



Proposal Response Requirements

for

Request for Proposal

RFP No. 12-2019

Liquid Natural Gas Loading Skid

PROPOSAL RESPONSE REQUIREMENTS

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PROPOSAL RESPONSE REQUIREMENTS
GENERAL BUSINESS INFORMATION



PART 1
GENERAL BUSINESS INFORMATION

1. Company Name and Contract

Company Name: _____

Type of business entity: _____
(Sole Proprietorship, Partnership, Corporation, Joint Venture, etc.)

For corporation, state of incorporation: _____

Federal Tax Identification Number: _____

Company Contact for Contract Notices

Street: _____ Phone: _____

P.O. Box: _____ Fax: _____

City/State/Zip: _____ E-mail: _____

Attention: (Name / Title) _____

Contractor Representative for this RFP Process

Street: _____ Phone: _____

P.O. Box: _____ Fax: _____

City/State/Zip: _____ E-mail: _____

Attention: (Name / Title) _____

Payment Address

Street: _____ Phone: _____

P.O. Box: _____ Fax: _____

City/State/Zip: _____ E-mail: _____

Attention: (Name / Title) _____

PROPOSAL RESPONSE REQUIREMENTS
GENERAL BUSINESS INFORMATION



2. Insurance Certificate

Bidder shall submit an original certificate of current insurance coverage.

3. Licenses and Permits

Furnish an annotated list of all licenses, permits, and certifications required for the work and to be provided by Bidder. Bidder shall provide copies or other proof that required general business licenses and specialty contractor licenses and certifications are current.

4. Partners, Joint Ventures, and Prime Subcontractors

Provide information on key partners for teaming or joint ventures, as well as primary Subcontractors you would propose to use on this work and indicate which elements of the scope would be subcontracted. If a partnership, joint venture or subcontractor relationship is necessary to support the scope of work, include information on the history of the relationship, relevant experience and performance.

PART 2
TECHNICAL & COMMERCIAL

1. General

1. Company intends to manage engineering for this project from its Fairbanks, AK based location. Bidder shall disclose all foreign and domestic locations whereby Work associated with this project is proposed to be performed and include the estimated percentage of work to be completed by each location.
2. Please provide the following company documents:
 - Quality Plan
 - Project Execution Plan (demonstrative)
3. Provide a list references and contact telephone numbers from recent LNG loading projects.
4. Provide an indication of desire and capability to take on additional scope items if future project execution plans change:
 - a. Onsite construction & integration (excluding civil works)
 - b. Additional future truck loading racks

PROPOSAL RESPONSE REQUIREMENTS
TECNHICAL AND COMMERCIAL



2. Estimates & Schedules

1. Bidder shall provide costs itemized based on the following table:

ITEM	COST (USD)	
	Base Bid	Options
Design and Submittal preparation and approval process (see Issued for Bid Specification requirements)		
Factory acceptance testing		
Packaging for Shipment		
Truck Rack Loading unit		
Canopy (Optional)		
Operator Kiosk (Optional)		
Delivery to Seattle/Tacoma WA		
Operator training, as-built drawings and documents, Operation manuals, etc.		
HAZID Participation (Assume 1 person, 4 hour teleconf meeting)		
On site installation support (specify number of people, billing rates, and proposed days on site)		
On site Commissioning (specify number of people, billing rates, and proposed days on site)		
Travel costs for onsite work (specify origin location)		
Recommended capital spares		

2. Bidder shall provide a milestone schedule for completion of the project based on the specification package. The milestones from the example Vendor Drawing and Data Requirements (VDDR) (Part 4 of this document) can be used.

PROPOSAL RESPONSE REQUIREMENTS
TECNHICAL AND COMMMERCIAL



3. Subcontractors

1. Bidder shall provide a list of all subcontractors they intend to use during the execution of the Scope of Work. The list shall identify the name, address, phone number, and primary contact for each subcontractor.
2. The Bidder shall describe how the subcontracted work will be managed and inspected by the Bidder.

PROPOSAL RESPONSE REQUIREMENTS
TECNHICAL AND COMMERCIAL



4. Technical

The following documents and information are to be provided with the proposal to be deemed complete:

Truck rack and associated components:

1. Process Description Overview
2. Process and utility requirements at boundary limit of each unit. (Owner to provide instrument air, electricity, comm, and nitrogen from onsite air-separation.)
3. Effluent and emission estimates (as applicable)
4. Process Flow Diagrams (PFDs) with design case temperature, pressure and flow mentioned on the streams.
5. List with skid dimensions, foundation loads, and weight for each. (Canopy and Kiosk as applicable)
6. Final Assembly Location for Shipment
7. Recommended capital spares

PART 3
EXCEPTIONS AND CLARIFICATIONS

Bidder shall state below all exceptions or clarifications, if any, taken to the proposed Scope of Work, Bidders Proposal and Contract Documents. Bidder shall identify the section, article and paragraph to which such exceptions or clarifications refer; reasons therefore; and proposed resolution. Any items in the proposed Contract Documents to which no exception is expressly noted below, shall be considered non-negotiable. If no exceptions or clarifications are taken state "NONE" below as appropriate.

1. Commercial Exceptions and/or Clarifications

2. Technical Exceptions and/or Clarifications

3. Contract Document Exceptions and/or Clarifications

PART 4
VENDOR DRAWING AND DATA REQUIREMENTS

This Vendor Drawing and Data Requirements is provided to give bidders indication on the deliverables required at various phases after award. Only item 1.1 is required as part of the RFP process. **The remaining documents listed are NOT required for the proposal submittal, but will be required after award.**

1. SUBMITTALS

Submittals shall be documented and adhere to the Submittal Register, provided by the Vendor. Vendor shall submit a Submittal Register and Schedule with the proposal.

- a. Additional submittals may be made at Vendor's option to ensure conformance with the project requirements. All submittals may be reviewed by the Owner and comments provided to Vendor. Vendor shall be responsible for responding to each comment and resolution of each comment to the Owner's satisfaction prior to award.
- b. Submittal data will be United States Customary Units.

1.1. RFP Package Deliverables

Required vendor information with RFQ proposal includes but is not limited to:

- a. Process flow diagram
- b. Utility piping system capacities and interfaces
- c. Preliminary Electrical one-line drawings
- d. LNG Pump Performance Curve
- e. Conceptual site and equipment location plan
- f. Skid list with dimensions and estimated weight
- g. Major equipment and instrument listing
- h. Functional requirements for controls interface, ESD
- i. Recommended spare parts list

1.2. Conceptual Design Submittal:

The preliminary Hazard Analysis shall be conducted following the Conceptual Design Submittal. Conceptual Design Submittal shall be considered 35% and to include:

- a. A finalized general arrangement drawing and Equipment Skid(s) for the Fire Marshall package (Fire Marshall package to be stamped and submitted by the Owner).
- b. System one-line diagrams for power, and control.

PROPOSAL RESPONSE REQUIREMENTS
VENDOR DRAWINGS AND DATA REQUIREMENTS



- c. Design basis and design guidelines. Design guidelines should be included instruction of design, specification of suitable gasket materials and type, special valve requirement, line sizing, for equipment sizing etc.
- d. Utility demand
- e. Description of any buildings, shelters, or large enclosures included in proposal

1.3. Issued for Review (IFR) Submittal:

IFR shall include the following documentation. The completeness is expected to be 65% design level. Layouts should be nearly final, and details may not yet be developed.

- a. Design basis document including auxiliary systems including utilities, power distribution system, control system, fire and gas system; structural design and loads, shipping and lifting plan.
- b. Final General arrangement drawings showing Equipment Skid(s), equipment, piping layout.
- c. Final Piping and instrumentation drawings.
- d. Equipment Skid(s) plans, elevations, sections, details.
- e. Piping plans, elevations, sections, details and isometrics.
- f. Electrical, fire alarm, and instrumentation plans, schedules, details including control philosophy.
- g. Equipment, fire alarm and instrument data sheets.
- h. Cause and effect charts.
- i. Preliminary process calculations and equipment sizing outlined in this specification.
- j. Tie in list for connection to facility process and utilities.

1.4. Issued for Approval (IFA) Submittal:

IFA shall include the following documentation in a nearly final and ready for construction completeness level. The completeness is expected to be 95% design level.

- a. Design basis document including auxiliary systems including utilities, power distribution system, control system, fire and gas system; structural design and loads, shipping and lifting plan.
- b. General arrangement drawings showing Equipment Skid(s), equipment, piping layout.
- c. Interconnecting pipe spools list, with pipe size, estimated length, insulation (where needed)
- d. Piping and instrumentation drawings.
- e. Equipment Skid(s) structural plans, elevations, sections, details.
- f. Piping plans, elevations, sections, details.
- g. Electrical, fire alarm, and instrumentation plans, schedules, details.
- h. Equipment, fire alarm and instrument data sheets

PROPOSAL RESPONSE REQUIREMENTS
VENDOR DRAWINGS AND DATA REQUIREMENTS



- i. Tie in list for connection to platform process and utilities.
- j. Welding procedures and welder qualifications.
- k. Shop and working drawings, complete in every detail, for the equipment being furnished. These drawings and code calculations, including wind and earthquake, as applicable, shall be submitted to the Owner for review and approval prior to the start of fabrication.
- l. Relief and depressurization calculations (outlined in section 1.7).
- m. Cause and effect charts.
- n. Bill of Material
- o. Vendor Cutsheets
- p. Specification for suitable gasket material(s) as applicable.

1.5. Issued for Construction (IFC) Submittal:

IFC shall include the following documentation in a final and ready for construction completeness level.

- a. Design basis document including auxiliary systems including utilities, power distribution system, control system, fire and gas system; structural design and loads, shipping and lifting plan.
- b. General arrangement drawings showing Equipment Skid(s), equipment, piping layout.
- c. Piping and instrumentation drawings.
- d. Equipment Skid(s) structural plans, elevations, sections, details.
- e. Piping plans, elevations, sections, details.
- f. Electrical, fire alarm and instrumentation plans, schedules, details.
- g. Electrical Equipment Data Sheets, Junction Box/Marshalling Drawings, Interconnection Wiring, and Connection Wiring Diagrams.
- h. Instrument Index, Loop Diagrams, Interconnection Drawings, Instrument List, Panel wiring diagram, and PLC Control System & HMI programming.
- i. Equipment, fire alarm and instrument data sheets. (refer to section 1.7)
- j. As applicable - Vessel name plate data including U1-A data sheets with national board numbers.
- k. Approved shop and working drawings, complete in every detail, for the equipment being furnished. These drawings and code calculations, including wind and earthquake as applicable.
- l. Relief and depressurization calculations (outlined in section 1.8).
- m. Tie in list for connection to platform process and utilities.
- n. Welding procedures and welder qualifications.
- o. Cause and effect charts.

PROPOSAL RESPONSE REQUIREMENTS
VENDOR DRAWINGS AND DATA REQUIREMENTS



- p. Bill of Material
- q. Vendor Cutsheets
- r. Specification for suitable gasket material(s) as applicable.

1.6. Fabrication Submittals:

- a. Welding procedures shall be submitted to the Owner for approval prior to the start of any welding unless approved otherwise.
- b. QC/QA and Inspection Program
- c. Shop Drawings for piping, equipment, electrical, instrumentation, HVAC and F&G systems.

1.7. Final As-built documents:

As-Built documentation shall be submitted within 2 weeks of Equipment Skid(s) shipment – 4 hard copies, 1 pdf copy and the electronic CAD files.

- a. As-built drawings.
- b. Operation & Maintenance manuals
- c. Start-up procedures.
- d. As Applicable - Pressure vessel data (include data sheets, Material Test Reports, inspection records, copy of name plate).
 - Pressure vessels to be registered with the State of Alaska by the Owner.
- e. Pressure Safety Valve calculations.
- f. Weld inspection reports (structural and mechanical).
- g. PLC logic, HMI graphics and required software/licensing.
- h. Electrical, fire alarm, HVAC and instrumentation test reports and FCO packages.

1.8. As Applicable - Required Vessel and Equipment Information

The Vendor's drawings shall show (as applicable), in addition to the customary notes, the following unless approved otherwise:

- a. Design pressure
- b. Design temperature and MDMT.
- c. Maximum Allowable Working Pressure (Hot and Corroded, with limiting component named)
- d. Corrosion allowance for shell and nozzles.
- e. Test pressure
- f. Extent of radiography and other NDT
- g. Type of and locations to be postweld heat treated, including temperature of PWHT and time at temperature
- h. Nameplate details, including location, nameplate material, size and data to be stamped

PROPOSAL RESPONSE REQUIREMENTS
VENDOR DRAWINGS AND DATA REQUIREMENTS



- i. Details of all welding, including attachment welds. Welding symbols shall conform to AWS A2.4-79, Standard Welding Symbols.
- j. Weight of vessel
- k. Weight of vessel full of water
- l. Number of identical vessels supplied
- m. ASME designation for all materials
- n. Gasket materials-type, manufacturer, thickness, and dimensions.
- o. Name of Authorized Inspection Agency who will perform all inspections required by the ASME Code.
- p. Nozzles and trays, if any, shall have the same designation or numbering as shown on buyers' drawing.
- q. The Owner's equipment number, service, overall dimensions, and the Owner's facility name shall appear prominently in all drawing title blocks.

1.9. Relief and Vent Sources

A summary table of relief and depressurization sources shall be provided by the vendor with coordination of the owner including the following information as applicable (based on the sizing case):

- a. Relief Sources
 - Tag number
 - Description of sizing case (fire, blocked flow, etc.)
 - PHA scenario number of sizing case (where a PHA has been performed)
 - Relieving temperature in protected equipment
 - Relieving pressure in protected equipment
 - Temperature and peak pressure at inlet flange
 - Lowest temperature and peak backpressure at outlet flange
 - Peak velocity in tail pipe
 - Peak Mach number in tail pipe
 - Peak dynamic pressure (density times velocity-squared) in tail pipe
 - Peak sound power level in tail pipe
 - Peak gas flow rate
 - Peak liquid flow rate
 - Gas molecular weight
 - Gas density
 - Liquid density
 - Redundancy (2 x 50%, 3 x 50%, 2 x 100%, etc.)
- b. Depressuring sources
 - Tag number
 - Description of sizing scenario (such as "ESD1")
 - Initial temperature in protected equipment
 - Initial pressure in protected equipment
 - Temperature and peak pressure at inlet flange
 - Lowest temperature and peak backpressure at outlet flange

PROPOSAL RESPONSE REQUIREMENTS
VENDOR DRAWINGS AND DATA REQUIREMENTS



- Peak velocity in tail pipe
- Peak Mach number in tail pipe
- Peak dynamic pressure (density times velocity-squared) in tail pipe
- Peak sound power level in tail pipe
- Peak gas flow rate
- Peak liquid flow rate
- Gas molecular weight
- Gas density
- Liquid density
- Longest time to reach 50% of design pressure (from any scenario)
- Longest time to reach 15 psig (from any scenario)

**PART 4
TERMS AND CONDITIONS**

(Example and made subject to review by IGU for consistency with procurement policy)

1. ACCEPTANCE

This Purchase Order becomes an enforceable agreement of Seller and Purchaser upon the first occurrence of any of the following events: Seller signs and returns an acceptance copy of the Purchase Order; or Seller acknowledges acceptance of this Purchase Order in any other manner; or Seller begins to perform under the Purchase Order.

2. COMPLETE AGREEMENT

- 2.1 This Purchase Order, together with all documents attached and/or incorporated by reference, forms the entire agreement between the parties, and all prior negotiations, proposals, and/or writings in any way related to this Purchase Order are superseded by this Purchase Order. Any references to Seller's quotation, bid document, or proposal are for information or clarification purposes only, and do not constitute acceptance of any term, condition, or instruction contained in any such document.
- 2.2 No terms and conditions stated in or attached to Seller's communications to Purchaser, including, but not limited to, acknowledgments or invoices, are applicable to this Purchase Order in any way, and are not to be considered to be Seller's exceptions to the provisions of this Purchase Order.
- 2.3 Trade custom, trade usage and past performance are superseded by this Purchase Order and shall not be used to interpret this Purchase Order,
- 2.4 Anything that may be called for in the specifications and not shown on the drawings or shown on the drawings, and not called for in the specifications, shall be considered to be called for on both. In the event of any ambiguities, express conflicts, or discrepancies in the Purchase Order or the specifications, drawings, or other documents which are a part of this Purchase Order, Seller shall immediately notify Purchaser and shall comply with the written instructions of Purchaser to resolve the matter. Any item required by any portion of this Purchase Order including, but not limited to, purchase description, specifications, drawings, timely delivery of goods and timely performance of services, is a material part of the required performance of Seller under this Purchase Order, even if such item is not required by other portions of this Purchase Order. If preprinted terms and conditions conflict with special or typewritten terms on the face of this Purchase Order, the special or typewritten terms shall govern.

3. CHANGES

- 3.1 Purchaser shall have the right to make written changes to the specifications and drawings for goods and/or related services covered by this Purchase Order. If Seller believes that such changes affect the price or delivery date for such goods and/or related services, Seller shall notify Purchaser in writing (with complete supporting documentation) within ten (10) calendar days after receipt of Purchaser's written notice of change. Any request for adjustment

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of price or delivery will be waived for all purposes by Seller unless written notice of such request is made within ten (10) calendar days after receipt of Purchaser's written notice of change. However, Seller, shall not perform any change until released in writing by Purchaser.

- 3.2 Purchaser and Seller shall mutually agree in writing upon any adjustment pursuant to Article 3.1 to reflect the extent, if any, that such change has resulted in an increase or decrease in the price and/or a delay or acceleration of the delivery date. Seller shall not suspend performance of the unaffected portion of this Purchase Order while Purchaser and Seller are in the process of making any such change. If released in writing by Purchaser, Seller shall comply with and perform such change in accordance with the terms of this Purchase Order during the time Seller and Purchaser require to mutually agree upon an equitable adjustment.
- 3.3 No substitutions shall be made in this Purchase Order without the prior written authorization of Purchaser. No agreement or understanding modifying the conditions or terms of this Purchase Order shall be binding upon Purchaser nor will extra compensation be paid by Purchaser unless the agreement or understanding is made in writing.

4. ORIGIN OF MATERIALS

Only new materials as specified shall be furnished hereunder unless alternates are approved at Purchaser's sole discretion in writing by Purchaser and/or listed in the Purchase Order. Materials not in conformity with these requirements are subject to return at Seller's expense.

Seller shall specify origin of materials (Country and region) and location of proposed fabrication in their bid.

5. PRICE

The prices on this Purchase Order are firm and not subject to escalation unless expressly noted. Purchaser requests the quote be valid for 180 days. Seller should identify index or escalation that is the result of this request.

6. INSPECTION

- 6.1 Purchaser shall have the right with or without Seller's representative to expedite, inspect, and/or witness any tests of Seller of goods provided or to be provided by Seller. Purchaser shall be granted access to all portions of the Seller's facilities or Seller's sub-supplier facilities which are related to or involved with the manufacturing or processing of this Purchase Order.
- 6.2 Purchaser's expediting inspection or witnessing of testing, or lack of inspection or witnessing of testing, or lack of response shall in no way release the Seller from any obligations related to this Purchase Order.
- 6.3 Purchaser reserves the right to review and approve Seller's Quality Assurance and Quality Control Procedures.
- 6.4 Seller and/or Seller's sub-supplier(s) will notify Purchaser at least five (5) calendar days in advance of the date any inspection or test is to be made. If for any reason the inspection should be delayed, Seller shall immediately notify Purchaser.

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- 6.5 NO GOODS SHALL BE SHIPPED BY SELLER ON THIS PURCHASE ORDER WITHOUT A FINAL INSPECTION BY PURCHASER OR A WRITTEN WAIVER OF INSPECTION BY PURCHASER. VIOLATION OF THIS REQUIREMENT SHALL CONSTITUTE A MATERIAL BREACH OF THIS CONTRACT.

7. ASSIGNMENT

Neither this Purchase Order nor any portion hereof shall be assigned or delegated without Purchaser's prior written consent and any such assignment or delegation without such consent shall be void. Purchaser reserves the right to assign this Purchase Order to the Owner or Owner's successors or to Purchaser's affiliates without such consent. Seller's use of domestic subsidiaries or affiliates of Seller to provide portions of the goods shall not be considered an assignment of this Purchase Order if such use is a normal part of Seller's operation at the effective date of this Purchase Order.

8. CONFIDENTIAL INFORMATION

- 8.1 All drawings, data, designs, inventions, and other technical material supplied to Seller by Purchaser under this Purchase Order and designated as confidential or proprietary shall comprise the "Confidential Information." Seller shall retain the Confidential Information in absolute confidence and not under any circumstances disclose it to any third party and shall use the Confidential Information only for the performance of this Purchase Order. Seller shall not disclose the Confidential Information to any sub-supplier without first requiring this same agreement in writing from the sub-supplier. Seller shall return all Confidential Information and copies thereof to Purchaser upon completion of Seller's obligations under this Purchase Order, or upon Purchaser's written request at any earlier time.
- 8.2 Seller shall not publicize the existence or scope of this Purchase Order without Purchaser's prior written consent.

9. RETENTION AND OFFSET

- 9.1 A retention of up to ten percent (10%) of each invoice may be retained by Purchaser to defray the cost of field rework on the goods provided hereunder, and to ensure that Seller will provide all items ordered, including all related spare parts. Any expenses incurred in field fitting the goods shall be offset against this reserved sum to the extent of the retention and thereafter invoiced to and paid by the Seller.
- 9.2 In addition, ten percent (10%) of the Purchase Order value is agreed by the parties to be the amount of liquidated damages for failure of Seller to provide complete documentation within and pursuant to the time schedule of this Purchase Order.
- 9.3 Purchaser, without waiver or limitation of any rights or remedies of Purchaser or Owner, shall be entitled from time to time to deduct from any amounts due or owing by Purchaser to Seller in connection with this Purchase Order (or any other Purchase Order or contract with Purchaser) any and all amounts owed by Seller to purchaser or Owner

10. TERMINATION UPON DEFAULT BY SELLER

- 10.1 Purchaser may terminate this Purchase Order by written notice to Seller upon the occurrence of any of the following events:

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- 10.1.1 Seller files for bankruptcy or an involuntary bankruptcy proceeding is commenced against Seller; or
 - 10.1.2 Seller makes a general assignment for the benefit of its creditors; or
 - 10.1.3 If any receiver is appointed for Seller's business; or
 - 10.1.4 Seller is in default of any provision or requirement of this Purchase Order.
- 10.2 Termination by Purchaser under Article 10.1 does not in any way prejudice any other rights or remedies which Purchaser may have.
- 10.3 Upon termination, Purchaser may complete the performance of this Purchase Order by any reasonable means, and Seller shall be responsible for any additional costs incurred by Purchaser in accomplishing this completion. Upon request by Purchaser, Seller will deliver or assign to Purchaser any work in progress at the time of termination.
- 10.4 Purchaser may retain any monies owed to Seller for work completed prior to termination of this Purchase Order to offset anticipated additional expenses incurred in completion of performance or other damages incurred by Purchaser as a result of Seller's default.
- 10.5 Purchaser may choose to waive any default by Seller without relinquishing the right to enforce Article 10.0 in the case of later defaults by Seller.

11. TERMINATION FOR PURCHASER'S CONVENIENCE

- 11.1 At any time, Purchaser may terminate for its convenience all or any separable part of this Purchase Order by giving written notice to Seller. On the date notice of such termination is received by Seller, Seller shall: discontinue all work so terminated, shall place no additional orders, and shall preserve and protect materials on hand purchased for or committed to this Purchase Order, work in progress, and completed work both in Seller's and in its sub-supplier plants pending Purchaser's written instructions, and shall dispose of same in accordance with Purchaser's written instructions.
- 11.2 Seller and Purchaser shall promptly and mutually agree to a termination payment, if any. Such payment shall be based upon that portion of the work satisfactorily performed through the date of termination, including reimbursement for reasonable profit on such work, plus reasonable and necessary expenses resulting from the termination and as documented to Purchaser's satisfaction, disposition of work and material on hand, less amounts previously paid by Purchaser. Seller shall not be entitled to any loss of prospective profits, contribution to overhead on terminated work or incidental, consequential or other damages because of such termination. Seller shall deliver or assign all goods with all applicable warranties or dispose of goods as directed in writing by Purchaser prior to final payment.

12. GOVERNING LAWS AND REGULATIONS

Seller warrants that in fulfilling this Purchase Order the material and/or equipment furnished under this Purchase Order will comply with all applicable laws, codes and regulations including, but not limited to, those promulgated by OSHA and EPA or any Federal, State, and Local authorities. Seller shall indemnify, defend, release and hold harmless Purchaser and Owner against all loss, penalties or damages resulting from any violations of this warranty. The Purchase Order shall be governed by and subject to the laws and jurisdiction of the State of Alaska.

13. PATENTS

For all items furnished under this Purchase Order, if the design of an item was not furnished by Purchaser or Owner, Seller shall indemnify, defend, release and hold harmless Purchaser and Owner, and their successors and assigns, from all judgments for damages resulting from any claims or suits for infringement of United States patents, copyrights, trademarks, or other intellectual property rights. Seller shall defend all such suits and shall pay at related costs. If the use of such item is enjoined, Seller shall, at its sole expense, and subject to Purchaser's sole discretion, procure the right to continue use of the item, modify the item to render it non-infringing, replace the item with a non-infringing item, or remove the item completely and refund the purchase price plus all related transportation, installation and dismantling costs.

14. INDEMNIFICATION

- 14.1 In consideration of the payments agreed to be made by Purchaser to Seller under this Purchase Order, Seller shall assume the risk of and release, defend, indemnify and hold harmless Purchaser, Owner, all related entities of Purchaser and Owner, and employees and agents and assigns of each ("indemnities") from and against all loss, damage, liability, cost and expense (including, without limitation, reasonable attorneys' fees) arising out of any injury (including death) to any person or damage to any property resulting in any way from a Seller-supplied product hereunder that is defective in whole or in part, regardless of whether or not such loss, damage, liability, cost or expense is caused in whole or in part by any Indemnitee, including, but not limited to, any negligent act, omission or strict liability of any Indemnitee.
- 14.2 Further, for all claims not covered by Article 14.1 above, and in consideration of the payments agreed to be made by Purchaser to Seller under this Purchase Order, Seller shall assume the risk of and release, defend, indemnify and hold harmless indemnities from and against all loss, damage, liability, cost and expense (including without limitation, reasonable attorneys' fees) arising out of any injury (including death) to any person or damage to any property resulting from or in any way connected with the performance of this Purchase Order or the goods furnished hereunder, regardless of whether or not such loss, damage, liability, cost or expense is caused in any way in part by an Indemnitee including, but not limited to, any negligent act, omission or strict liability of any Indemnitee, but only to the extent that Seller is negligent in the performance of its obligations under this Purchase Order.
- 14.3 Except for Article 14.1 above, neither this Article nor any other provision of this Purchase Order shall be construed in any circumstances to constitute an indemnification against any loss, damage, liability, cost or expense caused solely by the negligence of such Indemnitee.
- 14.4 The indemnity obligations in this Purchase Order shall be considered to be modified as required to exclude indemnification which is expressly prohibited by applicable statute or law, with all other obligations of Seller under this Purchase Order enforced to the extent permitted by law.

15. GUARANTEE

Seller guarantees that all goods and components furnished hereunder shall be (a) new, (b) in strict conformity with specifications, (c) free from faulty materials, workmanship, and design (except to the extent the design is furnished by Purchaser or Owner) and (d) if of Seller's design, of proper materials, sizes and capacity to perform satisfactorily under the full range of operating and/or design conditions specified. Seller shall

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promptly repair, modify, or replace all goods and components not in conformity with the above (except goods or components which have failed due to normal wear and tear) upon notification by Purchaser within twelve (12) months from date of initial startup or eighteen (18) months from date of shipment, whichever occurs first, free of cost to Purchaser. In the event of Seller's failure to correct or replace goods and components as required herein, Purchaser may correct or replace such goods or components and charge Seller all costs thereof. Such guarantee, together with all other service warranties of Seller, shall extend to Purchaser or Owner, their successors and assigns. No penalties for consequential damages such as "down time", loss of products or loss of profits shall be assessed against Seller.

16. FORCE MAJEURE

Neither Purchaser nor Seller shall be liable for failure to perform hereunder if such failure is due to any event beyond the reasonable control of the affected party, such as: acts of God; war; riot; civil commotion; insurrection; government orders, rules, regulations, suspensions or requisitions of any kind; or fire. In the event that Seller is unable to perform for reasons beyond its control, Seller must notify Purchaser in writing within five (5) days of the occurrence producing the force majeure delay or forfeit its exclusion from liability under this Article. The notice must contain reasons for the delay and an estimate of the delay in shipment of the goods. After receipt of such notice, Purchaser shall have the right either to accept Seller's delay in ability to perform or require Seller to initiate corrective actions to overcome the delay or terminate the order in accordance with Article 11 above.

17. SHIPMENT

Partial shipments are not allowed unless expressly stated in this Purchase Order. Partial shipments must be accompanied by identifying documents, but such shipments shall not be interpreted to make the obligations of Seller severable. No charge will be allowed for packing, shipment, or handling unless expressly stated in this Purchase Order. Seller shall pay for damaged goods resulting from improper packing or marking. Itemized packing lists must accompany each shipment. Purchaser's count will be accepted as final and conclusive on shipments not accompanied by Seller's itemized packing list.

18. TITLE

Seller warrants full and unrestricted title to Purchaser for all goods and/or related services furnished by Seller under this Purchase Order, free and clear of any and all liens, restrictions, reservations, security interests, and encumbrances. If Purchaser makes progress payments to Seller under this Purchase Order, title to the goods and related services shall pass to Purchaser at the time that Seller identifies the goods to this Purchase Order. Seller shall clearly identify the goods (including raw materials and components) as property of Purchaser by visible marking or tagging, and Purchaser shall have the right, at Purchaser's option, to inspect and verify that said goods have been identified as Purchaser's property. Care, custody, and control of such goods remains with the Seller until such time as Purchaser takes physical possession or otherwise agrees in writing by Change Order to this Purchase Order. All shop drawings, patterns, tools (if such tools are useful only to produce the goods ordered), or other items made preparatory to production of any goods purchased under this Purchase Order are Purchaser's property and upon demand shall be delivered to Purchaser.

19. RESERVATION OF RIGHTS

Any action by Purchaser with respect to inspection of or payment for the goods and/or related services covered by this Purchase Order shall not prejudice Purchaser's right to reject non-conforming or defective goods or

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services, nor be deemed to constitute acceptance by Purchaser of the goods or services, or affect in any way Seller's obligations under this Purchase Order notwithstanding Purchaser's opportunity to inspect the goods and/or related services, Purchaser's knowledge of the nonconformity or defect, the importance or critical nature of, or the ease of discovery of the nonconformity or defect, nor Purchaser's earlier failure to reject the goods or services.

20. WAIVER

No waiver of any right or privilege of Purchaser will occur upon Purchaser's failure to insist on performance of any term, condition, or instruction, or failure to exercise any right or privilege or its waiver of any breach.

21. HAZARDOUS MATERIALS

Seller shall notify Purchaser in writing upon acceptance of this Purchase Order if goods furnished are subject to laws or regulations relating to hazardous or toxic substances; or when disposed of, to regulations governing hazardous wastes, or to any other applicable environmental or safety and health regulations. Seller shall furnish without limitation all appropriate and required shipping, handling and use certifications, instructions, labeling, lists and goods representations for shipping, safety, handling, exposure and disposal in a form sufficiently clear for use by Purchaser's nontechnical personnel and sufficiently specific to identify all action which the user must take concerning the material. In addition to the above, the following certification MUST be made on the bill of lading: "This is to certify that the above-named articles are properly classified, described, packaged, marked and labeled and are in proper condition for transportation according to any applicable transportation regulations."

22. VALIDITY OF PROVISIONS

In the event any provision, or any part or portion of any provision of this Purchase Order shall be held to be invalid, void or otherwise unenforceable, such holding shall not affect the remaining part or portions of that provision, or any other provision hereof.