplier, and supersedes and merges any and all other agreements, oral or written, between the parties. This contract may not be modified except by written instrument signed by Customer and by an authorized representative of Supplier. The parties agree that any terms or conditions of any purchase order or other instrument that are inconsistent with, or in addition to, the terms and conditions hereof, shall not bind or obligate Supplier.

16. Savings Clause and Waiver. If any term of the proposal or these terms and conditions is found to be unenforceable, the remaining terms will remain in effect. The failure of either Supplier or Customer to exercise any rights under their agreement will not be deemed a waiver of such right except as agreed in writing or as otherwise set forth in these terms and conditions.