

SERVICE - TERMS AND CONDITIONS OF PURCHASE

1. WORK. The Work described in Spirax-Sarco, Inc.'s ("Company") purchase order ("Purchase Order") (hereinafter referred to collectively as the "Work", and, where applicable, separately as the "Fixed Price Work", "Rates Work" and "Cost Plus Work") shall be performed by Contractor in accordance with the descriptions contained therein. In addition to such Work, Contractor shall perform all ancillary or incidental services at no additional cost to Company. Any Work not performed to the satisfaction of Company, acting reasonably, shall be reperfomed (and in the case of goods, equipment or materials supplied as part of the Work, repaired or replaced) at Contractor's sole cost and expense.

2. PRICE & PAYMENT. Subject to Contractor performing the Work in accordance with this Services Contract, Company shall pay Contractor the amounts set forth in the Purchase Order (the "Contract Price") on the terms set out herein.

- (a) **Fixed Price Work.** The Contract Price for the Fixed Price Work is fixed and firm, is not subject to adjustment (other than in accordance with Section 4) and shall be paid in accordance with any schedule for payment set out in the Purchase Order, and in the absence thereof, on the terms set forth in Section 2(e).
- (b) **Rates Work.**
 - (i) The Contract Price for any Rates Work shall be the amount calculated by multiplying the quantity of Rates Work performed by the applicable rates set forth on Appendix B and shall be paid subject to the terms set forth in Section 2(b)(ii) and (iii) and Section 2(e).
 - (ii) The estimate set forth in the Contract Particulars for the Rates Work ("Contractor's Estimate") is an estimate only and is not binding, provided however that Contractor must obtain Company's prior written consent before performing any Rates Work which will cause the Contract Price for Rates Work to exceed Contractor's estimate by more than 10%. Contractor is not entitled to payment of any amount for the performance of any Rates Work which Company has not consented to under this Section 2(b)(iii).
 - (iii) Unless otherwise stated in the Purchase Order all rates set forth in this Services Contract are inclusive of Contractor's overhead and margin. Where there is no corresponding rate for any portion of the Work: (A) where the Work include Fixed Price Work, such portion of the Work is deemed to be part of the Fixed Price Work, and (B) where the Work consist solely of Rates Work, the rates set forth in the Purchase Order are deemed to be inclusive of the cost of performing such portion of the Work.
- (c) **Cost Plus Work.** The Contract Price for the Cost Plus Work (if any) is the actual, reasonably incurred (as determined by Company) cost of such Work, plus the Contractor's Agreed Margin (as set forth in the Purchase Order) and shall be paid subject to the terms set out in Section 2(e).
- (d) **Preconditions to Payment.** Contractor is not entitled to payment of any amount under this Services Contract unless and until Contractor has fully complied with the terms set out in Section 2(e).
- (e) **Invoices.**
 - (i) Contractor shall, unless otherwise specified in the Purchase Order, submit monthly invoices and be paid in accordance with any schedule of payment set out in the Purchase Order, and in the absence thereof, by the last day of the month following the month in which such invoice is received, subject always to the preconditions set forth in Section 2(e)(iii);
 - (ii) A final invoice shall be submitted within 30 days after the Acceptance Date (defined in Section 3(c) below). By submitting an invoice after the Acceptance Date, Contractor releases Company from all claims for payment arising under or in connection with this Services Contract which are not set forth in such invoice;
 - (iii) Invoices shall be paid by Company by the last day of the month following the month in which such invoice is received, provided however that: (A) no payment shall be due unless (I) all amounts owed by Contractor to its subcontractors, suppliers, sub-consultants and employees for the Work to which the invoice relates have been paid in full, (II) all Work to which the invoice relates has been completed, free of material defects, (III) where the invoice claims payment for Rates Work, any approval or consent required under Section 2(b) has been obtained, and (IV) where the invoice claims payment for Rates Work and/or Cost Plus Work, the invoice is accompanied by such evidence as is required by Company, including as applicable daily time sheets (signed by a representative of Company, which list man hours worked and equipment used) and copies of invoices for all materials, equipment rentals, Work or other goods or services performed or supplied by subcontractors, subconsultants or suppliers engaged by Contractor, and (B) Company may withhold 10% of the amount owed under each invoice as retainage, which shall be released to Contractor one hundred and fifty (150) days after the Acceptance Date.
 - (iv) No payment, including the final payment, shall constitute an acceptance of the Work or a waiver of any of Company's right under this Services Contract.

3. TIME.

- (a) Contractor shall commence the Work on the Start Date (as set forth in the Purchase Order) and complete the Work by the Completion Date (as set forth in the Purchase Order). Time is of the essence to the performance of Contractor's obligations under this Services Contract. If the Work cannot be completed on time, Contractor must give Company immediate written notice of the expected completion date. In that event, Company may at its option, accept the late performance or cancel this Services Contract in whole or in part without (a) cost to Company and (b) prejudice to Company's rights to the charge Contractor with any damages (including loss of profits and consequential damages) incurred as a result of Contractor's failure to make performance.
- (b) Ten (10) days prior to the Start Date, Contractor shall submit for approval to Company three (3) copies of a complete detailed schedule for the performance of the Work. The schedule shall include sufficient details to show how and when Contractor proposes to carry out each stage of the Work. There shall be no schedule revision without Company's prior written approval. Contractor shall furnish to Company a weekly

report, in form and content satisfactory to Company, showing the actual progress against the approved schedule. This report will be submitted on the first day of every week.

- (c) Upon final acceptance by Company of Contractor's performance of the Work (including any Work approved under Section 4, Company shall issue to Contractor confirmation of acceptance of the Work (the date of such confirmation being the "Acceptance Date").

4. CHANGES IN SERVICES.

- (a) **Change Orders.** Before performing any construction, services or Work, or incurring any cost which increases, decreases or otherwise varies the Scope of the Work described in the Purchase Order (including by substituting any materials or goods with materials or goods not specified), Contractor must receive an executed written change from Company ("Change Order").
- (b) **Change Order Process.** Company may, at any time, require Contractor to submit an estimate of the difference between the cost of the Work as originally planned and the cost of performing the Work in accordance a proposed alteration or change. If the scope of the change and its price are agreed to by Company, Company may execute a Change Order setting forth the change, the amount added or deducted from the contract Price, and any extension or reduction in the time for performance of this Services Contract.
- (c) **Authorization of Changes.** No Company representative has the authority to orally authorize any change in the Work or the Contract Price. No payment or allowance of any kind shall be made to Contractor for any construction, services or Work performed, or cost incurred, without a Change Order executed in advance under this Section 4. Performance by Contractor of a Change Order shall not relieve Contractor of any responsibility for completion by the Completion Date and/or performance of the Work, except as specified in the Change Order.
- (d) **Payment.** Work performed in accordance with approved Change Orders shall be paid for on the following basis:
- (i) At the cost and/or rate specified in the relevant Change Order;
 - (ii) If prices or rates are not set forth in the relevant Change Order or are not applicable, then in accordance with applicable prices and rates set forth in this Services Contract and/or the Purchase Order (the applicability of which shall be determined by Company, acting reasonably);
 - (iii) Where no applicable rates are specified in the relevant Change Order or set forth in the Purchase Order, (A) in relation to labor or other services provided, in accordance with market rates for such labor or services, as determined by Company acting reasonably, and (B) in relation to material consumed or provided, goods, or equipment used by Contractor, the actual cost reasonably incurred by Contractor (as determined by Company) plus Contractor's Agreed Margin;
- (e) A copy of the relevant Change Order must accompany any invoice for payment for Work performed pursuant to a Change Order.

5. INSURANCE. Contractor shall obtain and maintain in force throughout this Services Contract term, at its sole cost and expense, those insurance coverages specified in Appendix A on the terms and conditions specified in such Appendix A. Without limiting the requirements set forth in Appendix A, it is the intent of this Services Contract that Contractor obtain insurance for all of its obligations hereunder. Contractor agrees to assist in every manner possible in reporting and investigating any accident and, upon request, to cooperate with all interested insurance carriers in the handling of any claim by securing and giving evidence and obtaining the attendance of witnesses as required for any claim or suit.

6. INSPECTION OF SITE AND RESPONSIBILITY FOR SPECIFICATIONS. Contractor represents that it has examined the description of the Work to be performed as set forth in this Services Contract, together with all other specifications, relevant drawings, plans and surveys (including those not provided by Company but available in the records of public agencies), the Site, and its surrounding environment. Contractor represents that it understands all conditions on the Site and otherwise relevant to the Work. Contractor agrees that it will complete the Work at no additional cost to Company notwithstanding any variance between actual conditions of the Site or any other place where the Work is performed and the conditions as shown in this Services Contract and its Appendices, if any.

7. INDEPENDENT CONTRACTOR.

Contractor is performing the Work at its sole risk and account and assumes full responsibility for it. Nothing in this Services Contract shall be deemed to appoint Contractor, or any of its employees or agents, as the agent, servant, representative, or employee of Company. At all times, Contractor shall be deemed an independent contractor for purposes of this Services Contract. Any rights of inspection accorded to Company in this Services Contract, or otherwise granted to Company, are granted solely to allow Company to determine whether Contractor's performance is in compliance with this Services Contract.

8. RESPONSIBILITY FOR SAFETY. Contractor shall take all necessary precautions to prevent the occurrence of any injury to persons or property during the progress of the Work, whether or not on the Site or any other property owned by Company. Contractor shall provide a safe place to work for its employees and its subcontractors' employees, if any. Contractor recognizes that the Work may involve crude or refined petroleum products pipelines, stations, terminals, and related facilities which require careful attention to the manner in which the Work is performed. Contractor shall obtain (from Company or otherwise) all information necessary for Contractor to perform all Work without Company's supervision. Contractor shall maintain physical control of all persons visiting the Site, and shall prevent such persons from causing any dangerous condition. Company shall bear no responsibility, whether supervisory or otherwise, for the safety of Work or the Site.

9. COMPLIANCE WITH LAWS. Contractor shall strictly comply, at its sole cost, with the local, state and federal laws, ordinances, rules, and regulations applicable to the Work (collectively "Applicable Laws"). Contractor shall obtain, and pay all fees for, all necessary permits, certificates, and licenses required to perform the Work including without limitation, any necessary hazardous work authorizations. Contractor shall furnish Company with documentary proof of compliance with all permits or licenses prior to commencement of any Work. In addition, Contractor

shall pay when due all local state and federal taxes applicable to its performance of its Work. Without limiting the generality of the foregoing, Contractor specifically warrants that Contractor shall fully comply with:

- (a) the requirements of the Fair Labor Standards Act of 1938, as amended from time to time, and all regulation thereunder;
- (b) the provisions of Executive Order 11246 of the President of the United States on Equal Employment Opportunity and the rules and regulations issued pursuant thereto, unless Contractor is specifically exempted therefrom;
- (c) the United States Department of Transportation "Rules and Regulations for Liquid Pipe Lines;"
- (d) all federal, state, and local right-to-know laws, rules, regulations, or ordinances. Company shall provide, upon Contractor's request, all relevant survey sheets and necessary Materials Safety Data sheets pertaining to hazardous materials situated on Company's premises, if any, and Contractor shall provide Company with all relevant survey sheets and necessary Material Safety Data sheets pertaining to hazardous materials which Contractor may bring unto Company's premises;
- (e) United States Department of Transportation regulations pertaining to control of drug use in hazardous liquid pipeline operations.

Contractor shall indemnify Company from and against any and all claims against or losses suffered by Company due to any alleged or actual violation of any Applicable Laws by contractor, its subcontractors or their respective officers, employees and agents in relation to Contractor's performance of the Work.

10. PROTECTION OF PROPERTY. Contractor shall take all necessary precautions to protect from theft, damage, or injury from any cause whatsoever all property, including all property brought upon the Site, in connection with the Work. While on the Site or any adjacent premises or any other Company property, Contractor shall comply with all fire, safety and other rules and regulations prescribed by Company. In the event that any one of Contractor's employees, subcontractors, or subcontractor's employees violates any of the fire, safety, or other rules or regulations prescribed by Company, or any law or regulation applicable to the Work or, in Company's opinion, is incompetent or not qualified to perform the portion of the Work assigned to him, then, upon the request of Company, such person shall be immediately removed from the work site.

11. INDEMNIFICATION.

(a) CONTRACTOR AGREES TO RELEASE, PROTECT, INDEMNIFY, DEFEND AND HOLD HARMLESS COMPANY, ITS AFFILIATES, PARTNERS, CO-OWNERS AND JOINT VENTURERS AND ITS AND ALL OF THEIR OFFICERS, DIRECTORS, EMPLOYEES, AGENTS AND INVITEES ("Company Group") from and against all costs (including court costs and reasonable attorneys' fees), losses, expenses, damages, claims, suits and liabilities ("Claims") resulting from injury, including death, to persons or property arising from or in any manner growing out of the negligence or intentional misconduct of, or breach of this Services Contract by, Contractor or its affiliates, subcontractors or suppliers, or their respective employees, agents, representatives and invitees ("Contractor Group");

(b) To the fullest extent permitted by law, CONTRACTOR HEREBY AGREES TO RELEASE, PROTECT, DEFEND, INDEMNIFY, AND HOLD HARMLESS COMPANY AND EACH MEMBER OF COMPANY GROUP from and against any and all Claims, inclusive of Claims made by third parties, for any injury or death of any of any member of Contractor Group directly or indirectly arising out of, incident to, or in connection with this Services Contract, WITHOUT REGARD TO THE CAUSE OR CAUSES THEREOF OR THE BREACH OF ANY PROVISION OF THIS SERVICES CONTRACT, INCLUDING WITHOUT LIMITATION THE SOLE, JOINT OR CONCURRENT NEGLIGENCE, STRICT LIABILITY, GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR OTHER FAULT OF ANY MEMBER OF COMPANY GROUP.

12. WARRANTIES.

- (a) Contractor represents and warrants that: (i) it possesses the necessary skill, competence, materials and qualified staff to perform the Work required by Company; (ii) the Work will be performed with the reasonable skill, care and diligence to be expected of a competent contractor experienced in carrying out services of a similar nature, scope and complexity to the Work; and (iii) the Work will be performed in accordance with the specifications of this Services Contract.
- (b) Contractor hereby confirms that it is aware of and shall comply with (i) all of Company's health, safety and environment policies, rules and regulations (ii) all applicable laws of the United States and the state(s) in which the Work is to be performed and (iii) all of the procedures and policies produced from time to time by or on behalf of Company (including but not limited to those in connection with conditions and responsibilities).
- (c) Contractor agrees that if, during the twelve (12) month period beginning on the Acceptance Date (the "**Warranty Period**"), any of the Work is found to be not in compliance with this Services Contract (including the warranties set out above), Contractor shall furnish at its own cost and expense, any additional services necessary to reperform and/or remedy such deficient Work. Any Work reperformed or remedied in accordance with this paragraph shall be rewarranted for a new period ending upon the date twelve (12) months after acceptance by Company of such reperformance of the Work. If Contractor fails to comply with this paragraph, Company may carry out, or engage other contractors to perform and/or correct, the relevant deficient Work and Contractor shall defend, protect, indemnify and hold Company against the cost of so doing.
- (d) Contractor shall Indemnify Company from and against any and all Losses of any kind suffered by Company resulting from or arising out of any breach of Contractor's obligations under this Section 12.

13. INSPECTION/AUDIT. Contractor shall maintain complete and detailed records to substantiate all costs to Contractor under this Services Contract. Company shall have the right upon twenty-four (24) hours' notice to Contractor to audit the books and records of Contractor relating to the Work and to place personnel at Contractor's office for the audit. Company shall at all times have access to the Work to inspect it and Contractor shall provide safe facilities for access to, and inspection of, the Work. Inspection by Company shall not constitute acceptance of any portion of the work, without Company's written acknowledgment that a portion of the Work has been accepted. If any of the Work is found at any time to be defective or not in conformity with the requirements of this Services Contract, Company, in addition to any other rights which it may have under

warranties or otherwise, shall have the right to reject the Work and require Contractor, at its sole expense, to repair, alter, or replace it or to provide a credit to Company, as Company decides in its sole discretion. In the event that any portion of the Work has been rejected, and Contractor is directed to repair or replace it, Contractor shall, within 24 hours after receiving notice of the rejection, proceed to repair or replace the rejected Work and shall proceed as promptly as possible to complete the repair or replacement thereof.

14. LIEN PROTECTION.

- (a) Unless Company has failed to pay Contractor an amount which Company acknowledges to be due, Contractor shall not file or permit (and shall ensure its subcontractors do not so file or so permit) any claims, liens, encumbrances or charges of any nature (collectively, "Liens") against Company's property, the Work, the Site or any other property on the Site or otherwise connected with the Work (collectively "Protected Property") without Company's prior written approval. Contractor shall Indemnify Company from and against any Liens made, exercised or asserted against Company or any Protected Property by Contractor, any subcontractor and its or their respective employees or by any other person whomsoever whether by judicial action and/or other proceeding and arising from or in respect of Contractor's performance of the Work.
- (b) If a payment becomes due under this Services Contract and either (i) Company is aware of or reasonably suspects that Contractor is indebted to one or more subcontractors or employees in relation to activities performed in connection with the Work, (ii) there remains a lien undischarged of record, an attached unsatisfied, or any other encumbrances attached to Protected Property, or (iii) Company reasonably suspects that any person has or may in the future have the right to assert a lien or other encumbrance over Protected Property, Company shall have the right to retain out of any monies due to Contractor, sufficient sums to indemnify Company against any such lien, attachment or other encumbrance, including any attorney's fees Company has to expend in connection therewith, and such funds may be used in any way Company deems appropriate in order to discharge or prevent the creation of any lien, attachment or other encumbrance.

15. PROHIBITED EMPLOYMENT. Contractor shall not, under any conditions, employ in connection with the Work, any person who, during his normal working hours, is employed by Company. Any such person found to be in the employ of a Contractor shall be immediately dismissed by Contractor.

16. CLEAN-UP. Contractor shall keep Company's property, including the Site and any surrounding premises belonging to Company, clear of debris and rubbish caused by Contractor's operation under this Services Contract. At the completion of the Work, Contractor shall leave the Site and the surrounding vicinity clear and ready for use.

17. SUSPENSION AND TERMINATION.

- (a) Company shall have the right to suspend the Services in whole or in part at any time during the performance of the Work. Upon receipt of notice of suspension, Contractor shall immediately suspend the performance of the Work to the extent indicated by the notice, take such measures as to protect those aspects of the Work completed or in progress and use its best efforts to mitigate the impact of the suspension including using its equipment and personnel in a manner so as to minimize the costs of the suspension.
- (b) Subject to the above and provided that such suspension is not necessary by reason of the act or omission of Contractor or is not otherwise provided for in this Services Contract, Company shall reimburse Contractor for its reasonably and properly incurred costs during the suspension period.
- (c) Company shall have the right to terminate this Services Contract and any Work being done under this Services Contract, effective upon delivery of notice to Contractor:
 - (i) at any time prior to Contractor's performance under this Services Contract;
 - (ii) upon Contractor's death, if Contractor is an individual, or death of one of its partner's, if Contractor is a partnership, or the death of a principal employee of Contractor;
 - (iii) upon Contractor's bankruptcy, insolvency, or assignment for benefit of creditor;
 - (iv) upon Contractor's failure to perform any of its obligations under this Services Contract;
 - (v) upon Contractor or any of its subcontractors, employees or agents engaging in willful misconduct or gross negligence;
 - (vi) for the convenience of Company.
- (d) In the event Company terminates this Services Contract, for any of the above reasons other than under subparagraph (vi), Company may take possession of the Site and engage any other person to finish the Work. All expenses incurred by Company in finishing the Work and any

damage incurred through any default shall be a charge against any amount due from Company to Contractor, except that in the event Company exercises the right of termination under subparagraph (vi), Contractor shall receive payment of the Contract Price as follows:

- (i) For Fixed Price Work, Contractor shall receive the proportion of the total Contract Price which the proportion of the Fixed Price Work completed by Contractor at the date of termination bears to the total Fixed Price Work to be performed under this Services Contract as determined by Company, acting reasonably.
- (ii) For Rates Work (if any), Contractor shall be paid for all Rates Work performed by Contractor prior to termination by Company in accordance with the applicable rates set forth in the Purchase Order.
- (iii) For Cost Plus Work (if any), Contractor shall be paid for the actual cost, reasonably incurred (as determined by Company) by Contractor in performing Cost Plus Work prior to termination by Company, plus the Contractor's Agreed Margin.

An invoice for any final payment shall be submitted by Contractor, subject to Company's approval and payment in accordance with Section 2(e).

18. SET-OFF. Company shall be entitled at all times to set-off any amount owing from Contractor to Company under or in connection with this Services Contract against any amount payable by Company to Contractor under this Services Contract or another other agreement between Contractor and Company.

19. LIMITATIONS. No suit or action against Company for the recovery of any claim or damage by virtue of this Services Contract, or in any way arising therefrom, shall be sustainable in any court unless the suit or action shall be commenced within twelve months after such cause of action accrued. And should any suit or action be commenced in any court against Company, after the expiration of said twelve months, the lapse of time shall be deemed conclusive evidence against the validity of such claim or demand, any statute of limitations to the contrary notwithstanding.

20. ANTI-CORRUPTION. The Contractor warrants that its directors, employees, agents and other representatives have not and will not, directly or indirectly, offer, promise, give, accept or agree to receive a bribe, corrupt payment or any article of financial value over whether for the benefit of any public official, Company, its employees and agents or any other person. The Contractor will immediately report to the Company any actual or attempted breach of this section by an employee or agent of the Contractor and any such action of acceptance of any such solicitation is a material breach of every contract between the Contractor and Company.

21. CONFIDENTIALITY & ASSIGNMENT.

- (a) Contractor agrees not to assign the benefit of or delegate any of its obligations under this Services Contract, whether in whole or in part, or to enter into any subcontracts in connection with this Services Contract, without the prior written consent of Company. No assignment, delegation or subcontract shall be valid or binding upon Company without its written consent. Subject to the foregoing, this Services Contract shall insure to the benefit of, and be binding upon, the representative, successors, or assigns of the parties to this Services Contract. Notwithstanding any assignment to which Company has given consent, Contractor shall be and remain solely responsible for the due and proper performance of the Work, shall remain responsible for the performance of any assignee and shall remain liable for any breach of this Services Contract. Company may at any time assign, transfer, and novate and/or charge the benefit of this Services Contract and/or any of Company's present or future rights, interests and/or benefits hereunder to any person.
- (b) Contractor, its subsidiaries, affiliates and subcontractors, and their respective agents, employees and shareholders shall not, without the prior written consent of Company: (i) disclose or make available to any person, other than Company, or use, directly or indirectly, except for the performance and implementation of this Services Contract or to the extent required by applicable law, any information acquired from Company in connection with the performance of this Services Contract whether acquired before or after the Effective Date and undertake to keep all such information confidential; or (ii) announce, declare, communicate, publish or issue any statement mentioning Company or information relating to this Services Contract.
- (c) Contractor shall not subcontract any elements of this Services Contract or terminate the services of any subcontractor previously approved by Company without the prior written consent of Company. Such consent shall not relieve Contractor of any of its obligations hereunder or create any contractual relationship between Company and such subcontractors.

22. FORCE MAJEURE.

- (a) No failure or omission by either Party to carry out or observe any of the terms and conditions of this Services Contract shall, except as herein expressly provided to the contrary, give rise to any claim against the Party in question or be deemed a breach of this Services Contract if such failure or omission arises from an event of Force Majeure. "Force Majeure" means any event beyond the reasonable control of Company or Contractor, as the case may be, occurring after the Effective Date and which (or the effects of which) is or are unavoidable notwithstanding the reasonable care of the Party affected, including: strikes (excluding strikes occurring among the employees of a Party); acts of the public or foreign enemy, war, hostilities or warlike operations; rebellion, revolution, insurrection, mutiny, usurpation of the government, riot, terrorist acts; expropriation, confiscation or other such governmental acts; natural or physical disasters; or epidemic. For the avoidance of doubt, Force Majeure shall not include (i) reasonably foreseeable weather conditions; (ii) the failure of any subcontractor to furnish labor, services, materials or equipment on the dates agreed to unless such failure is itself due to an event of Force Majeure; (iii) general economic conditions and exchange rate fluctuations; (iv) the financial condition of Contractor or any subcontractor; and (v) the financial condition of Company.
- (b) The Party prevented from carrying out its obligations shall immediately give notice in writing to the other Party specifying the exact nature of the circumstances relied upon and the date upon which it became unable to perform its obligations as a consequence of the circumstance specified and the steps it is taking to mitigate those circumstances. In the event that the circumstances shall continue for a period in excess of ninety (90) consecutive or one hundred and twenty (120) non-consecutive calendar days then either of the Parties may terminate this Services

Contract by written notice without any liability upon either of the Parties to the other save to the extent that any amount that shall have accrued to Contractor prior to the occurrence of the Force Majeure event.

23. ENTIRE AGREEMENT. This Services Contract is the complete, integrated agreement between Company and Contractor as to the Work. This Services Contract may be modified or voided only by a writing signed by both parties.

24. NON-WAIVER. No waiver by Company of any breach or default of this Services Contract by Contractor, or release by Company of Contractor from its obligation to comply with any provision of this Services Contract shall be considered valid unless such waiver or release is given in writing and signed by an authorized representative of Company. No waiver or release given by Company under this Section 24 shall be deemed a waiver or release of any subsequent breach, default or timely compliance of the same or similar nature.

25. APPLICABLE LAW. This Services Contract shall be deemed to have been made in the State of South Carolina. This Services Contract shall be governed by the laws of the State of South Carolina. The United Nations Convention on the International Supply of Goods will not apply to this Services Contract.

26. EFFECTIVENESS OF CONTRACT. This Services Contract shall become effective when a Purchase Order is accepted in writing by Contractor by signing and returning promptly to the Company an acknowledgement of such Purchase Order, but if for any reason the Contractor should fail to sign and return to Company an acknowledgement, the commencement of any work or performance of any services hereunder by he Contractor shall constitute acceptance by the Contractor of the Purchase Order, this Services Contract and all its terms and conditions. Acceptance of a Purchase Order is hereby expressly limited to the terms hereof.

27. DISPUTES. Contractor will submit any claims or disputes arising under this Services Contract to Contractor in writing within sixty (60) days after final payment is made to Contractor, or Contractor's discovery of the facts giving rise to the claim or dispute, whichever occurs earlier, and Contractor's failure to do so will constitute a waiver by Contractor of any legal or equitable rights with respect to the subject matter of the claim or dispute. Contractor agrees that any claims and disputes submitted by Contractor which cannot be resolved through direct negotiation between Company and Contractor will be submitted to mediation and, if not successful, to binding arbitration, both proceedings to be conducted by the American Arbitration Association in Houston, Texas, in accordance with its Commercial Rules and Procedures. Each party will bear its own expenses in any dispute resolution proceeding.

28. CUMULATIVE REMEDIES. All rights and remedies of Company hereunder and all those given to it by law and equity shall be cumulative and concurrent and nonexclusive and in addition to any right that might otherwise apply. Failure by Company to enforce at any time or for any period of time any provision hereof shall not be deemed waiver of such provision or any violation thereof or of the right of Company to enforce each and every such provision.

Appendix A – Insurance Requirements

- 1 **Proof of Insurance:** Before starting any work under this Services Contract, Contractor must submit a valid certificate of insurance to Company showing that Contractor's insurance obligations as set forth in this Appendix A have been fulfilled. The insured name on the certificate of insurance must match Contractor name on this Services Contract. Policy numbers must be listed for each policy on the certificate of insurance. Insurers must be rated better than A- VII by AM Best. Contractor will provide additional documentation including copies of the policies if requested by Company for clarification of coverage. Buckeye Partners, L.P. or West Shore Pipe Line Company, as applicable, shall be named as the certificate holder. Prior to the expiration of any policy, Contractor shall furnish Company a new certificate, policy or other proof that the insurance coverage remains in effect.
- 2 **General Liability Coverage:** Per occurrence general liability limits of not less than one million dollars (\$1 million) and aggregate general liability limits of two million dollars (\$2 million).
- 3 **Automobile Liability Coverage:** Not less than one million dollars (\$1 million) combined single limits covering bodily injury and property damage per accident.
- 4 **Excess Liability:** Excess liability insurance not less than five million dollars (\$5 million) will be required if the total Contract Price or Contractor's Estimate (as applicable) exceeds two hundred and fifty thousand dollars (\$ 250 thousand). Excess liability insurance not less than ten million dollars (\$ 10 million) will be required if the Contract Price or Contractor's Estimate (as applicable) exceeds one

million dollars (\$ 1 million). Excess liability insurance can also be used to supplement any primary insurance policy that does not meet Buckeye insurance requirements.

- 5 **Workers Compensation/Employers Liability:** Statutory workers compensation limits in each state where contractor will be performing work. Employers Liability Insurance shall be maintained with limits of not less than one million dollars (\$1,000,000) for each accident, disease each employee, and disease policy limit.
- 6 **Pollution Coverage:** Contractor agrees to carry pollution insurance as required by the additional terms of this purchase order.
- 7 **Professional Liability/E&O Coverage:** Limits of not less than three million dollars (\$3 million) per occurrence professional liability insurance and three million dollars (\$3 million) aggregate limits.
- 8 **Additional Insured:** Contractor agrees to name Company as an additional insured on all policies except workers compensation and professional liability insurance.
- 9 **Waiver of Subrogation:** Contractor agrees to provide a waiver of subrogation in favor of Company on all policies except where forbidden by law.
- 10 **Primary and Non-Contributory:** Contractor agrees that all policies listed on the certificate of insurance shall be primary and non-contributory.
- 11 **Subcontractors:** Contractor agrees to require all subcontractors to carry the limits set forth in this Appendix A including naming Company as additional insured and providing a waiver of subrogation in favor of Company. Contractor shall submit subcontractor's certificates of insurance to Company for review.
- 12 **Additional Terms:** Company reserves the right to increase the amount of insurance required for any job based on perceived risk and Contractor shall be notified prior to completion of a purchase order if the limits required are higher than those set forth in this Appendix A.