

Collicutt Purchase Order Terms and Conditions

1. Definitions

- a. "Agreement" means this Purchase Order Terms and Conditions.
- b. "Claims" means any claims, demands, complaints, liens, fines penalties, citations, damages, cause of action, suits, judgments, orders, expenses, or costs, of whatsoever nature, including, without limitation, court costs, reasonable attorney's fees, and expert witness fees;
- c. "Collicutt" means Collicutt Energy Services Inc.;
- d. "Delivery Date" means the date stated in the Purchase Order on which the Goods are to be delivered;
- e. "Force Majeure Event" means an event or occurrence, or the continuation or consequences of such event or occurrence, that is beyond the control of the Party affected, or another member of the Parties, that reasonably precludes performance of such Party's obligations under this Contract, and that such Party or members of the Parties could not reasonably have been prevented, anticipated, or provided against; provided that, only one or more of the following categories of events shall be considered a Force Majeure Event: (a) acts of God (excluding bad weather events, unless otherwise included in this definition of "Force Majeure Event," (b) compliance with any oral or written order, directive, decree, or moratorium of any government, governmental agency, or instrumentality with competent power and jurisdiction, (c) an act or inaction by any government, governmental agency, or instrumentality with competent power and jurisdiction, (d) explosion, earthquake, fire, flood, effects of a named storm, rogue wave, or other natural physical disaster, or shipping, aviation, or other manmade disasters, (e) acts of war or a public enemy (whether war is formally declared or not), piracy, seizure of a vessel, or kidnapping.
- f. "Goods" means the goods, equipment, or services described in the Purchase Order to be delivered to Collicutt by Supplier;
- g. "Laws" means all laws, codes, rules, ordinances, statutes, regulations, permits, licenses, orders and direction of any governmental, regulatory or administrative body (whether federal, state, municipal, foreign or otherwise) which are now or may, in the future, become applicable to Supplier or the Work.
- h. "Purchase Order" means an agreement, purchase order, or other request from Collicutt to Supplier to perform Work, setting forth the descriptions, quantities, prices, Specifications, Ship To's and other similar terms specific to a particular request for Work and includes this Agreement and all appendices and attachments thereto;
- i. "Party" or "Parties" means, individually, Collicutt or Supplier, or, collectively, Collicutt and Supplier;
- j. "Ship To" mean the point described in the Purchase Order at which delivery of the Goods is to be made;

- k. "Specifications" means specifications and arrangements set forth in a Purchase Order; or in a Request of Quotation document issued by Collicutt; or in a proposal or quotations submitted by the Supplier to Collicutt and agreed to by Collicutt;
 - l. "Supplier" means the Party identified on the first page of any subsequent Purchase Order as the Party charged with providing the Goods to Collicutt.
 - m. "Work" means the provision of Goods and the performance of related services.
2. **Application.** This Agreement applies only to Goods and all related services to be performed by Supplier at any location other than on Collicutt's premises. All other services not included as Goods provided by Supplier, and all services to be performed on Collicutt's premises, shall be governed by a different agreement. The terms set forth in this Agreement are to be used in conjunction with the Terms and Conditions of Purchase as shown on the Purchase Order.
3. **Entirety and Acceptance of Order**
- a. Unless specifically otherwise agreed by Collicutt and Supplier in writing, this Agreement and any Purchase Order issued thereunder, when accepted by Supplier, shall form the entire agreement between the Parties and shall supersede all prior agreements, understandings and negotiations with respect to the Work covered by such Purchase Order. No other terms shall apply unless agreed to in writing by Collicutt. Supplier may accept this Agreement and any Purchase Order issued thereunder in writing, and Supplier also accepts such Purchase Order by the commencement of the Work or shipment of any part of the Goods under such Purchase Order. At Collicutt's sole discretion, Work performed prior to the issuance of a Purchase Order may not be deemed accepted Work and may not be paid. Acceptance of any Purchase Order is limited to acceptance of the express terms contained in this Agreement, in the applicable Purchase Order, or incorporated by reference herein. To the extent that Supplier attempts to modify the agreement between the Parties by changing this Agreement or any Purchase Order or by sending any documents which purport to modify this Agreement or add additional or different terms or conditions, Collicutt objects to the inclusion of additional or different terms or any attempt by Supplier to vary in any degree the terms of such Purchase Order in Supplier's acceptance, and all such proposed modifications, additional or different terms shall be deemed rejected. No amendments, changes or modifications to this Agreement or any to any Purchase Order shall be valid unless reduced to writing and signed by both Parties.
 - b. In the event of a conflict between or among this Agreement and any other documents referenced in any Purchase Order, the conflict shall be resolved by assigning precedence to this Agreement and then to any referenced documents.
4. **Specifications.** Each article or class of Goods to be supplied under any Purchase Order shall be in strict accordance with all Specifications. Payment for any Goods under any Purchase Order shall not constitute acceptance or approval of such Goods by Collicutt. If Collicutt judges that the quality of the Goods is deficient, Collicutt may cancel the Purchase Order by returning the Goods at the Supplier's expense and debiting the Supplier's account with original purchase cost(s).

5. **Delivery of Goods**

- a. Supplier shall deliver the Goods to the Ship To, on the Delivery Date or in accordance with a schedule of other delivery dates or lead times as Supplier and Collicutt may have otherwise expressly agreed in writing.
- b. Where a Delivery Date is stated on the Purchase Order, delivery by such date is regarded as of the essence of the contract. Failure on the part of the Supplier to complete the Purchase Order by the Delivery Date will entitle Collicutt, without liability and in addition to any other rights and remedies provided by law, to any one or combination of the following remedies: i) terminate the Purchase Order by notice effective when received by Supplier; ii) reassign the Purchase Order to a new supplier and charge the Supplier with all incremental costs involved; and/or iii) assessment of liquidated damages in accordance with the terms of Section 17 hereunder.
- c. Goods delivered in error, Goods delivered contrary to the delivery schedule, rejected Goods or overages in excess of trade practice will be returned at Supplier's sole expense and risk. Supplier will be requested in advance to provide instructions for the return shipment, but if Supplier does not so provide instructions within a reasonable time after being requested, Collicutt will dispose of the Goods as it deems appropriate. In no event shall Collicutt be liable for any restocking or other charges for Goods returned to the Supplier.

6. **Packaging.** The Goods shall be packed to ensure safe and proper shipment of the Goods to Collicutt in an undamaged condition and Supplier shall be responsible for any loss or damage to the Goods which may arise from inadequate or inappropriate packaging. The Goods shall also be marked and packaged by Supplier in accordance with applicable Laws and/or industry standards and Collicutt's labelling/marketing instructions and packaging Specifications. Supplier shall ensure that all Goods are shipped in accordance with all applicable Laws, including those relating to dangerous and hazardous goods and shall include all documentation required by law in this regard. All packing cases, bales, cartons, etc. in which Goods are shipped shall become without charge Collicutt's property on receipt unless otherwise stipulated.

7. **Title and Risk of Loss to Goods.** Title and risk of loss or damage to the Goods shall pass to Collicutt upon satisfactory delivery and acceptance of the Goods at the Ship To.

8. **Pricing**

- a. The prices payable by Collicutt for the Work shall be the prices stated in the Purchase Order. All dollar amounts referred to therein are in United States funds unless otherwise expressly stated. The prices stated in the Order shall be firm, not subject to increase, complete and shall include the following: i) packing, crating, labeling, storage, and insurance of the Goods; ii) freight and delivery of the Goods to the Ship To, freight prepaid by Supplier; and iii) customs duties or tariffs and excise and sales taxes, where applicable.
- b. If payment for Goods supplied hereunder is to be made on a basis that in any manner is related to Supplier's costs, Collicutt shall have the right, at all reasonable times during the audit period specified in Section 9.e, to audit Supplier's records. Supplier shall,

during the term of said audit period, maintain all records related to the supply of such Goods to Collicutt and fully cooperate with Collicutt during the course of Collicutt's audit.

9. Invoicing, Payment and Audit Rights

- a. Supplier will submit invoices for Goods delivered pursuant to this Agreement to the address specified in the Purchase Order.
- b. Invoices (single copy) shall be rendered to Collicutt for (i) Goods delivered under this Agreement; during the previous month. Each invoice shall fully describe the Goods delivered and shall state whether the billing is "Partial" or "Final".
- c. The Purchase Order number shall appear on all invoices, packing lists and delivery tickets.
- d. All sales tax, custom duties and shipping charges, if applicable, shall be shown separately on each invoice.
- e. Collicutt shall pay Supplier within thirty (30) days after receipt of Supplier's invoice. If Supplier's invoice does not agree with the terms of the Purchase Order, Collicutt may change the invoice to conform to the Purchase Order and make payment accordingly. Supplier shall retain all pertinent books, payrolls, and records relating to Work performed or Goods provided pursuant to this Agreement for a period of at least twenty four (24) months after the end of the year in which an invoice for Work performed or Goods provided by Supplier was submitted to Collicutt for payment. Collicutt's representatives shall at all times during regular business hours have access to and the right to audit the books, payroll, and records maintained by Supplier relating to any of such Work or Goods. Upon Collicutt's request, Supplier shall also provide Collicutt's representatives with the expense reports and/or entertainment and gratuity logs related to Supplier's employees and representatives who deal or interface with Collicutt's employees and representatives. Supplier shall ensure that such records are maintained for a period of at least twenty four (24) months following any such interaction between Supplier's employees and representatives and Collicutt's employees and representatives. Following the conclusion of any audit conducted hereunder, Collicutt may notify Supplier of Collicutt's exceptions and claims of discrepancies with regard to any matter discovered by such audit. If Supplier should fail to contest in writing any such exceptions and claims of discrepancies by Collicutt within ninety (90) days of Supplier's receipt thereof, such exceptions and claims shall be deemed to be correct and accepted by Supplier; and Supplier shall promptly remedy such exceptions and claims in the manner required.
- f. Due performance by Supplier of all of Supplier's obligations under the Purchase Order shall be a condition precedent to all payments by Collicutt under the Purchase Order.
- g. All claims for monies due or to become due from Collicutt to Supplier shall be subject to deduction or set-off by Collicutt by reason of any claim or counterclaim arising out of the Purchase Order or any other purchase order or transaction with Supplier.

- h. Neither payments made to Supplier, nor partial or complete use of the Goods by Collicutt shall constitute acceptance of any Work not in accordance with the Purchase Order.
 - i. Collicutt shall be entitled to a discount for early payment if, and in the manner, so specified in the Purchase Order.
 - j. Excluding obligations arising under audit rights, Collicutt shall have no obligation to pay, or otherwise compensate Supplier, for any invoice received from Supplier more than ninety (90) days after the completion of the delivery of the Goods.
- 10. **Taxes and Customs Duties.** Subject to any federal, state or municipal taxing authority imposing on Collicutt the express duty to make payment of or withhold or deduct premiums, taxes, levies or charges, Supplier shall be responsible to pay when due any and all taxes, levies, charges, contributions and customs duties now or in the future levied or imposed in any way by any authority having jurisdiction to do so.
- 11. **Imports.** For all Goods purchased directly from foreign countries for shipment into the United States, Supplier shall include four completed and signed copies of the applicable United States Customs and Border Patrol forms with the documentation accompanying the shipment. A copy of the relevant United States Customs and Border Patrol forms shall also be forwarded to Collicutt's Purchasing Department under separate cover. If Supplier manufactures or purchases any goods involved in a Purchase Order outside of the United States, it must ensure that it, its agent, or representative is the "Importer of Record" for customs purposes. Collicutt shall not be liable for and Supplier shall indemnify Collicutt with respect to any special or dumping duties which may be levied by the United States Customs and Border Patrol or by the United States Treasury Department upon any imported goods acquired by Collicutt under a Purchase Order.
- 12. **Representations and Warranties**
 - a. Supplier represents and warrants that:
 - i. all Goods provided under a Purchase Order: A) shall be new, unless otherwise designated; B) shall be free of defects in design, materials, or workmanship and will conform strictly and in all respects to the requirements of the Purchase Order, including, without limitation, the Specifications; C) shall conform to any statements made on the containers or labels or advertisements for such Goods; D) shall be adequately contained, packaged, marked and labeled; and E) shall be safe and appropriate for the purposes for which Goods of that kind are normally used;
 - ii. if Supplier knows or has reason to know the particular purpose for which Collicutt intends to use the Goods, such Goods will be fit for such particular purpose;
 - iii. Supplier is and shall be the legal and beneficial owner of the Goods at the time of delivery of the Goods to Collicutt and at the time title of the Goods passes to Collicutt;
 - iv. the Goods shall be transferred to Collicutt free of all liens, security, interests, claims, charges, and encumbrances;

- v. the shipping and handling of designated products and/or hazardous materials (as defined by applicable Laws) will be made in accordance with the applicable governmental regulations in force at the time of shipment;
 - vi. Supplier has the resources, skills and ability to manufacture and/or supply the Goods or perform the Work in accordance with a Purchase Order; and
 - vii. Supplier will perform all Work in a good and workmanlike manner in accordance with the Purchase Order and industry standards.
- b. Supplier agrees to replace or correct defects, including latent defects, of any Work not conforming to the foregoing warranty promptly, without expense to Collicutt, when notified of such nonconformity by Collicutt. In the event of failure of Supplier to correct defects in or replace nonconforming Work promptly to Collicutt's satisfaction, Collicutt, after reasonable notice to Supplier, may make such corrections or replace such Goods and charge Supplier for the cost incurred by Collicutt in doing so. This warranty shall be in effect for a period of twelve (12) months, or such other time period as may be stipulated in the Purchase Order (the "Warranty Period"), after the Goods are placed in use or operation.
 - c. The Warranty Period for the Goods shall be extended by a period equal to the sum of any periods during the Warranty Period during which the Goods cannot be used for the purpose for which they were intended by reason of a breach of the warranties above. Further, notwithstanding the expiration of any Warranty Period described in this Section, Supplier's warranty obligations shall extend to correcting any defects in Work of which Collicutt has given Supplier notice prior to the expiration of such Warranty Period and to latent defects discovered at any time thereafter.

13. Intellectual Property

- a. Supplier hereby warrants that the Goods purchased hereunder and the sale, resale or use of them will not infringe any patent, copyright, trade-mark or any other intellectual property right of any person. Supplier shall pay the royalties and patent license fees required for the performance of the Purchase Order.
- b. SUPPLIER SHALL, AT ITS OWN EXPENSE, DEFEND ALL SUITS AND PROCEEDINGS INSTITUTED AGAINST ANY MEMBER OF COLLICUTT, INCLUDING COLLICUTT AND INDEMNIFY ANY MEMBER OF COLLICUTT, INCLUDING COLLICUTT AGAINST ANY AND ALL CLAIMS IF SUCH SUITS OR PROCEEDINGS ARE BASED ON ANY ALLEGATION, CLAIM, OR STATEMENT THAT ANY OF THE WORK, THE GOODS, OR RELATED DOCUMENTATION, PARTS, OR EQUIPMENT CONSTITUTE(S) AN INFRINGEMENT, WHETHER ACTUAL OR ALLEGED, OF ANY INTELLECTUAL PROPERTY RIGHT (INCLUDING PATENT, TRADEMARK, COPYRIGHT, OR INDUSTRIAL DESIGN) BY SUPPLIER OR ANYONE FOR WHOSE ACTS IT MAY BE LIABLE.
- c. If any of the Work or related documentation, parts, and/or equipment constitute an infringement of such intellectual property right and its use is enjoined, the Supplier shall, at its own expense, procure for Collicutt the right to continue using same, replace or modify same, so it becomes non-infringing and meets Collicutt's requirements, or pay

Collicutt for loss of use of same, including any consequential damages or losses, which occur as a result of the alleged infringement of such intellectual property right by Supplier or anyone for whose acts it may be liable.

14. **Compliance with Laws, Permits and Licenses.** Supplier shall be responsible for obtaining all necessary licenses, registrations and permits and for complying with all applicable Laws in performing the Work. Supplier shall, when requested, provide Collicutt with adequate evidence of compliance with this Section.

15. **Liability and Indemnity**

- a. IN CONSIDERATION OF THIS AGREEMENT AND ANY SUBSEQUENT ORDER, SUPPLIER AGREES THAT, AS A CONDITION HEREOF, IT WILL RELEASE, INDEMNIFY, PROTECT, DEFEND, AND HOLD HARMLESS COLLICUTT FROM AND AGAINST ALL CLAIMS ARISING OUT OF OR IN ANY RELATED TO THIS AGREEMENT, ANY ORDER, OR THE GOODS FOR (i) THE INJURY, ILLNESS, OR DEATH OF ANY MEMBER OF THE SUPPLIER, INCLUDING THE SUPPLIER; (ii) THE LOSS, DAMAGE, OR DESTRUCTION OF ANY PROPERTY, BOTH REAL AND PERSONAL, BELONGING TO ANY MEMBER OF THE SUPPLIER, INCLUDING THE SUPPLIER OR COLLICUTT ; (iii) THE BREACH BY ANY MEMBER OF THE SUPPLIER, INCLUDING THE SUPPLIER OF ANY REPRESENTATION OR WARRANTY; OR (iv) THE BREACH OF ANY MEMBER OF THE SUPPLIER, INCLUDING THE SUPPLIER TO COMPLY WITH THE CONFIDENTIALITY PROVISIONS CONTAINED IN THIS AGREEMENT OR IN ANY ORDER; ALL WITHOUT REGARD TO WHETHER ANY SUCH CLAIM IS CAUSED, IN WHOLE OR IN PART, BY THE NEGLIGENCE (WHETHER SOLE, JOINT, OR CONCURRENT; ACTIVE OR PASSIVE), STRICT LIABILITY, STATUTORY LIABILITY, CONTRACTUAL LIABILITY, THE UNSEAWORTHINESS OF ANY VESSEL, OR OTHER FAULT (EXCLUDING ONLY THE GROSS NEGLIGENCE AND INTENTIONAL MISCONDUCT) OF ANY MEMBER OF COLLICUTT, INCLUDING COLLICUTT OR BY ANY DEFECT OR PRE-EXISTING CONDITION (WHETHER KNOWN OR UNKNOWN; PATENT, LATENT, OR OTHERWISE).
- b. Except for indemnity and defense obligations owed under Section 13 , neither Party shall be liable in an action initiated by one against the other for special, indirect, consequential, exemplary or punitive damages resulting from or arising out of this Agreement or any Purchase Order, including, without limitation, loss of profit or business interruptions, however same may be caused. The waiver of damages contained in this paragraph shall survive any termination of this Agreement or any Purchase Order.

16. **Insurance**

- a. In the event that all or any portion of the Work covered by any Purchase Order will be performed or delivered on Collicutt's premises or any other premises, Supplier shall carry, at all times during the term of any such Purchase Order and at its own expense and with deductibles for its own account, with insurance providers reasonably satisfactory to Collicutt and authorized to do business in the state or states in which any Work is to be performed or rendered under such Purchase Order, the following minimum insurance coverages:

