

## STANDARD TERMS AND CONDITIONS OF PURCHASE

1. The party to which this Purchase Order ("Order") is addressed (herein referred to as the "Seller") by acceptance of this Order agrees that the purchase by **Integra Mission Critical LLC, a Texas limited liability company** its affiliated or parent companies (individually and collectively referred to herein as "Buyer") of the goods and services covered by the Order shall be governed by the following terms and conditions:

### 2. ACCEPTANCE; OTHER TERMS; CHANGE ORDERS

2.1 **Commencement of Performance.** Seller's commencement of performance of this Order shall constitute acceptance of all the terms and conditions of this Order without reservation, whether Seller has signed and returned a written acknowledgement. The Seller further agrees that acceptance of this Order constitutes a work for hire arrangement. The Seller's performance of this Order does not convey any right, title, interest in or license to Buyer's Confidential Information as described herein including, but not limited to, its Intellectual Property.

2.2 **Terms of Purchase.** This Order is an offer by Buyer to purchase the goods and services described in the Order only upon the terms and conditions contained in this Order without regard to any conflicting terms and conditions contained in Seller's quote or proposal for the goods or services the subject of this Order, even if such quote or proposal is referred to or attached to this Order, and Seller's acceptance of this Order shall be limited to such terms and conditions contained in this Order. Any terms set forth or contained in Seller's quotation, acceptance or otherwise which are additional to or different from those contained herein shall be of no force and effect and shall not be binding upon Buyer unless expressly agreed in writing by Buyer.

2.3 **Other Agreements.** In the event there is any other written agreement between Buyer and Seller in existence between Buyer and Seller with respect to Buyer's purchase of the goods or services described in this Order, then such other agreement shall govern such purchase only to the extent of any conflict between the terms and conditions contained in this Order and the terms and conditions contained in such other agreement.

2.4 **Buyer's Changes; Change Orders.** The Buyer may, at any time, unilaterally change the terms and conditions of this Order, including, without limiting changes in (i) the technical specifications of the goods and/or services covered by the Order, (ii) quantities, (iii) methods of shipping and/or packaging; (iv) inspection standards, and (v) place of delivery ("Buyer's Changes"). The change, together with any such adjustments, shall be set forth in a written Change Order issued by Buyer and acknowledged by Seller either in writing or by Seller's commencement of performance pursuant to the written Change Order, whether or not Seller has signed and returned a written acknowledgement. If any such change affects the purchase price or delivery date, then Buyer and Seller shall mutually agree upon adjustment of the same.

### 3. REIMBURSEMENT OF EXPENSES

3.1 **Reimbursement of Expenses.** If this Order provides for reimbursement of Seller's expenses, such expenses must be incurred in accordance with our corporate policies, which are available upon request.

### 4. SHIPPING, INSURANCE, TRANSFER OF TITLE, AND DUTY DRAWBACKS

4.1 **Incoterms.** All shipping terms in this Order refer to the International Chamber of Commerce, *Incoterms 2020*®. Title to goods will pass to Buyer when delivery is complete according to section A4 of the applicable Incoterm as described in *incoterms 2020*®. If the designated Incoterm requires cargo insurance, Seller must purchase insurance under Clause A of the applicable Incoterm.

4.2 **Over Shipment and Early Shipment.** If Seller ships more goods than ordered, or if Seller delivers the goods earlier than ordered, Buyer may purchase some or all the goods or return some or all of the goods to Seller at Seller's risk and expense.

4.3 **Duty Drawbacks.** The Buyer reserves the right to any duty drawbacks.

4.4 **Packaging and Labeling.** The Seller must package all goods in accordance with good commercial practice and in a manner acceptable to common carriers for shipment at the lowest rate for the goods involved, and adequate to insure safe arrival of the goods to their destination. Each shipment must be adequately labeled to identify it with this Order.

### 5. TIME IS OF THE ESSENCE, TERMINATION

5.1 **Time is of The Essence.** Time is of the essence under this Order. If Seller does not deliver the goods in full and in conformity with the Purchase Order by the delivery date specified in the Purchase Order, Buyer may at its option charge Seller a penalty in the amount of 0.50% of the price of the Purchase Order per day of delay, but not to exceed 10.0% of the price of the Purchase Order.

5.2 **Termination and Cancellation.** Buyer may terminate or cancel this Order in whole or in part if Seller does not deliver the goods or perform the services in full and in conformity with this Order within the time specified in this Order or, if no time period is specified, within a reasonable time. If Buyer terminates this Order for default and it is later determined that Seller was not in default, Seller's rights will be construed as if the termination was for Buyer's convenience. The Buyer may cancel this Order, in whole or in part, at any time for its convenience within thirty (30) days from its issuance. If Buyer terminates or cancels this Order for any reason after thirty (30) days, Buyer will reimburse Seller's actual reasonable out-of-pocket costs that are not capable of being mitigated. To be reimbursed, Seller must submit its written request for reimbursement within thirty (30) days after Buyer's notice of termination or cancellation. Upon receipt of Buyer's notice, regardless of the reason, Seller must immediately stop all work in progress and use its best efforts to mitigate any costs

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associated with the termination. Buyer has the option to purchase Seller's work in progress, including any raw materials Seller may have obtained to use in Seller's work. Buyer's price to purchase Seller's work in progress will be a prorated price based on the percentage of work remaining to be completed. Buyer's price to purchase any raw materials will be Seller's actual cost. The Seller is not entitled to any other remedy for termination of this Order except as provided in this Subsection 5.2.

### 6. WARRANTIES

**6.1 Warranty Period.** Except for latent defects, fraud or such gross mistakes of Seller as amount to fraud, notice of any claim based on the warranties under this Order must be given by Buyer to the Seller within eighteen (18) months following delivery to the Buyer or twelve (12) months from commencement of use or receipt of satisfactory qualification test reports, whichever is later.

**6.2 Warranty - Goods.** Seller warrants that (a) the goods shall be of high quality and workmanship within recognized industry standards, free from defect, of merchantable quality and fit for the intended purpose or use for which they are purchased to the extent such purpose or use is known, or reasonably known, to Seller; (b) the goods shall fully comply with any data, reference to data or specifications provided by Buyer and/or any samples or documentation provided by Seller; (c) the goods shall be conveyed with clear title, free of lien or encumbrance of security interest upon delivery of the goods to Buyer or other party authorized by Buyer; and (d) the goods shall not violate any intellectual property rights of any third party.

**6.3 Warranty – Services.** Seller warrants that: (a) any services provided under this Order shall be performed in a professional and a workmanlike manner and in full conformance with any specifications or requirements provided by Buyer or any documentation provided by Seller; and (b) the performance of the services will not violate any intellectual property rights of any third party, or any duty of confidentiality Seller owes to a third party.

**6.4 Other Warranties.** The warranties listed above are in addition to any other warranties made by Seller or imposed by law, whether expressed or implied, and such warranties shall survive inspection, testing acceptance of, and payment for the goods and shall accrue to and be assignable to Buyer's successors and assigns.

**6.5 Remedies.** If any goods or services do not comply with the warranties, Buyer may, at its option, and without additional cost to it, (a) require Seller to repair or replace the goods such that the goods will conform to the warranties, (b) require Seller to re-perform any services until the services conform to the warranties, (c) return any non-conforming goods to Seller at Seller's expense for a full refund. The remedies listed above are in addition to any other remedies available to Buyer at law or in equity. Buyer's review and/or approval of Seller's materials or designs shall not relieve Seller of its responsibilities hereunder.

### 7. INTELLECTUAL PROPERTY INDEMNIFICATION

**7.1 Confidential Information and Intellectual Property Indemnification.** Seller will defend and indemnify (including attorneys' fees) Buyer, its parent and affiliates against any claim alleging that Buyer's goods or services infringe or violate a patent, copyright, trademark, trade secret, or any other contractual right, proprietary right or intellectual property right of any third party. Confidential Information means: Confidential Information is any technical and business information relating to proprietary ideas, concepts or other Intellectual Property, patentable ideas and/or trade secrets, existing and/or contemplated products and services, research and development, planned research and development, production, costs, profit and margin information, finances and financial projections, business processes, clients, customers, prospective customers, customer lists, marketing, current or future business plans and models such information is designated as Confidential Information at the time of disclosure. Any information disclosed by oral communications shall be protected as Confidential Information under this Order, if the Seller should have reasonably understood that the information was confidential considering the nature of the information and the circumstances surrounding the disclosure. Intellectual Property is all forms of intellectual property, including, collectively, all copyrights, inventions, know-how, mask works, patents, and trade secrets, including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist now or in the future in any part of the world. All information transmitted to Seller by Buyer is deemed Confidential Information, and all such transmission constitutes a warranty to the party receiving such Confidential Information that the transmitting party is authorized to transmit the Confidential Information. If the Seller receives Confidential Information, the Seller shall keep the Confidential Information strictly confidential and shall not disclose it to any other person or entity except as set forth in herein.

**7.2** The Seller acknowledges that Buyer's Confidential Information includes its Intellectual Property which includes the Equipment that is the subject of this Order. The Seller may disclose the Confidential Information as required by law or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity. Seller may also disclose the Confidential Information to its employees, consultants, representatives, contractors or other third party in order to perform the products or services Except as permitted hereunder or under a written agreement with Buyer, Seller agrees it will not copy, transfer, distribute, reproduce, reverse engineer, decrypt, decompile, disassemble, create derivative works from or make any part of Buyer's Intellectual Property available to others.

### 8. LIENS AND RELATED CLAIMS

**8.1 Liens and Related Claims.** Seller agrees to pay or cause to be paid all valid claims for payment

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arising out of or in connection with labor, material, supplies and/or services provided by Seller in connection with this Order. Seller agrees that it will not permit and agrees to fully release, defend, indemnify (including attorney's fees, filing fees and other related expenses) and hold harmless Buyer, its parent and affiliates and each party for which Buyer is working, from and against any and all claims, liens, encumbrances, demands, causes of action, liabilities and damages of every kind and character ("Liens") of any kind that are asserted, affixed or filed against any property of Buyer (including, without limitation, any vessel) or the lease on which operations are conducted by Buyer or any property of others, including any party for which Buyer is working, arising out of or in connection with, labor, material, supplies and/or services provided by Seller and/or its subcontractors in connection with this Order. If Seller fails or refuses to pay any such claim and/or if any such Lien is asserted, affixed, or filed, Buyer has the right to withhold the amount of the claim and/or Lien from any money due or to become due to Seller and pay such claim and/or discharge any such Lien. Before any payment is made to Seller under this Order, Buyer may require that Seller furnish evidence satisfactory to Buyer that there are no unsatisfied claims for labor, materials, equipment, and supplies or for injuries to persons or property not covered by insurance in connection with this Order.

### 9. GENERAL INDEMNIFICATION:

9.1 Seller shall be liable in any case of illness, injury or death to Seller's employees and in any case of loss or damage to Seller's property arising out of or relating to the performance of the work or services under this Order when either party is present at the other party's facilities and REGARDLESS OF WHETHER CAUSED OR BROUGHT ABOUT BY BUYER'S NEGLIGENCE OR ANY OTHER THEORY OR LEGAL LIABILITY, INCLUDING STRICT LIABILITY and the Seller shall defend, protect, indemnify and hold harmless Buyer, its parent, subsidiary and affiliated companies and all of their officers, directors, employees and representatives from and against any loss, claim, suit, judgment, award or damage (including reasonable attorney's fees) on account of such illness, injury, death, loss or damage.

9.2 Buyer shall be liable in any case of illness, injury or death to Buyer's employees and in any case of loss or damage to Buyer's property arising out of or relating to the performance of the work or services under this Order when either party is present at the other party's facilities and REGARDLESS OF WHETHER CAUSED OR BROUGHT ABOUT BY SELLER'S NEGLIGENCE OR ANY OTHER THEORY OR LEGAL LIABILITY, INCLUDING STRICT LIABILITY, and the Buyer shall defend, protect, indemnify and hold harmless Seller, its parent, subsidiary and affiliated companies and all of their officers, directors, employees and representatives from and against any loss, claim, suit, judgment, award or damage (including reasonable attorney's fees) on account of such illness, injury, death, loss or damage.

9.3 **CONSEQUENTIAL DAMAGES:** NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED ELSEWHERE HEREIN, EACH PARTY SHALL BE RESPONSIBLE FOR ITS OWN CONSEQUENTIAL, INCIDENTAL, INDIRECT OR PUNITIVE DAMAGES OF ANY KIND OR CHARACTER, INCLUDING, BUT NOT LIMITED TO, LOSS OF USE, LOSS OF PROFIT, LOSS OF BUSINESS OPPORTUNITIES, LOSS OF REVENUE, AND LOSS OF PRODUCT.

### 10. MISCELLANEOUS

10.1 **Governing Law.** This Order shall be governed by the law of the State of Texas, County of Dallas, without regard to its conflicts of law rules which would refer to another jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this order.

10.2 **Venue.** The sole and exclusive venue for the resolution of all disputes arising from or relating to this Order is in the state or federal courts located in Dallas County, Texas.

10.3 **Compliance with Laws.** The Seller must comply with all applicable laws in performance of its obligations under this Order.

**Assignment.** Seller may not assign its rights or delegate its obligations under this Order without the prior written consent of Buyer.