



WARRANTY POLICY / TERMS AND CONDITIONS OF SALE BK VIBRO AMERICA INC

1.0 Interpretation

For the purposes of these Terms and Conditions of Sale:

“Buyer” means the individual or entity to which Seller is providing Products and Services under the Contract, and/or the individual or entity ultimately using the Products and Services provided by the Seller.

“Contract” means the agreement between Buyer and Seller arising as a result of the Buyer’s submission of an order for the Seller’s Products and Seller’s written acceptance and/or, in the case of Services, an agreement between such parties for the provision of Services by Seller, as constituted by a Proposal. Such Contract shall be deemed to incorporate and be governed by these Conditions.

“Products” means all equipment, parts, materials, supplies, software, firmware and other goods Seller has agreed to supply to Buyer under the Contract.

“Seller” means the entity providing Products or performing Services under the Contract. In these Terms and Conditions, Seller refers to BK Vibro America Inc.

“Services” means all services Seller has agreed to perform for Buyer under the Contract. “Site” means the premises where Products are delivered and/or Services are performed. “Terms and Conditions” means these Terms and Conditions for Sale of Products and Services.

2.0 Acceptance and Agreement

THESE CONDITIONS SHALL TAKE PRECEDENCE OVER ANY TERMS AND CONDITIONS WHICH APPEAR IN THE BUYER’S ORDER OR IN ANY DOCUMENTS INCORPORATED BY REFERENCE IN THE BUYER’S ORDER. No term or condition of the Buyer’s order additional to or different from these Conditions shall become part of any Contract unless explicitly agreed to in writing by the Seller. Retention by the Buyer of any Products delivered by the Seller, receipt by the Buyer of any Services performed by the Seller or payment by the Buyer of any invoice rendered hereunder, shall be conclusively deemed acceptance of these Conditions. The Seller’s failure to object to any provision contained in any communication from the Buyer shall not be construed as a waiver of these Conditions nor as an acceptance of any such provision.

3.0 Terms of Sale

3.1 Prices. Unless otherwise specified in writing and notwithstanding anything to the contrary contained in this Section, all quoted prices for Products or Services shall be valid for thirty (30) days from the date of offer by Seller. Seller reserves the right to change the price quotation for a Product to Seller’s price in effect for the Product at the time an order is released to final manufacture. Prices for Products not manufactured by Seller will be the price of such Product at the time the Product is shipped to Buyer. Seller is not responsible for errors of its employees or contractors with respect to the verbal pricing or quotation of Product or Services and Seller will not be bound by the terms of such errors.

3.3 Documentation. Seller shall provide Buyer with the data/documentation which is specifically titled in the quotation. Additional copies of standard data/documentation or requests for special data/documentation will be made available to Buyer at additional cost.



Documentation includes, but is not limited to, drawings, specifications, instruction manuals, training materials, and other such data or artwork furnished to the Buyer or the Buyer's subcontractors. The definitions and restrictions set forth shall apply regardless of the type of media on which the documents are provided.

Documents provided to the Buyer, or copies of copyrighted material(s) made by the Buyer, may be used by the Buyer or the Buyer's subcontractors only for the purpose of facilitating the fair use of the goods and services provided under this contract. Said documents contain information considered to be the Seller's confidential and proprietary property, and may not be disclosed to any other third party without written permission of the Seller.

3.4 Changes. Buyer's changes which affect the scope of this Agreement shall be submitted in writing by Buyer and shall become binding only if approved in writing by Seller. All charges and delays resulting from such changes shall be solely determined by Seller and shall be binding upon Buyer.

3.5 Taxes; Costs; Insurance. Quoted prices are exclusive of all city, state and federal sales, use, excise or similar taxes payable with respect to the sale, purchase, delivery, storage, processing, use, consumption or transportation of any of the Products or Services, as applicable. Quoted prices exclude shipping or transportation costs or insurance costs. Prices include standard packaging only. Any special handling or packaging requests will result in additional charges to Buyer. All government charges upon the services tendered by this Agreement, including, but not limited to, use, occupation, VAT, income, export and import taxes, shall be paid by Buyer or, in lieu thereof, Buyer shall furnish Seller with a tax exemption certificate acceptable to the authority imposing the tax on Seller. However, Buyer will reimburse Seller for any taxes incurred by it on the sale of a Product or Services to the extent such tax exemption certificate proves to be insufficient to the applicable taxing authority for any reason. Such reimbursement must occur within ten (10) days from the date Seller becomes aware of the invalidity of such tax exemption certificate. Any applicable customs fees, visa fees, brokerage fees, work permits, work taxes, or other taxes related to the project will be invoiced at cost.

At Buyer's request, Seller shall furnish Buyer with standard certificates of insurance demonstrating the Seller's insurance coverage.

3.6 Payment and Service Charge. Terms of payment shall be net thirty (30) days from date of invoice. All amounts due under a Contract shall be paid in full by the Buyer without deduction, withholding, set-off or counterclaim for any reason whatsoever, whether arising in contract, tort (including negligence), breach or statutory duty or otherwise, save as may be required by law. Seller may, in its sole discretion, determine at any time that Buyer's financial condition requires payment in advance, and, if such requirement is not met, may cancel the order or any part thereof and receive reasonable cancellation fees. If Buyer fails to pay any payment due hereunder when due, Seller may recover, in addition to the payment, interest thereon at the lesser of the rate of 1 1/2% per month or the maximum lawful monthly interest rate, and reasonable attorney's fees.

If Seller permits Buyer to purchase Products or Services on credit, Buyer shall provide Seller with such financial and business information Seller from time to time requests for the purpose of establishing and/or monitoring Buyer's creditworthiness. If the credit or financial responsibility of Buyer becomes impaired or otherwise unsatisfactory to Seller, or Buyer shall fail to keep or perform any terms or conditions of this or any other agreement with Seller on its part to be kept or performed, Seller may, at its option, require advance cash payment for Products or Services, specify other credit terms or demand satisfactory security be given by Buyer. Should Buyer fail to make such advance payment, refuse to agree to other credit terms specified by Seller or fail to provide security upon demand therefore, Seller may withhold or cancel further delivery of Products or Services to Buyer in accordance with Section 3.7.

3.7 Suspended Delivery. Seller may suspend or discontinue delivery of any further Products or Services to Buyer if Buyer fails to make a payment to Seller for either the Product or Services to be delivered or any Products or Services previously delivered. Suspended or discontinued delivery will continue until Seller receives full payment from Buyer or if Seller receives assurances adequate to Seller of performance from Buyer.

3.8 Setoff. Seller will have the right to setoff and apply any funds received from Buyer for the benefit of any other overdue accounts or amounts owed to Seller by Buyer.



4.0 Title; Risk of Loss

4.1 Shipment and Risk of Loss: With the exception of Third-Party Products as defined by our warranty policy, all sales are F.C.A. Origin. Shipping contracts made by Seller shall be to Buyer's account. All claims for loss or damage after risk of loss has passed to Buyer shall be filed by Buyer with the carrier. Buyer shall be liable to Seller for the full price of the goods, irrespective of loss or damage in transit. Seller shall not be required to provide freight cost receipts to Buyer at the time of invoice.

4.1.1 Transportation Expenses: Transportation expenses shall be paid by the Buyer. Seller shall select the carrier. Full insurable values shall be declared with the resultant insurance premiums being paid by Buyer. Shipping and insurance charges shall be prepaid by Seller and added to the Buyer's invoice at cost, unless otherwise specified by Buyer.

4.1.2 Schedules: Dates quoted by Seller are estimated based upon Buyer's specified requirements at time of order acceptance. Delays in receipt of approvals and/or information, changes that result in delays, or requested deferment of schedules may cause additional expense to Seller; Seller shall be entitled to an extension of time, and reimbursement of costs as defined in Clause 3.4 entitled "Changes".

4.2 Security Interest. Buyer grants to Seller a purchase money security interest in all Products being purchased by Buyer pursuant to NRF 104.9103. These Terms and Conditions constitute a contract and security agreement, and Buyer hereby authorizes and appoints Seller as its attorney-in-fact to sign on Buyer's behalf appropriate financing statements and to file those financing statements with the appropriate agency to perfect the security interest herein granted.

4.3 Software/Firmware Licenses. Seller retains exclusive title to all software and firmware incorporated into the Products and Buyer will have no right, title or interest with respect to the software or its associated source code, except for the licenses described below.

Buyer is hereby granted a nonexclusive, royalty-free, non-transferable, revocable license to use the firmware and object code software incorporated into the Products only when operating the Products in the configuration in which the Products are sold by Seller or subsequently upgraded by Seller or its authorized service persons. Seller reserves the right to require an additional license and fee for use of software on updated, upgraded or otherwise enhanced computers, processors or controllers. Buyer may not duplicate, decompile, disassemble or in any fashion reverse engineer software object code or firmware or otherwise attempt to discover the underlying source code or logic of the software or firmware.

4.4 Third Party Licenses. Certain of the Products incorporate third party firmware or software. As a result, license terms other than those of Seller will govern the terms of such firmware or software and such terms may be materially different from those set forth in Section 4.3.

5.0 Delivery; Inspection; Acceptance

5.1 In General. Unless otherwise quoted in writing, Buyer is solely responsible for receiving, storing, installing, starting up and maintaining all Products.

5.2 Termination and Suspension: Buyer may terminate or suspend performance at Buyer's convenience only with the written consent of the Seller (which consent the Seller may withhold for any reason) and the Buyer shall be responsible for all reasonable cancellation charges, which charges shall be solely determined by Seller.

Seller shall have the right without penalty or payment to cancel any order accepted (i) if Buyer fails to make any payment when due to Seller under the contract or any other contract (ii) if any acts or omission of Buyer delays Seller's performance, (iii) if Buyer commits a breach of these Terms and Conditions, or (iv) if Buyer's credit becomes impaired; and in the event of such cancellation Seller shall be entitled to receive reimbursement for its reasonable and proper cancellation charges.



5.3 Inspection. Buyer may make reasonable inspections of goods at Seller's factory. Seller reserves the right to determine the reasonableness of the request and to select an appropriate time and location for such inspection. All costs of inspection shall be solely determined by Seller and shall be to Buyer's account. No inspection or expediting by Buyer at the facilities of Seller's Sellers is authorized.

Additional tests including Factory Acceptance Tests or demonstrations requested by Buyer are not part of any contract unless separately identified and priced. Unless Buyer objects in writing at the conclusion of such tests or demonstrations, specifying the nature of its objections, Buyer shall be deemed to have accepted the System.

Buyer shall be responsible for receiving, storing, installing, commissioning and maintaining all equipment.

Unless otherwise specified in Seller's invoice or packing slip, Buyer will be entitled to inspect all Products for their substantial conformity to the terms of Buyer's purchase order after the arrival of the Products at Buyer's facility; provided, however, the failure of Buyer to exercise its post-arrival inspection rights within ten (10) days following arrival of the Products, and to advise Seller in writing of all defects in or objections to the Products which may be disclosed by such inspection within that same ten (10) days, shall constitute full, final and complete acceptance of the Products, and Buyer shall not thereafter be entitled to reject the Products (or any portion thereof) or to revoke its acceptance thereof with respect to any defects which could have been discovered by such inspection.

5.4 Rejection/Product Damage. Buyer may reject Products it inspects in accordance with Section 5.3 only to the extent it discovers a material defect of the Products. Any claims regarding material defects must be made within thirty (30) days from the date of Buyer's receipt of the Products or Buyer will be deemed to have waived such claims.

6.0 Limitation of Liability

6.1 In General. SELLER SHALL NOT BE LIABLE FOR DAMAGES CAUSED BY DELAY IN PERFORMANCE. THE SOLE AND EXCLUSIVE REMEDY FOR BREACH OF WARRANTY HEREUNDER SHALL BE LIMITED TO REPAIR, CORRECTION OR REPLACEMENT OR REFUND OF PURCHASE PRICE, SUBJECT TO OFFSET FOR BUYER'S USE, UNDER OUR LIMITED WARRANTY CLAUSE. IN NO EVENT, REGARDLESS OF THE FORM OF THE CLAIM OR CAUSE OF ACTION (WHETHER BASED IN CONTRACT, INFRINGEMENT, NEGLIGENCE, STRICT LIABILITY, OTHER TORT OR OTHERWISE), INCLUDING REASONS ATTRIBUTABLE TO SELLER, SHALL SELLER'S LIABILITY TO BUYER EXCEED THE PRICE PAID TO SELLER BY BUYER FOR THE SPECIFIC PRODUCTS MANUFACTURED OR SERVICES PROVIDED BY SELLER GIVING RISE TO THE CLAIM OR CAUSE OF ACTION. BUYER AGREES THAT IN NO EVENT SHALL SELLER'S LIABILITY TO BUYER AND/OR ITS CUSTOMERS EXTEND TO INCLUDE INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES. THE TERM "CONSEQUENTIAL DAMAGES" SHALL INCLUDE BUT NOT BE LIMITED TO LOSS OF ANTICIPATED PROFITS, LOSS OF USE, LOSS OF SAVINGS, LOSS OF REVENUE AND COST OF CAPITAL. Buyer agrees that the Seller's total liability for any and all losses and damages arising out of any and all causes whatsoever including, without limitation, defects in the goods, services, software, documentation, or site work supplied under this Agreement, shall in no event exceed the purchase price of the applicable item(s).

6.2 Force Majeure. Seller shall not be liable for either direct or Consequential Damages caused, either directly or indirectly, as a result of: (i) any act of God, including but not limited to natural disasters such as floods, earthquakes or tornadoes; (ii) failure of supplies or transportation, or governmental action; (iii) damages resulting from or under the conditions of labor disputes, strikes, riot, insurrection, civil commotion or war; (iv) damages or improper operation due to intermittent power line voltage, frequency, electrical spikes or surges, unusual shock or electrical damage; (v) accident, fire or water damage, neglect, corrosive atmosphere or causes other than ordinary use; or (vi) any other causes beyond Seller's reasonable control. If due to such circumstances or events the Seller has insufficient stocks to meet all of its commitments the Seller may apportion available stocks between its customers at its sole discretion.



6.3 Limitation on Claims. Any litigation proceedings with respect to defective or nonconforming Products or any other claim, whether based in contract, tort, warranty, strict liability, negligence or otherwise, must be filed by Buyer within twelve (12) months from the date of shipment of the Products or such claim will be precluded by limitations.

6.4 Limitation on Warranty Claims. Prior to any obligation of Seller to perform any limited warranty service as set forth herein, Buyer must have (i) paid all invoices to Seller in full, whether or not they are specifically related to the Product at issue and (ii) notified Seller of the limited warranty claim within thirty (30) days from the date Buyer knew or had reason to know of the defect.

7.0 Indemnification

7.1 In General. Seller will not be liable for losses of Buyer resulting from the installation or use of Products or the performance of Services. Buyer will unconditionally release, indemnify, defend and hold Seller harmless from and against any and all claims, demands, suits, losses, liabilities, judgments, damages, costs and expenses (including without limitation court costs, litigation expenses and attorneys' fees) and causes of action for injury, death or property damage caused by the fault, strict liability, gross negligence, negligence or any act or omission of Buyer, its subcontractors, or any of their respective employees, agents or invitees, asserted by any third party or other person or entity, including without limitation Buyer, its subcontractors, or any of their respective employees, agents or invitees, as a result of, arising directly or indirectly from, or incidental to the sale, delivery, installation or use of the Products or Services sold by Seller to Buyer.

7.2 Buyer's Intellectual Property Infringement. Buyer will unconditionally release, indemnify, defend and hold Seller harmless from and against any and all claims, demands, suits, losses, liabilities, judgments, damages, costs and expenses (including without limitation court costs, litigation expenses and attorneys' fees) asserted by or arising in favor of any person or entity for or as a result of infringement or alleged infringement of any patents, copyrights or trademarks, or misappropriation or misuse of any trade secrets or other confidential information, based on or related to the use or application by Buyer, its subcontractors, or any of their respective employees, agents or invitees, of any processes, compositions, equipment, machines, articles of manufacture or computer software that are combined with Products or are integrated with Products by Buyer in the practice of a process.

8.0 Confidentiality

Each party undertakes to keep confidential, not use for its own purposes and not without the prior written consent of the other party disclose to any third party, any information of a confidential nature belonging or relating to the other party which may become known to it unless such information is or becomes public knowledge (other than by breach of this Section) or is required to be disclosed by order of a competent authority.

9.0 General Provisions

9.1 Product Changes. Seller, in its sole discretion, may modify the design and construction of its Products and will have no obligation to retrofit previously sold Products.

9.2 Electronic Data Interchange. Buyer and Seller may execute an order acknowledgement by transmitting and receiving the data contained in the order acknowledgement electronically rather than in paper form. To provide the legal validity and enforceability of such order acknowledgement, Buyer and Seller further agree the data transmitted herein will be considered "in writing" and to have been "signed." Buyer and Seller agree not to contest the validity or enforceability of an order acknowledgement because of the electronic origination, transmission, storage or handling of such order acknowledgement.

9.3 Buyer Data. If any data supplied by Buyer, whether in the form of Buyer specifications or pursuant to any purchase order or other documentation, proves to be inaccurate, any warranties or other related obligations of Seller made in reliance thereon will be void.



9.4 Governmental Procurement. No governmental procurement regulations or contractual clauses will be binding upon either Seller or Buyer unless such regulations or clauses are required by law or are mutually agreed to by Seller and Buyer.

9.5 Export. Buyer agrees to comply with all applicable export and re-export control laws and regulations, including the Export Administration Regulations (“EAR”) maintained by the U.S. Department of Commerce, trade and economic sanctions regulations maintained by the Treasury Department’s Office of Foreign Assets Control (“OFAC”) and the International Traffic in Arms Regulations (“ITAR”) maintained by the Department of State. Buyer shall not, directly or indirectly, sell, provide, export, re-export, transfer, divert, loan, lease, consign, or otherwise dispose of any BK Vibro America Inc product, material, services, software including source code, or technology to or via any person, entity, or destination, or for any activity or end-use restricted by any applicable laws or regulations (including those applicable to nuclear, missile, chemical or biological weapons proliferation, military, or money laundering activities) without first obtaining all required government authorizations. Buyer agrees to indemnify Seller for any fines, penalties, claims, losses, damages, costs (including legal costs), expenses and liabilities that may arise as a result of Buyer’s breach of this Section.

9.6 Governmental Compliance. Buyer agrees to comply with all laws, rules and regulations of applicable governmental authorities including but not limited to antitrust and anti-corruption laws.

9.7 Disclaimer of UN Conventions. In accordance with Article 6 of the United Nations Convention on Contracts for the International Sale of Goods, Seller and Buyer exclude the application of such convention to these Terms and Conditions, including all terms, obligations, requirements and duties that may be said to exist or arise from such convention. In accordance with Article 3(2) of the Convention on the Limitation Period in the International Sale of Goods, Seller and Buyer exclude the application of such convention from these Terms and Conditions, including all terms, obligations, requirements and duties that may be said to exist or arise from such convention.

9.8 Assignment. Buyer may not assign, transfer, or novate or otherwise dispose of all or any of its rights, benefits or obligations resulting from these Terms and Conditions without the prior written consent of the Seller.

9.9 Entire Agreement. These Terms and Conditions represent the entire agreement and understanding relating to the sale of Products as between Seller and Buyer. No parol evidence, outside understandings or literature, or prior, present or future course of dealings may vary these Terms and Conditions.

9.10 Survival. Any sections of these Terms and Conditions which are intended to survive the termination or cancellation of this Contract shall survive such termination or cancellation.

9.11 Non-waiver of Default. Any failure by Seller at any time, or from time to time, to enforce or require the strict keeping and performance of any of the terms or conditions of these Terms and Conditions or to exercise a right hereunder, shall not operate or be construed as a waiver of such terms, conditions or rights, and shall not affect or impair Seller’s right at any time to enforce same.

9.12 Severability. If any one or more of the provisions or subjects contained in the Agreement shall for any reason be held invalid, or unenforceable such unenforceability or invalidity shall not affect the enforceability of any other provision.

9.13 Governing Law Jurisdiction; Venue. The validity, performance and construction of the contract shall be governed by the laws of the State of Nevada, except for its conflicts of laws principles. If any provision of these Terms and Conditions is held to be unenforceable, such holding shall not affect the enforceability of any other provision. Any legal presumption that terms in this contract shall be strictly construed against the party who drafted such terms or who benefits from such terms shall not be employed in construing and interpreting this contract. Prior to commencement of any legal proceedings, Buyer and Seller shall meet at a senior level to attempt to resolve differences. Notwithstanding any attempts to resolve differences or negotiations regarding such differences, any action brought by Buyer against Seller arising out of this contract or Buyer’s purchase and use of the products must be commenced within one year after such action accrues and in no event later than two years after date of shipment of such products.



Each of the parties consents and submits to the jurisdiction of the state and federal courts located in Nevada in connection with any suits or other actions arising between the parties to this Agreement, and consents and waives any objections to the venue of such action or proceeding in such courts. The prevailing party in any legal action brought by one party against the other will be entitled, in addition to any other rights and remedies it may have, to reimbursement for its expenses incurred thereby, including court costs and reasonable legal fees.

No action, regardless of form arising out of transactions under this Agreement, may be brought by either party more than two (2) years after the cause of action has occurred. If goods supplied hereunder are used in a nuclear power generation facility, Buyer fully indemnifies Seller pursuant to Seller's Standard Nuclear Liability Form.

10.0 Warranty Policy

10.1 Limited Warranty – Products

Seller offers a limited warranty on each of its Products and their parts against failure due to defects in material and workmanship or for failure of its Products and their parts to operate in accordance with Seller authored and published specifications for a period ending thirty-six (36) months from the date of the invoice relating to the sale of the Product (the "Initial Warranty").

During the Initial Warranty, Seller provides a limited warranty against failure due to defects in material and workmanship on each part of a Product repaired or replaced by a Seller authorized service person for a period ending the later of (a) the remaining term of the Initial Warranty of the Product and (b) ninety (90) days from the date of such repair or replacement.

The foregoing limited warranties cover parts and labor only and Buyer shall promptly reimburse Seller for any costs relating to access by service persons of Seller to the Product at issue. The foregoing limited warranties cover only the repair or replacement of defective parts and such determination will be in the sole discretion of Seller. In its sole discretion, Seller may make repairs or replacements under these limited warranties with either new or refurbished parts. To the extent Buyer's covered Product cannot be remedied, as determined in Seller's sole discretion through repair or replacement of parts, Buyer may return the Product for a refund of the purchase price, less a reasonable reduction, as determined in Seller's sole discretion, in such purchase price equal to the depreciation expense incurred by Buyer relating to such Product. The limited warranties of this Section 10.1 are further subject to those warranty exclusions set forth below in Section 10.3.

10.2 Limited Warranty – Services

Seller agrees to perform service pursuant to this warranty for Buyer on the express condition that Seller's sole obligation will be that the Service will be performed in a professional and competent manner and will be of the kind and quality described in the final quotation. If there is a specific problem with the quality of the Service performed, Seller should be notified immediately and the Service will be repeated at no additional charge. Seller offers a 90 day limited warranty against failure due to defects in material and workmanship on the Services performed by Seller and/or its authorized service persons. In the event Seller performs Services hereunder, Buyer must provide adequate access to the Products requiring Services to allow Seller and/or its authorized service persons to perform the Services. Buyer shall promptly reimburse Seller for any costs relating to such access by Seller or authorized service persons of Seller to the Product requiring such Services. The limited warranties of this Section 10.2 are further subject to those warranty exclusions set forth below in Section 10.3.

10.3 Limited Warrant Exclusions

Excluding the warranties provided for in section 10.1, seller provides all products to buyer "as-is" and with all faults, without any other warranty of any kind. Seller disclaims any and all warranties or representations with respect to the Products and/or services provided hereunder, whether express or implied, arising by law, custom, oral or written statements or otherwise, including but not limited to warranties of merchantability, fitness for a particular purpose, freedom of interference with enjoyment, quality, accuracy, completeness, fitness of resulting work product, use and non-infringement of the intellectual property of others, or that the products or services will generate certain results, work in combination with other



components or as an integrated system or will fulfill any of buyer's particular purposes or needs. Seller makes no warranty, express or implied, as to the design, sale, installation or use of its products. Seller does not warrant the fitness, suitability or condition of buyer's machinery upon which the services are performed. Seller's warranties will not be enlarged by, nor will any obligation or liability of seller arise due to seller providing technical direction, facilities or service in connection with any product.

There is no warranty by Seller with respect to any Product's:

- (i) uninterrupted or error-free operation;
- (ii) actual performance, other than the Product's capability to meet Seller's specifications therefor;
- (iii) removal or installation from a worksite or process, or failure to provide a suitable installation environment; (iv) electronic components or associated accessories (including without limitation circuit boards and integrated circuits);
- (v) maintenance (including without limitation gasket and seal replacements, adjustments, minor repairs and other inspection requirements, preventative or otherwise);
- (vi) use under inappropriate conditions or not in accordance with operating instructions; or
- (vii) use in connection with the operation of a nuclear facility.

There is no warranty for labor expenses associated with field repairs or the repair or replacement of defective parts in the engine or power unit of any Product if such Product has been in the possession of the Buyer for greater than twelve (12) months. There is no warranty for Products determined to be, in Seller's sole discretion, damaged as a result of

- (a) misuse, neglect or accident;
- (b) improper application, installation, storage or use;
- (c) improper or inadequate maintenance or calibration;
- (d) operation outside of the published environmental specification;
- (e) damage caused by disasters such as fire, flood, wind and lightning;
- (f) improper site preparation or maintenance;
- (g) unauthorized repairs or replacements;
- (h) modifications negligently or otherwise improperly made or performed by persons other than Seller; (i) Buyer supplied software or supplies;
- (j) use in conjunction with or interfacing with unapproved accessory equipment or attachments; or
- (k) use of ABC-style or dry powder fire suppression agents.

Seller provides no warranty on the oral representations made by its personnel while they are attempting to assist Buyer in the operation of a Product. The limited warranties contained in this Warranty Policy do not apply to items consumed by the Products during their ordinary use, including but not limited to fuses, lamps and batteries.

10.4 Non-Seller Products

Seller does not in any way warrant Products it does not manufacture except to the extent the warranty of the manufacturer of the Product at issue passes through or is otherwise assigned to Seller. If a manufacturer warranty is so assigned to Seller, Seller will only be bound to comply with the length of time associated with such warranty. Buyer agrees and accepts such limitations and further agrees to hold Seller harmless for any claims or damages beyond such limitation.

10.5 Expenses on Non-Warranty Work

All repairs or replacements by Seller after the expiration of any applicable limited warranty period will be performed in accordance with Seller's standard rate for parts and labor. Further, if upon Seller's inspection and review, Seller determines the condition of the Products is not caused by a defect in Seller's material and workmanship, but is the result of some other condition, including but not limited to damage caused by any of the events or conditions set forth in Section 10.3, Buyer shall be liable for all direct expenses incurred by Seller to conduct the inspection and review of the Product.



10.6 Exclusive Remedy

The foregoing limited warranty constitutes buyer's exclusive remedy with respect to products and services sold by seller and seller's liability shall be exclusively limited to the written limited warranties specified herein.

No employee, representative or agent of Seller is authorized to either expressly or impliedly modify, extend, alter or change any of the limited warranties expressed herein to Buyer.

10.7 Procedure and Costs

All limited warranty claims must be made in writing promptly following discovery of any defect. Buyer must hold defective Products for inspection by Seller. No Products will be sent to Seller for inspection unless Seller has authorized Buyer to do so. All returned merchandise must be sent freight prepaid by Buyer, properly boxed to prevent damage in transit, to Seller's service office. Any returns by Buyer will be at Buyer's expense and Buyer will remain liable for any loss of or damage to the Product during its transportation to Seller. After repair or replacement, Seller will return the part or component, freight prepaid, to Buyer. Alternatively, Buyer may desire on-site work, in which case Buyer shall promptly notify Seller and Seller shall arrange a service call to the facilities of Buyer at Seller's earliest convenience. In connection with such service call, Buyer will be required to pay time, travel and per diem for service personnel to travel to Buyer's facility, where the actual warranty service will be performance at no charge.



Addendum A

A1. Factory Acceptance Testing (“FAT”):

- (a) *Commencement of FAT; Changes.* Unless otherwise stated in the order, FAT will be conducted at Supplier’s site in Minden, NV (“**FAT Site**”). FAT will commence within three (3) months of the date of the order or as otherwise mutually agreed.
- (b) *FAT Protocol; Approval.* Buyer will approve FAT protocol and procedures (“**FAT Documentation**”) at least ten (10) working days prior to the commencement of FAT, and if not expressly approved, Buyer’s arrival at FAT Site will be deemed acceptance of the FAT Documentation. Any Buyer-requested changes to the FAT Documentation made less than 10 working days prior to the commencement of FAT will be billed to Buyer at the current hourly rate charged by Supplier.
- (c) *Single Pass Testing.* Unless otherwise stated in the order, FAT is priced at single pass testing. Additional or repeat testing (other than following a “no-pass” test result), audits or other procedures requested by Buyer in the FAT Documentation or at the FAT Site and not included in the FAT Documentation will be billed to Buyer at the current hourly rate charged by Supplier.
- (d) *Equipment.* Upon the determination of the date of commencement of FAT as provided above, Supplier will order and invoice Buyer all equipment, instrumentation and materials necessary for FAT as described in the order or made necessary by changes to the FAT Documentation (collectively, “**Project Equipment**”). Until FAT commences, the Project Equipment will be stored at a secure location at Supplier’s site, but dedicated for use with the order.
- (e) *Acceptance.* At the completion of FAT, a “pass” result for the test or tests requested by Buyer in the FAT Documentation or otherwise will be considered Buyer’s acceptance of the FAT (“**FAT Acceptance**”). Upon FAT Acceptance, unless notified in writing prior to shipment by Buyer, Supplier is authorized to ship the Project Equipment to Buyer’s site specified in the order. If a delay in shipment is requested by Buyer as provided in this section, Supplier will store the Project Equipment at a site selected by Supplier for up to thirty (30) days after Acceptance at no additional charge. After such 30-day period, Buyer will be billed a storage fee of one-half percent (0.5%) of the cost of the Project Equipment per week up to eight (8) weeks after Acceptance. Unless otherwise agreed in writing, after such 8-week period, Buyer must authorize Supplier to ship the Project Equipment or cancel the order. In the event of cancellation after FAT Acceptance, Buyer remains responsible to pay for the Project Equipment and all other charges permitted hereunder.

A2. Site Acceptance Testing (“SAT”):

- (a) *Commencement of SAT; Changes; Price Validity.* SAT will be conducted at Buyer’s site specified in the order (“**SAT Site**”) on a mutually agreeable date. The quoted price for SAT stated in the order is valid for ninety (90) days after FAT Acceptance. In the event that Buyer delays the commencement of SAT beyond such 90-day period, the SAT price is subject to increase at Supplier’s sole discretion.
- (b) *SAT Protocol; Approval.* Buyer will approve SAT protocol, procedures and validation (“**SAT Documentation**”) at least ten (10) working days prior to the scheduled commencement of SAT. The failure of Buyer to notify Supplier in writing of its desire to delay the commencement of SAT at least three (3) working days prior to Supplier’s scheduled arrival at the SAT Site will be deemed acceptance of SAT Documentation. Any Buyer-requested changes to SAT Documentation made less than 10 working days prior to the commencement of SAT will be billed to Buyer at the current hourly rate charged by Supplier. Any Buyer request to delay the commencement of SAT made less than three (3) working days prior to the scheduled commencement date of SAT will result in additional charges equal to Supplier’s personnel’s travel costs and any and all other costs incurred by Supplier associated with the cancellation of SAT.



- (c) *Commissioning.* Prior to SAT, Supplier's Installation Manager will review and confirm all aspects of the installation and functionality of the Project Equipment.
- (d) *Single Pass Testing.* Unless otherwise stated in the order, SAT is priced at single pass testing. Additional or repeat testing (other than following a "no-pass" test result), audits or other procedures requested by Buyer in the SAT Documentation or at the SAT Site and not included in the SAT Documentation will be billed to Buyer at the current hourly rate charged by Supplier.
- (e) *Acceptance.* At the completion of SAT, a "pass" result for the test or tests requested by Buyer in the SAT Documentation or otherwise and the delivery by Supplier to Buyer of any Project validation documentation will be considered Buyer's acceptance of the SAT ("**SAT Acceptance**"). Upon SAT Acceptance, Supplier's responsibility under the order is complete.

A3. Conditional Acceptance: Buyer and Supplier may mutually agree to a "**Conditional Acceptance**" of FAT or SAT under the following circumstances:

- (a) *Additional Testing:* If during FAT or SAT Buyer requests additional or extraordinary testing not included in the FAT Documentation or SAT Documentation (as the case may be), Supplier may require that Buyer "conditionally accept" the FAT or SAT prior to the performance of such testing. Conditional Acceptance means that upon a "pass" result for the FAT or SAT as stated in the applicable Documentation, Buyer is deemed to have accepted the FAT or SAT, as the case may be, for all purposes even if the additional or extraordinary testing results in a "no pass" result. Unless otherwise agreed in writing, Supplier does not guarantee a "pass" result for any additional or extraordinary testing.
- (b) *Expense:* Buyer may be responsible for the cost to perform such additional or extraordinary testing pursuant to Sections A1(b) and (c) and A2(b) and (d) above with regard to changes to the FAT or SAT Documentation.
- (c) *Satisfaction of Condition:* If Supplier agrees to perform the additional or extraordinary testing and such testing results in a "no-pass" result, Supplier will investigate the cause of the "no-pass" result. Buyer and Supplier will agree on resolution of and responsibility for the cost to correct the problem. In no event will any payment due to Supplier upon FAT Acceptance or SAT Acceptance be delayed due to a "no-pass" result under this Section A3.

A4. Buyer Responsibilities:

- (a) *Hazards.* Buyer will provide written notice to Supplier of any hazardous materials or environments at Buyer's site. Buyer will supply, at Buyer's expense, reasonable protection for Supplier's personnel against such hazards and appropriate training of Supplier's personnel for any special procedures and precautions necessary to perform the Services, including but not limited to, gowning procedures and corporate and site safety requirements. Seller reserves the right to refuse to dispatch personnel to worksites threatened by warfare, terrorist activities, or other unsafe conditions as determined by the Seller's management. A variety of factors will be considered in determining whether a location is hazardous, including whether the country within which the work is to be performed is under a "Travel Warning Status" as determined by the U.S. Department of State. Seller reserves the right to recall personnel if the worksite does not meet reasonable health and safety standards. Time spent in hazardous locations will be billed at applicable hazardous location rates.
- (b) *Utilities.* Buyer will provide Supplier, at Buyer's expense, all electrical power, water and other utilities necessary to perform the Services at Buyer's facility.
- (c) *Access; Overtime.* Buyer will provide Supplier with access to Buyer's site during normal working hours. Unless otherwise stated in the order, Services performed at Buyer's site after normal working hours will be billed at Supplier's overtime rate. Supplier's normal working hours while at Buyer's site are 8:00 a.m. to 5:00 p.m. (Buyer's time zone) or otherwise as agreed in writing between Supplier and Buyer.



- (d) Seller reserves the right to replace personnel after two weeks for offshore locations and three weeks for onshore locations at the Buyer's expense.
- (e) *Work Space.* Buyer will provide Supplier with the physical space at Buyer's site necessary to reasonably to perform the Services.

A5. Travel: Reasonable travel expenses for Supplier's personnel to Buyer's site are charged to Buyer. Additional costs may be incurred by Buyer if travel requirements or dates are changed by Buyer.

A6. Living Conditions. If meals and living accommodations are provided by the Buyer, Seller reserves the right to recall the Seller's personnel if the accommodations and meals are not suitable (as determined by the Seller's management). Seller reserves the right to make alternate arrangements at the cost of the Buyer if other accommodations are available.

A7. Buyer Equipment: Buyer is responsible for ensuring the performance, integrity and completeness of any Buyer-supplied equipment, instrumentation, software, documentation and other items used by Supplier in connection with its performance of the Services.

A8. Buyer Cooperation: Buyer and Supplier will use their best efforts to review, approve and exchange documents, data and other information necessary or helpful to Supplier's performance of the Services on a timely basis. Buyer acknowledges that the failure to timely turnaround documents necessary to Supplier's performance of the Services may adversely affect Supplier's ability to perform the Services or perform the Services within the deadlines set forth in the order. As such, Supplier has no liability for delay, or for failure to timely meet any milestones or other deadlines, and all applicable dates and deadlines will automatically be extended by the length of the delay should Buyer fail to comply with this Section A8. If Supplier cannot schedule Services within 6 months due to failure of Buyer to comply with this section the uncompleted Services of this Order will be cancelled.