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Title PHILLY SHIPYARD, INC. TERMS AND CONDITIONS FOR PURCHASE				Type PP

**PHILLY SHIPYARD, INC.
TERMS AND CONDITIONS
FOR PURCHASE**

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1. DEFINITIONS

“Buyer” means Philly Shipyard, Inc.

“Delivery Date” means the date specified on this Purchase Order on which the Work shall be completed and delivery scheduled to take place.

“Force Majeure” means any event or occurrence beyond the reasonable control of Seller and which could not have been foreseen or avoided, including, without limitation, terrorism, insurrection, economic crisis, epidemic, flood, earthquake or like natural disaster.

“Purchase Order” means these terms and conditions of purchase with appendices and schedules and, as the case may be, a separate contract document, which serves as a contract between Buyer and Seller to perform the Work, and any other document incorporated therein by reference, in each case, as the same may be amended, restated and/or supplemented from time to time.

“Purchase Price” means the total sum payable to Seller in accordance with this Purchase Order as that sum is increased or decreased in accordance with the provisions of this Purchase Order.

“Seller” means the party or parties awarded this Purchase Order by Buyer to perform the Work.

“Site” means Buyer’s shipyard facility, which is located at 2100 Kitty Hawk Avenue, Philadelphia, PA 19112, USA, and Buyer’s plate priming facility, which is located at 2001 Langley Avenue, Building 763, Philadelphia, PA 19112, USA, and all lands, waters and other places of any kind in or through which the Work is to be performed, including vessels, at such facilities.

“Work” means the entire undertaking to be performed by the Seller and includes furnishing all or any part of the engineering, equipment, machinery, appliances, materials and supplies, supervision, installation, start up and other services and requirements of whatever nature called for by this Purchase Order.

2. COMPLETE AGREEMENT

This Purchase Order shall become a binding agreement between Seller and Buyer upon Seller signing and returning an acceptance copy of this Purchase Order, or upon Seller otherwise acknowledging acceptance of this Purchase Order. Any performance, whatsoever, by Seller of any portion of this Purchase Order, without regard to its value, shall constitute complete acceptance of these Terms and Conditions. This Purchase Order, together with the specifications, drawings and documents referred to herein, and the other documents referred to therein, which by this reference are all made a part hereof, constitute the entire agreement between the parties, and all prior negotiations, proposals, and writings pertaining to this Purchase Order or the subject matter thereof, are superseded hereby. Any reference to Seller’s quotation, bid or proposal does not imply acceptance of any term, condition, or instruction contained in such document.

This Purchase Order may be amended or modified only by a written instrument executed by authorized representatives of Buyer and Seller.

Any invoice, acknowledgment or other communication issued by Seller in connection with this Purchase Order shall be construed to be for record and accounting purposes only. Any terms and conditions stated in such communications shall not be applicable to this Purchase Order and shall not be considered to be Seller’s exceptions to the provisions of this Purchase Order. Trade custom and/or trade usage is superseded by this Purchase Order and shall not be applicable in the interpretation of this Purchase Order.

Anything that may be called for in the specifications and not shown on the drawings, or shown on the drawings and not called for in the specifications, shall be of like effect as if called for and shown in both. In the event of any ambiguities, express conflicts or discrepancies in the specifications, drawings or other documents which are a part of this Purchase Order, Seller shall immediately submit the matter to Buyer for its determination and shall comply with the determination of Buyer in such matter.

All headings and numbering in this Purchase Order are for convenience of reference only and shall in no way be used in interpretation of any of the provisions in this Purchase Order.

3. PERFORMANCE OF THE WORK

Seller shall perform the Work in a professional, timely and careful manner in accordance with this Purchase Order.

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Seller shall provide all necessary material, equipment and labor to supply the Work in accordance with the specifications. Seller shall make no changes in the specifications without Buyer's written consent and shall not substitute materials for those specified without Buyer's written approval.

Within 30 days upon this Purchase Order becoming a binding agreement, Seller shall provide for Buyer's approval a detailed schedule for performance of the Work, which also shall conform with the Schedule attached hereto as part of this Purchase Order.

Seller agrees that it has examined the Site and the specification and drawings and, where the specification requires in any part of the Work a given result to be produced, that the specification and drawings are adequate and the required result can be produced under the specification and drawings. No claim for any extra Work will be allowed because of alleged impossibilities in the production of the results specified or because of inadequate or improper plans and specifications and wherever a result is required, Seller shall furnish any and all extras and make any changes needed to produce, to the satisfaction of Buyer, the required result.

Deliveries are to be made both in quantities and on dates specified in this Purchase Order. Buyer may refuse delivery or return Work at Seller's expense when Work is delivered more than 5 days in advance of the specified delivery date without Buyer's prior written consent. The risk of loss remains with Seller for Work delivered more than 5 days in advance of its delivery date, or in amounts that are not in compliance with the Purchase Order, unless approved in writing by Buyer. Buyer will not pay for, or return to Seller, any Work that is delivered in excess of the quantity specified unless prior written consent and acceptance is given by Buyer.

Seller may not assign, subcontract or delegate any of its rights, interest or performance, in whole or in part, voluntarily or by operation of law, without obtaining Buyer's prior written consent. Seller shall be responsible for the observance by all its subcontractors and suppliers of all the provisions of this Purchase Order. Seller shall be responsible for the acts or defaults of any of its subcontractors, suppliers and their agents or employees, as fully as if they were the acts or defaults of Seller and its agents or employees. Seller shall ensure that the terms and conditions for the subcontracts and supply contracts contain those provisions of this Purchase Order necessary to enable Seller to fulfill its obligations according to this Purchase Order.

Seller shall cooperate with all other suppliers or subcontractors working in support of Buyer's prime contract. Seller agrees to accept direction from Buyer with respect to performance, schedule or reschedule of the Work as necessary, attend meetings as requested by Buyer, and to be responsible for its personnel working harmoniously with other suppliers or subcontractors. Buyer shall not be liable to Seller for any adjustments to the price, schedule, damages, costs, losses or expenses, including but not limited to attorney's fees, resulting from acts or omissions (whether or not negligent), failure to perform, delays in performance, or defaults of any other subcontractor or supplier in connection with the performance of the Work. Seller agrees to file any claim for such directly against the other subcontractor or supplier which Seller contends is responsible, without making Buyer a party to any such claim or action.

Buyer is not an employer of Seller or Seller's workers, and is not a joint employer with Seller. Unless otherwise agreed in writing, neither Seller, its subcontractors nor their respective employees or other parties are entitled to Workers Compensation Benefits from Buyer or through Buyer. Seller undertakes to comply with all prevailing wage statutes, regulations and orders and assumes full responsibility for the payment of all wages, payroll burdens, fringe benefits and payroll taxes as to its employees or agents engaged in the performance of the Work, including payroll deductions for income tax and unemployment insurance. Seller agrees to make available to Buyer its books and records of account for inspection and audit to verify compliance with this paragraph at all reasonable times and places.

Pending final resolution of any decision, appeal, or judgment of any proceedings relating to this Purchase Order, or the settlement of any dispute arising under this Purchase Order, Seller shall proceed diligently with the performance of the Work unless otherwise directed by Buyer in writing.

4. LAWS AND REGULATIONS

Seller warrants that the Work will comply with all applicable laws, ordinances and regulations. Seller shall provide all permits, certificates and licenses which may be required for the performance of this Purchase Order.

Seller agrees to comply fully with all applicable laws and regulations of Seller's country and of the U.S. pertaining to the export of any hardware, software, technical data, technology or defense service, provided by, through or with the cooperation of the Buyer in the performance of this Purchase Order, whether in the U.S. or abroad. Applicable U.S. export control laws and regulations include but are not limited to the requirements of the Arms Export Control Act, 22 U.S.C. §§ 2751-2794 and 22 C.F.R. §§120-130 International Traffic in Arms Regulations ("ITAR") administered by the U.S. Department of State (available at <http://pmdtc.state.gov/>); the Export Administration Act, 50 U.S.C. App. 2401-2420 and 15 C.F.R. §§ 730-774 Export Administration Regulations ("EAR") administered by the U.S. Department of Commerce (available at <http://www.bis.doc.gov/>); and the U.S. Department of Treasury, Office of Foreign Assets Control ("OFAC") Regulations, 31 C.F.R. Part 500-598 (available at <http://www.ecfr.gov/>).

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Seller further warrants that all goods furnished by Seller in performance of this Purchase Order will comply fully with the Occupational Safety and Health Act of 1970 (84 U.S. Stat. 1590) as amended (OSHA), and State plans approved under such act, and the regulations thereunder, to the extent applicable to such goods.

For all contracts in excess of \$15,000 Buyer and Seller shall abide by the requirements of 41 CFR §§ 60-1.4(a) and 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, national origin, or for inquiring about, discussing, or disclosing information about compensation. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, or disability.

For all contracts in excess of \$150,000 Buyer and Seller shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, national origin, or for inquiring about, discussing, or disclosing information about compensation. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. Buyer and Seller agree to comply with all the provisions set forth in 29 CFR Part 471, Appendix A to Subpart A (Executive Order 13496).

Seller shall indemnify, defend and hold harmless Buyer from and against any and all claims, loss or liability arising from noncompliance with this article.

5. LANGUAGE AND UNITS OF MEASUREMENT

All Purchase Order documentation, correspondence, data, calculations, drawings, manufacturing, erection information, etc., must be submitted in the English language, and in the metric measurement system, unless otherwise stated in the technical specifications.

6. CHANGES

Buyer shall have the right to make changes in the specification and drawings for goods or services covered by this Purchase Order. If Seller believes that such change affects the price or delivery date for such goods or services, Seller shall so notify Buyer in writing (with adequate supporting documentation) within five (5) calendar days after receipt of said direction. Seller shall not suspend performance of said change or the unaffected portion of this Purchase Order unless directed in writing by Buyer to do so. Buyer and Seller shall mutually agree in writing upon an equitable adjustment in the price and/or delivery date to reflect the effect of such change. Seller's request for any adjustments shall be deemed waived unless submitted in writing within such five (5) calendar days after Seller received direction to make such changes. Seller shall not be entitled to anticipated profits on deleted, terminated, or uncompleted Work.

7. INSPECTION AND EXPEDITING

Each of Buyer, its customers and any applicable regulatory body and classification society has the right to inspect any goods or services provided under this Purchase Order (which includes, without limitation, raw materials, components, intermediate assemblies, data, manufacturing processes, services, and quality systems) and witness any tests performed by Seller. Seller and/or Seller's sub-supplier will notify Buyer at least ten (10) calendar days in advance of the date any inspection or test shall be made. After notification and Buyer's acceptance of specific scheduled inspections or tests, if Seller is not ready to perform the inspections or tests at the designated time(s), then Seller shall reimburse Buyer for its costs incurred for labor and travel to attend the inspections or tests. Buyer, its customers and any applicable regulatory body and classification society shall be granted access to all parts of Seller's plant(s) or Seller's sub supplier's plant(s) engaged in the manufacturing or processing of this Purchase Order for the purpose of carrying out inspections and witnessing tests. If any inspection or testing is performed on Seller's plant(s) or Seller's sub supplier's plant(s), Seller, without additional charge, shall provide reasonable facilities and assistance for the safety and convenience of inspectors in the performance of their duties. Buyer's, its customers' and any applicable regulatory body's and classification society's inspection and witnessing of testing or lack of inspection or witnessing of testing or lack of response shall in no way release Seller from any obligations related to this Purchase Order. The inspection or testing of any portion of the Work does not relieve Seller from its responsibility to correct defects or non-conformities which may be discovered in the Work not inspected or tested or which is discovered during the Guarantee Period.

Seller shall provide and maintain an inspection system and documentation in accordance with Seller's mandatory document control and records retention procedures (i.e., records of all inspection work by Seller shall be kept complete and available to Buyer during the performance of the Work).

In the case of any goods utilized on or services delivered with respect to a vessel constructed at the Site, Seller agrees to authorize the program manager of any applicable classification society to provide Buyer with a copy of all correspondence

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related to vessel classification, statutory certification, and other compliance verification matters for which such classification society is responsible as it is promulgated and initially distributed.

8. HAZARDOUS MATERIALS

Seller shall notify Buyer in writing upon receipt of this Purchase Order if parts of the Work furnished are subject to laws or regulations relating to hazardous or toxic substances; or when disposed of, to regulations governing hazardous wastes, or to any other environmental or safety and health regulations. Seller shall furnish all appropriate shipping certification and instructions for shipping, safety, handling, exposure, and disposal in a form sufficiently clear for use by Buyer's nontechnical personnel and sufficiently specific to identify all action, which the user must take concerning the material. The following certification must be made on the bill of lading: *"This is to certify that the above named articles are properly classified, described, packaged, marked and labeled and are in proper condition for transportation according to any applicable transportation regulations."*

For parts of the Work to be transported within the U.S.A., Seller must specifically comply with OSHA Regulation 1910.1200 with regard to submitting an appropriate "Material Safety Data Sheet" for all chemicals and other hazardous material covered by this regulation. These Material Safety Data Sheets must be included with each shipment of applicable chemical or other hazardous material. No shipment will be considered complete unless such sheets have been forwarded.

9. INSTALLATION AND START-UP ASSISTANCE

To the extent installation, start up assistance or other activities of Seller at the Site is called for in this Purchase Order, the terms of any such field services shall include, but not be limited to the following:

(a) Seller will utilize only experienced and well-trained employees on Buyer's premises and shall be solely responsible for the training of its employees, including training on all aspects of workplace safety, and compliance with all state and federal safety regulations and guidelines, including but not limited to those promulgated by OSHA.

(b) While on the premises of Buyer, Seller and its employees shall comply with all applicable safety and health laws, regulations, and ordinances and with the safety, health and jobsite regulations, procedures, and instructions of Buyer, and shall ensure that all of its employees and agents have a safe place of work on said premises.

(c) Seller shall keep said premises and the vicinity thereof clean of debris and rubbish caused by its work and, upon completion of its work, shall leave the premises clean and ready for use.

(d) Upon request of Buyer, and at no cost or expense to Buyer, Seller shall promptly remove from said premises any person under the control of Seller who violates any of the aforesaid safety, health, or plant laws, regulations, ordinances or rules (including, without limitation, Buyer's policies regarding workplace violence or safety) or who may cause or threaten to cause a breach of the peace, or who is otherwise objectionable to Buyer.

(e) If, in Buyer's sole opinion, Seller fails to comply with the aforesaid safety, health, or plant laws, regulations, ordinances or rules (including, without limitation, Buyer's policies regarding workplace violence or safety), Buyer may without prejudice to any other legal or contractual rights of Buyer, issue an order stopping all or part of the Work. Seller shall have no claim for extension of time or for compensation or damages by reason of or in connection with such work stoppage.

(f) Buyer shall have no obligation to furnish medical treatment to Seller's employees or subcontractors or suppliers working in the Site. Seller shall defend, indemnify and hold Buyer harmless in the event Seller's employees or subcontractors or suppliers receive medical attention from Buyer's HSE Department. This clause will survive termination or expiration of this Purchase Order.

10. PERFORMANCE TEST AND DELIVERY

With respect to any equipment purchased under this Purchase Order, delivery ("Delivery") of the Work occurs when the Work has been completed and written acceptance of the Performance Test (as herein defined) with respect to such equipment has been provided by Buyer as set forth herein. Acceptance of Delivery of the Work does not alone constitute acceptance of performance under the Purchase Order.

A program for implementation of a performance test (the "Performance Test") shall be prepared by Seller and submitted to Buyer for approval. The Performance Test shall set forth in detail the requirements of Seller with regard to organization, field labor, power, and auxiliary services necessary to perform the test, and an estimate of the period of time required. The Performance Test shall further set forth the details for measuring of the test; however, Seller shall not depart from basic criteria, procedures or methods for testing identified in the specification(s) included in this Purchase Order. Written notice by a minimum of ten (10) days will be provided by Seller specifying the date of the Performance Test.

Seller shall bear all costs for the Performance Test. Buyer shall however bear all travelling and living expenses for its representative(s) in connection with tests carried out at the place of manufacture except to the extent such expenses are attributable to delays by Seller in performing such tests.

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The Performance Tests will be organized and coordinated by Seller. Seller’s or Buyer’s personnel will perform the Performance Test under the supervision of Seller’s principal representative.

Written acceptance of successful Performance Test will be provided Seller within ten (10) working days of completion of a successful Performance Test provided all other contractual obligations of this Purchase Order have been met.

In the event that Seller fails to pass the Performance Test, the deficiencies must be promptly identified and defined by Seller and corrective measures agreed to by Buyer and Seller at the earliest possible date. Immediately upon receipt of written directive from Buyer, Seller shall without delay remedy, at its own expense, all problems that prevented the equipment from successfully completing the Performance Test. A new Performance Test shall then be carried out to the extent requested by Buyer, unless the deficiency was insignificant. For such additional tests, Seller shall also pay Buyer’s travel and living expenses if the tests are carried out at the place of manufacture.

11. LATE DELIVERY

In the event Seller fails to fulfill its obligation relative to the Delivery Date or other milestones stated in this Purchase Order, Seller agrees that the calculation of actual damages for such late delivery would be extremely difficult and impractical. Seller therefore agrees that as liquidated damages, and not as a penalty, Seller shall pay Buyer the amount per week of delay stated as liquidated damages for each milestone or the Delivery Date respectively in this Purchase Order, with fractions of a week to be counted as a full week. Total liquidated damages will not exceed ten percent (10%) of the Purchase Price.

If Seller fails to meet the milestones set out in this Purchase Order or the Delivery Date, even during the period in which liquidated damages accrue, Buyer shall be entitled to remedy the delivery failure in its best interests by one of the following: (a) with respect to any equipment or other Work purchased under this Purchase Order, to enter into a contract with a third party in order to complete the equipment or other Work (or part thereof), and in such case Seller shall indemnify Buyer for the difference between Seller’s price and price of the third party, as well as any additional expenses associated with the contract with the third party; or (b) Buyer may terminate this Purchase Order and shall be entitled to remuneration due to unfulfillment of this Purchase Order.

Buyer’s exercise of any remedy stated in sub-paragraph (a) or (b) above shall not be deemed a waiver of its right to collect liquidated damages as specified herein.

12. FORCE MAJEURE

Seller agrees that time shall be of the essence in its performance under this Purchase Order. Seller shall begin and complete deliveries in accordance with the Schedule identified in this Purchase Order. Any delay in Seller’s performance caused solely by an event of Force Majeure may constitute an excusable delay, provided that Seller notifies Buyer in writing of the existence and effect of such an event within seven (7) days of its commencement, and provided further that Seller takes immediate action (and notifies Buyer in writing of such action) to avoid or minimize any delay caused by the Force Majeure event. Buyer’s determination as to the existence or duration of any excusable delay shall be final and binding. Seller shall immediately inform Buyer whenever Seller has reason to believe that any item or service to be provided by Seller will not be delivered on or before the date specified in this Purchase Order. Unless Buyer notifies Seller in writing that such delay will not affect the Schedule of the Work, Seller shall use all necessary efforts to improve delivery and to avoid any such delay.

13. SUSPENSION OF PERFORMANCE

Buyer may at any time, and from time to time, by written notice to Seller, suspend further performance of all or any portion of this Purchase Order. Such suspensions shall not exceed more than one hundred eighty (180) consecutive calendar days each nor aggregate more than two hundred seventy (270) calendar days. Upon receiving any such notice of suspension, Seller shall promptly suspend further performance of this Purchase Order to the extent specified, and during the period of such suspension shall properly care for and protect all work in progress and materials, supplies, and equipment Seller has on hand for performance of this Purchase Order. Seller shall use its best efforts to utilize its material, labor and equipment in such a manner as to mitigate costs associated with suspension. Buyer may at any time withdraw the suspension as to all or part of the suspended performance by written notice to Seller specifying the effective date and scope of withdrawal, and Seller shall, on the specified date of withdrawal, resume diligent performance of the Work for which the suspension is withdrawn.

If Seller believes that any such suspension or withdrawal of suspension justifies modification of this Purchase Order price or time for performance, Seller shall comply with the provisions set forth in Article 6, entitled CHANGES. In no event shall Seller be entitled to any loss of prospective profits, contribution to overhead or any incidental, consequential or other damages because of such suspensions or withdrawals of suspension.

14. WARRANTY

Seller warrants to Buyer that all goods and services covered by this Purchase Order will conform with the specifications, drawings, and other descriptions listed in the attachments made part of this Purchase Order and, in the case of goods, will

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be new (not used or reconditioned), first class, and suitable for the purposes for which they are intended as evidenced in this Purchase Order and in the drawings and specifications referred to herein, of good materials, design and workmanship, free from defects, and will fulfill satisfactorily the operating conditions specified herein.

Seller, at its expense (including without limitation all costs of removal, packing, transportation and reinstallation, all labor and material costs and all incidental travel and lodging costs) shall either repair or replace any non-conforming or defective goods and services furnished to Buyer if such failure shall appear or be discovered: (a) in the case of any goods utilized on or services delivered with respect to a vessel constructed at the Site, at any time prior to 12 months after delivery of the vessel by Buyer to its customer; or (b) in the case of any other goods or services, at any time prior to 12 months after such goods or services are delivered to Buyer (as applicable, the "Guarantee Period"). Seller guarantees such repairs or replacements for a further period of 6 months from the date of completion of such repairs or replacements or to the end of the Guarantee Period, whichever is later. This right specifically extends to, without limitation, any period after acceptance of the Work and prior to expiration of the Guarantee Period.

With respect to any equipment or part of the equipment which is replaced, the warranty period will start from the moment new equipment or a part of the equipment is fully operational. With respect to any equipment which is not operating due to functional connection to equipment or part of equipment which is to be corrected or replaced, the guarantee shall be extended for a period of time equal to the time necessary to complete the correction or replacement. Buyer reserves the right in the event of inability or refusal on part of Seller, to correct defective or incomplete Work, or to perform any part of the Work in a timely manner, to correct or perform such Work with its own forces or those of another seller and charge the resultant costs as a back charge against this Purchase Order.

The above warranties are in addition to all other warranties, expressed or implied, at law or equity. These warranties shall extend to Buyer, its successors, assigns and customers and the user of its customers' products.

15. INVOICES

Invoices must be submitted in accordance with the procedures outlined in this Purchase Order which are included as part of this Purchase Order.

Invoices incorrectly or incompletely executed will be returned for correction or completion. To be timely, all invoices must be received within 90 days after completion of the Work. Invoices received later than 90 days after completion of the Work are rejected and void and Seller hereby waives the right to payment of these invoices.

16. SECURITY

If Buyer makes any advance or progress payment to Seller under this Purchase Order, upon Buyer's request, (i) Seller agrees to execute a Security Agreement and Financing Statement (both in form satisfactory to Buyer) granting a security interest to Buyer effective in all states of fabrication or manufacture, in the proceeds, raw materials and goods which are purchased, manufactured, or otherwise obtained pursuant to this Purchase Order, if any; and (ii) if Seller is a turnkey supplier for goods or services with a contract value in excess of \$1,000,000, then Seller agrees to provide an Advance Payment Guarantee (in form satisfactory to Buyer) from a bank acceptable to Buyer covering 100% of the amount of all pre-delivery installments in favor of Buyer. The transfer and other bank charges of any such Advance Payment Guarantee shall be for Seller's account. Each Advance Payment Guarantee shall remain in full force and effect from the date of issuance until the delivery of the goods or services associated with this Purchase Order.

17. PAYMENT

Each shipment of goods, materials or equipment, if any, is a separate transaction and payment will be made accordingly. Unless otherwise specified in this Purchase Order, payments will be made net 30 days from the later of the following (i) the date of invoice, and (ii) Buyer's receipt of a valid invoice for goods, materials or equipment or services confirmed as received by Buyer.

Buyer shall have a right of set-off against payments due for amounts claimed under this Purchase Order or any other purchase order, contract or agreement between Seller and Buyer.

Notwithstanding any contrary provision in this Purchase Order, Buyer may delay payment of all or any portion of any progress payment because of (1) unsatisfactory progress of the Work, (2) defective or non-conforming Work which has not been remedied, (3) Work which is in dispute, (4) third party claims filed or reasonable evidence indicating probable filing of such claims, (5) damage caused by Seller to Buyer, its customers or their respective subcontractors and suppliers, (6) reasonable evidence that the Work cannot be completed for the unpaid balance of the price for the Work or within the time allowed by the schedule of the Work, (7) Seller's persistent failure to carry out the Work in accordance with this Purchase Order, (8) Seller's submission of inaccurate or incorrect applications for progress payment, affidavits and waivers, or (9) failure by Seller to furnish Buyer reports as required by this Purchase Order. No such action by Buyer shall relieve Seller from its obligations under this Purchase Order or estop Buyer from subsequently asserting Seller's failure to satisfy said obligations.

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18. MECHANICS’ AND OTHER LIENS

Seller hereby waives to the fullest extent permitted under applicable law any and all rights that Seller may have to a lien on any personal property of Buyer in connection with any goods, materials or equipment furnished, or labor supplied or performed, by Seller under this Purchase Order.

Seller will make payment when due for all goods, material or equipment furnished, labor supplied or performed, rental for equipment employed and services rendered by public utilities. Upon Buyer’s request, Seller will file effective waivers of mechanic’s liens in the Office of the Prothonotary of the Court of Common Pleas of Philadelphia.

Seller shall immediately discharge or cause to be discharged any lien which at any time is filed against property of Buyer or with respect to or arising from the Work. If any such lien is not immediately discharged, Buyer may discharge or cause to be discharged such lien at the expense of Seller, by offset, or otherwise.

19. INSURANCE

Seller shall procure and maintain insurance coverage for the full replacement value for the Work in a form satisfactory to Buyer.

If any professional services, including, without limitation, design and engineering services, are provided by Seller under this Purchase Order, then Seller shall provide an Errors & Omissions (E&O) Insurance Policy with a minimum limit of not less than \$2,000,000 per claim or such other amount as Buyer and Seller may agree in writing.

If services on-site are required as a part of this Purchase Order, Seller shall, unless relieved in writing by Buyer, provide the following insurance prior to field service personnel arriving on the Site:

(a) Workers’ Compensation: (i) Seller shall maintain Workers’ Compensation Insurance as required by law and Employer’s Liability Insurance with minimum limit of \$1,000,000 per occurrence, (ii) For all injuries and death of one accident and \$1,000,000 for all personal injuries and death of one accident. This insurance must comply with the requirements of the Federal Longshoreman’s and Harbor Workers Compensation Act (USL&H) and Pennsylvania State Workers’ Compensation Act. If SELF INSURED: Seller shall provide to Buyer the certificates of authority from the Federal Department of Labor authorizing self-insurance. The certificate of authority must apply to USL&H coverage.

(b) Commercial General Liability: Seller shall maintain Commercial General Liability Insurance with a combined single limit of \$5,000,000 per occurrence for bodily injury, including death, and property damage arising out of Seller’s operations. The Commercial General Liability Insurance shall include products liability; blanket contractual, completed operations, broad form property damage, and shall expressly cover the contractual liability assumed by Seller. If Seller’s employees, subcontractors or suppliers are performing any Work related to shipbuilding or ship repair, then the Commercial General Liability policy shall be written as a Marine General Liability policy.

(c) Automobile Liability: Seller shall maintain Automobile Liability Insurance with a combined single limit of \$3,000,000 per occurrence for bodily injury, death of persons, and property damage or loss, covering use and operation of owned, non-owned and hired vehicles.

(d) Maritime Employer’s Liability: If Seller’s employees, subcontractors or suppliers are assigned aboard a vessel for any reason, Seller shall maintain Maritime Employer’s Liability (Jones Act) coverage with minimum limits of liability of \$5,000,000 per occurrence and \$5,000,000 in the aggregate.

The insurance coverage limits stated above are minimum insurance coverage requirements, not limits of Seller’s liability, and, in the case of the per occurrence insurance limits for Commercial General Liability and Automobile Liability specified in paragraphs (b) and (c) above, can be met utilizing Seller’s umbrella/excess liability policy.

Should Seller subcontract any of the Work to a third party, if requested by Buyer, Seller (i) shall maintain in full force and effect during the term of this Purchase Order, Owner’s Protective Liability coverage with the same limits as specified for Comprehensive General Liability above, and (ii) shall require such third party to furnish the same insurance and indemnity as are required of Seller hereunder and show evidence thereof to Buyer on a certificate.

Seller shall obtain from its insurers for all insurance coverage applicable to the Work and/or required hereunder, a waiver of subrogation against Buyer, and the agents and employees of each. Buyer shall be named as an additional insured on Seller’s policies and such policies shall contain a severability of interest clause. Additional insured coverage shall include coverage for claims brought by Seller’s employees against Buyer, including, but not limited to, claims by Seller’s employees for injuries to those employees allegedly caused in whole or in part by Buyer. The insurance policies of the Seller shall provide primary coverage to Buyer for all claims, and Buyer and its insurance policies shall not contribute to any indemnity and defense payments and costs with respect to any claims and shall be excess to any coverage provided by Seller.

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Before any Work is performed under this Purchase Order, Seller shall supply to Buyer certificates of insurance and all applicable policies with insurers and policies satisfactory to Buyer and executed by an authorized representative of Seller's insurers, which certificates and policies shall provide for at least thirty (30) days written notice received by Buyer prior to the cancellation or modification of any insurance referred to therein. Buyer may also at any time thereafter call for and Seller shall promptly furnish true and correct copies of all certificates and policies of insurance affording the coverage required herein and any endorsements or changes thereto.

Seller agrees to assist and cooperate with Buyer, its insurance companies, representatives, and counsel in every possible manner in connection with the adjustment and litigation of all claims arising out of equipment, material and supplies provided for and work arising out of or claimed to be arising out of, or connected with or claimed to be connected with this Purchase Order.

Seller will not permit any sub supplier or subcontractor to enter upon the Premises or continue the performance of the Work unless such sub supplier or subcontractor is and remains insured and indemnified in accordance with the requirements of this Purchase Order. Seller shall indemnify Buyer for any loss suffered by it for Seller's failure to require any such sub supplier or subcontractor to be so insured.

All insurers required by this Purchase Order shall have a financial rating of A or higher and a financial size rating of IX or higher as determined by A.M. Best. All insurers required by this Purchase Order shall be licensed in the jurisdiction where the Work will be performed for this Purchase Order.

If Buyer implements an Owner Controlled Insurance Program, Buyer or its nominee, shall have the right to audit at Seller's or its subcontractor's premises, all payments made by Buyer to the extent necessary to verify that applicable insurance costs will be deducted from the Purchase Price.

The fact that Seller has obtained the insurance required in this Purchase Order shall in no manner lessen nor affect Seller's obligations or liabilities set forth in this Purchase Order, including but not limited to, its obligations to indemnify, defend and hold harmless Buyer pursuant to Article 20.0 of this Purchase Order.

20. INDEMNITY

Seller shall indemnify, defend and hold harmless Buyer and its parents, subsidiaries, affiliates and its and their officers, directors, agents and employees, from and against any and all losses, damages, expenses (including attorneys' fees and legal expenses), liabilities, claims, demands, suits or causes of action arising out of or resulting from or claimed to arise out of or result from injury (including death) to any person (including any individual employed by Seller), damage to Buyer's property or the property of any third party, or any other loss, damage or injury to Buyer or any third party arising out of, or claimed to arise out of, or in any way connected with or claimed to be connected with Seller's performance of the terms of this Purchase Order.

It is the intent of the parties to this Purchase Order that this indemnification provision will cover and include claims of Buyer's or the other indemnified parties' own negligence so long as the claim is related to work of Seller or arising out of, or claimed to be arising out of, or in any way connected with or claimed to be connected with the Seller's performance of the terms of this Purchase Order. It is the intent of the parties to this Purchase Order that this indemnification provision will cover, but will not be limited to, any and all claims that could be brought against either Buyer or Seller or any third party as Workers Compensation claims or as claims for discrimination, negligence or wrongful discharge by the individuals utilized or employed by Seller including, but not limited to, claims brought by employees of Seller for injuries allegedly sustained in whole or in part by Buyer's or the other indemnified parties' negligence.

It is further understood that Seller's assumption of this defense and indemnity obligation is partially in consideration of the amount of the compensation paid to the Seller as part of this contract, which amount would be lower if this obligation was not included. This provision shall survive the termination of this Purchase Order.

21. CONFIDENTIAL INFORMATION

Seller agrees to retain all information designated as confidential or proprietary by Buyer in confidence and not to disclose it to any third party or use such information for any other purpose, except as authorized by Buyer for the performance of this Purchase Order. Seller shall not publicize the existence or scope of this Purchase Order without Buyer's written consent. Seller shall require these same agreements on the part of any subcontractors to whom such information is disclosed. Seller shall return all information and copies thereof to Buyer upon written request. For purposes of this article, confidential and proprietary information excludes, however, (i) information which is or properly becomes part of the public domain prior to disclosure by Seller, (ii) information which Seller can show was in its possession at the time of disclosure to Seller by Buyer, or (iii) information disclosed by a third party through no fault of Seller. This provision shall survive the termination of this Purchase Order.

22. INTELLECTUAL PROPERTY

Seller shall at its sole expense indemnify, hold harmless and defend Buyer from and against, any suit or proceeding brought against Buyer based on a claim that the manufacture, use or sale of any goods or services, or any part thereof, supplied

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under this Purchase Order constitutes infringement of any patent, copyright, trademark, or proprietary information right of others, and Seller shall pay all damages and costs awarded therein against Buyer. Seller shall be notified promptly in writing of the suit or proceeding and shall be given adequate authority, information and assistance (at Seller's expense) for the defense of same, subject to the right of Buyer to participate at its expense and to be fully advised by Seller in advance of all actions taken. In case the Work or any part thereof is in such suit held to constitute infringement or the sale or use of said goods or parts is enjoined, regardless of whether such determination constitutes a final judgment, Seller shall, at its expense, either procure for Buyer the right to sell and use said goods or part, or replace same with substantially equal but not infringing goods; or if approved by Buyer, remove said goods and refund the purchase and the transportation and installation costs thereof.

The preceding paragraph shall not apply to any goods, or any part thereof, manufactured to designs furnished and required by Buyer, nor shall it apply to claims that the sale or use of a process or use of a combination of the goods supplied by Seller hereunder with other goods infringes a patent, if such process or other goods was not supplied by Seller and Seller's supplying of the goods hereunder does not constitute contributory patent infringement. This provision shall survive the termination of this Purchase Order.

Any design or engineering data only, in whatever form, relating to a vessel constructed at the Site that is produced by Seller under this Purchase Order shall be considered a "work made for hire". In this regard, Seller agrees to assign, and does hereby assign, all rights, title and interest in and to all such design or engineering data produced under this Purchase Order, including without limitation all intellectual property rights in such design or engineering data. Further, whenever requested, Seller shall immediately execute a confirmatory assignment of any particular items of Work in such form as may be satisfactory to Buyer, sign all lawful papers and otherwise perform all acts necessary or appropriate to enable Buyer to obtain and enforce all available legal protections for all such Work. Notwithstanding anything else herein to the contrary, Buyer acknowledges and agrees that Seller may own certain know-how, trade secrets, plans, designs and construction information, processes, manufacturing techniques, discoveries, inventions and ideas, product specifications, machinery, drawings, photographs, computer source codes, equipment, devices, tools and other engineering or technical information that is in existence prior to the date of this Purchase Order, whether or not protected by law, subject to pending applications or otherwise ("Pre-Existing Intellectual Property"). To the extent that such Pre-Existing Intellectual Property is: (i) incorporated into the Work, and (ii) has expressly been identified to Buyer in writing prior to commencement of any services hereunder, then such Pre-Existing Intellectual Property shall remain the property of Seller. In such case, Seller grants to Buyer a royalty-free, non-exclusive, unrestricted, irrevocable, world-wide license to use, execute, reproduce, display, perform, distribute copies of, and prepare derivative works based upon such Pre-Existing Intellectual Property as may be necessary for Buyer to use the Work for the purposes for which such Work was designed and intended, including Buyer's right to provide such Pre-Existing Intellectual Property as embedded in the final deliverables provided by Buyer to its customer. Seller also grants to Buyer and its customer a limited use license to design, specifications, and relevant drawings but only for any purpose related to the operation, maintenance, conversion, modification and repair of vessels. Seller hereby grants to any subsequent purchasers of any of vessels the same rights as are granted to Buyer and the original customer under this Purchase Order.

23. TITLE

Seller warrants full and unrestricted title to Buyer for all goods and services furnished by Seller under this Purchase Order, free and clear of any and all liens, restrictions, reservations, security interests, and encumbrances.

Subject to the next sentence, title to all materials, equipment and other goods sold under this Purchase Order shall pass to Buyer immediately upon the delivery of such goods to Buyer. If Buyer makes progress payments to Seller under this Purchase Order, title to the goods ordered hereunder shall pass to Buyer at the time that Seller identifies the goods to this Purchase Order. Seller shall clearly identify the goods as property of Buyer by visible marking or tagging, and Buyer shall have the right, at Buyer's option, to inspect and verify that said goods have been identified as Buyer's property. Care, custody, and control and risk of damage, destruction or loss of such goods remains with the Seller until delivery takes place or Buyer otherwise agrees in writing by change order to this Purchase Order.

Title to any goods sold under this Purchase Order, and care, custody and control and risk of damage, destruction or loss of such goods, will revert back to the Seller when Buyer revokes acceptance, rejects or refuses to receive such goods for any reason.

All shop drawings, patterns, tools or other items made preparatory to production of any goods are Buyer's property and upon demand shall be delivered to Buyer.

24. TERMINATION FOR DEFAULT

In the event Seller shall be adjudged bankrupt, make a general assignment for the benefit of its creditors, or if a receiver shall be appointed on account of Seller's insolvency or bankruptcy or Seller commits any act of bankruptcy or insolvency or fails to obtain dismissal of an involuntary petition in bankruptcy within thirty (30) days of the filing, or in the event Seller is in default of any provision or requirement of this Purchase Order or any other purchase order, contract or agreement between Seller and Buyer, Buyer may, by written notice to Seller, without prejudice to any other rights or remedies which Buyer may have, terminate further performance by Seller under this Purchase Order in whole or in part. In the event of such termination, Buyer may complete the performance of this Purchase Order by such means as Buyer selects, and Seller shall be

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responsible for any additional costs incurred by Buyer in so doing. Seller shall deliver or assign to Buyer any work in progress as Buyer may request. Upon direction of Buyer, Seller shall also preserve and protect property in possession of Seller in which Buyer has an interest. Any amounts due Seller for goods and services completed by Seller in full compliance with the terms of this Purchase Order prior to such termination shall be subject to setoff of Buyer’s additional costs arising from Seller’s default and other damages incurred by Buyer as a result of Seller’s default. If further performance by Seller under this Purchase Order is terminated in part, Seller shall continue the performance to the extent not terminated.

Any substantial failure by Seller to comply with this Purchase Order or any other purchase order, contract or agreement between Seller and Buyer or to maintain performance with schedule or any failure to act by Seller or any act by others that is grounds for reasonable apprehension as to Seller’s ability financially, or otherwise, to complete the Work in accordance with its terms, shall entitle Buyer, without prejudice to any other remedy it may have, to treat this Purchase Order as having been repudiated by Seller and to take such other steps and employ such other means as it may consider necessary to accomplish the objectives of this Purchase Order and Seller shall cooperate fully in assisting Buyer in that endeavor. Any extra costs arising by reason of such steps or means shall be for Seller’s account. Upon written notice to Seller of Buyer’s intention to exercise its rights in any respect under this article, title to any merchandise purchased under this Purchase Order and to any part or component thereof in Seller’s possession or control shall pass forthwith to Buyer and Seller shall hold it safely pending Buyer’s written instructions as to its disposition.

Prior to any termination or repudiation for default, Buyer shall in writing notify Seller of the alleged default and allow Seller to remedy the alleged default within seven (7) days after its receipt of such notice.

If, after termination for default, it is determined by a court of competent jurisdiction that Seller was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of Buyer pursuant to Article 25 of the Purchase Order.

25. TERMINATION FOR CONVENIENCE

Buyer shall have the right to terminate for its convenience further performance of all or any separable part of this Purchase Order at any time by written notice to Seller. On the date of such termination stated in the notice, Seller shall discontinue all work pertaining to this Purchase Order, shall place no additional orders, and shall preserve and protect materials on hand purchased for or committed to this Purchase Order, work in progress, and completed work both in Seller’s and in its suppliers’ plants pending Buyer’s instruction, and shall dispose of same in accordance with Buyer’s instruction. Any termination payment or refund to Buyer and Seller, shall be based on that portion of the Work satisfactorily performed to the date of cancellation, plus reasonable and necessary expenses resulting from the termination, as substantiated by documentation satisfactory to and verified by Buyer, disposition of work and material on hand, and amounts previously paid by Buyer. In no event shall Seller be entitled to any loss of prospective profits, contribution to overhead or any incidental, consequential or other damages because of such termination. If further performance by Seller under this Purchase Order is terminated in part, Seller shall continue the performance to the extent not terminated.

Seller shall deliver or assign any goods with all applicable warranties or dispose of any goods as directed by Buyer prior to final payment.

26. ASSIGNMENT/DELEGATION

Seller may not assign its rights or delegate its obligations hereunder without Buyer’s written consent, except those rights to proceeds, which by law may be assigned notwithstanding a contractual prohibition against such assignment. Any actual or attempted assignment, attachment, garnishment, or claim by a third party with respect to Seller’s rights (including rights to amounts due or to become due) under this Purchase Order shall entitle Buyer to withhold all payment until full performance by Seller. Buyer may continue to withhold payment until it has determined to its complete satisfaction to whom such funds are payable and that Buyer is fully protected from any possibility of conflicting claims by Seller, its assignee or any third party and from any cost, damage, expense, or loss, including attorneys’ fees, resulting therefrom. Buyer may recover out of the funds payable hereunder or otherwise from Seller any cost, expense, or loss, including attorneys’ fees, which Buyer incurs as a result of any actual or attempted assignment, attachment, garnishment, or claim by a third party including those attributable to suits by Buyer for declaratory relief. Buyer may assert any counterclaim or set off which Buyer has against Seller, against any assignee, garnishee or third party claimant whether or not such counterclaim or set off arose under or with respect to this Purchase Order.

Buyer may assign all of its rights under this Purchase Order to any bank, lender or other financial institution providing financing to Buyer, and Seller hereby consents to any such present or future assignment and agrees promptly to sign acknowledgements of such consent upon request by Buyer.

Buyer may, without Seller’s consent, assign this Purchase Order in whole or in part to any of Buyer’s customers.

27. WAIVER

Buyer’s failure to insist on performance of any term, condition, or instruction, or failure to exercise any right or privilege or its waiver of any breach, shall not thereafter waive any such term, condition, instruction, right or privilege.

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28. CONSEQUENTIAL DAMAGES

UNDER NO CIRCUMSTANCES SHALL BUYER OR ITS OFFICERS, AGENTS, OR EMPLOYEES BE LIABLE TO SELLER FOR ANY PUNITIVE, SPECIAL, CONTINGENT, INDIRECT, INCIDENTAL OR CONSEQUENTIAL LOSSES OR DAMAGES OF ANY NATURE, INCLUDING, BUT NOT LIMITED TO UNDERUTILIZATION OF LABOR OR FACILITIES, LOSS OF USE, LOSS OF REVENUES OR ANTICIPATED PROFITS, POTENTIAL DAMAGE TO BUSINESS REPUTATION OR LOSS OF BUSINESS OPPORTUNITY, WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, AND REGARDLESS OF WHETHER BUYER WAS ADVISED OF, KNEW OF, OR SHOULD HAVE KNOWN OF, THE POSSIBILITY OF SUCH DAMAGES.

29. VALIDITY OF PROVISIONS

In the event any provision, or any part or portion of any provision of this Purchase Order shall be held to be invalid, void or otherwise unenforceable by any court of competent jurisdiction, such holding shall not affect the remaining part or portions of that provision, or any other provision hereof. Such remaining provisions shall be fully severable, and this Purchase Order shall be construed and enforced as if such invalid, void or unenforceable provision had never been inserted in this Purchase Order. Whenever possible, each provision of this order shall be interpreted in such a way as to be effective and valid under applicable law.

30. REMEDIES

The remedies set forth in this Purchase Order are cumulative with, and in addition to, all other remedies, whether in contract or tort, at law or in equity, except as otherwise expressly provided in this Purchase Order.

31. TAXES

Seller agrees to pay all local, state, and Federal excise, sales, and use taxes when applicable (unless otherwise agreed in writing by Seller and Buyer).

The following documents will be required at the time the Purchase Order is accepted and signed: Form W-9 completed (if Seller is a US entity) or Form W-8BEN-E or W-8ECI completed (if Seller is a foreign entity). If Seller fails to submit the appropriate form, then Buyer shall be entitled to withhold 30% of each payment by Buyer under this Purchase Order. Buyer will pay the full amount withheld to the relevant governmental authority in accordance with applicable law. The sum payable by Buyer under this Purchase Order shall not be increased by the withheld amount. Seller agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify Buyer in writing of its legal inability to do so.

32. SHIPPING INSTRUCTIONS

If any materials are shipped to Buyer under this Purchase Order: (a) Seller shall be responsible for ensuring the proper packaging of materials hereunder; (b) Seller shall at all times comply with Buyer's written shipping instructions; (c) the Purchase Order number and Purchase Order line item number must be plainly marked on all packages, bills of lading and invoices; (d) packing lists shall accompany each shipment listing all material included in the shipment (Buyer's count or weight shall be final and conclusive for shipments not accompanied by packing lists); (e) Seller shall submit all required shipping papers to Buyer prior to final payment; (f) Seller shall direct all overseas shipments to be delivered to the Port of Philadelphia whenever economically and technically feasible; and (g) packages must be marked with the material shelf life.

33. RELEASE OF INFORMATION

Seller shall not publish any information developed under this Purchase Order nor distribute it nor make any news release about the subject matter of this Purchase Order, and shall not use Buyer's trademarks or trade names, without the prior approval of Buyer.

34. SUPPLIER SOURCING PREFERENCES

Philadelphia Regional Suppliers are preferred suppliers to the Philly Shipyard, Inc. (PSI). Buyer will use good faith efforts to arrange for regional suppliers to be engaged as suppliers of products and/or services insofar as they are competitive with respect to quality, service, delivery time and price. Buyer will encourage its supplier partners, including Seller, to make the same effort with their sub-suppliers.

Minority-owned (MBE) and women-owned (WBE) business enterprises are preferred suppliers to the Philly Shipyard, Inc. (PSI). Buyer will use good faith efforts to arrange for such suppliers to be engaged as suppliers of products and/or services

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insofar as they are competitive with respect to quality, service, delivery time and price. Buyer will encourage its supplier partners, including Seller, to make the same effort with their sub-suppliers.

35. BUSINESS STANDARDS

- (a) Seller agrees to comply with all laws and lawful regulations applicable to any activities carried out in the name of or on behalf of Buyer under the provisions of this Purchase Order.
- (b) Seller agrees that all financial settlements, billings, and reports rendered to Buyer as provided for in this Purchase Order, will, to the best of its knowledge and belief, reflect properly the facts about all activities and transactions handled for the account of Buyer, which data may be relied upon as being complete and accurate in any further recording and reporting made by Buyer for whatever purpose.
- (c) Seller agrees to notify Buyer promptly upon discovery of any instance where Seller fails to comply with provisions above or where Seller has reason to believe that data supplied above is no longer accurate and complete.

36. AUDIT RIGHTS

- (a) For any reimbursable costs, including, but not limited to, any costs on a time and material (T&M) basis, under this Purchase Order, Seller shall keep and cause its subcontractors to keep, in accordance with generally accepted accounting practices, books, records and accounts pertaining to performance of this Purchase Order, including Seller's and its subcontractors' personnel records, employment and qualification records, correspondence, instructions, plans, drawings, receipts, vouchers, memoranda, data stored in computer libraries, and such other documentation and related systems and controls necessary for an accurate audit and verification of such costs. Seller shall preserve, and shall cause its subcontractors to preserve said documents during the performance of this Purchase Order and for a period of three (3) years after termination of the Work under this Purchase Order or acceptance.
- (b) Seller shall permit and cause its subcontractors to permit, at reasonable times during the performance of this Purchase Order and for a period of three (3) years after termination of the Work under this Purchase Order or acceptance, authorized representatives of Buyer to interview Seller's and its subcontractors' personnel, review Seller's and its subcontractors' accounting and cost control systems and inspect books, records, accounts, and other documents set forth above, and make copies thereof, as necessary to audit and verify the completeness and accuracy of reimbursable costs contained in invoices submitted by Seller, or for any other reasonable purpose, including the right to verify compliance with other terms of this Purchase Order.

37. INFORMATION BROKERING

Seller is aware of a practice where persons approach contractors, vendors, suppliers and others and offer them confidential information or illicit influence to obtain business through corruption or subversion of the competitive contract bidding and/or award process ("Information Brokering"). Seller recognizes that the practice of Information Brokering or any other corruption or subversion of contract award procedures is not permitted by Buyer and Seller warrants and represents that it has not and will not utilize Information Brokering in connection with this Purchase Order or any other contract obtained for or pursuant thereto. Seller agrees that, if it encounters Information Brokering, Seller will promptly inform Buyer.

38. FACILITATION PAYMENTS AND ANTI-CORRUPTION

Seller on behalf of itself, its affiliates and its and their respective directors, officers, employees, agents and representatives:

- (a) will comply with all applicable laws, rules, decrees, regulations, orders and the like, including but not limited to, the United State of America Foreign Corrupt Practices Act of 1977, as amended and the United Kingdom Bribery Act of 2010, as amended, of the United States, the United Kingdom or any other applicable jurisdiction relating to anti-bribery, anti-corruption, anti-terrorism and anti-money laundering ("Applicable Prohibitions");
- (b) represent and warrant that they will not directly, indirectly or through any other person or entity (1) pay, offer, give, promise, or authorize monies, benefit or anything of value to i) an official, officer, employee or agent, of a government or any department, agency or instrumentality of any government or any government-owned business; ii) an officer, employee or agent of an international organization; iii) any person or entity acting for or on behalf of any government or department, agency, or instrumentality of such government, government-owned business or of any international organization; iv) any political party or officer thereof, or any candidate for political office; v) any other person, individual, entity at the suggestion, request or direction of or for the benefit of, or any close family member of, any of the above-described persons or entities; vi) any person holding a legislative, administrative or judicial office, whether appointed or elected, or (2) engage in any other acts or transactions, in each case if it is in violation of or inconsistent with the Applicable Prohibitions of any relevant jurisdiction;
- (c) Maintain and enforce its own policies and procedures to ensure compliance with this clause;
- (d) If requested by Buyer, annually certify compliance with this clause and the Applicable Prohibitions; and

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(e) Promptly notify Buyer of any notice, violation, fine or penalty involving the Applicable Prohibitions.

Any violation of the Applicable Prohibitions by Seller or its related parties will be deemed to be a breach of a material covenant of this Purchase Order; If Buyer, learns of or has a good faith belief that Seller or its related parties has violated or caused Buyer to violate any of the Applicable Provisions, Buyer may terminate this Purchase Order notwithstanding any other provision of this Purchase Order to the contrary. In the event of such termination, Buyer will be relieved of all liability and obligations of any kind hereunder, including any liability to make payments under this Purchase Order.

39. MISCELLANEOUS

(a) No Third Party Beneficiary. It is specifically agreed between the parties executing this Purchase Order that it is not intended by any of the provisions of any part of this Purchase Order to create in the public or any member thereof a third party beneficiary hereunder or to authorize a non-party to this Purchase Order to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Purchase Order. The duties, obligations, and responsibilities of the parties to this Purchase Order with respect to third parties shall remain as imposed by law.

(b) Written Notice. All notices, consents, waivers, and other communications under this Purchase Order must be in writing and will be deemed to have been duly given when (i) delivered by hand (against receipt), (ii) sent by telecopier (with written confirmation of receipt), provided that a copy is contemporaneously mailed by registered mail, return receipt requested, or sent by a nationally recognized overnight delivery service (receipt requested), (iii) when received by the addressee, if sent by a nationally recognized overnight delivery service (receipt requested), or (iv) 5 days after being sent registered or certified mail, return receipt requested, in each case to the appropriate addresses and telecopier numbers set forth in this Purchase Order, unless otherwise directed pursuant to this Purchase Order (or to such other addresses and telecopier numbers as a Party may hereafter designate by similar notice to the other Party).

(c) Governing Law and Venue. This Purchase Order shall be governed, interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania, USA. All claims, disputes, or other matters must be pursued in a state or federal court of competent jurisdiction located in Philadelphia, PA, USA. The parties agree not to assert any claim, defense, or argument that a state or federal court of competent jurisdiction located in Philadelphia, PA, USA is not a proper venue or is an inconvenient forum to hear any such claims, disputes or other matters. Seller shall bring any and all disputes under or related to this Purchase Order within two (2) years after the cause of action for such dispute arises.

(d) JURY TRIAL WAIVER. IT IS MUTUALLY AGREED BY AND AMONG THE PARTIES THAT EACH OF THEM HEREBY WAIVES TRIAL BY JURY IN ANY ACTION OR PROCEEDING BROUGHT BY ANY PARTY AGAINST ANY OTHER PARTY PURSUANT TO THIS PURCHASE ORDER.