



D5LLC30CHP Centrifuge and Belt Filter Press Service & Maintenance Agreement

This Service and Maintenance Agreement, dated as of July 1, 2018, between ANDRITZ Separation Inc. (Supplier) having its principle office at 1010 Commercial Blvd. South, Arlington, Texas 76001 and City of Clearwater (Owner) having its Locations at Marshall Street Facility, and Northeast WRF, in Clearwater, FL.

In consideration of the mutual covenants herein contained, Supplier and Owner hereby agree to enter into an extended Preventive Maintenance Agreement for a. This Agreement incorporates the attached Exhibits 1, 2, and 3.

Article 1. Scope of Work

Centrifuges - Supplier agrees to provide a Factory Technician to conduct preventative maintenance on the Owner's Centrifuge based on the attached Scope of Work (Exhibit 1) and Preventative Maintenance Schedule (Exhibit 2).

Belt Presses - Supplier agrees to provide a Factory Technician to conduct inspections on the Owner's Belt Presses based on the attached Scope of Work (Exhibit 1) and Preventative Maintenance Schedule (Exhibit 2).

Article 2. Labor, Tools and Supplies

Owner is responsible to provide additional labor, as required, and any specialized tools and lubrication fixtures. Owner will make available the use of an overhead crane where required or provide suitable lifting assembly when necessary for lifting components.

Article 3. Manufacturer Service Contact

Supplier maintains standard business hours of 8:00 AM to 5:00 PM CST. After business hour service is provided 24 hrs/day by dialing 1-817-465-5611. After hours calls are distributed to on-call individuals that will respond via phone to help assess service requirements and ship parts. ANDRITZ will respond, and be onsite within 48-72 hours for emergency services based on the rate of \$195.00 per hour. This includes labor, travel, and expenses.

Article 4. Service Reports

At the completion of each visit, the technician will submit a report covering in detail the recommended repairs, if any additional parts are required and any recommendations or observations that require future service by the Owner. Owner will be responsible to sign and date report acknowledging that he/she understands the service provided and is aware of potential service issues. A formal service report will be supplied to Owner within 10 working days of service.

Article 5. Safety Requirements

Supplier provides all technicians with basic safety equipment such as steel toe boots, safety glasses, hardhat and gloves. Owner is responsible to provide a safe working area and notify Supplier of any additional safety requirements prior to servicing equipment. If the environment is determined to be unsafe, it is the Owners responsibility to correct prior to any equipment servicing or to provide specialized safety equipment and applicable training.

Article 6. Contract Renewal

At the expiration of the Agreement, the Owner and Supplier can mutually agree to renew said Agreement.

Article 7. Terms and Conditions of Sale

The attached (Exhibit 3), Andritz Separation Inc. Terms and Conditions of Sale, shall apply to this Agreement.

Article 8. Sales and Use Tax

All applicable sales and use taxes are to be paid by the Owner direct to the applicable state tax authority, unless a Tax Exemption Certificate is provided to the Supplier.

Article 9. Agreement Offering

Belt Presses

Belt Press - Supplier offers this Agreement for a lump sum price of **\$25,860.00** to be paid in two (2) installments of \$12,930.00. Payment is due prior to first visit and will initiate contract start date; monthly payment is due 30 calendar days from invoice date.

Marshall Street Facility Centrifuge:

D5LL - Supplier offers this Agreement for a lump sum price of **\$53,550.00** to be paid in two (2) installments of \$26,775.00. Payment is due prior to first visit and will initiate contract start date; monthly payment is due 30 calendar days from invoice date.

Northeast WRF Centrifuge:

D5LL - Supplier offers this Agreement for a lump sum price of **\$15,762.00** to be paid in two (2) installments of \$7,881.00. Payment is due prior to first visit and will initiate contract start date; monthly payment is due 30 calendar days from invoice date.



Article 10. Entire Agreement

This Agreement contains the entire and only agreement between the parties with respect to the subject matter hereof and supersedes all prior oral and written understandings between Owner and Supplier concerning the parts and/or services specified herein, and any prior course of dealings or usage of the trade not expressly incorporated herein.

Article 11. Representations

Each, the Supplier and Owner, represent and warrant that it has duly authorized the execution and delivery of this agreement; that this agreement as has been executed and delivered by it and that this agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with its terms.

IN WITNESS WHEREOF, the parties hereto have duly executed this Service Agreement on the date first above written.

Supplier: Andritz Separation Inc.

Owner: _____

By _____

By _____

Name:

Name:

Title:

Title:

EXHIBIT 1
SCOPE OF WORK BY SUPPLIER AND OWNER

SUPPLIER - Centrifuges

Supplier agrees to provide a Factory Technician to conduct service and preventative maintenance on the supplied Centrifuges. Preventative maintenance is based upon an established level of operating hours and includes scheduled inspections as well as replacement of wear components. This Agreement includes wear parts, lubricants and service for the period specified in the Maintenance Schedule (Exhibit 2).

Replacement parts other than the specific wear components listed in the Maintenance Schedule in Exhibit 2 of this Agreement are not included.

In addition to the service specified, the Factory Technician will inspect the operation, train operators at a minimum of 2 days, adjust programming and provide system quality control.

EQUIPMENT

(1) D5LLC30CHP Centrifuge – Marshall Street Facility

- Current run hours on machine is 12,488. Operating hours of this agreement are based on the maintenance schedule (Exhibit 3) for 12,000, 15,000, and 18,000 run hours.

(1) D5LLC30CHP Centrifuge – Northeast WRF

- Current run hours on machine is 7,612, after complete rebuild in early 2017. Operating hours of this agreement are based on the maintenance schedule (Exhibit 3) for 15,000, 18,000, and 21,000 run hours.

OWNER

Owner to provide basic/routine preventive maintenance. Owner to conduct and document at a minimum:

- Daily Performance Optimization
- Hours of operation
- Inspections and checking for leaks
- Daily Operator Checks
 - Centrifuge operation, vibration, abnormal noise.
 - Greasing of main bearings every 200 hours.
 - Bearing temperature and noise.
 - Current consumption of drive motor.
 - Check torque readings.
 - Check for grease leaks at cyclo unit.
 - Check product leakage at pillow block.

EXHIBIT 1 SCOPE OF WORK BY SUPPLIER AND OWNER

Owner is responsible for providing the following during services:

- Overhead lifting device for removal of the rotating assembly, and or centrate casing, for service when required.
- Specialty tools provided with the machine.
 - Hub extractor
 - Lifting beam
 - All thread
 - Gear box removal tool
 - Pulley removal tool
 - Grease Nipple Extender

SUPPLIER – Belt Press

Supplier agrees to provide a Factory Technician to conduct service and preventative maintenance on the supplied Belt Presses. Preventative maintenance is based upon an established level of operating hours and includes two (2) yearly scheduled inspections.

In addition to the service specified, the Factory Technician will inspect the operation, train operators, adjust programming and provide system quality control.

EQUIPMENT

(3) Belt Presses – Reconditioned Units

- This agreement is based on two (2) yearly inspections to include:
 - Change main drive reducer oil (1yr)
 - Wear part replacement if needed
 - Belt changed if damaged
 - Verify that daily operator inspections have been performed consistently.

OWNER

Owner to provide basic/routine preventive maintenance. Owner to conduct and document at a minimum:

- Daily performance optimization
- Hours of operation
- Daily Operator Inspections

EXHIBIT 1
SCOPE OF WORK BY SUPPLIER AND OWNER

- Belts for holes or tears
- Doctor blades for wear
- Roll coatings for tears
- Wedge and wedge setting
- Bearings
- Belt tracking device
- Pneumatic system oiler
- Spray wash system, especially nozzles

Owner to have the following parts on hand during inspections.

Replacement parts		Parts Required
Belts	Top	1 Belt 84 x 455
	Bottom	1 Belt 84 x 803
Seals	Top & Bottom shower	4 60112583
	Gravity Zone (side)	2 60112325
	Gravity Zone (end)	1 60112553
	Wedge Zone (end)	1 60112554
	Grid strips	68
	Doctor blades (drive)	2 60114382-A
	Doctor blades (breast)	1 60114381-A

**EXHIBIT 2
MAINTENANCE SCHEDULE**

The Supplier's certified factory trained technician will conduct maintenance per the below listed intervals.

D5LL Centrifuges

Frequency	Description of Service	Parts Provided
12,000 hours (Marshall) Only	Replace Drive and Feed High Speed Bearing Replace Scroll Thrust Bearing Grease for Bearing Replacement Seals Set for 12,000 hour service Replace Eccentric Bearing-Cyclo Reducer Replace Bowl Nozzles Replace Scroll Nozzles Gearbox and Redex lubrication change Copper Seals Belt Replacement	1 Set of Bearings 1 Set of Bearings 8 Grease Cartridges 1 set of seals 1 Eccentric bearing & seals 8 Nozzles 4 Nozzles 5KG – Energrease & 1 Quart oil 4 Copper Seals Set of 5 Belts
15,000 hours (Both sites)	Grease Scroll Thrust Bearings Gearbox and Redex lubrication change Copper Seals General inspection	2 Grease Cartridges 5KG – Energrease & 1 Quart oil 4 Copper Washers
18,000 hrs. (Both sites)	Replacement of Drive Belts Grease Scroll Thrust Bearings Gearbox and Redex lubrication change Copper Seals Replace Oil in Lube Unit General Inspection	1 set of drive belts 5 Grease Cartridges 5KG – Energrease & 1 Quart oil 6 Copper Washers 20 Gallons Oil
21,000 hours (Northeast) Only	Grease Scroll Thrust Bearings Gearbox and Redex lubrication change Copper Seals General inspection	2 Grease Cartridges 5KG – Energrease & 1 Quart oil 4 Copper Washers

Exclusions:

Replacement parts other than the specific wear components listed in the Maintenance Schedule in (Exhibit 2) of this Agreement are not included.

Electrical components replacement cost is not included as part of the service agreement. ANDRITZ technicians will assist in establishing required replacement components, installation and programming as required.

**EXHIBIT 3
ANDRITZ SEPARATION INC.
STANDARD TERMS & CONDITIONS OF SALE**

1. TERMS APPLICABLE

This quotation or acknowledgement and Seller's sale of Products and /or provision of Services described in Buyer's purchase order issued in whole or in part in response to this quotation or in response to which this acknowledgement is issued are expressly limited to and expressly made conditional on, Buyer's acceptance of the Terms and Conditions of Sale and/or Service listed below, which are the exclusive terms and conditions upon which Andritz Separation Inc. or the applicable Andritz entity supplying the same ("Seller") will accept a purchase order for the sale of new, used and refurbished products, equipment, parts and/or the provision of services ("Products" and "Services"). These Terms and Conditions of Sale and/or Service control, supersede and replace any and all other additional and/or different terms and conditions of Buyer, and Seller hereby objects to and rejects all such terms and conditions of Buyer without further notification, except to the extent Seller expressly agrees to such conditions in writing. Seller's commencement of work under the Purchase Order or Buyer's acceptance of delivery of or payment for any Products or Services covered by this Agreement, in whole or in part, shall be deemed Buyer's agreement to the foregoing. The term "this Agreement" as used herein means this quotation or acknowledgment or Buyer's purchase order, together with any attachment thereto, any documents expressly incorporated by reference (but excluding any Buyer terms and conditions attached thereto or incorporated therein by reference), and these Terms and Conditions of Sale and/or Service.

2. DELIVERY OR PERFORMANCE

Delivery or performance dates are good faith estimates and do not mean that "time is of the essence." Buyer's failure to promptly make advance or interim payments, supply technical information, drawings and approvals will result in a commensurate delay in delivery or performance. Installation of any Product shall not be Seller's responsibility unless specifically provided for in this Agreement. Upon and after delivery, risk of loss or damage to the Products shall be Buyer's. Delivery of the Products hereunder will be made on the terms agreed to by the parties as set forth in this Agreement, according to INCOTERMS 2010.

3. WARRANTY**(a) Products Warranty.**

(i) New Equipment Warranty. In the case of the purchase of new equipment the Seller warrants to Buyer that the new equipment manufactured by it will be delivered free from defects in material and workmanship. This warranty shall commence upon delivery of the new equipment to Buyer and shall expire on the earlier to occur of 12 months from initial operation of the new equipment and 18 months from delivery thereof (the "Warranty Period").

(ii) Parts and Used or Reconditioned Machinery or Equipment Warranty. In the case of parts or used or reconditioned machinery or equipment, and unless otherwise indicated, Seller warrants to Buyer that the parts or the used or reconditioned machinery or equipment manufactured by it will be delivered free from defects in material and workmanship. This warranty shall commence upon delivery of the parts or the used or reconditioned machinery or equipment to the buyer and shall expire 6 months from delivery thereof (the "Warranty Period").

(iii) If during the Warranty Period Buyer discovers a defect in material or workmanship of a Product and gives Seller written notice thereof within 10 days of such discovery, Seller will, at its option, either deliver to Buyer, on the same terms as the original delivery was made, according to INCOTERMS 2010, a replacement part or repair the defect in place. Any repair or replacement part furnished pursuant to this warranty is warranted against defects in material and workmanship for one period of 12 months from completion of such repair or replacement, with no further extension. Seller will have no warranty obligations for the Products under this Paragraph 3(a): (i) if the Products have not been stored, installed, operated and maintained in accordance with generally approved industry practice and with Seller's specific written instructions; (ii) if the Products are used in connection with any mixture or substance or operating condition other than that for which they were designed; (iii) if Buyer fails to give Seller such written 10 day notice; (iv) if the Products are repaired by

someone other than Seller or have been intentionally or accidentally damaged; (v) for corrosion, erosion, ordinary wear and tear or in respect of any parts which by their nature are exposed to severe wear and tear or are considered expendable; or (vi) for expenses incurred for work in connection with the removal of the defective articles and reinstallation following repair or replacement.

(b) Services Warranty. Seller warrants to Buyer that the Services performed will be free from defects in workmanship and will conform to any mutually agreed upon specifications. If any failure to meet this warranty appears within 12 months from the date of completion of the Services, on the condition that Seller be promptly notified in writing thereof, Seller as its sole obligation for breach of this warranty will correct the failure by re-performing any defective portion of the Services furnished. Seller does not warrant the accuracy of, or performance results of, any conclusions or recommendations provided, nor that any desired objective will result from the Service provided and Seller shall not be liable for any loss of use or any production losses whatsoever.

(c) Seller further warrants to Buyer that at delivery, the Products manufactured by it will be free of any liens or encumbrances. If there are any such liens or encumbrances, Seller will cause them to be discharged promptly after notification from Buyer of their existence.

(d) THE EXPRESS WARRANTIES SELLER MAKES IN THIS PARAGRAPH 3 ARE THE ONLY WARRANTIES IT WILL MAKE. THERE ARE NO OTHER WARRANTIES, WHETHER STATUTORY, ORAL, EXPRESS OR IMPLIED. IN PARTICULAR, THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

(e) The remedies provided in Paragraphs 3(a), 3(b) and 3(c) are Buyer's exclusive remedy for breach of warranty.

(f) With respect to any Product or part thereof not manufactured by Seller, Seller shall pass on to Buyer only those warranties made to Seller by the manufacturer of such Product or part which are capable of being so passed on.

4. LIMITATION OF LIABILITY

Notwithstanding any other provision in this Agreement, the following limitations of liability shall apply:

(a) In no event, whether based on contract, tort (including negligence), strict liability or otherwise, shall Seller, its officers, directors, employees, subcontractors, suppliers or affiliated companies be liable for loss of profits, revenue or business opportunity, loss by reason of shutdown of facilities or inability to operate any facility at full capacity, or cost of obtaining other means for performing the functions performed by the Products, loss of future contracts, claims of customers, cost of money or loss of use of capital, in each case whether or not foreseeable, or for any indirect, special, incidental or consequential damages of any nature resulting from, arising out of or connected with the Products, Services, or this Agreement or from the performance or breach hereof.

(b) The aggregate liability of Seller, its officers, directors, employees, subcontractors, suppliers or affiliated companies, for all claims of any kind for any loss, damage, or expense resulting from, arising out of or connected with the Products, Services or this Agreement or from the performance or breach hereof, together with the cost of performing make good obligations to pass performance tests, if applicable, shall in no event exceed the contract price.

(c) The limitations and exclusions of liability set forth in this Paragraph 4 shall take precedence over any other provision of this Agreement and shall apply whether the claim of liability is based on contract, warranty, tort (including negligence), strict liability, indemnity, or otherwise. The remedies provided in this Agreement are Buyer's exclusive remedies.

(d) All liability of Seller, its officers, directors, employees, subcontractors, suppliers or affiliated companies, resulting from, arising out of or connected with the Products, Services or this Agreement or from the performance or breach hereof shall terminate on the third anniversary of the date of this Agreement.

(e) In no event shall Seller be liable for any loss or damage whatsoever arising from its failure to discover or repair latent defects or defects inherent in the design of goods serviced

(unless such discovery or repair is normally discoverable by tests expressly specified in the scope of work under this Agreement) or caused by the use of goods by the Buyer against the advice of Seller. If Seller furnishes Buyer with advice or assistance concerning any products or systems that is not required pursuant to this Agreement, the furnishing of such advice or assistance will not subject Seller to any liability whether in contract, indemnity, warranty, tort (including negligence), strict liability or otherwise.

5. CHANGES, DELETIONS AND EXTRA WORK.

Seller will not make changes in the Products unless Buyer and Seller have executed a written Change Order for such change. Buyer, without invalidating this Agreement, may make changes by altering, adding to or deducting from the general scope of the Services by written Change Order. Any such Change Order will include an appropriate adjustment to the contract price and delivery schedule. If the change impairs Seller's ability to satisfy any of its obligations to Buyer, the Change Order will include appropriate modifications to this Agreement. Seller shall be entitled to a Change Order adjusting the contract price, delivery schedule and/or any affected obligations of Seller if after the date of this Agreement a change in applicable law should require a change in the Products or Services or in the event and to the extent that an act or omission of Buyer, or any error or change in Buyer-provided information, affects the Seller's performance hereunder.

6. TAXES

Seller's prices do not include any sales, use, excise or other taxes. In addition to the price specified herein, the amount of any present or future sales, use, excise or other tax applicable to the sale or use of the Products or Services shall be billed to and paid by Buyer unless Buyer provides to Seller a tax-exemption certificate acceptable to the relevant taxing authorities.

7. SECURITY INTEREST

Seller shall retain a purchase money security interest and Buyer hereby grants Seller a lien upon and security interest in the Products until all payments hereunder have been made in full. Buyer acknowledges that Seller may file a financing statement or comparable document as required by applicable law and may take all other action it deems reasonably necessary to perfect and maintain such security interest in Seller and to protect Seller's interest in the Products.

8. SET OFF

Neither Buyer nor any of its affiliates shall have any right to set off claims against Seller or any of its affiliates for amounts owed under this Agreement or otherwise.

9. PATENTS

Unless the Products or any part thereof are designed to Buyer's specifications and provided the Product or any part thereof is not used in any manner other than as specified or approved by Seller in writing, (i) Seller shall defend against claims made in a suit or proceeding brought against Buyer by an unaffiliated third party that any Product infringes a device claim of a United States or Canadian patent issued as of the effective date of this Agreement and limited to the field of the specific Products provided under this Agreement; provided Seller is notified promptly in writing and given the necessary authority, information and assistance for the defense of such claims; (ii) Seller shall satisfy any judgment (after all appeals) for damages entered against Buyer on such claims so long as such damages are not attributable to willful conduct or sanctioned litigation conduct; and (iii) if such judgment enjoins Buyer from using any Product or a part thereof, then Seller will, at its option: (a) obtain for Buyer the right to continue using such Product or part; (b) eliminate the infringement by replacing or modifying all or part of the Products; or (c) take back such Product or part and refund to Buyer all payments on the purchase price that Seller has received for such Product or part. The foregoing states Seller's entire liability for patent infringement by any Product or part thereof.

10. SOFTWARE LICENSE, WARRANTY, FEES

The following Software Terms and Conditions apply to any embedded or separately packaged software produced by Seller and furnished by Seller hereunder:

(a) Seller hereby grants to Buyer a non-exclusive, non-transferable, non sub-licensable license to the Software, and any modifications made by Seller thereto only in connection with configuration of the Products and operating system for which the Software is ordered hereunder, and for the end-use purpose stated in the related Seller operating documentation. Buyer agrees that neither it nor any third party shall modify, reverse engineer, decompile or reproduce the Software, except Buyer may create a single copy for backup or archival purposes in accordance with the related Seller operating documentation (the "Copy"). Buyer's license to use

the Software and the Copy of such Software shall terminate upon any breach of this Agreement by Buyer. All copies of the Software, including the Copy, are the property of Seller, and all copies for which the license is terminated shall be returned to Seller with written confirmation after termination.

(b) Seller warrants that, on the date of shipment of the Software or the Products containing the Software to Buyer: (1) the Software media contain a true and correct copy of the Software and are free from material defects; (2) Seller has the right to grant the license hereunder; and (3) the Software will function substantially in accordance with the related Seller operating documentation.

(c) If within 12 months from the date of delivery of the Software or Products containing the Software, Buyer discovers that the Software is not as warranted above and notifies Seller in writing prior to the end of such 12 month period, and if Seller determines that it cannot or will not correct the nonconformity, Buyer's and Buyer's Seller-authorized transferee's exclusive remedies, at Seller's option, are: (1) replacement of the nonconforming Software; or (2) termination of this license and a refund of a pro rata share of the contract price or license fee paid.

(d) If any infringement claims are made against Buyer arising out of Buyer's use of the Software in a manner specified by Seller, Seller shall: (i) defend against any claim in a suit or proceeding brought by an unaffiliated third party against Buyer that the Software violates a registered copyright or a confidentiality agreement to which Seller was a party, provided that Seller is notified promptly in writing and given the necessary authority, information and assistance for the defense and settlement of such claims (including the sole authority to select counsel and remove the Software or stop accused infringing usage); (ii) Seller shall satisfy a final judgment (after all appeals) for damages entered against Buyer for such claims, so long as such damages are not attributable to willful conduct or sanctioned litigation conduct; and (iii) if such judgment enjoins Buyer from using the Software, Seller may at its option: (a) obtain for Buyer the right to continue using such Software; (b) eliminate the infringement by replacing or modifying the Software, or (c) take back such Software and refund to Buyer all payments on the purchase price that Seller has received. However, Seller's obligations under this Paragraph 10 shall not apply to the extent that the claim or adverse final judgment relates to: (1) Buyer's running of the Software after being notified to discontinue; (2) non-Seller software, products, data or processes; (3) Buyer's alteration of the Software; (4) Buyer's distribution of the Software to, or its use for the benefit of, any third party; or (5) Buyer's acquisition of confidential information (a) through improper means; (b) under circumstances giving rise to a duty to maintain its secrecy or limit its use; or (c) from a third party who owed to the party asserting the claim a duty to maintain the secrecy or limit the use of the confidential information. Buyer will reimburse Seller for any costs or damages that result from actions 1 to 5. In Seller's discretion and at Seller's own expense, with regard to any actual or perceived infringement claim related to the Software, Seller may: (i) procure the right to use the Software, (ii) replace the Software with a functional equivalent, and/or (iii) modify the Software. Under (ii) and (iii) above, Buyer shall immediately stop use of the allegedly infringing Software.

(e) This warranty set forth in subparagraph (c) above shall only apply when: (1) the Software is not modified by anyone other than Seller or its agents authorized in writing; (2) there is no modification in the Products in which the Software is installed by anyone other than Seller or its agents authorized in writing; (3) the Products are in good operating order and installed in a suitable operating environment; (4) the nonconformity is not caused by Buyer or a third party; (5) Buyer promptly notifies Seller in writing, within the period of time set forth in subparagraph (c) above, of the nonconformity; and (6) all fees for the Software due to Seller have been timely paid. **SELLER HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH REGARD TO THE SOFTWARE, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, COURSE OF DEALING AND USAGE OF TRADE.**

(f) Buyer and its successors are limited to the remedies specified in this Paragraph 10.

(g) Any subsequent modifications or enhancements to the Software made by Seller are, at Seller's option, subject to a fee.

11. SITE RISKS

(a) Concealed Conditions. The parties acknowledge and agree that increased costs or schedule extensions due to any concealed conditions at the job site shall be to Buyer's account. Buyer shall hold Seller harmless for increased costs and grant any necessary schedule extensions if any concealed or hazardous conditions are found.

(b) Environmental Remediation. Buyer acknowledges that Seller is not an expert in environmental remediation and shall not be directed by change order or otherwise to perform any environmental remediation as part of the Services, including but not limited to asbestos and lead paint removal. If any environmental remediation becomes necessary, Buyer will contract directly with a qualified third party to perform such work.

12. TERMINATION

(a) Buyer may terminate this Agreement upon breach by Seller of a material obligation hereunder and Seller's failure to cure, or to commence a cure of, such breach within a reasonable period of time (but not less than 30 days) following written receipt of notice of the same from Buyer.

(b) Buyer may only terminate this Agreement for Buyer's convenience upon written notice to Seller and upon payment to Seller of Seller's termination charges, which shall be specified to Buyer and shall take into account among other things expenses (direct and indirect) incurred and commitments already made by Seller and an appropriate profit; provided, that in no event shall Seller's termination charges be less than 25% of the contract price.

(c) Seller shall have the right to suspend and/or terminate its obligations under this Agreement if payment is not received within 30 days of due date, in the event of the bankruptcy or insolvency of Buyer or in the event of any bankruptcy or insolvency proceeding brought by or against Buyer. Seller shall be entitled to terminate any order outstanding at any time during the period allowed for filing claims against the estate and shall receive reimbursement for its cancellation charges.

13. CONFIDENTIALITY

Buyer acknowledges that the information that Seller submits to Buyer in connection with this Agreement and the performance hereof includes Seller's confidential and proprietary information, both of a technical and commercial nature. Buyer agrees not to disclose such information to third parties without Seller's prior written consent. Seller grants to Buyer a non-exclusive, royalty-free, perpetual, non-transferrable license to use Seller's confidential and proprietary information for the purpose of the installation, operation, maintenance and repair of the Products that are the subject hereof only. Buyer further agrees not to, and not to permit any third party to, analyze, measure the properties of, or otherwise reverse engineer the Products, fabricate the Products or any parts thereof from Seller's drawings or to use the drawings other than in connection with this Agreement. Buyer will defend and indemnify Seller from any claim, suit or liability based on personal injury (including death) or property damage related to any Product or part thereof which is fabricated by a third party without Seller's prior written consent and from and against related costs, charges and expenses (including attorneys' fees). All copies of Seller's confidential and proprietary information shall remain Seller's property and may be reclaimed by Seller at any time in the event Buyer is in breach of its obligations under this Paragraph 13.

14. END USER

If Buyer is not the end user of the Products sold hereunder (the "End User"), then Buyer will use its best efforts to obtain the End User's written consent to be bound to Seller by the provisions hereof. If Buyer does not obtain such End User's consent, Buyer shall defend and indemnify Seller and Seller's agents, employees, subcontractors and suppliers from any action, liability, cost, loss, or expense for which Seller would not have been liable or from which Seller would have been indemnified if Buyer had obtained such End User's consent.

15. FORCE MAJEURE

(a) Force Majeure Defined. For the purpose of this Agreement "Force Majeure" will mean all events, whether or not foreseeable, beyond the reasonable control of either party which affect the performance of this Agreement, including, without limitation, acts of God, acts or advisories of governmental or quasi-governmental authorities, laws or regulations, strikes, lockouts or other industrial disturbances, acts of public enemy, wars, insurrections, riots, epidemics, pandemics, outbreaks of infectious disease or other threats to public health, lightning, earthquakes, fires, storms, severe weather, floods, sabotage, delays in transportation, rejection of main forgings and castings, lack of available shipping by land, sea or air, lack of dock lighter age or loading or unloading facilities, inability to obtain labor or materials from usual sources, serious accidents involving the work of suppliers or sub-suppliers, thefts and explosions.

(b) Suspension of Obligations. If either Buyer or Seller is unable to carry out its obligations under this Agreement due to Force Majeure, other than the obligation to make payments due hereunder, and the party affected promptly notifies the other of such delay, then all obligations that are affected by Force Majeure will be suspended or reduced for the period of Force Majeure and for such additional time as is required to resume the

performance of its obligations, and the delivery schedule will be adjusted to account for the delay.

(c) Option to Terminate. If the period of suspension or reduction of operations will extend for more than four (4) consecutive months or periods of suspension or reduction total more than 6 months in any 12 month period, then either Buyer or Seller may terminate this Agreement.

(d) Strikes On-Site. Notwithstanding anything herein to the contrary, in the event a strike, lockout, labor, union or other industrial disturbance at Buyer's site affects, delays, disrupts or prevents Seller's performance of this Agreement, Seller shall be entitled to a Change Order containing an appropriate adjustment in the contract price and delivery schedule.

16. INDEMNIFICATION AND INSURANCE

(a) Indemnification. Seller agrees to defend and indemnify Buyer from and against any third-party claim for bodily injury or damage to tangible property ("Loss") arising in connection with the Products or the Services provided by Seller hereunder, but only to the extent such Loss has been caused by the negligence, willful misconduct or other legal fault ("Fault") of Seller. Buyer shall promptly tender the defense of any such third-party claim to Seller. Seller shall be entitled to control the defense and resolution of such claim, provided that Buyer shall be entitled to be represented in the matter by counsel of its choosing at Buyer's sole expense. Where such Loss results from the Fault of both Seller and Buyer or a third party, then Seller's defense and indemnity obligation shall be limited to the proportion of the Loss that Seller's Fault bears to the total Fault.

(b) Insurance. Seller shall maintain commercial general liability insurance with limits of \$2,000,000 per occurrence and in the aggregate covering claims for bodily injury (including death) and physical property damage arising out of the Products or Services. Seller shall also provide workers' compensation insurance or the like as required by the laws of the jurisdiction where the Services will be performed, and owned and non-owned auto liability insurance with limits of \$1,000,000 combined single limit. Seller will provide a Certificate of Insurance certifying the existence of such coverages upon request.

17. GENERAL

(a) Seller represents that any Products or parts thereof manufactured by Seller will be produced in compliance with all applicable federal, state and local laws applicable to their manufacture and in accordance with Seller's engineering standards. Seller shall not be liable for failure of the Products to comply with any other specifications, standards, laws or regulations.

(b) This Agreement shall inure only to the benefit of Buyer and Seller and their respective successors and assigns. Any assignment of this Agreement or any of the rights or obligations hereunder, by either party without the written consent of the other party shall be void.

(c) This Agreement contains the entire and only agreement between the parties with respect to the subject matter hereof and supersedes all prior oral and written understandings between Buyer and Seller concerning the Products, Services and any prior course of dealings or usage of the trade not expressly incorporated herein.

(d) This Agreement may be modified, supplemented or amended only by a writing signed by an authorized representative of Seller. Seller's waiver of any breach by Buyer of any terms of this Agreement must also be in writing and any waiver by Seller or failure by Seller to enforce any of the terms and conditions of this Agreement at any time, shall not affect, limit or waive Seller's right thereafter to enforce and compel strict compliance with every term and condition hereof.

(e) All terms of this Agreement which by their nature should apply after the cancellation, completion or termination of this Agreement shall survive and remain fully enforceable after any cancellation, completion or termination hereof.

(f)(i) If Seller's office is located in the United States, this Agreement and the performance hereof will be governed by and construed according to the laws of the State of Georgia.

(ii) If Seller's office is located in Canada, this Agreement and the performance hereof will be governed by and construed according to the laws of the Province of New Brunswick.

(g) (i) In the circumstances of f(i) above, any controversy or claim arising out of or relating to this Agreement, or the breach hereof, or to the Products or the Services provided pursuant hereto, shall be definitively settled by arbitration, to the exclusion of courts of law, administered by the American Arbitration Association ("AAA") in accordance with its Construction Industry Arbitration Rules in force at the time this Agreement is signed and to which the parties declare they will adhere (the "AAA Rules"), and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction over the party against whom enforcement is sought or having jurisdiction over any of such party's assets. The arbitration shall be conducted in Atlanta, Georgia by a panel

of three members, one of whom will be appointed by each of Buyer and Seller and the third of whom will be the chairman of the panel and will be appointed by mutual agreement of the two party appointed arbitrators. All arbitrators must be persons who are not employees, agents, or former employees or agents of either party. In the event of failure of the two party appointed arbitrators to agree within 45 days after submission of the dispute to arbitration upon the appointment of the third arbitrator, the third arbitrator will be appointed by the AAA in accordance with the AAA Rules. In the event that either of Buyer or Seller fails to appoint an arbitrator within 30 days after submission of the dispute to arbitration, such arbitrator, as well as the third arbitrator, will be appointed by the AAA in accordance with the AAA Rules.

(ii) In the circumstances of f(ii) above, any controversy or claim arising out of or relating to this Agreement, or the breach hereof, or to the Products or the Services provided pursuant hereto, shall be definitively settled under the auspices of the Canadian Commercial Arbitration Centre ("CCAC"), by means of arbitration and to the exclusion of courts of law, in accordance with its General Commercial Arbitration Rules in force at the time the Agreement is signed and to which the parties declare they will adhere (the "CCAC Rules"), and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction over the party against whom enforcement is sought or having jurisdiction over any of such party's assets. The arbitration shall be conducted in Saint John, New Brunswick by a panel of three arbitrators, one of whom will be appointed by each of Buyer and Seller and the third of whom will be the chairman of the arbitral tribunal and will be appointed by mutual agreement of the two party-appointed arbitrators. All arbitrators must be persons who are not employees, agents, or former employees or agents of either party. In the event of failure of the two party-appointed arbitrators to agree within 45 days after submission of the dispute to arbitration upon the appointment of the third arbitrator, the third arbitrator will be appointed by the CCAC in accordance with the CCAC Rules. In the event that either of Buyer or Seller fails to appoint an arbitrator within 30 days after submission of the dispute to arbitration, such arbitrator, as well as the third arbitrator, will be appointed by the CCAC in accordance with the CCAC Rules.

(h) In the event this Agreement pertains to the sale of any goods outside the United States or Canada, the parties agree that the United Nations Convention for the International Sale of Goods shall not apply to this Agreement.

(i) The parties hereto have required that this Agreement be drawn up in English. Les parties aux présentes ont exigé que la présente convention soit rédigée en anglais.