



General Terms and Conditions of Purchase

1. **APPLICABILITY.** These terms and conditions of purchase (the “Terms”, together with the terms and conditions on the face of the purchase order, the “Order”) are applicable and incorporated into all purchases made by ETI US Acquisition LLC, dba Essential Turbines, or any of its affiliated companies, (the “Buyer”) for the purchase of the materials, supplies, articles, equipment, structures, work, or services specified on the face of the Order (the “Goods”) from its vendors and suppliers to whom the Order is addressed (the “Seller”). These Terms, together with the terms and conditions on the face of the Order and any documents incorporated by reference, constitute the sole and entire agreement of the parties with respect to the Order, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral, with respect to the subject matter of the Order. These Terms also apply to any repaired or replacement Goods provided by Seller hereunder. Buyer is not obligated to any minimum purchase or future purchase obligations under this Order.

2. **ACCEPTANCE.** Seller has read and understands these Terms and agrees that Seller’s written acceptance or commencement of any work or service under the Order shall constitute Seller’s acceptance of these Terms, as well as any terms on the face of the Order from Buyer itself. All terms and conditions proposed by Seller which are different from or in addition to these Terms or the terms on the face of the Order are unacceptable to Buyer, are expressly rejected by Buyer, and shall not become a part of the parties’ agreement. If there is any conflict between the Order and the text of these Terms, these Terms shall control. The Order, together with these Terms, sets forth the complete and final agreement between Buyer and Seller in respect of the subject matter hereof; and no proposal to modify or supplement the Order via quotation, acknowledgement, previous agreement or modified terms and conditions shall be binding on Buyer, unless specifically agreed to in writing by an authorized representative of Buyer.

3. **PACKAGING AND SHIPPING INSTRUCTIONS.** All Goods shall be suitably packed and properly marked (including notice of hazardous substances) and otherwise prepared for shipment so as to secure reasonable and appropriate transportation rates and arrive at the designated destination without damage. Damage to any Goods not packed to ensure proper protection will be charged to Seller. No charge will be allowed for packing, crating, handling, or transportation unless stated in the Order. Each package must contain a memorandum showing the shipper’s name, contents of package, and Order number of Buyer. An itemized packing slip must accompany each shipment. All shipments of hazardous, materials shall comply with U.S. Department of Transportation regulations, and labeling shall meet the OSHA regulations as published in 29 C.F.R. 1910.1200, for the transporting and labeling of hazardous materials. All of the above and Material Safety Data Sheets shall be supplied by Seller. Shipping terms are F.O.B. Buyer’s address shown on the Order. Seller shall not insure any shipments or declare excess valuation on any shipments for Buyer’s account. Seller will be charged with any costs incurred by Buyer arising out of Seller’s failure to conform to the foregoing instructions. Any unauthorized deviation resulting in additional shipping cost shall be borne by Seller. Should the Seller fail to deliver the Goods by the Delivery Date, Seller shall make partial shipments as available by the fastest mode of transportation and shall be responsible for the resulting premium transportation charges. Upon Buyer’s request, Seller shall promptly provide Buyer all shipping documents, including the commercial invoice, packing list, bill of lading, and any other documents necessary to release the Goods to Buyer.

4. **DELIVERY AND DELAYS.** All Goods shall be delivered to the address specified in the Order (the “Delivery Location”) during normal business hours or as otherwise instructed by Buyer. Seller

shall deliver the Goods to the Delivery Location in the quantities and on the date(s) specified on the Order or as otherwise agreed in writing by the parties (the “Delivery Date”). Time is of the essence with respect to any delivery under this Order. Any quantity of Goods delivered to Buyer in excess of the quantity of Goods indicated on the Order may be returned to Seller at Seller’s cost. If any Goods are not delivered within the time specified in this Order, Buyer, in addition to any other remedies provided by law, may either (i) refuse to accept such Goods and cancel this Order, or (ii) cause Seller to ship the Goods by the most expeditious means of transportation, with any additional transportation charges paid for by Seller. Seller shall be responsible for the loss to Buyer due to Seller’s delayed delivery, including but not limited to, the cost to cover and any additional expedited delivery charges and any other losses, claims, damages, and reasonable costs and expenses directly attributable to Seller’s failure to deliver the Goods on the Delivery Date. Notwithstanding the foregoing, Seller shall not be liable for delays in delivery or failure to manufacture or deliver any Goods by the Delivery Date due to acts of God, acts of civil or military authorities, fires, floods, epidemics, war or riot, provided that the cause for such delay is outside of the control of Seller and reported in writing to Buyer within seven (7) calendar days from the commencement of such delay.

5. **TITLE AND RISK OF LOSS.** Title passes to Buyer upon delivery of the Goods to the Delivery Location. Risk of loss of Goods purchased hereunder shall be borne by Seller until the Goods are delivered to the Delivery Location. Provided, however, if the Goods purchased are explosive, inflammable, toxic, or otherwise hazardous, Seller shall hold Buyer harmless against all claims asserted against Buyer for any personal or property damage caused by such Goods or by the transportation thereof before unloading at Buyer’s facility.

6. **INSPECTION.** All Goods received by Buyer are subject to detailed inspection and testing. Seller agrees that Buyer shall have the right, at Buyer’s sole option, to enter Seller’s facility at reasonable times to inspect the Goods and to verify that the quality of the Seller’s work meets the Order requirements and satisfies applicable FAR and/or ISO9001:2000 or similar regulatory and customer requirements. The Buyer also has the right to inspect the Goods on or after the Delivery Date. Buyer, at Buyer’s sole option, may inspect all or a sample of the Goods, and may reject all or any portion of the Goods if it determines the Goods are nonconforming or defective. Buyer’s inspection of the Goods, whether during manufacture, prior to delivery, or within a reasonable time after delivery, shall not constitute acceptance of any work-in-process or the finished Goods. If Buyer rejects any portion of the Goods, Buyer has the right, effective upon written notice to Seller, to: (a) rescind the Order in its entirety; (b) accept the Goods at a reasonably reduced price; or (c) reject the Goods and require replacement of the rejected Goods. If Buyer requires replacement of the Goods, Seller shall, at its expense, promptly replace the nonconforming Goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective goods and the delivery of replacement Goods. If Seller fails to timely deliver replacement Goods, Buyer may replace them with goods from a third party and charge Seller the cost thereof and terminate the Order. This provision shall not affect the rights or liabilities of the parties under the Warranty provision. Payment for Goods prior to completion of satisfactory inspection and testing shall not be deemed acceptance of the Goods. Seller shall provide with each shipment a certificate stating: (i) that all Goods, including the designs, supplied by Seller have been inspected; (ii) they comply in all respects with the relevant specifications and/or drawings in accordance with the requirements of the Order; and (iii) all inspection and test results are available for examination by Buyer. Where Goods or processes are procured from others, Seller shall provide a certificate certifying these Goods and processes as above and that evidence of same is available for examination by Buyer.



7. PRICE. The price of the Goods or Services is the price stated in the Order (the "Price"). Unless otherwise specified in the Order, the Price includes all packaging, transportation costs to the Delivery Location, insurance, customs duties and fees, and applicable taxes, including, but not limited to, all sales, use, or excise taxes. No increase in the Price is effective, whether due to increased material, labor, or transportation costs or otherwise, without the prior written consent of Buyer. Seller warrants that the prices of the Order shall not exceed those charged by Seller to any other customers purchasing the same items in like or lesser quantities.

8. INVOICES. Seller's invoices and original bills of lading or express receipts shall be mailed not later than the day after each shipment is made. Individual invoices shall be issued for shipments applying against each Order. Buyer will pay for the Goods within forty-five (45) days after the Buyer's receipt of the applicable Invoice and the Goods. Invoice payment dates will be computed from the date the Goods and invoices are received by Buyer, whichever is later. Any applicable sales tax, duty excise tax, use tax, or other similar tax or charge, for which Buyer has not furnished an exemption certificate, must be itemized separately on Seller's invoices. Invoices for Goods or Services purchased hereunder shall be submitted in duplicate and shall contain the following information; (a) Buyer's Order number, (b) item numbers, (c) description of Goods or Services, (d) sizes, (e) quantities, (f) unit prices, (g) extended totals, (h) shipping dates, and (i) time and material charges. Buyer shall pay all properly invoiced amounts due to Seller within the time period set forth on the face of the Order, except for any amounts disputed by Buyer in good faith. Without prejudice to any other right or remedy it may have, Buyer reserves the right to set off at any time any amount owing to it by Seller against any amount payable by Buyer to Seller under the Order.

9. WARRANTIES. In addition to any warranty or representation that Seller expressly has extended to Buyer regarding the Goods or Services, Seller warrants to Buyer that all Goods will: (a) be free from any defects in workmanship, material and design; (b) conform to applicable specifications, drawings, designs, samples and other requirements specified by Buyer; (c) be fit for their intended purpose and operate as intended; (d) be merchantable; (e) be free and clear of all liens, security interests or other encumbrances; (f) not infringe or misappropriate any third party's trade secret, patent, trademark, copyright or other intellectual property rights; and (g) not have been superseded according to the most current parts list issued by the manufacturer as of the date of sale to Buyer. In addition, Seller acknowledges that Seller knows of Buyer's intended use and expressly warrants that the Goods have been designed, engineered, and built by Seller, based upon Buyer's stated use, and will be fit and sufficient for the particular purposes intended by Buyer. These warranties survive any delivery, inspection, acceptance, or payment of or for the Goods by Buyer. These warranties are cumulative and in addition to any other warranty provided by law or equity. Any applicable statute of limitations runs from the date of Buyer's discovery of the noncompliance of the Goods with the foregoing warranties.

10. REMEDIES. With respect to non-conforming or rejected Goods Seller specifically acknowledges it will be responsible for all incidental and consequential damages that result from a breach of warranty, and at Buyer's option: (a) Buyer may return such Goods to Seller for credit and Seller shall pay Buyer for all packing, handling, and transportation expenses and any payments made on any rejected Goods shall be immediately refunded to Buyer; (b) If Buyer finds it impractical to return defective Goods for repair or replacement within a reasonable time, it may perform necessary repairs and charge the reasonable cost thereof to Seller and Seller shall pay Buyer promptly for expenses incurred in remedying the non-conforming or rejected Goods; or (c) Seller, at its expense, shall, upon notification from Buyer, expeditiously replace any non-conforming or rejected Goods and shall be responsible for any costs necessary to replace or repair the Goods, including without

limitation, labor, materials, equipment, and transportation charges for the return of the defective or nonconforming Goods to Seller and the delivery of repaired or replacement Goods to the location of Buyer's choice. The remedies provided in this provision are in addition to, and not in limitation of, all other remedies provided in the Order or at law.

11. INDEMNITY. Seller shall defend, indemnify and hold harmless Buyer, its parent and affiliated companies, and their respective directors, officers, shareholders, members, employees, representatives, agents, successors, assigns, customers, and end-users, including anyone using any of Buyer's products or to which Buyer provides services utilizing the Goods purchased hereunder (collectively, "Indemnitees") from and against, all losses, liabilities, damages, injury, death, deficiency, action, judgment, interest, award, penalty, fine, costs and expenses (including but not limited to reasonable attorneys' fees and professional fees and costs, and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers) (collectively, "Losses") arising from or occurring in connection with: (a) infringement or misappropriation, or alleged infringement or misappropriation, of any patent, copyright, trade secret or other intellectual property right of any third party; (b) claims made by reason of injury or death to person(s) or damage to property suffered caused by or alleged to have been caused by defects in the design or manufacture of the Goods furnished hereunder or by any act or omission, negligent or otherwise, of Seller or any subcontractor of Seller or any of their employees, workmen, servants, or agents; (c) labor or material liens arising out of or on account of the Goods or of any work performed by Seller or any subcontractor of Seller; (d) fines and civil or criminal penalties arising out of the manufacture or delivery or performance by Seller of Goods or Services hereunder; and (e) Seller's breach of these Terms, including a breach of the warranties provided herein. Buyer's negligence shall not mitigate or otherwise invalidate Seller's liability under this provision. This duty to defend, indemnify, and hold harmless extends to any legal claim or proceeding, whether based on contract, warranty, infringement, strict liability in tort, negligence, or other legal theory, and also extends not only to third-party claims but also to any loss suffered directly by the Indemnitees. Buyer is entitled to control Seller's defense of Buyer hereunder.

12. INSURANCE. Seller shall maintain insurance coverage in amounts not less than the following: (a) Worker's Compensation at statutory limits for the state or states which this order is to be performed (or evidence of authority to self-insure); (b) employer's liability; (c) automobile liability insurance for all liabilities arising out of injury and death, as well as destruction of property for all automobiles owned, non-owned or hired by Seller; (d) comprehensive general liability insurance, including contractual liability insurance (broad or intermediate form), manufacturer's and contractor's liability insurance and completed-operations and products-liability insurance. All of the foregoing shall be in amounts satisfactory to Buyer. At Buyer's option, before starting work hereunder Seller shall furnish Buyer certificates of such insurance naming Buyer as an additional insured, which shall be with companies and in form satisfactory to Buyer. The certificates shall provide that thirty (30) calendar days written notice must be given to Buyer before cancellation of or material change in the coverages.

13. TERMINATION. Buyer may, with written notice, for whatever reason or no reason, with or without cause, at any time terminate this Order and/or any order.

14. LIMITATIONS OF LIABILITY. Any liability of Buyer for any breach of any term or condition imposed upon it, whether such term or condition is contained in this Order or otherwise, will not exceed the purchase price for the Goods in the Order. Buyer will not under any circumstances be liable for special, punitive, indirect, incidental, or consequential damages of any nature (including, without limitation, any loss of use, loss of contracts, loss of profit,



loss of revenue, loss of goodwill, loss of anticipated savings, increased costs, liabilities to third parties).

15. TOOLS, DRAWINGS, MATERIALS, ETC. Seller shall use all designs, tools, jigs, patterns, drawings, information, equipment, and other items (collectively, "Tooling") furnished by Buyer only in the production of the Goods or performance of services called for herein unless agreed otherwise. Buyer makes no warranty, express or implied, concerning the accuracy of any of the Tooling or information it furnishes. All work must be in strict accordance with specifications, regardless of any deficiency in Tooling supplied by Buyer. Title to all Tooling furnished shall remain with Buyer, and upon completion or termination of this order, all Tooling shall be returned to Buyer or disposed of in accordance with Buyer's directions. Seller shall assume all risk of loss of the Tooling or damage to persons or property (including to the Tooling) resulting in any way from Seller's possession or use of the Tooling, and Seller agrees to hold Buyer harmless from all claims due to injury or damage to any person(s) or property arising from the Tooling or use thereof and Seller agrees to pay for all repair, maintenance and replacement of such Tooling. Buyer may request Seller execute an appropriate confidentiality agreement with regard to Buyer information, proprietary rights, and/or repair development. Seller will identify and mark the Tooling as Buyer Tooling and will use and dispose of the Tooling only in accordance with Buyer's written instructions.

16. CHANGES. Buyer will have the right to make changes in any drawings, specifications, designs, blueprints, and other items for Goods and Services. If Seller believes that any such change affects the price or delivery date for such Goods, Seller must so notify Buyer in writing with adequate supporting documentation, within five (5) calendar days after receipt of Buyer's change. When Seller timely provides such notice, Seller must suspend performance of the change unless thereafter released, in writing, by Buyer to perform the change, and Buyer and Seller will 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 will be deemed waived unless submitted in writing within such five (5) calendar days after Seller receives direction from Buyer to make such changes. Seller must not suspend the unaffected portion of the Order while Buyer and Seller are in the process of making such changes and any related adjustments or at any time thereafter unless so instructed in writing by Buyer. The failure of Seller and Buyer to agree on an equitable adjustment for the change in no way affects Seller's responsibility to comply with and perform such change in accordance with the terms of the Order.

17. STOP WORK ORDER. Buyer may, at any time, by written order to Seller, require Seller to stop all or any part of the work called for by this Order for a period of up to ninety (90) days. Upon receipt of such a stop work order, Seller shall forthwith comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the Order during the period of work stoppage. An equitable adjustment shall be made in the delivery schedule or Order price, or both, and the Order shall be modified in writing accordingly, if (a) the stop work order results in an increase in the time required for, or in Seller's cost properly allocable to the performance of any part of this Order, and (b) Seller asserts a claim for such adjustment within thirty (30) days after the end of the period of work stoppage.

18. ASSIGNMENT AND SUBCONTRACTING. Seller shall not: (a) delegate any duty or assign this Order in whole or in part; (b) make any subcontract for furnishing Goods or Services hereunder; or (c) assign any claim arising or sum payable hereunder, without the prior written consent of Buyer.

19. COMPLIANCE WITH LAWS. In performing this Order, Seller warrants that it will comply with all applicable federal, state, and local laws, and the rules and regulations of any governmental

authority. This includes, but is not limited to, strict compliance with all applicable export control laws and regulations of the United States and all applicable laws and regulations governing imports, exports, and trade remedies under U.S., foreign, or other relevant jurisdiction. When located in the United States, Seller will ensure that it and its subcontractors are registered with the U.S. Department of Defense Directorate of Defense Trade Controls in advance of supplying manufacturing services related to goods identified by Buyer as subject to the U.S. International Traffic in Arms Regulations and will confirm such registration to Buyer upon request. Buyer reserves the right to cancel any Order without penalty or liability to Buyer in the event Seller's performance under this Order does not comply with such laws, rules, and regulations. The Seller shall comply in all respects with the applicable environmental and health, and safety laws and regulations. Seller must advise the Buyer upon receipt of any Order if the Goods to be supplied contain any hazardous or harmful materials requiring special handling or treatment. Seller shall comply with all applicable requirements contained in laws, regulations, and directives, including but not limited to national, United States, state/provincial, and local environmental, health, and safety laws, regulations, and directives relating to the supply of goods and hazardous materials. All Goods and hazardous materials supplied to the Buyer shall comply with all applicable requirements under the Toxic Substance Control Act, 15 U.S.C. 2601 et seq., and implementing regulations thereunder.

20. CONFIDENTIALITY. Seller acknowledges that Seller possesses certain confidential or proprietary information of Buyer, and of Buyer's vendors and sellers, including, without limitation, Tooling, designs, data, ideas, drawings, specifications, trade secrets, formula, technical experience, financial data, financial information, and other valuable, confidential and proprietary information, the Goods and other goods and services of Buyer, which may be disclosed to Seller or for which Seller may have access (hereafter "Confidential Information"). At all times thereafter, Seller agrees not to disclose to any person, firm, or entity any Confidential Information. Furthermore, Buyer retains exclusive ownership of all of its Confidential Information, and Seller obtains no license or other rights thereto. Buyer shall also have exclusive rights to any improvements, modifications, or variations of its Goods and its Confidential Information, including, without limitation, any and all patent, copyright, trademark, trade name, or other intellectual property rights, and Seller shall not disassemble or reverse engineer the Goods or any Confidential Information. Seller shall promptly furnish Buyer with copies of any and all detailed and assembly drawings, schematics, bill of material, and all electrical, mechanical, and hydraulic documentation along with any and all related documents ("Documents"). Upon completion of any order or upon written request of Buyer, Seller shall immediately deliver to Buyer all final copies of the Documents, and Buyer shall own such Documents, and shall immediately return all Confidential Information to Buyer. The Seller hereby agrees that if Seller breaches this section, Buyer shall incur irreparable injury and harm, and money damages would be an insufficient remedy, and as such, and in addition to all other remedies, Buyer shall be entitled to seek injunctive relief restraining Seller from further breach of this section without Buyer needing to post bond.

21. HARDWARE. With each shipment of Goods to Buyer pursuant to an Order, Seller must furnish a written certificate that such Goods (CoC, Cfc, or other acceptable form) conform to all applicable published specifications for the Goods established by the manufacturer(s) thereof in effect as of the date of sale to Buyer. In addition, each such Good must be manufactured in the United States and packaged in a sealed container on which is plainly marked Buyer's Order number, the manufacturer's lot number, the quantity, and cure date (if applicable). Upon request by Buyer, Seller must furnish to Buyer all documentation for the Goods or Services required by law, applicable specifications, and good industry practice. Seller shall immediately advise Buyer in writing if Seller



is unable to make any warranty or representation set forth above for any Goods or Services covered by an Order.

22. APPLICABLE LAW AND VENUE. These Terms shall be governed by and construed in accordance with the law of the State of Delaware without regard to conflict of laws principles. In the event Buyer is a U.S. entity, Seller consents to the exclusive jurisdiction of the state and federal courts of the State of Arizona, USA, for determining the rights and obligations of the parties in any claim or controversy arising hereunder. For international purchases delivered to or for use in the United States, the U.N. Convention on the International Sale of Goods is specifically excluded. In addition, to the extent of any express conflict or inconsistency between Buyer's Terms and Conditions of Purchase and Seller's documentation or terms, Buyer's Terms and Conditions will control. If Buyer is an affiliated company outside the US, these Terms shall in all aspects be construed according to and governed by the laws of the jurisdiction in which the affiliated company is located.

23. FLOW DOWNS. Seller and its subcontractors will comply with all flow down clauses, whether pursuant to a U.S. government contract or otherwise, applicable to Buyer for Goods that are the subject of this Order, including the FAR and DFARS as in effect on the date hereof, which are incorporated herein by reference with the same force and effect as if set forth in full.

24. WAIVER. No waiver by any party of any of these Terms or the provisions of the Order shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in these Terms or on the Order, no failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from these Terms or the provisions of the Order shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

25. RELATIONSHIP OF THE PARTIES. The relationship between the parties is that of independent contractors. Nothing contained in these Terms or in the Order shall be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever. No relationship of exclusivity shall be construed from these Terms or in the Order.

26. SEVERABILITY. If any term or provision of these Terms or the terms on the face of the Order is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

27. SURVIVAL. Provisions of these Terms and the Order which by their nature should apply beyond their terms will remain in force after any termination or expiration of the Order, including, but not limited to, the following provisions: Setoff, Warranties, Indemnification, Confidentiality, Applicable Law and Venue, and Survival.

28. LANGUAGE. It is the express wish of the parties that this Agreement and/or any related documents have been drawn up in English. French translation: *Il est de la volonté expresse des parties que le présent contrat et/ou tous les documents qui s'y rattachent soient rédigés en anglais.*