

**CES SWD, INC.**  
**TERMS AND CONDITIONS**

The Terms and Conditions herein stated are a part of the consideration hereof and it is expressly understood that if such Terms and Conditions were not accepted and agreed to by Customer (shown on the reverse side hereof) a greater cash consideration would be charged by CES SWD, INC. (and any of its parent, subsidiary, operating divisions, or affiliated companies) (the "Company") for the Products and Services listed on the reverse side hereof (hereinafter referred to as "Products and Services"). No agreement or modification hereof shall be effective unless in writing and executed by an officer or otherwise authorized representative of each party. Products are furnished and Services are rendered upon the following Terms and Conditions and these Terms and Conditions (regardless of any terms and conditions in Customer's purchase order, invoice, work order, or any other document) shall supersede all prior or subsequent oral or written agreements or understandings with respect to Products and Services. No acceptance which varies these Terms and Conditions or proposes additional terms is effective. Acceptance is limited to these Terms and Conditions. Each shipment of Products and rendering of Services received by Customer from Company shall be deemed to be only upon these Terms and Conditions notwithstanding any terms and conditions that may be contained in any invoice, acknowledgment or other form of Customer. Customer's act of accepting Products and Services or paying for Products and Services shall constitute an acceptance of these Terms and Conditions.

1. **PRICING.** Each Product and Service shall be invoiced at (and Customer shall pay) the respective price shown on the reverse side hereof, or if no price is shown on the reverse side hereof, at the price shown in the current price list of Company. 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.
2. **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.
3. **INSURANCE:** As to all operations provided for herein, Company and Customer shall secure and maintain during the term of this agreement the insurance in the types and amounts and under the conditions as shown below with mutually satisfactory companies and shall furnish certificates to evidence such Insurance before the work to be performed under the Contract is begun. IF OPERATIONS ARE PERFORMED IN TEXAS OR UNDER TEXAS LAW, BOTH PARTIES AGREE THAT: IN ORDER TO BE IN COMPLIANCE WITH THE TEXAS ANTI-INDEMNITY ACT REGARDING INDEMNIFICATION MUTUALLY ASSUMED FOR THE OTHER PARTY'S SOLE OR CONCURRENT NEGLIGENCE, EACH PARTY AGREES TO CARRY SUPPORTING INSURANCE IN EQUAL AMOUNTS OF THE TYPES AND IN THE MINIMUM AMOUNTS AS SPECIFIED IN THE INSURANCE REQUIREMENTS HEREUNDER 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. IN TEXAS, IF THE CUSTOMER DOES NOT CARRY INSURANCE IN THE MINIMUM AMOUNTS AS SPECIFIED IN THE INSURANCE REQUIREMENTS IN REGARD TO THE MUTUAL INDEMNITY OBLIGATIONS THEN IT IS AGREED THAT THE CUSTOMER HAS APPROVED SELF-INSURANCE AS STATED IN THE TEXAS ANTI-INDEMNITY ACT AND THE MUTUAL INDEMNIFICATION AMOUNT SHALL BE THE MAXIMUM AMOUNT CARRIED BY THE CUSTOMER. Customer and Company shall maintain the following minimum insurance with reputable insurers:

TYPE OF INSURANCE	LIMITS
Workers' Compensation	Statutory limits
Employer's Liability	
Each accident or occurrence	\$1,000,000
Disease-Policy limit	\$1,000,000
Disease-Each employee	\$1,000,000
Commercial General Liability	
General aggregate	\$2,000,000
Products/completed operations aggregate	\$1,000,000
Each occurrence	\$1,000,000
Fire damage	\$50,000
Business Automobile Liability	
Combined single limit	\$1,000,000
Excess Liability	
Combined single limit	\$2,000,000
Cargo and Rigger's Liability	
Combined single limit	\$500,000

Each of the policies specified above shall be endorsed to waive any rights of subrogation against Company. Each policy shall be written with an insurer satisfactory to Company. Each policy, except Worker's Compensation, shall be endorsed to name Company as an additional insured. Customer agrees to furnish Company with a Certificate of Insurance evidencing coverage, and shall not materially change or cancel any coverage without providing thirty (30) days prior written notice to Company. The insurance requirements herein shall be separate and distinct from the indemnity obligations set forth herein. Notwithstanding anything to the contrary herein, any extension of additional insured coverage by Company or Customer (1) shall not apply with respect to any obligation for which the Company or Customer has specifically agreed to indemnify the other party, (2) and shall only apply with respect to any obligation for which either the Customer or Company has specifically agreed to indemnify the other party. Customer's indemnity of Company shall be without regard to and without any right to contribution from any insurance maintained by Company. Company's indemnity of Customer shall be without regard to and without any right to contribution from any insurance maintained by Customer.

In the event Customer fails to carry the insurance specified hereunder, Company may obtain such insurance and charge the cost thereof, including a mark-up of fifteen percent (15%), to Customer, and Company, at its option, may withhold from any payment due, or to become due, Customer the amount of such charges. Customer agrees that the provisions set forth in this paragraph shall be imposed upon, assumed, and performed by each of its subcontractors.

4. 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 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.
  
5. 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.

6. INDEMNIFICATION. COMPANY'S LIABILITY IN CONNECTION WITH PRODUCTS AND SERVICES SHALL EXTEND ONLY TO CUSTOMER. THE FOLLOWING INDEMNIFICATIONS AND RELEASES OF LIABILITY WILL APPLY TO ANY GOODS OR SERVICES PROVIDED UNDER THIS CONTRACT. IN THE EVENT ONE PARTY MUST BRING LEGAL ACTION IN ORDER TO ENFORCE AN INDEMNIFICATION, ALL SUCH LEGAL COSTS SHALL BE INCLUDED AS PART OF THE INDEMNIFICATION.
- a. COMPANY'S INDEMNIFICATION OF CUSTOMER: COMPANY SHALL RELEASE CUSTOMER OF ANY LIABILITY FOR, AND SHALL PROTECT, DEFEND, INDEMNIFY, AND SAVE CUSTOMER, ITS OFFICERS, DIRECTORS, EMPLOYEES AND JOINT OWNERS HARMLESS FROM AND AGAINST ALL CLAIMS, DEMANDS, AND CAUSES OF ACTION OF EVERY KIND AND CHARACTER (INCLUDING PUNITIVE DAMAGES), WITHOUT LIMIT AND WITHOUT REGARD TO THE CAUSE OR CAUSES THEREOF OR THE NEGLIGENCE OR STRICT LIABILITY OF CUSTOMER, ANY PARTY OR PARTIES, ARISING IN CONNECTION HEREWITH IN FAVOR OF COMPANY'S EMPLOYEES (INCLUDING LEASED EMPLOYEES) OR COMPANY'S SUBCONTRACTORS OR THEIR EMPLOYEES, OR COMPANY'S INVITEES, OTHER THAN THOSE PARTIES IDENTIFIED IN PARAGRAPH 11(B), ON ACCOUNT OF BODILY INJURY, DEATH OR DAMAGE TO PROPERTY.
  - b. CUSTOMER'S INDEMNIFICATION OF COMPANY: CUSTOMER SHALL RELEASE COMPANY OF ANY LIABILITY FOR, AND SHALL PROTECT, DEFEND, INDEMNIFY, AND SAVE COMPANY, ITS OFFICERS, DIRECTORS, EMPLOYEES AND JOINT OWNERS HARMLESS FROM AND AGAINST ALL CLAIMS, DEMANDS, AND CAUSES OF ACTION OF EVERY KIND AND CHARACTER (INCLUDING PUNITIVE DAMAGES), WITHOUT LIMIT AND WITHOUT REGARD TO THE CAUSE OR CAUSES THEREOF OR THE NEGLIGENCE OR STRICT LIABILITY OF COMPANY, ANY PARTY OR PARTIES, ARISING IN CONNECTION HEREWITH IN FAVOR OF CUSTOMER'S EMPLOYEES (INCLUDING LEASED EMPLOYEES) OR CUSTOMER'S CONTRACTORS OR THEIR EMPLOYEES, OR CUSTOMER'S INVITEES, OTHER THAN THOSE PARTIES IDENTIFIED IN PARAGRAPH 11 (a), ON ACCOUNT OF BODILY INJURY, DEATH OR DAMAGE TO PROPERTY.
  - c. 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.
  - d. THE FOREGOING INDEMNITIES SET FORTH IN THIS AGREEMENT 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 CONCURRENT, ACTIVE OR PASSIVE) OR OTHER FAULT OR STRICT LIABILITY OF COMPANY.
  - e. IT IS AGREED WITH RESPECT TO ANY LEGAL LIMITATIONS NOW OR HEREAFTER IN EFFECT AND AFFECTING THE VALIDITY OR ENFORCEABILITY OF THE INDEMNIFICATION OBLIGATION IN THIS PARAGRAPH, SUCH LEGAL LIMITATIONS ARE MADE A PART OF THE INDEMNIFICATION OBLIGATION AND SHALL OPERATE TO AMEND THE INDEMNIFICATION OBLIGATION TO THE MINIMUM EXTENT NECESSARY TO BRING THE PROVISION INTO CONFORMITY WITH THE REQUIREMENTS OF SUCH LIMITATIONS, AND AS SO MODIFIED, THE INDEMNIFICATION OBLIGATION SHALL CONTINUE IN FULL FORCE AND EFFECT.
  - f. 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."

7. **RISK OF LOSS.**
  - a. 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. Customer assumes all risk and liability for the results obtained by the use of any material delivered hereunder in manufacturing processes of Customer or in combination with other substances. No claim of any kind, whether as to material delivered or for non-delivery of material, and whether or not based on negligence, shall be greater in amount than the purchase price of the material in respect of which such claim is made. In no event shall Company be liable for special, indirect or consequential damages, whether or not caused by or resulting from the negligence of Company.
  - b. 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 if such loss or deterioration results from atmospheric condition, Act of God or other occurrence not within the reasonable control of Company.
  - c. Company shall not be liable for (and Customer acknowledges that it hereby abandons any rights it may have with respect to) any equipment and material of Customer left on or about Company's premises or under Company's control without Company's prior written approval for more than one hundred and twenty (120) days after Company has completed its work.
8. **CHANGE IN PAYMENT TERMS.** Company may from time to time demand payment terms different from those specified on the face of this order or may demand assurance of Customer's ability to pay, or both, whenever it reasonably appears that Customer's financial stability or ability to pay is in doubt. Any such demand shall be in writing and, when a demand is made, Company may stop production and suspend shipments. If Customer fails to agree to the demand within thirty days, Company at its option may treat the failure as a repudiation of the portion of this order which has not been fully performed or may resume production and make shipments using such bills of lading or other documents of title or shipment terms as Company considers necessary to assure payment.
9. **TERMINATION.** Time is of the essence in this Agreement. Company reserves the right to terminate this Invoice, 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, 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. Customer may terminate this Invoice without cause upon thirty (30) day notice in writing to Company. In the event of such termination, Company at its sole option shall cease work up to thirty (30) days after such notice. Upon the cessation of work, Customer agrees to pay Company a reasonable termination charge consisting of a percentage of the Invoice price, such percentage to reflect the value of the goods, services or work in progress completed upon the cessation of work. Customer shall also pay promptly to Company any costs incurred due to paying and settling claims of Company's vendors or subcontractors arising out of the termination of the order by Customer.
10. **DELIVERY.** Unless different terms are provided on the face of this order, all items are sold FOB Gainesville, Texas, and Customer will deliver and Customer shall bear the cost of transportation to any other named destination. In the case of Customer pick-up, the truck furnished by Customer is the destination and Company's obligations regarding shipments are fulfilled when the goods are loaded on the truck. Items to be shipped to any other destination outside of Gainesville, Texas are sold FOB port of shipment (Customer will deliver and bear the cost of transportation to the named port and will bear the cost of transportation thereafter to the final destination). The means of shipment and carrier to the point at which Company's liability for transportation costs ceases shall be chosen by Company, unless Customer requests otherwise. Excess packing, marking, shipping, and transportation charges resulting from compliance with Customer's request shall be for Customer's account. Unless otherwise agreed in writing, delivery time is not of the essence.

11. DELAYS. If a specific shipping date is either not given or is estimated only, and is not promised on the face of this order or in a separate writing signed by Company, Company will not be responsible for delays in filling this order nor liable for any loss or damages resulting from such delays. If a specific shipping date is promised, Company will not be liable for delays resulting from causes beyond Company's control, including without limitation accidents to machinery, fire, flood, act of God or other casualty, labor disputes, labor shortages, lack of transportation facilities, priorities required by, requested by, or granted for the benefit of any governmental agency, or restrictions imposed by law or governmental regulation.
12. LIMITATION OF DAMAGES. COMPANY SHALL NOT BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES FOR ANY BREACH OF WARRANTY UNDER THIS AGREEMENT. COMPANY'S LIABILITY AND CUSTOMER'S EXCLUSIVE REMEDY ARE EXPRESSLY LIMITED TO ONE OF THE FOLLOWING AT COMPANY'S OPTION IN COMPANY'S SOLE DISCRETION: (A) REPAIR OF DEFECTIVE GOODS; (B) REPLACEMENT AT THE APPLICABLE FOB POINT OF DEFECTIVE OR NONCONFORMING GOODS; OR (C) ISSUANCE OF A CREDIT OR REPAYMENT OF THE PURCHASE PRICE. REPLACEMENT OF DEFECTIVE GOODS OR REPAYMENT OF THE PURCHASE PRICE WILL BE MADE ONLY UPON RETURN OF THE GOODS. COMPANY WILL BEAR THE COST OF RETURN ONLY AFTER INSPECTION BY COMPANY, AND AFTER CUSTOMER RECEIVES DEFINITE SHIPPING INSTRUCTIONS FROM COMPANY. IN THE EVENT CUSTOMER IS TO RECEIVE A REPLACEMENT PRODUCT OR SERVICE, DELIVERY OF SUCH REPLACEMENT PRODUCT OR SERVICE SHALL BE AT COMPANY'S CONVENIENCE IN THE SAME MANNER AND AT THE SAME LOCATION AS THE DELIVERY OF THE ORIGINAL PRODUCT OR SERVICE. IF COMPANY REQUESTS THAT CUSTOMER RETURN THE ORIGINAL PRODUCT TO COMPANY (WHETHER BEFORE OR AFTER ANY REPLACEMENT PRODUCT IS DELIVERED), CUSTOMER SHALL DELIVER SUCH ORIGINAL PRODUCT TO COMPANY AT SUCH LOCATION AND IN SUCH MANNER AS THE COMPANY MAY REQUEST. 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 SERVICES AND THESE TERMS AND CONDITIONS SHALL BE LIMITED TO AND NOT EXCEED THE AMOUNT CUSTOMER HAS ACTUALLY PAID TO COMPANY PURSUANT HERETO. IF CUSTOMER FAILS TO MAKE ANY SUCH WRITTEN CLAIM WITHIN SEVEN (7) DAYS AFTER COMPLETION OF SERVICE OR DELIVERY OF PRODUCT, CUSTOMER HEREBY WAIVES (TO THE EXTENT PERMITTED BY APPLICABLE LAW) ANY AND ALL CLAIMS IT MAY OR DOES HAVE WITH RESPECT TO SUCH PRODUCTS AND SERVICES.
13. SECURITY INTEREST. Customer grants to Company a security interest in all of Customer's equipment and material delivered pursuant to these Terms and Condition. 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.
14. PATENT AND INTELLECTUAL PROPERTY.
  - a. Patent Indemnification: Subject to the limitations herein, Company will defend any suit or proceeding brought against Customer if it is based on a claim that any product furnished hereunder constitutes an infringement of any U.S., Canadian, Japanese, EU or EFTA member country intellectual property rights. Company must be notified promptly in writing and given full and complete authority, information and assistance (at Customer's expense) for defense of the suit. Company will pay damages and costs therein awarded against Customer but shall not be responsible for any compromise made without its consent. In no event shall Company's liability for such damages and costs (including defense costs) exceed the contractual value of the products or services that are the subject of the lawsuit. In providing such defense, or in the event that such product is held to constitute infringement and the use of the product is enjoined, Company, in its discretion, shall procure the right to continue using such product, or modify it so that it becomes noninfringing, or remove it and grant Customer a credit for the depreciated value thereof. Company's indemnity does not extend to claims of infringement arising from Company's compliance with Customer's design, specifications and/or instructions, or use of any product in combination with other products or in

connection with a manufacturing or other process. The foregoing remedy is exclusive and constitutes Company's sole obligation for any claim of intellectual property infringement and Company makes no warranty that products sold hereunder will not infringe any intellectual property rights.

- b. **Company Retains its Intellectual Property:** 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.
15. **RISK OF LOSS.** Except as specifically otherwise provided herein: (1) Company shall be responsible and bear the risk of loss or damage for the goods or services furnished under this Invoice until such time as goods or services are delivered at the designated delivery point, regardless of the point of inspection or transfer of title, and (2) Customer shall bear all risks and expenses for all returns, including but not limited to freight, insurance, packaging, materials and/or labor resulting from rejection or correction of the goods furnished hereunder.
16. **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.
17. **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.
18. **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.
19. **NO ASSIGNMENT.** This Invoice and the rights, obligations and duties of the Parties hereunder shall not be assignable or otherwise transferable without the prior written consent of each Party (which may not be unreasonably withheld).
20. **CHOICE OF LAW.** THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND SHALL BE PERFORMABLE IN HARRIS COUNTY, TEXAS. EACH PARTY HERETO SUBMITS TO THE JURISDICTION OF 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 IN CONNECTION WITH ANY DISPUTE ARISING UNDER THIS AGREEMENT OR ANY DOCUMENT OR INSTRUMENT ENTERED INTO IN CONNECTION HEREWITH.
21. **AUTHORITY.** Customer warrants and represents that the individual signing this Invoice on behalf of Customer has the authority to enter into this Invoice on behalf of Customer, and that upon execution this Invoice shall be binding upon Customer.
22. **ATTORNEY'S FEES.** In the event Company prevails in the prosecution or defense of any claims in litigation or arbitration between the parties hereto, Customer agrees to pay all attorneys' fees, expert and consultant costs, and all other reasonable and necessary expenses incurred by Company in such litigation or arbitration.
23. **FORCE MAJEURE:** If Company is unable to carry out its obligations hereunder by reason of force majeure, then upon Company's giving of notice and reasonably full particulars of such force majeure in writing to Customer, Company's obligations that are affected by force majeure shall be suspended during

the continuance of the force majeure and Company shall not be liable to Customer for any damages incurred by the Customer as a result thereof.

24. CONFIDENTIALITY. Customer acknowledges the highly secret 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.
25. 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.
26. HAZARDOUS WASTE. Customer further agrees that it shall be totally responsible for any and all waste and/or hazardous substances introduced by Customer and shall perform all clean-up and removal of such substances. In the event Customer does not perform such clean-up and/or removal, Company may perform clean-up and removal of such substances and Customer shall reimburse Company for all costs and expenses thereof, including attorney's fees. **CUSTOMER SHALL INDEMNIFY COMPANY 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, STRICT LIABILITY OR OTHER FAULT OF COMPANY.** 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.
27. CHANGE IN WORK. Customer may order changes in the work called for by this Invoice or require additions to the Invoice at any time at least thirty (30) days before the scheduled delivery date on the condition such changes are agreed to in writing by Company and Company shall promptly comply with each such agreed change order or addition. Any changes in compensation due pursuant to any change order or addition to this Invoice are effective only if agreed to by Company's authorized representative in writing.
28. LICENSES AND PERMITS. Company shall procure and keep in effect at all times all permits and licenses required by any federal, state or local governmental or regulatory agency in connection with the work performed by Company pursuant to this Invoice and shall promptly produce evidence of same to Customer upon demand.
29. Whenever required by the context of this Invoice, the singular includes the plural, and the masculine includes the feminine or the neuter.
30. SEVERABILITY. This Invoice is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. If any provision of this Invoice, or the application thereof to any person or circumstance, is for any reason or to any extent invalid or unenforceable, the remainder of this Invoice and the application of such provision to the other persons or circumstances shall not be affected thereby, but rather is to be enforced to the greatest extent permitted by law.

31. INTEGRATION. The terms and covenants herein stated are a part of the consideration hereof. It is expressly understood that these terms and conditions shall apply to any goods or services provided under this Invoice and take precedence regardless of any prior or subsequent agreements (including but not limited to invoices, work orders or other similar documents) unless such subsequent written agreement is executed by duly authorized representatives of the parties hereto and specifically by reference cancels this Invoice or any terms hereof. This Invoice constitutes the entire agreement between the parties regarding the goods delivered and services performed pursuant to the Invoice. All prior agreements relating to the subject matter hereof are superseded hereby and no amendment or modification of this Invoice shall be effective unless it is in writing and signed by the authorized representative of Company.

Customer's Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Customer's Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_