

## TERMS AND CONDITIONS OF PURCHASE

### 1. DEFINITIONS

“**Buyer**” means **GTC VORRO ENVIRONMENTAL SERVICES, LLC or GTC VORRO TECHNOLOGY, LLC** as shown on the face of the Purchase Order, or a future assignee.

“**Total Contract Amount**” means the total dollar amount specified in the Purchase Order.

“**Delivery Date**” means the date specified on the face of the Purchase Order for delivery in accordance with the shipping term.

“**Force Majeure**” means acts of God, acts of war (declared or undeclared), acts of terrorism hostilities, acts of government, pandemic, riot, civil commotion or unrest, military action, insurrection, flood, fire, explosion, embargo, criminal acts of third parties, hurricanes, typhoons, earthquakes, volcano eruptions, tidal waves or any similar circumstances which are beyond the control of the affected Party, unforeseeable as of the commencement date of the Purchase Order and the effects of which could not reasonably have been avoided or overcome by the affected Party.

“**Services**” means the supply of any services to be rendered by the Seller under the Purchase Order.

“**Goods**” means all or any part of the materials, machinery or equipment, installations, devices, instruments, parts, spare parts and any other tangible items, including all components and appurtenances and drawings, specifications, calculations, software and other documentation thereof and thereto, to be supplied by or on behalf of the Seller, the Seller’s suppliers and contractors pursuant to the Purchase Order.

“**Party(ies)**” mean Buyer and/or Seller.

“**Seller**” means the party identified on the face of the Purchase Order.

### 2. AGREEMENT

The Purchase Order, including these terms and conditions, the specifications, drawings, special instructions and any additional data, and conditions incorporated into and attached hereto, constitute the entire agreement between Buyer and Seller with respect to the subject matter of the Purchase Order and supersedes any previous written or oral agreements between Buyer and Seller. No other

terms or conditions shall be binding upon Buyer unless accepted by Buyer in writing. Any submission by the Seller of alternative or additional terms and conditions to the performance of either Buyer or Seller’s obligations under the Purchase Order or any attempt by the Seller to restrict the application of the terms and conditions imposed on the Seller by the Purchase Order shall not be considered as effective and/or binding on either of the Parties. The Purchase Order shall be considered accepted upon the earlier of Seller’s acknowledgment of the Purchase Order or commencement of the work by Seller.

### 3. SCOPE AND DELIVERY

The Seller shall provide the Goods and/or Services described in Purchase Order to Buyer in accordance with these terms and conditions and all other Buyer requirements identified in the Purchase Order or in Buyer’s request for quote. Seller shall: (i) provide to Buyer (i) all drawings, manuals, test results, reports and any other items as may be required by the Purchase Order and (ii) provide all labor, plant, materials and everything required for the execution and delivery of the Goods.

Time is of the essence in relation to Seller’s performance. Seller shall deliver the Goods and the related documentation in the quality and at the date(s) specified in the Purchase Order. The Delivery Date shall be deemed to have been met only for Goods and documentation which are in conformity with the Purchase Order. Time extensions shall only be accepted in Change Orders or to the extent agreed by Buyer in writing. Unless otherwise stipulated and agreed in a change order, the Seller shall not be exempt from its liability for delay. Where the Delivery Date is determined by a period of time, such period shall commence at the effective date unless expressly stated otherwise in the Purchase Order.

In the event of any delay, Seller shall immediately notify Buyer giving details of its proposed action plan to be implemented at Seller’s cost in order to correct such delay. If Buyer in its sole discretion considers that such Seller proposal is inadequate, Buyer reserves the right to provide a revised action plan and Seller shall implement such plan at Seller’s cost. Any actions by Seller in accordance with this Clause 3 or any action plan, or lack of action plan, shall not relieve Seller of its liability for delay.

If the Goods and/or Services (including any associated documents) are not delivered in accordance with the applicable Delivery Date, then,

without limiting any other remedy under contract and at law, Seller shall owe Buyer liquidated damages at the rate specified in the Purchase Order.

#### **4. CHANGES**

The Buyer reserves the right at any time to make changes in any one or more of the following:

- a) Requirements, including specifications, drawings, and data provided under the Purchase Order or request for quote, where the items to be furnished are to be specially manufactured for Buyer
- b) Methods of shipment or packing
- c) Delivery Date

If any such change causes an increase or decrease in the cost or time required for performance of the Purchase Order, an equitable adjustment shall be made in the Total Contract Amount, Delivery Date, or both. Any claim by Seller for adjustment under this clause shall be deemed waived unless asserted in writing within ten (10) days from receipt by Seller of the notice of the change.

#### **5. PAYMENT TERMS**

The Total Contract Amount indicated in the Purchase Order constitutes the total payment due to Seller for the Goods and/or Services shall include all compensation due to Seller for all costs, taxes, duties, fees, or charges of any kind accruing with respect to the Goods and/or Services and Seller's performance of all of its obligations under the Purchase Order and these Terms. Unless otherwise specified in the Purchase Order, payment will be due forty-five (45) days after the later of the date Buyer receives (i) a correct and complete invoice at Buyer's address listed in the Purchase Order and (ii) all conforming Goods and/or Services, together with (when applicable) bills of lading, copies of freight bills, title documentation, technical manuals, approved time sheets, and all other supporting documentation. Expense reimbursement specified in the Purchase Order will be made only in accordance with Buyer's reimbursable expense guidelines. Buyer shall not be liable for any charges for cartage, demurrage, standby fees, boxing, packaging, etc. All of Seller's invoices must refer to the Purchase Order number.

#### **6. WARRANTY**

Seller warrants that: (i) it will obtain and maintain all licenses and permits required under applicable laws and regulations in connection with the supply of the Goods and/or Services; (ii) it will perform and supply the Goods and/or Services in accordance with the

requirements, specifications, technical standards, instructions and quality requirements of the Purchase Order. Where no standards are specified in the Purchase Order, the Seller shall apply those standards that are industry accepted for the type of Goods and/or Services being provided having regard for their application; (iii) it shall perform its obligations under the Purchase Order by exercising the required skill, care diligence, prudence, foresight and operating practices which would reasonably be expected from a skilled and experienced supplier engaged in a similar undertaking as that of the Seller under the same or similar circumstances as that of the Purchase Order and in compliance with all relevant laws and regulations; (iv) the Goods shall be new, of good quality and workmanship, free from defects in workmanship, materials, manufacture and design, be fit for their intended purpose as set out in the Purchase Order and comply with all applicable laws and regulations. The supply or Buyer's use and/or enjoyment thereof shall be in accordance with the Purchase Order and not infringe any third-party intellectual property or other rights; (v) it shall have in place a documented quality assurance program meeting the requirements of ISO 9001 in its latest edition or of an internationally recognized standard of the same level (such as API Specification Q1 9th Edition); (vi) no alternative supplies or substitutions shall be made without the prior written consent of Buyer (e.g. deviations from specifications, origin of materials or products, manufacturing processes, labelling); and (vii) it is skilled and experienced for the provision of its Services and has the necessary resources (including management and financial resources) and capacity to meet all of its obligations under the Purchase Order.

If any defect, error, or omission in the Goods and/or Services, or any breach of warranty as to design, materials, workmanship, performance or operating characteristics, or any breach of the above warranty, arises or is discovered within eighteen (18) months from when the Goods are put into commercial operation or thirty (30) months from the Delivery Date, whichever occurs first, the Seller shall, upon notice thereof, promptly make such repairs or provide such replacements as may be required to remedy such defect, error or omission at Seller's own expense. Provided, however, that this provision shall not be construed to limit Buyer's remedy in cases of personal injury, death or property damage caused by the Goods and/or Services supplied by the Seller.

The Seller agrees to replace the Goods and/or Services expeditiously and in a cost-effective manner with the Buyer, to resolve any non-conformance. In the event of Goods and/or Services non-conformance in which there is judged to be imminent danger to life or property or critical to the

schedule, the Buyer can proceed immediately to correct such nonconformances at Seller's sole cost. If at any time the Seller fails to take prompt or sufficient efforts to cure such defect, the Buyer shall have the right to take whatever steps it believes are appropriate in the situation to cure the deficiency. Such costs shall be Seller's responsibility and shall include the cost of replacing equipment and materials, packing costs, transportation cost to the site, customs duties and other taxes and cost of labor and construction tools. Such repair or replacement shall include the removal of the improper, faulty or unsuitable materials, if necessary.

In the event that the Buyer is unable to meet their process performance guarantees associated with the Goods and/or Services and the Buyer believes that the limitation is related to the performance of the Goods and/or Services obtained through the Purchase Order, then the Seller shall use their best efforts to promptly assist the Buyer in resolving the performance and shall replace any and all components to the extent such components and parts do not comply with the specifications and warranty herein, at no cost to the Buyer.

Should the Goods and/or Services or any parts thereof be repaired, replaced or fulfill the foregoing guarantee, the Seller shall then provide a new guarantee on the same conditions for the repaired or replaced Goods and/or Services for a period of eighteen (18) months from the date of completion of such remedial Goods and/or Services.

## **7. PATENTS**

Seller undertakes and agrees to release, indemnify, defend and hold Buyer harmless, at Seller's own expense, from all suits, actions, or proceeding in which Buyer is made a defendant for actual or alleged infringement of any US or foreign letters patent resulting from the use or sale of the items purchased hereunder (except infringement necessarily resulting from adherence to specifications or drawings submitted to Seller by Buyer in conjunction with the Purchase Order). Seller further agrees to pay and discharge any and all judgments or decrees that may be rendered in any such suit, action or proceedings against such defendant therein.

## **8. AUDIT RIGHTS AND ACCESS**

For purposes of permitting verification by Buyer of any amounts paid to or claimed by the Seller, the Seller shall keep and preserve for not less than three (3) years following completion of delivery, in accordance with generally accepted accounting practices, books, records and accounts pertaining to

the Purchase Order, necessary for an accurate audit by Buyer or its agent or representatives. For the purpose of verifying Seller's compliance with the Purchase Order and that Seller's charges were properly made in accordance with the terms of the Purchase Order, Buyer or its agents or representatives, including its accountants shall have access, at reasonable times, to all records of the Seller Parties relating to the Purchase Order. Seller will allow Buyer to make copies of all such records. If an audit indicates errors in Seller's invoices, Seller shall make appropriate invoice adjustments and promptly refund any overpayments to Buyer. Seller shall procure the audit, access and copying rights for Buyer from Seller's agents and sub-suppliers.

## **9. TERMINATION**

### Termination for Default

The Buyer may terminate the Purchase Order in whole or in part, by giving ten (10) days prior notice of default to the Seller in writing without compensation to the Seller under any of the following circumstances.

- a) if the Seller fails to perform or deliver the Goods and/or Services within thirty (30) calendar days from the Delivery Date,
- b) if the Seller fails to comply with other provisions of the Purchase Order and does not cure any such failure within a period of ten (10) days after receipt of notice from the Seller specifying such failure, or
- c) if the Seller becomes insolvent or makes a general assignment for the benefit of creditors or files/has filed against it a petition of bankruptcy or reorganization or pursues any other remedy under any other law relating to relief for debtors.

### Termination for Convenience

The Buyer may, at its option at any time, regardless of Force Majeure events, terminate the Purchase Order in whole or in part by giving ten (10) days prior notice to the Seller in writing. Upon receipt of such notice, the Seller shall promptly discontinue any further performance under the Purchase Order, except as may be necessary to protect Goods and/or Services already completed as may be requested by the Buyer.

In case of such termination, the Seller shall, at Buyer's request, turn over to the Buyer any or all of the Goods and/or Services, including all drawings, specifications, data sheets and other information that the Seller has prepared for submittal to the Buyer relating to the Goods and/or Services, supplies and equipment paid for by the Buyer either directly or indirectly, and the Buyer shall have the right to make

use of the same for such purchases as the Buyer may desire.

In the event of termination for convenience made by the Buyer, the Buyer shall pay the Seller for the Goods and/or Services actually performed at a rate or percentage to be agreed upon by both Parties. It is understood that in determining the amount of payment, the anticipated loss of profits of the Seller from the Goods and/or Services not yet performed shall not be taken into consideration.

## 10. FORCE MAJEURE

In the event any Force Majeure hinders performance in part or in whole of the Purchase Order, either Party shall notify the other Party of such Force Majeure in writing via the fastest means possible within three (3) days from the discovery of the occurrence of the Force Majeure. In such event the obligation of the Parties affected by such Force Majeure shall be suspended during the period of inability so caused and any delay caused by such Force Majeure shall not be deemed a breach of a default in the performance of the Purchase Order.

The Party(ies) affected by Force Majeure shall take reasonable action to eliminate the cause of such Force Majeure and, upon removal of such Force Majeure, such Party shall resume the performance of the Purchase Order and use its best efforts to remedy any loss or delay.

Defects in items supplied by the Buyer or its sub-suppliers under or in connection with the Purchase Order, any other failure to perform or breach of Purchase Order by the Buyer or its sub-suppliers or strikes by the employees of the Buyer or its sub-suppliers shall not constitute Force Majeure.

If the cumulative duration or any period or periods of force majeure exceeds sixty (60) days, either Party may terminate the Purchase Order forthwith, and termination shall be settled as if the termination was a termination by the Buyer per Clause 10 Termination for Convenience.

## 11. LIMITATION OF LIABILITY

**IN NO EVENT SHALL SELLER BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION, LOST REVENUES AND PROFITS OR CLAIMS ARISING FROM CONTRACTS BETWEEN BUYER AND ITS CUSTOMERS OR SUPPLIERS, EVEN IF CAUSED BY THE SOLE, CONCURRENT, ACTIVE, OR PASSIVE NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL FAULT OF SELLER, provided, however, the foregoing disclaimer of damages**

**and limitation of liability shall not apply to a) any third party claims for actual or alleged infringement of any patent or other intellectual property rights for which Buyer and its affiliates and its and their employees, agents, and representatives, are entitled to indemnification hereunder; or b) any claims based on gross negligence or willful misconduct of Seller, its affiliates or its subcontractors or its or their employees, agents or representatives.**

**LIKewise, IN NO EVENT SHALL BUYER OR ANY AFFILIATE OF BUYER BE LIABLE FOR ANY INCIDENTAL, INDIRECT, CONSEQUENTIAL OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION, LOST REVENUES AND PROFITS OR CLAIMS, EVEN IF CAUSED BY THE SOLE, CONCURRENT, ACTIVE, OR PASSIVE NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL FAULT OF BUYER.**

## 12. ASSIGNMENT

Neither party shall assign the Purchase Order or delegate any of its duties hereunder without the other Party's prior written consent. No assignment or delegation by Seller shall relieve Seller of its obligations hereunder to Buyer.

## 13. INDEMNITY

Seller agrees to release, indemnify, defend and hold Buyer harmless against all liabilities, claims or demands for injuries or death to any person or damage or destruction of any property arising out of or resulting from Seller's acts or omissions in the performance of the Purchase Order. The liability of Seller, as herein above provided, shall not be limited by the insurance required of the Seller.

## 14. GOVERNING LAW

The laws of the State of Texas shall govern the validity and interpretation of the Purchase Order and the rights of the Parties hereunder. The Parties agree that the venue for any action arising out of the Purchase Order shall be in Harris County, Texas. The Parties further agree that they submit to the jurisdiction of any state or federal court located in Harris County, Texas.

## 15. CONFIDENTIALITY

All drawings, specifications, plans, data, or other written or oral material furnished by Buyer to Seller, and all copies thereof, shall remain the property of Buyer, and all such material and copies shall be returned to Buyer on demand. The information disclosed in such drawings, specifications, plans,

data or other written material shall not be disclosed to third parties or used by Seller other than in connection with this order without Buyer's prior written consent, except to the extent that such information is in the public domain or was in Seller's prior possession without obligation of secrecy. The Buyer shall ensure that such information and specifications are not divulged to any third party except where necessary for the performance of Buyer's obligations under the Purchase Order. In such cases, the Buyer shall have such third party undertake a similar obligation of confidentiality. Any specifications or other information provided to the Seller by the shall not be reproduced in whole or in any part of it for any other purposes. All such information and specifications shall be returned upon demand of the Buyer.

The obligation of confidentiality shall not apply to information which the receiving Party can conclusively demonstrate: a) was at the time of the disclosure already in the public domain, b) was after the disclosure became generally available to the public through no fault of the recipient, c) was subsequently disclosed to the recipient by a third Party having a lawful right to disclose the information and being under no obligation of confidentiality with regard to the disclosing Party, (d) was independently developed by an employee of the receiving Party without access to the Confidential Information, or (e) was required by law to be disclosed.

The Parties agree that a breach of these confidentiality provisions would result in irreparable harm to the producing Party that would not be compensable by monetary damages. Both Parties agree that, in addition to whatever other damages the producing Party may incur, the producing Party shall be entitled to equitable relief, including injunctive relief, in the event of any breach, or threatened breach of these provisions by the receiving Party, its employees or representatives, and neither Seller nor Buyer shall oppose the granting of such relief. A Party's waiver of confidentiality with respect to any specific item of Confidential Information disclosed hereunder shall neither substitute nor be construed as a general waiver of confidentiality with respect to any other Confidential Information disclosed hereunder.

These obligations of confidentiality shall continue for a minimum period of fifteen (15) years from the effective date of the Purchase Order or seven years following disclosure of the Confidential Information, whichever period is longer.

## **16. TITLE AND OWNERSHIP**

Seller shall convey good and rightful title to the Goods and/or Services to Buyer at point of delivery as defined on the face of the Purchase Order free and clear of all liens, encumbrances and claims whatsoever. If liens, encumbrances or claims are attached to the Goods and/or Services, the Seller agrees to waive such liens, encumbrances or claims. If Seller fails to remove and discharge any lien, encumbrance or claim or to provide security acceptable to Buyer for any lien, encumbrance or claim, Buyer may, without any notice to or authorization from Seller, remove and discharge the lien, encumbrance or claim, in which case Buyer will be entitled to immediately recover from Seller the amount and all expenses (including any attorneys' fees) incurred by Buyer in connection with that payment or discharge or net or offset the amount required in order to remove and discharge the lien, encumbrance or claim (including all expenses incurred by Buyer) against any security or against any amounts due Seller, whether owing under this Agreement or otherwise. Upon request, Seller must furnish proof that there are no outstanding liens, encumbrances or claims by submitting lien waiver(s) in a form acceptable to Buyer as a condition precedent to Buyer's obligation to pay Seller.

## **17. NON-WAIVER**

Failure of Buyer to insist upon strict performance of any of the terms and conditions contained within the Purchase Order, or failure or delay to exercise any rights or remedies provided herein, or by law, or to properly notify Seller in the event of breach, or the acceptance of or payment for any Goods and/or Services hereunder, or approval or design, shall not release Seller of any of its duties, obligations or responsibilities under the Purchase Order, nor act as a waiver of Buyer's rights or remedies as to the Goods and/or Services, regardless of when shipped, received or accepted, or as to any prior or subsequent default hereunder. Nor shall any purported oral modification or rescission of the Purchase Order by Buyer operate as a waiver of any of the terms hereof.

## **18. INSURANCE**

Without limiting Seller's duty to indemnify Buyer, Seller agrees to maintain at Seller's cost and expense, from the effective date of the Purchase Order until such time as all of Seller's warranty obligations are satisfied, insurance of all types and with minimum limits no less than as follows, and furnish certificates to Buyer as soon as possible but not later than 10 days of the effective date of the Purchase Order evidencing such insurance with insurers acceptable to Buyer. The

coverage required above may be obtained through any combination of primary and excess or umbrella liability insurance and be maintained through the applicable statutes of repose. Seller's insurance, as reflected above, will be primary and non-contributory with respect to any claims made by Buyer. A waiver of subrogation, in favor of Buyer, will be endorsed to the CGL, Business Automobile Liability Insurance, and Workers Compensation Insurance.

The certificates provided to Buyer as evidence of coverage should require and reflect additional insured status of Buyer on the commercial general liability and auto liability policies.

Commercial General Liability ("CGL") (Bodily Injury and Property Damage).

The limits of insurance not to be less than:

- a) Each Occurrence Limit  
\$1,000,000
- b) General Aggregate  
\$2,000,000
- c) Products/Completed Operations  
\$2,000,000
- d) Personal & Advertising Injury Limit  
\$1,000,000

CGL insurance shall be written on ISO occurrence form CG 00 01 10 93 (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, independent contractors, products-completed operations, and personal injury and advertising injury.

Buyer shall be included as an insured under the CGL, using ISO Additional Insured Endorsement CG 20 10 11 85 or a substitute providing equivalent coverage, and under the commercial umbrella, if any. This insurance, including insurance provided under the commercial umbrella, if any, shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to, or maintained by, Buyer. There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability arising from pollution, explosion, collapse, or underground property damage.

Business Automobile Liability Insurance

Seller shall provide Buyer with evidence of Seller's comprehensive automobile liability insurance covering the ownership, operation, and maintenance of all owned, non-owned, and hired motor vehicles. Seller shall maintain limits of not less than \$1,000,000 for bodily injury and \$1,000,000 property damage per occurrence, or a \$1,000,000 combined single limit.

Business auto coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in the 1990 and later editions of CA 00 01.

If the Purchase Order requires the Seller to remove and haul hazardous waste, or if the Goods and/or Services involve such similar environmental exposure, pollution liability coverage equivalent to that provided under the ISO Pollution Liability-Broadened Coverage for Covered Autos Endorsement (CA 99 48) shall be provided, and the Motor Carrier Act Endorsement (MCS 90) shall be attached.

Workers Compensation Insurance:

Such insurance shall meet statutory limits.

Professional Liability (Errors and Omissions) Insurance:

Such insurance shall have limits of not less than \$1,000,000. Such insurance shall provide an effective date no later than the date of the Purchase Order. Seller agrees to keep such insurance coverage in effect on an annual basis for not less than five years. In the event Seller ceases operations or for any other reason terminates such insurance coverage, Seller shall obtain an extended claims reporting period of no less than 3 years after the expiration or termination of the Purchase Order.