

PURCHASE ORDER TERMS AND CONDITIONS

G&H Towing Company

1. **Basic Agreement.** G&H Towing Company or its affiliated entity listed on the purchase order (“G&H”) agrees to purchase the goods and services identified on the purchase order subject to these Purchase Order Terms and Conditions (“Terms”). The purchase order expressly limits acceptance to these Terms. Seller accepts the Terms by delivery of goods and performance of services.

2. **Price and Payment.** Prices for goods and services listed on the purchase order include all taxes, packaging, packing, handling, shipping and insurance costs. If prices are not listed on the purchase order, G&H agrees that all goods and services will be billed at the last price quoted to G&H or the prevailing market price, whichever is lower. Subject to the Terms, G&H will submit payment upon invoice after all items invoiced are received by G&H.

TERMS AND CONDITIONS APPLICABLE TO GOODS

3. **Shipping Instructions.** At its own expense Seller will deliver goods purchased under the purchase order to G&H destination (domestic goods, FOB Destination;) at the location listed on the purchase order or otherwise communicated to Seller by G&H. Incoterms 2020 Rules shall apply for international shipments.

4. **Packing and Packaging.** Unless otherwise specified in writing, all packing and packaging must be done in accordance with good, economical, commercial practice, and must consist of suitable containers for optimum protection of goods during delivery, handling, and storage. Seller will label and package all goods which are known to have health, poison, fire, explosion, or other risks and hazards in accordance with all applicable state and federal packaging and labeling laws and regulations and goods will be accompanied by all required Material Safety Data Sheets.

5. **Identification.** All invoices, packing lists, packages, shipping notices, and other written documents affecting orders for goods must contain the purchase order number. Each box or package shipped under the purchase order must include a list of all its contents.

6. **Delivery.** Time is of the essence. G&H reserves the right to reject any goods or cancel any order if those goods are not delivered by the date listed on the purchase order. G&H may accept delivery after the specified delivery date, but that acceptance will not be deemed a waiver of G&H’s rights with respect to the late delivery or be deemed a waiver of future compliance with the terms of the purchase order.

7. **Cancellation.** G&H may cancel any order for goods before shipment by Seller.

8. **Inspection of Goods.** Acceptance of goods does not occur until G&H inspects and approves them at the delivery location. Upon inspection G&H may accept non-conforming or partially conforming goods subject to an adjustment to the purchase price to be agreed by the parties or reject and return the goods to Seller at Seller’s risk and expense. Acceptance by G&H of any non-conforming or partially conforming goods will not be deemed a waiver of any warranty or other rights G&H may have under the purchase order or otherwise. Inspection of goods by G&H will not constitute or be deemed a waiver of any obligation or warranty of Seller under the Terms.

9. **Warranties Relating to Goods.** Seller warrants that all goods, including goods furnished in connection with any services performed by Seller, will be:

A. New (unless otherwise specifically agreed between the parties) and of high commercial quality based on the standards of the local geographical area and applicable industry;

B. Free of defects in material and workmanship;

C. Furnished with clear and merchantable title, free and clear from any security interests, liens, or other encumbrances of any kind and that no lien or charge will be fixed upon any vessel, facility or other property owned or operated by G&H;

D. Furnished free of any claim or liability arising from or in connection with any patent, trademark, copyright or similar intellectual property rights, and Seller agrees to indemnify G&H against all liability, damages, costs and expenses for patent, trademark, copyright or other similar intellectual property rights infringement on account of sale or use of the goods;

E. Subject to all Uniform Commercial Code implied warranties, including the implied warranties of merchantability and fitness for a particular purpose, and all warranties implied by usage of trade and Seller shall indemnify G&H against all liability, damages, costs and expenses for breach of the implied warranties contained in this section or available at law; and

F. Shall be of the quality specified and compliant with all statements or affirmations of fact or promises relating to the goods, or the use or sample of the goods made by Seller and Seller shall indemnify G&H against all liability, damages, costs and expenses for breach of any express warranties.

TERMS AND CONDITIONS APPLICABLE TO SERVICES

10. **Performance.** Seller agrees to furnish at its own expense all requisite labor, materials, equipment, tools, and other items necessary to complete the services described in the purchase order. Seller will perform the services with due diligence, within the time specified in the purchase order, and according to all special instructions, specifications, plans, and drawings listed in or attached to the purchase order.

11. **Change Orders.** G&H has the right to request change orders in connection with the services, and Seller will conform to any change orders without delay. Any change order must specify any increase or decrease in price, delivery date, special instructions, and other relevant items, and it must be signed by the parties. Seller may not change the performance of the services without G&H's prior written authorization. All change orders, including any modified or additional special instructions, specifications, plans, or drawings will be deemed incorporated into and subject to the Terms.

12. **Condition of Work Premises.** Seller will ensure that the premises where Seller performs its services (the "work premises") will at all times be clean, orderly, safe and free from debris. Upon completion of the services, Seller will remove all equipment and unused materials from the project, clean up all refuse and debris, and leave the work premises clean, orderly, and in good and safe condition.

13. **Compliance.** At no additional cost to G&H, Seller will obtain and pay for all necessary permits and comply with all applicable fire, safety, health and pollution requirements, regulations and laws and any, vessel classification rules, and United States Coast Guard requirements pertaining to the performance and delivery of the services. Seller will comply with all of G&H's work and safety rules, taking all reasonable precautions to protect persons and property from injury or damage arising out of the performance of the services.

14. Inspection of Services. G&H will be provided full access to the work premises in order to inspect the suitability and acceptability of Seller's performance of the services and its conformity with the purchase order, and similar access will also be allowed for any regulatory and class representatives or personnel and marine surveyors associated with the performance or delivery of the services. Following inspection, G&H shall promptly notify Seller of any changes, deficiencies or non-conformity in Seller's work, and may request changes to the work to ensure acceptability of the final services to be delivered. Such requests or directions by G&H shall not relieve Seller of its duties hereunder, nor shall any inspection by G&H constitute or be deemed a waiver of any obligation or warranty of Seller under the purchase order.

15. Sea Trials. If Seller or G&H request any systems inspections, dockside inspections or sea trials before delivery of goods or completion of the services in connection with a vessel, the inspections or trials will be carried out at Seller's expense and scheduling of sea trials shall be subject to the mutual agreement of the Seller and G&H.

16. Acceptance. Acceptance of the services, including all related work and materials, will not occur until inspected and approved by G&H. At G&H's option following inspection, services not accepted by G&H must be either re-performed by Seller according to G&H's specifications, without additional charge to G&H, or be completed by G&H, or a third party selected by G&H, at Seller's sole expense.

17. Warranties Relating to Services. Without limitation to the warranties set forth in Section 9 above, Seller warrants:

A. That the services will be performed in a professional and good and workmanlike manner according to the best commercial practice for the geographical area and applicable industry and Seller shall indemnify G&H against all liability, damages and expenses for breach of the warranty of professional and good and workmanlike services;

B. That the services will be compliant with all statements or affirmations of fact or promises relating to the quality of the services or the quality of the services made by Seller and Seller shall indemnify G&H against all liability, damages and expenses for breach of any express warranties;

C. That the services will comply with all vessel classification rules, United States Coast Guard regulations and requirements, and/or any other applicable laws, regulations and class requirements;

D. That the services will be completed within the time frame listed on the purchase order;

E. That all parts, materials, and other items used by Seller in performing the services will be new (unless otherwise specifically agreed between the parties) and of high commercial quality based on the standards of the local geographical area and applicable industry;

F. That the completed services will be furnished to Seller free and clear from any security interests, liens, or other encumbrances of any kind and that no lien or charge will be fixed upon any vessel, facility or other property owned or operated by G&H; and

G. That Seller will be liable to G&H for any defects or deficiencies in the materials or workmanship of the services and Seller will promptly correct, repair, or replace, at Seller's sole expense, any defect or deficiency in the services, with the correction, repair, or replacement to be at Seller's applicable facility or vessel(s) unless the nature of the correction, repair, or replacement constitutes an emergency and requires correction, repair, or replacement elsewhere.

Seller will not be liable for defects or deficiencies in the services which were open and evident at the time of final inspection and acceptance by G&H, and will be liable for latent defects or deficiencies in the services only for a period of one (1) year following acceptance by G&H.

Seller agrees to immediately discharge any lien or other encumbrance which may arise or be created in connection with the services, and waives all liens, whether possessory or otherwise, in its favor which may otherwise attach to the work premises, including any vessel owned or operated by G&H. If Seller fails to promptly pay for all labor and materials related to its services, or otherwise fails to discharge any related lien which may arise or be created, G&H, without waiving any rights or remedies against Seller for or by reason of such failure, may, but without any obligation to do so, pay the same and deduct the amount of the payments from sums due Seller. G&H may withhold any payment to Seller until receiving lien releases or waivers as G&H may require.

18. Termination. G&H may terminate Seller's performance of services upon written notice to Seller, stating the effective date of termination. Upon termination, Seller will stop all performance of the services, stop placement of all orders and subcontracts, and take every other action necessary to protect any property in which G&H may have an interest. G&H's sole liability to Seller upon termination will be to reimburse Seller for its actual direct expenses up to the effective date of termination, offset by any claims which G&H may have under the purchase order and the Terms.

GENERAL TERMS AND CONDITIONS APPLICABLE TO GOODS AND SERVICES

19. Insurance. At all times during performance of services, Seller will procure and maintain at its expense the following insurances, presenting proofs of insurance upon request or entrance to G&H's facilities:

A. Commercial general liability insurance covering Seller's contractual liability, and naming G&H as an additional insured, with minimum limits of \$2,000,000 general aggregate and \$1,000,000 per occurrence Bodily Injury and/or Property Damage Combined Single Limit.

B. Standard workers' compensation and employer liability insurance (extended to include the Longshore Act, if applicable to the services) with statutory limits for workers' compensation, including Occupational Disease, and with minimum limits of \$1,000,000 per occurrence. The workers compensation or employer's liability insurance policy shall be endorsed to waive all rights of subrogation against G&H, (and any vessel owned or operated by G&H, if applicable), and shall contain an "In Rem" endorsement. If Seller is in a state with a "State Fund", workers' compensation must provide proof of coverage through the State Fund.

C. Auto liability insurance, if applicable to the services, naming G&H as an additional insured, with minimum limits of \$1,000,000 per occurrence and \$1,000,000 Bodily Injury and/or Property Damage Combined Single Limit.

D. Pollution liability insurance with minimum limits of \$1,000,000 per occurrence.

E. If Consulting Services are being performed under the purchase order, Professional Liability/Errors & Omissions Liability insurance with limits not less than \$1,000,000 any one occurrence and \$2,000,000 in the aggregate.

F. If the services supplied under the purchase order includes use of Seller's vessels: (i) Protection & Indemnity insurance to be evidenced through a full entry with an international P&I Club, including collision liability, tower's liability, and liability for seepage, pollution, containment and cleanup, with extensions

for marine contractual liability, removal of wreck, etc., subject to a minimum limit of liability of \$1,000,000 any one accident or occurrence and \$2,000,000 in the aggregate. Alternatively, if a full entry in an international P&I Club is not available or applicable, maritime liability coverage should be evidenced on an SP-23 form or equivalent including collision liability, tower's liability and third -party statutory liability for seepage, pollution, containment and cleanup, with extensions for marine contractual liability, wreck / debris removal, subject to a minimum limit of liability of \$2,000,000; (ii) Hull & Machinery insurance including collision liability with sistership clause unamended, with limits of liability at least equal to the full value of all vessels used in connection with performance of the Work required under this Agreement, and with navigational limitations adequate for the Seller to perform the specified Work. Where vessels engage in towing operations, said insurance shall include full tower's liability with sistership clause unamended.

G. If the performance of the services requires the use of any aircraft that are owned, leased, rented or chartered by Seller or any of its subcontractors, Aircraft Liability or Non-Owned Aircraft Liability insurance shall be maintained, as applicable, with a minimum limit of \$1,000,000 per occurrence, and \$2,000,000 in the aggregate, including passengers and crew.

None of such insurance shall be cancelled without 30 days' prior written notice having been furnished to G&H. Upon request, Seller shall provide G&H with copies of any certificates of insurance and any policies providing the insurance coverages required herein.

All policies shall be endorsed to name G&H, its parent, subsidiary or affiliated companies and their shareholders, officers, directors, agents and employees (and any vessel owned and/or operated by G&H if applicable) as Additional Insureds with a Waiver of Subrogation, along with an endorsement providing G&H with thirty (30) days advance written notice of cancellation

20. Independent Contractor Status. Seller will deliver the goods and/or perform the services under the purchaser order and these Terms in the sole capacity of an independent contractor, and not as an employee, partner, joint venture, agent, or representative of G&H. Seller shall determine the manner and method of performing the services and shall operate as an independent contractor and not as an agent or employee of G&H.

21. Ownership of Project Information. Ownership (including copyrights) of the all special instructions, specifications, plans, drawings, technical descriptions, data, calculations, test results, and other documents and information relating to delivery of the goods and/or performance of services and not otherwise in the public domain (collectively, the "Project Information") must at all times vest with G&H. Seller is entitled to use the Project Information during the term of this agreement for the sole purpose of delivering the goods or performing its services for G&H, providing the Project Information only to parties with direct and necessary involvement in delivery of the goods and/or performance of the services. Seller will deliver all of the Project Information (including copies) to G&H upon completion of Seller's obligations under the final purchase order and may not thereafter use the Project Information for any other project or purpose, or provide the Project Information to any third party, without G&H's written authorization.

22. Risk of Loss; Duty to Insure. Seller is responsible for loss, damage, or deterioration to the goods prior to delivery and the services prior to acceptance. All risk of loss and duty to insure the work, materials, fabrication, and other items relating to the goods and services remains with Seller until the goods are delivered to G&H or services and related work product are accepted by G&H.

23. **Liability and Indemnity.** Seller is responsible for any and all losses, damages, expenses, claims, liabilities, and suits (including without limitation any bodily injury, personal injury and death, any loss or damage of property, and any environmental or pollution risks) of any type or nature whatsoever and from whatever source arising from or in connection with services performed under the purchase order. Seller will indemnify and hold harmless G&H (including legal fees and costs) from and against all liabilities assumed by Seller in this section, and Seller waives any immunity afforded to it under any workers' compensation or similar statute. THE INDEMNITY OWED BY SELLER SHALL APPLY TO LIABILITIES EVEN THOUGH CAUSED IN WHOLE OR IN PART BY A PRE-EXISTING DEFECT, THE NEGLIGENCE (WHETHER SOLE, JOINT OR CONCURRENT), STRICT LIABILITY OR OTHER LEGAL FAULT OF G&H. THE OBLIGATION TO INDEMNIFY DOES NOT APPLY TO LIABILITIES ARISING FROM THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF G&H.

24. **Consequential Damages:** In no event shall G&H be responsible for indirect or special damages including without limitation extra expense, loss of use of property, delay or damages consequential upon loss of use, whether resulting from negligence or breach or otherwise and even if the possibility of such damages is foreseeable by Buyer.

25. **Taxes.** For goods and services, G&H agrees to pay state sales or use tax. All other taxes relating to the sale of goods and services will be for the account of Seller. Seller agrees to cooperate with G&H, executing certificates or other documents as G&H may deem reasonably necessary, to provide benefit of any an exemption of state sales or use tax as may be available to G&H under applicable law.

26. **Choice of Law, Venue, and Legal Fees.** The purchase order will be governed by the general maritime law of the United States, or if there is no rule of general maritime law available, by the laws of the State of Texas. The parties submit to the exclusive personal jurisdiction of the state courts of Galveston County, Texas, or the United States District Court located in Galveston, Texas, with respect to any legal disputes arising out of or relating to the purchase order. The prevailing party in any such dispute is entitled to recover its reasonable legal fees and costs.

27. **Entire Agreement.** The purchase order, including these Terms and any attached special instructions, specifications, plans, or drawings, or any written change orders agreed to by the parties, constitutes the entire agreement between the parties and expressly replaces, supersedes, and negates any prior or contemporaneous agreements, whether written or oral. There are no representations, agreements, arrangements, or undertakings, oral or written, between the parties relating to the subject matter of the purchase order which are not fully expressed in the purchase order or Terms. No alteration, modification, or interpretation of the parties' agreement will be binding unless in writing and signed by both parties.

28. The Order is personal to the Seller and the Seller shall not assign or transfer or purport to assign or transfer to any other person any of its rights or sub-contract any of its obligations under the Contract.

29. No waiver by the Buyer of any breach of the Contract by the Seller shall be considered as a waiver of any subsequent breach of the same or any other provision.