

1 3. The term of this Contract shall commence on December 12, 2011,
2 and shall terminate at midnight on December 12, 2012 unless sooner terminated as
3 provided herein. The City may terminate this Contract by giving thirty (30) days prior
4 notice of termination to Contractor.

5 4. Neither this Contract nor any of the moneys that may become due
6 Contractor hereunder may be assigned without the prior written consent of City.

7 5. Any notices required hereunder or desired to be given by either party
8 shall be in writing and personally delivered or deposited in the U.S. Postal Service, first
9 class postage prepaid, addressed to Contractor at the address stated herein, and to City
10 at 333 West Ocean Boulevard, Long Beach, California 90802 Attn: City Manager. Notice
11 shall be deemed given on the date personal delivery is made or on the date of deposit in
12 the mail, whichever first occurs.

13 6. City shall have the benefit of any warranty from the manufacturer on
14 the rotary-type gas meters and other services and parts, and Contractor warrants that the
15 rotary-type gas meters and other services and parts are in good working order and free
16 from defect at the time of delivery. Notwithstanding anything to the contrary contained in
17 the Terms and Conditions attached hereto, the IMC accessory unit and #400 IMC have a
18 4-year warranty and alkaline battery has a 2-year warranty. The 4-year warranty applies
19 to the IMC only. The standard alkaline battery warranty is 2 years. All other warranty
20 provisions of the Terms and Conditions shall apply, except as otherwise outlined in this
21 Section 6.

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN WITNESS WHEREOF, the parties have signed this document with all the formalities required by law as of the date first stated above.

DRESSER, INC., a Delaware corporation

2/14, 2012

By [Signature]
President

David Evans, UP Global Ops
Dresser, Type or Print Name
Inca

2/15, 2012

By [Signature]
Secretary

Kevin Beaver, UP marketing
Dresser meters & Instruments
"Contractor"

CITY OF LONG BEACH, a municipal corporation

3.4, 2012

By [Signature]
Assistant City Manager

City Manager
TO SECTION 301 OF
THE CITY CHARTER.

"City"

This Contract is approved as to form on Feb. 23, 2012.

ROBERT E. SHANNON, City Attorney

By [Signature]
Deputy

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

Exhibit A



Meters & Instruments
Dresser, Inc.
 16240 Port Northwest Drive, Houston, TX 77041
 Phone: 800-521-1114 832-590-2303
 Fax: 800-335-5224 832-590-2494
 www.dresser.com

Quotation

City of Long Beach, CA
 Gas & Oil Department
 2400 East Spring Street
 Long Beach, CA 90806-2285

DATE: September 01, 2011

AT: Houston, Texas

Attention: Kevin Untener
 Email: Kevin.Untener@longbeach.gov

SUBJECT: Our Quotation #Q0911291
Refer to quote number when ordering.

We are pleased to offer the following for City of Long Beach, CA rotary meter requirements.

Item	Description *	Net Price Each *
1a.	5C15 Series Z ROOTS® Meter, Specify Top/Bottom Inlet when Ordering.	\$517.00
1b.	5C15 Series Z ROOTS® Meter, Specify Top/Bottom Inlet when Ordering. Meter includes factory-installed inlet screen.	\$525.00
2a.	8C15 Series Z ROOTS® Meter, Specify Top/Bottom Inlet when Ordering.	\$540.00
2b.	8C15 Series Z ROOTS® Meter, Specify Top/Bottom Inlet when Ordering. Meter includes factory-installed inlet screen.	\$548.00
3.	11C175 Series B3 ROOTS® Meter, SSM Construction	
	Counter (CTR) Version, pulser ready, with 2" flanged connections.	\$695.00
	Counter with Instrument Drive (CD) Version, with 2" flanged connections.	\$839.00
	Counter (CTR) Version, pulser ready, with 1-1/2" nipped connections.	\$723.00
	Counter with Instrument Drive (CD) Version, with 1-1/2" nipped connections.	\$867.00
	IMC/W2-PTZ+Log, Internal Pressure, with 2" flanged connections.	\$1,496.00
	IMC/W2-PTZ+Log, Internal Pressure, with 1-1/2" nipped connections.	\$1,524.00
4.	15C175 Series B3 ROOTS® Meter, SSM Construction	
	Counter (CTR) Version, pulser ready, with 2" flanged connections.	\$716.00
	Counter with Instrument Drive (CD) Version, with 2" flanged connections.	\$852.00
	Counter (CTR) Version, pulser ready, with 1-1/2" nipped connections.	\$744.00
	Counter with Instrument Drive (CD) Version, with 1-1/2" nipped connections.	\$880.00
	IMC/W2-PTZ+Log, Internal Pressure, with 2" flanged connections.	\$1,509.00
	IMC/W2-PTZ+Log, Internal Pressure, with 1-1/2" nipped connections.	\$1,537.00

-CONFIDENTIAL-

Important: This is a solicitation. It is subject to revocation without notice and all orders are subject to acceptance at our Houston office and the terms included.

09/01/11



Meters & Instruments
 Dresser, Inc.
 16240 Port Northwest Drive, Houston, TX 77041
 Phone: 800-521-1114 832-590-2303
 Fax: 800-335-5224 832-590-2494
 www.dresser.com

Quotation

City of Long Beach, CA
 Attention: Kevin Untener
 Our Quotation #Q0911291
 September 01, 2011
 Page 2

Item	Description *	Net Price Each *
5.	2M175 Series B3 ROOTS® Meter, SSM Construction	
	Counter (CTR) Version, pulser ready, with 2" flanged connections.	\$743.00
	Counter with Instrument Drive (CD) Version, with 2" flanged connections.	\$886.00
	Counter (CTR) Version, pulser ready, with 1-1/2" nipples connections.	\$771.00
	Counter with Instrument Drive (CD) Version, with 1-1/2" nipples connections.	\$914.00
	IMC/W2-PTZ+Log, Internal Pressure, with 2" flanged connections.	\$1,543.00
	IMC/W2-PTZ+Log, Internal Pressure, with 1-1/2" nipples connections.	\$1,571.00
6.	3M175 Series B3 ROOTS® Meter, SSM Construction	
	Counter (CTR) Version, pulser ready.	\$837.00
	Counter with Instrument Drive (CD) Version.	\$963.00
	IMC/W2-PTZ+Log, Internal Pressure.	\$1,620.00
7.	5M175 Series B3 ROOTS® Meter, SSM Construction	
	Counter (CTR) Version, pulser ready.	\$1,122.00
	Counter with Instrument Drive (CD) Version.	\$1,171.00
	IMC/W2-PTZ+Log, Internal Pressure.	\$1,828.00
8.	7M175 Series B3 ROOTS® Meter, SSM Construction	
	Counter (CTR) Version, pulser ready.	\$1,459.00
	Counter with Instrument Drive (CD) Version.	\$1,505.00
	IMC/W2-PTZ+Log, Internal Pressure.	\$2,162.00
9.	11M175 Series B3 ROOTS® Meter, SSM Construction	
	Counter (CTR) Version, pulser ready.	\$1,724.00
	Counter with Instrument Drive (CD) Version.	\$1,771.00
	IMC/W2-PTZ+Log, Internal Pressure.	\$2,428.00
10.	16M175 Series B3 ROOTS® Meter, SSM Construction	
	Counter (CTR) Version, pulser ready.	\$2,426.00
	Counter with Instrument Drive (CD) Version.	\$2,472.00
	IMC/W2-PTZ+Log, Internal Pressure.	\$3,129.00
11.	Repair Assembly #400, IMC/W2-PTZ+Log, Internal Pressure, 180 PSI, Gauge, Internal Temperature Connection, for 8C-16M Series B ROOTS® Meters, P/N 057456-110.	\$878.00
12.	Software, User Terminal, CD, for Correctors IMC/MC. Comms cable required for use with Software. See options page for cables. (For first time buyers only – one required per company.)	No Charge Valued at \$300.00
13.	Micro Generator IMC/W2, Series B, P/N 057789-100.	\$126.00
14.	Micro Generator IMC/W2, Series A, P/N 057789-300.	\$126.00

-CONFIDENTIAL-

Important: This is a solicitation. It is subject to revocation without notice and all orders are subject to acceptance at our Houston office and the terms included.

09/01/11



Meters & Instruments
 Dresser, Inc.
 16240 Port Northwest Drive, Houston, TX 77041
 Phone: 800-521-1114 832-590-2303
 Fax: 800-335-5224 832-590-2494
 www.dresser.com

Quotation

City of Long Beach, CA
 Attention: Kevin Untener
 Our Quotation #Q0911291
 September 01, 2011
 Page 3

ITEM	DESCRIPTION	QTY.**	NET PRICE EACH **
15.	Repair Assembly #400 Series 3, Counter with Instrument Drive (CD), for Series B ROOTS® Meters. Specify meter size and part number when ordering. <ul style="list-style-type: none"> • #400 CD for 8C, S3, P/N 053965-021 • #400 CD for 11C, S3, P/N 053967-021 • #400 CD for 15C, S3, P/N 053969-021 • #400 CD for 2M, S3, P/N 053971-021 • #400 CD for 3M, S3, P/N 053973-021 • #400 CD for 5M, S3, P/N 053975-021 • #400 CD for 7M, S3, P/N 053977-021 • #400 CD for 11M, S3, P/N 053979-021 • #400 CD for 16M, S3, P/N 053981-021 • #400 CD for 23M232, 4", S3, P/N 057421-020 • #400 CD for 23M175, 6" S3, P/N 053983-021 • #400 CD for 38M, S3, P/N 053985-021 • #400 CD for 56M, S3, P/N 053987-021 	1-5	\$495.50
		6-12	\$470.73
		13-24	\$460.82
		25 or More	\$445.95

ITEM	DESCRIPTION	PART NUMBER	NET PRICE EACH
16.	Gasket Strainer 2" (8C175 - 3M175)	054268-003	\$24.00
17.	Gasket Strainer 3" (5M175 - 7M175)	054268-004	\$29.00
18.	Gasket Strainer 4" (11M175, 16M175 & 23M232)	054268-005	\$43.00

This quotation will remain valid for acceptance for ninety (90) days. The purchase order or a letter of acceptance is required as written notification.

* Meters include (2) factory-installed plugs for differential testing.

** See attached for quantity discount pricing guidelines. Quantity discount prices apply to the total combination of repair assemblies ordered at one time. #400 IMC repair assemblies do not qualify for the quantity discount.

See attached "IMC Options" pages for optional equipment.

- IMC/W2-PTZ+Log - Price includes internal pressure transducer, temperature RTD, Circular Pulse Output Connector, and sealed alkaline battery pack. Price does not include thermowell, piping kit, and communications cable.

-CONFIDENTIAL-

Important: This is a solicitation. It is subject to revocation without notice and all orders are subject to acceptance at our Houston office and the terms included.

09/01/11



Meters & Instruments
Dresser, Inc.
16240 Port Northwest Drive, Houston, TX 77041
Phone: 800-521-1114 832-590-2303
Fax: 800-335-5224 832-590-2494
www.dresser.com

Quotation

City of Long Beach, CA
Attention: Kevin Untener
Our Quotation #Q0911291
September 01, 2011
Page 4

Warranty: IMC accessory unit and #400 IMC have a 4-year warranty and alkaline battery has a 2-year warranty. 4-year warranty applies to the IMC only. Standard alkaline battery warranty is 2 years.

Pricing Policy: Quoted prices are firm for products ordered with shipment requested September 01, 2011, through August 31, 2012, for the above listed equipment manufactured by Dresser Roots Meters & Instruments. Prices are based on specifications at time of quote. Any variance to original specifications may result in new pricing.

Note: A sufficient quantity of oil for the initial filling is packed with each meter at no charge. 5C15/8C15 meters do not require oil. Freight terms are FOB shipping point prepaid and allowed for meters and products ordered with meters.

For further information, contact our general offices in Houston at 1-800-521-1114 or our representative serving your area, Jim Prunty, at 213-270-4584. For ordering information, please contact your customer service representative, Diane Fogle, at 1-800-521-1114.

We sincerely appreciate your interest in our products.

Enclosures: Terms and Conditions for Sale of Products and Services – Form ES 104 (Rev.4)
TS: IMC/W2 2.11
IMC/W2-PTZ Options GM 01/10/11`
QtyDisc 100108

FOB: Shipping Point – Prepaid and Allowed if ordered with meters
TERMS: Net Cash 30 Days
SHIPMENT: Subject to lead-time in effect when order received.
Current lead-time is 5-6 weeks, ARO.
Factory lead-time does not include transit time.

Copy to: Jim Prunty
Luis Martinez
Diane Fogle

By

Barbara G. Hilliard
Manager of Customer Services

-CONFIDENTIAL-

Important: This is a solicitation. It is subject to revocation without notice and all orders are subject to acceptance at our Houston office and the terms included.

09/01/11



Roots Meters & Instruments
 Dresser, Inc.
 16240 Port Northwest Drive, Houston, TX 77041
 Phone: 800-521-1114 832-590-2303
 Fax: 800-335-5224 832-590-2494
 www.dresser.com

Quotation

ROOTS® Meter Conversion Kit and Repair Assembly Quantity Discount Price List

The quantity discount applies for S3, S3A, and Z #399 Conversion Kits and #400, #401 and #409 Repair Assemblies as applicable for Series B and Series A (LMMA) ROOTS® Meters. Quantity discount applies for total combination of #399, #400, #401 and #409 assemblies on the same purchase order. Applicable discount is taken from the standard price(s) referenced in a quotation or the standard price(s) per Parts Price List PPL-10/01/08.

<u>Quantity *</u>	<u>Applicable Discount *</u>
1 to 5	Standard Price
6 to 12	5% off the Standard Price
13 to 24	7% off the Standard Price
25 or more	10% off the Standard Price

* For stock orders, conversion kits/repair assemblies must be ordered at one time for quantity discount price to apply. #400 quantity discount does not apply to IMC repair assemblies. For quantities of 25+, shipment date(s) must be mutually agreed upon by Dresser and customer.

QtyDisc 10/01/08

-CONFIDENTIAL-

Important: This is a solicitation. It is subject to revocation without notice and all orders are subject to acceptance at our Houston office and the terms included.

09/01/11

Terms and Conditions for Sale of Products and Services Form ES 104 (Rev. 4)

NOTICE: Sale of any Products or Services is expressly conditioned on Buyer's assent to these Terms and Conditions. Any acceptance of Seller's offer is expressly limited to acceptance of these Terms and Conditions and Seller expressly objects to any additional or different terms proposed by Buyer. No faculty entry form shall modify these Terms and Conditions even if signed by Seller's representative. Any order to perform work and Seller's performance of work shall constitute Buyer's assent to these Terms and Conditions. Unless otherwise specified in the quotation, Seller's quotation shall expire 30 days from its date and may be modified or withdrawn by Seller before receipt of Buyer's conforming acceptance.

1. Definitions

"Buyer" means the entity to which Seller is providing Products or Services under the Contract.

"Contract" means either the contract agreement signed by both parties, or the purchase order signed by Buyer and accepted by Seller in writing, for the sale of Products or Services, together with these Terms and Conditions, Seller's final quotation, the agreed scope(s) of work, and Seller's order acknowledgement. In the event of any conflict, the Terms and Conditions shall take precedence over other documents included in the Contract.

"Contract Price" means the agreed price stated in the Contract for the sale of Products and Services, including adjustments (if any) in accordance with the Contract.

"Hazardous Materials" means any toxic or hazardous substance, hazardous material, dangerous or hazardous waste, dangerous good, radioactive material, petroleum or petroleum-derived products or by-products, or any other chemical, substance, material or emission, that is regulated, listed or controlled pursuant to any national, state, provincial, or local law, statute, ordinance, directive, regulation or other legal requirement of the United States ("U.S.") or the country of the Site.

"Insolvent/Bankrupt" means that a party is insolvent, makes an assignment for the benefit of its creditors, has a receiver or trustee appointed for it or any of its assets, or files or has filed against it a proceeding under any bankruptcy, insolvency dissolution or liquidation laws.

"Products" means the equipment, parts, materials, supplies, software, and other goods Seller has agreed to supply to Buyer under the Contract.

"Seller" means the entity providing Products or performing Services under the Contract.

"Services" means the services Seller has agreed to perform for Buyer under the Contract.

"Site" means the premises where Products are used or Services are performed, not including Seller's premises from which it performs Services.

"Terms and Conditions" means these "Terms and Conditions for Sale of Products and Services", including any relevant addenda pursuant to Article 18, together with any modifications or additional provisions specifically stated in Seller's final quotation or specifically agreed upon by Seller in writing.

2. Payment

2.1 Buyer shall pay Seller for the Products and Services by paying all invoiced amounts in U.S. dollars, without set-off for any payment from Seller not due under this Contract, within thirty (30) days from the invoice date. If the Contract Price is less than U.S. Two Hundred Fifty Thousand Dollars (\$250,000), Seller shall issue invoices upon shipment of Products and as Services are performed. If the Contract Price is U.S. Two Hundred Fifty Thousand Dollars (\$250,000) or more, progress payments shall be invoiced starting with twenty-five percent (25%) of the Contract Price for Products and Services upon the earlier of Contract signature or issuance of Seller's order acknowledgement and continuing such that ninety percent (90%) of the Contract Price for Products is received before the earliest scheduled Product shipment and Services are invoiced as performed ("Progress Payments"). For each calendar month, or fraction thereof, that payment is late, Buyer shall pay a late payment charge computed at the rate of 1.5% per month on the overdue balance, or the maximum rate permitted by law, whichever is less.

2.2 As and if requested by Seller, Buyer shall at its expense establish and keep in force payment security in the form of an irrevocable, unconditional, sight letter of credit or bank guarantee allowing for pro-rata payments as Products are shipped and Services are performed, plus payment of cancellation and termination charges, and all other amounts due from Buyer under the Contract ("Payment Security"). The Payment Security shall be (a) in a form, and issued or confirmed by a bank acceptable to Seller, (b) payable at the counters of such acceptable bank or negotiating bank, (c) opened at least sixty (60) days prior to both the earliest scheduled shipment of Products and commencement of Services, and (d) remain in effect until the latest of ninety (90) days after the last scheduled Product shipment, completion of all Services and Seller's receipt of the final payment required under the Contract. Buyer shall, at its expense, increase the amount(s), extend the validity period(s) and make other appropriate modifications to any Payment Security within ten (10) days of Seller's notification that such adjustment is necessary in connection with Buyer's obligations under the Contract.

2.3 Seller is not required to commence or continue its performance unless and until any required Payment Security is received, operative and in effect and all applicable Progress Payments have been received. For each day of delay in receiving Payment Security or acceptable Payment Security, Seller shall be entitled to a matching extension of the schedule. If at any time Seller reasonably determines that Buyer's financial condition or payment history does not justify continuation of Seller's performance, Seller shall be entitled to require full or partial payment in advance or otherwise restructure payments, request additional forms of Payment Security, suspend its performance or terminate the Contract.

3. Taxes and Duties

Seller shall be responsible for all corporate taxes measured by net income due to performance of or payment for work under this Contract ("Seller Taxes"). Buyer shall be responsible for all taxes, duties, fees, or other charges of any nature (including, but not limited to consumption, gross receipts, import properly sales stamp, turnover, use, or value-added taxes, and all items of withholding deficiency, penalty addition to tax, interest, or assessment related thereto, imposed by any governmental authority on Buyer or Seller or its subcontractors) in relation to the Contract or the performance of or payment for work under the Contract other than Seller Taxes ("Buyer Taxes"). The Contract Price does not include the amount of any Buyer Taxes. If Buyer deducts or withholds Buyer Taxes, Buyer shall pay additional amounts so that Seller receives the full Contract Price without reduction for Buyer Taxes. Buyer shall provide to Seller within one month of payment, official receipts from the applicable governmental authority for deducted or withheld taxes.

4. Deliveries; Title Transfer; Risk of Loss; Storage

4.1 For shipments that do not involve export including shipments from one European Union ("EU") country to another EU country, Seller shall deliver Products to Buyer FCA Seller's facility or warehouse (Incoterms 2010). For export shipments, Seller shall deliver Products to Buyer FCA Port of Export (Incoterms 2010). Buyer shall pay all delivery costs and charges or pay Seller's standard shipping charges plus up to twenty-five (25%) percent. Partial deliveries are permitted. Seller may deliver Products in advance of the delivery schedule. Delivery times are approximate and are dependent upon prompt receipt by Seller of all information necessary to proceed with the work without interruption. If Products delivered do not correspond in quantity, type or price to those itemized in the shipping invoice or documentation on Buyer shall notify Seller within ten (10) days after receipt.

4.2 For shipments that do not involve export, title to Products shall pass to Buyer upon delivery in accordance with Section 4.1. For export shipments from a Seller facility or warehouse outside the U.S., title shall pass to Buyer upon delivery in accordance with Section 4.1. For shipments from the U.S. to another country, title shall pass to Buyer immediately after each item departs from the territorial land, seas and overlying airspace of the U.S. The 1982 United Nations Convention of the Law of the Sea shall apply to determine the U.S. territorial seas. For all other shipments, title to Products shall pass to Buyer the earlier of (i) the port of export immediately after Products have been cleared for export or (j) immediately after each item departs from the territorial land, seas and overlying airspace of the sending country. When Buyer arranges the export or intercommunity shipment, Buyer will provide Seller evidence of exportation or intercommunity shipment acceptable to the relevant tax and custom authorities. Notwithstanding the foregoing, Seller grants only a license, and does not pass title, for any software provided by Seller under this Contract, and title to any leased equipment remains with Seller.

4.3 Risk of loss shall pass to Buyer upon delivery pursuant to Section 4.1, except that for export shipments from the U.S., risk of loss shall transfer to Buyer upon title passage.

4.4 If any Products to be delivered under this Contract or if any Buyer equipment repaired at Seller's facilities cannot be shipped to or received by Buyer when ready due to any cause attributable to Buyer or its other contractors, Seller may ship the Products and equipment to a storage facility, including storage at the place of manufacture or repair, or to an agreed freight forwarder. If Seller places Products or equipment into storage, the following apply: (i) title and risk of loss immediately pass to Buyer, if they have not already passed, and delivery shall be deemed to have occurred; (ii) any amounts otherwise payable to Seller upon delivery or shipment shall be due; (iii) all expenses and charges incurred by Seller related to the storage shall be payable by Buyer upon submission of Seller's invoices; and (iv) when conditions permit and upon payment of all amounts due, Seller shall make Products and repaired equipment available to Buyer for delivery.

4.5 If repair Services are to be performed on Buyer's equipment at Seller's facility, Buyer shall be responsible for, and shall retain risk of loss of, such equipment at all times, except that Seller shall be responsible for damage to the equipment while at Seller's facility to the extent such damage is caused by Seller's negligence.

5. Warranty

5.1 Seller warrants that Products shall be delivered free from defects in material, workmanship and title and that Services shall be performed in a competent, diligent manner in accordance with any mutually agreed specifications.

5.2 The warranty for Products shall expire one (1) year from first use or eighteen (18) months from delivery, whichever occurs first, except that software is warranted for ninety (90) days from delivery. The warranty for Services shall expire one (1) year after performance of the Service, except that software-related Services are warranted for ninety (90) days.

5.3 If Products or Services do not meet the above warranties, Buyer shall promptly notify Seller in writing prior to expiration of the warranty period. Seller shall (i) at its option, repair or replace defective Products and (ii) re-perform defective Services. If despite Seller's reasonable efforts, a non-conforming Product cannot be repaired or replaced, or non-conforming Services cannot be re-performed, Seller shall refund or credit monies paid by Buyer for such non-conforming Products and Services. Warranty repair, replacement or re-performance by Seller shall not extend or renew the applicable warranty period. Buyer shall obtain Seller's agreement on the specifications of any tests it plans to conduct to determine whether a non-conformance exists.

5.4 Buyer shall bear the costs of access for Seller's remedial warranty efforts (including removal and replacement of systems, structures or other parts of Buyer's facility), de-installation, decontamination, re-installation and transportation of defective Products to Seller and back to Buyer.

5.5 The warranties and remedies are conditioned upon (a) proper storage, installation, use, operation, and maintenance of Products, (b) Buyer keeping accurate and complete records of operation and maintenance during the warranty period and providing Seller access to those records, and (c) modification or repair of Products or Services only as authorized by Seller in writing. Failure to meet any such conditions renders the warranty null and void. Seller is not responsible for normal wear and tear.

5.6 This Article 5 provides the exclusive remedies for all claims based on failure of or defect in Products or Services regardless of when the failure or defect arises, and whether a claim, however described, is based on contract, warranty, indemnity, tort/detract-contractual liability (including negligence), strict liability or otherwise. The warranties provided in this Article 5 are exclusive and are in lieu of all other warranties, conditions and guarantees whether written, oral, implied or statutory. NO IMPLIED OR STATUTORY WARRANTY, OR WARRANTY OR CONDITION OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE APPLIES.

6. Confidentiality

6.1 Seller and Buyer (as to information disclosed, the "Disclosing Party") may each provide the other party (as to information received, the "Receiving Party") with Confidential Information in connection with this Contract. "Confidential Information" means (a) information that is designated in writing as "confidential" or "proprietary" by Disclosing Party at the time of written disclosure, and (b) information that is orally designated as "confidential" or "proprietary" by Disclosing Party at the time of oral or visual disclosure and is confirmed to be "confidential" or "proprietary" in writing within twenty (20) days after the oral or visual disclosure. In addition, prices for Products and Services shall be considered Seller's Confidential Information.

6.2 Receiving Party agrees: (i) to use the Confidential Information only in connection with the Contract and use of Products and Services (a) to take reasonable measures to prevent disclosure of the Confidential Information to third parties, and (ii) not to disclose the Confidential Information to a competitor of Disclosing Party. Notwithstanding these restrictions, (a) Seller may disclose Confidential Information to its affiliates and subcontractors in connection with performance of the Contract, (b) a Receiving Party may disclose Confidential Information to its auditors, (c) Buyer may disclose Confidential Information to lenders as necessary for Buyer to secure or retain financing needed to perform its obligations under the Contract, and (d) a Receiving Party may disclose Confidential Information to any other third party with the prior written permission of Disclosing Party, and in each case, only so long as the Receiving Party obtains a non-disclosure commitment from any such subcontractors, auditors, lenders or other permitted third party that prohibits disclosure of the Confidential Information and provided further that the Receiving Party remains responsible for any unauthorized use or disclosure of the Confidential Information. Receiving Party shall upon request return to Disclosing Party or destroy all copies of Confidential Information except to the extent that a specific provision of the Contract entitles Receiving Party to retain an item of Confidential Information. Seller may also retain one archive copy of Buyer's Confidential Information.

6.3 The obligations under this Article 6 shall not apply to any portion of the Confidential Information that (i) is or becomes generally available to the public other than as a result of disclosure by Receiving Party, its representatives or its affiliates; (ii) is or becomes available to Receiving Party on a non-confidential basis from a source other than Disclosing Party when the source is not to the best of Receiving Party's knowledge, subject to a confidentiality obligation to Disclosing Party; (iii) is independently developed by Receiving Party, its representatives or affiliates, without reference to the Confidential Information; (iv) is required to be disclosed by law or valid legal process provided that the Receiving Party intending to make disclosure in response to such requirements or process shall promptly notify the Disclosing Party in advance of such disclosure and reasonably cooperate in attempts to maintain the confidentiality of the Confidential Information.

6.4 Each Disclosing Party warrants that it has the right to disclose the information that it discloses. Neither Buyer nor Seller shall make any public announcement about the Contract without prior written approval of the other party. As to any individual item of Confidential Information, the restrictions under this Article 6 shall expire five (5) years after the date of disclosure. Article 6 does not supersede any separate confidentiality or nondisclosure agreement signed by the parties.

7. Intellectual Property

7.1 Seller shall defend and indemnify Buyer against any claim by a non-affiliated third party (a "Claim") alleging that Products or Services furnished under this Contract infringe a patent in effect in the U.S., an EU member state or the country of the Site (provided there is a corresponding patent issued by the U.S. or an EU member state, or any copyright or trademark registered in the country of the Site provided that Buyer (a) promptly notifies Seller in writing of the Claim, (b) makes no admission of liability and does not take any position adverse to Seller, (c) gives Seller sole authority to control defense and settlement of the Claim, and (d) provides Seller with full disclosure and reasonable assistance as required to defend the Claim.

7.2 Section 7.1 shall not apply and Seller shall have no obligation or liability with respect to any Claim based upon (a) Products or Services that have been modified, or revised; (b) the combination of any Products or Services with other products or services when such combination is a basis of the alleged infringement; (c) failure of Buyer to implement any update provided by Seller that would have prevented the Claim; (d) unauthorized use of Products or Services; or (e) Products or Services made or performed to Buyer's specifications.

7.3 Should any Product or Service or any portion thereof become the subject of a Claim, Seller may at its option (a) procure for Buyer the right to continue using the Product or Service or applicable portion thereof; (b) modify or replace it in whole or in part to make it non-infringing; or (c) failing (a) or (b), take back infringing Products or Services and refund the price received by Seller attributable to the infringing Products or Services.

7.4 Article 7 states Seller's exclusive liability for intellectual property infringement by Products and Services.

7.5 Each party shall retain ownership of all Confidential Information and intellectual property it had prior to the Contract. All new intellectual property conceived or created by Seller in the performance of this Contract, whether alone or with any contribution from Buyer shall be owned exclusively by Seller. Buyer agrees to deliver assignment documentation as necessary to achieve that result.

8. Indemnity

Each of Buyer and Seller (as an "Indemnifying Party") shall indemnify the other party (as an "Indemnified Party") from and against claims brought by a third party, on account of personal injury or damage to the third party's tangible property, to the extent caused by the negligence of the Indemnifying Party in connection with this Contract. In the event the injury or damage is caused by joint or concurrent negligence of Buyer and Seller, the loss or expense shall be borne by each party in proportion to its degree of negligence. For purposes of Seller's indemnity obligation, no part of the Products or Site is considered third party property.

9. Insurance

During the term of the Contract, Seller shall maintain for its protection the following insurance coverage: (i) Worker's Compensation, Employer's Liability and other statutory insurance required by law with respect to work related injuries or disease of employees of Seller in such form(s) and amount(s) as required by applicable laws; (ii) Automobile liability insurance with a combined single limit of \$2,500,000.00, and (iii) Commercial General Liability or Public Liability insurance for bodily injury and property damage with a combined single limit of \$2,500,000.00. If required in the Contract, Seller shall provide a certificate of insurance reflecting such coverage.

10. Excusable Events

Seller shall not be liable or considered in breach of its obligations under this Contract to the extent that Seller's performance is delayed or prevented, directly or indirectly, by any cause beyond its reasonable control, or by armed conflict, acts or threats of terrorism, epidemics, strikes or other labor disturbances, or acts or omissions of any governmental authority or of the Buyer or Buyer's contractors or suppliers. If an excusable event occurs, the schedule for Seller's performance shall be extended by the amount of time lost by reason of the event plus such additional time as may be needed to overcome the effect of the event. If acts or omissions of the Buyer or its contractors or suppliers cause the delay, Seller shall also be entitled to an equitable price adjustment.

11. Termination and Suspension

11.1 Buyer may terminate the Contract (or the portion affected) for cause if Seller (i) becomes Insolvent/Bankrupt, or (ii) commits a material breach of the Contract which does not otherwise have a specified contractual remedy, provided that: (a) Buyer shall first provide Seller with

detailed written notice of the breach and of Buyer's intention to terminate the Contract, and (b) Seller shall have failed, within 30 days after receipt of the notice, to commence and diligently pursue cure of the breach.

11.2 If Buyer terminates the Contract pursuant to Section 11.1 (f) Seller shall reimburse Buyer the difference between that portion of the Contract Price allocable to the terminated scope and the actual amounts reasonably incurred by Buyer to complete that scope, and (g) Buyer shall pay to Seller (a) the portion of the Contract Price allocable to Products completed, (b) lease fees incurred and (c) amounts for Services performed before the effective date of termination. The amount due for Services shall be determined in accordance with the milestone schedule (for completed milestones) and rates set forth in the Contract (for work toward milestones not yet achieved and where there is no milestone schedule), as applicable or, where there are no milestones and/or rates in the Contract, at Seller's then-current standard time and material rates.

11.3 Seller may suspend or terminate the Contract (or any affected portion thereof) immediately for cause if Buyer (i) becomes insolvent/bankrupt, or (ii) materially breaches the Contract, including, but not limited to, failure or delay in Buyer providing Payment Security, making any payment when due, or fulfilling any payment conditions.

11.4 If the Contract (or any portion thereof) is terminated for any reason other than Seller's default under Section 11.1, Buyer shall pay Seller for all Products completed, lease fees incurred and Services performed before the effective date of termination, plus expenses reasonably incurred by Seller in connection with the termination. The amount due for Services shall be determined in accordance with the milestone schedule (for completed milestones) and rates set forth in the Contract (for work toward milestones not yet achieved and where there is no milestone schedule), as applicable or, where there are no milestones and/or rates in the Contract, at Seller's then-current standard time and material rates. In addition, Buyer shall pay Seller a cancellation charge equal to 80% of the Contract Price applicable to uncompleted made-to-order Products and 15% of the Contract Price applicable to all other uncompleted Products.

11.5 Either Buyer or Seller may terminate the Contract (or the portion affected) upon twenty (20) days advance notice if there is an excusable event (as described in Article 10) lasting longer than one hundred and twenty (120) days. In such case, Buyer shall pay to Seller amounts payable under Section 11.4, excluding the cancellation charge for uncompleted Products.

11.6 Buyer shall pay all reasonable expenses incurred by Seller in connection with a suspension, including, but not limited to, expenses for repossession, fee collection, demobilization/remobilization, and costs of storage during suspension. The schedule for Seller's obligations shall be extended for a period of time reasonably necessary to overcome the effects of any suspension.

12. Compliance with Laws, Codes and Standards

12.1 Seller shall comply with laws applicable to the manufacture of Products and its performance of Services. Buyer shall comply with laws applicable to the application, operation, use and disposal of the Products and Services.

12.2 Seller's obligations are conditioned upon Buyer's compliance with all U.S. and other applicable trade control laws and regulations. Buyer shall not trans-ship, re-export, divert or direct Products other than in and to the ultimate country of destination declared by Buyer and specified as the country of ultimate destination on Seller's invoice.

12.3 Notwithstanding any other provision, Buyer shall timely obtain, effectuate and maintain in force any required permit, license, exemption, filing, registration and other authorization, including, but not limited to, building and environmental permits, import licenses, environmental impact assessments, and foreign exchange authorizations, required for the lawful performance of Services at the Site or fulfillment of Buyer's obligations, except that Seller shall obtain any license or registration necessary for Seller to generally conduct business and visas or work permits, if any, necessary for Seller's personnel. Buyer shall provide reasonable assistance to Seller in obtaining such visas and work permits.

13. Environmental, Health and Safety Matters

13.1 Buyer shall maintain safe working conditions at the Site, including, without limitation, implementing appropriate procedures regarding Hazardous Materials, confined space entry, and energization and de-energization of power systems (electrical, mechanical and hydraulic) using safe and effective lock-out/tag-out ("LOTO") procedures including physical LOTO or a mutually agreed upon alternative method.

13.2 Buyer shall timely advise Seller in writing of all applicable Site-specific health, safety, security and environmental requirements and procedures. Without limiting Buyer's responsibilities under Article 13, Seller has the right but not the obligation to, from time to time, review and inspect applicable health, safety, security and environmental: documentation, procedures and conditions at the Site.

13.3 If in Seller's reasonable opinion, the health, safety, or security of personnel or the Site is, or is apt to be, imperiled by security risks, terrorist acts or threats, the presence of or threat of exposure to Hazardous Materials, or unsafe working conditions, Seller may, in addition to other rights or remedies available to it, evacuate some or all of its personnel from Site, suspend performance of all or any part of the Contract, and/or remotely perform or supervise work. Any such occurrence shall be considered an excusable event. Buyer shall reasonably assist in any such evacuation.

13.4 Operation of Buyer's equipment is the responsibility of Buyer. Buyer shall not require or permit Seller's personnel to operate Buyer's equipment at Site.

13.5 Buyer will make its Site medical facilities and resources available to Seller personnel who need medical attention.

13.6 Seller has no responsibility or liability for the pre-existing condition of Buyer's equipment or the Site. Prior to Seller starting any work at Site, Buyer will provide documentation that identifies the presence and condition of any Hazardous Materials existing in or about Buyer's equipment or the Site that Seller may encounter while performing under this Contract. Buyer shall disclose to Seller industrial hygiene and environmental monitoring data regarding conditions that may affect Seller's work or personnel at the Site. Buyer shall keep Seller informed of changes in any such conditions.

13.7 Seller shall notify Buyer if Seller becomes aware of (i) conditions at the Site differing materially from those disclosed by Buyer, or (ii) previously unknown physical conditions at Site differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract. If any such conditions cause an increase in Seller's cost of, or the time required for, performance of any part of the work under the Contract, an equitable adjustment in price and schedule shall be made.

13.8 If Seller encounters Hazardous Materials in Buyer's equipment or at the Site that require special handling or disposal, Seller is not obligated to continue work affected by the hazardous conditions. In such an event, Buyer shall eliminate the hazardous conditions in accordance with applicable laws and regulations so that Seller's work under the Contract may safely proceed, and Seller shall be entitled to an equitable adjustment of the price and schedule to compensate for any increase in Seller's cost of, or time required for, performance of any part of the work. Buyer shall properly store, transport and dispose of all Hazardous Materials introduced, produced or generated in the course of Seller's work at the Site.

13.9 Buyer shall indemnify Seller for any and all claims, damages, losses, and expenses arising out of or relating to any Hazardous Materials which are or were (i) present in or about Buyer's equipment or the Site prior to the commencement of Seller's work, (ii) improperly handled or disposed of by Buyer or Buyer's employees, agents, contractors or subcontractors, or (iii) brought, generated, produced or released on Site by parties other than Seller.

14. Changes

14.1 Each party may at any time propose changes in the schedule or scope of Products or Services. Seller is not obligated to proceed with any change until both parties agree upon such change in writing. The written change documentation will describe the changes in scope and schedule, and the resulting changes in price and other provisions, as agreed.

14.2 The scope, Contract Price, schedule, and other provisions will be equitably adjusted to reflect additional costs or obligations incurred by Seller resulting from a change, after Seller's proposal date, in Buyer's Site-specific requirements or procedures or in industry specifications, codes, standards, applicable laws or regulations. However, no adjustment will be made on account of a general change in Seller's manufacturing or repair facilities resulting from a change in laws or regulations applicable to such facilities. Unless otherwise agreed by the parties, pricing for additional work arising from such changes shall be at Seller's time and material rates.

14.3 It shall be acceptable and not considered a change if Seller delivers a Product that bears a different, superseding or new part or version number compared to the part or version number listed in the Contract.

15. Limitations of Liability

15.1 The total liability of Seller for all claims of any kind arising from or related to the formation, performance or breach of this Contract, or any Products or Services, shall not exceed the (i) Contract Price, or (ii) if Buyer places multiple order(s) under the Contract, the price of each particular order for all claims arising from or related to that order and ten thousand US dollars (US \$10,000) for all claims not part of any particular order.

15.2 Seller shall not be liable for loss of profit or revenues, loss of use of equipment or systems, interruption of business, cost of replacement power, cost of capital, downtime costs, increased operating costs, any special, consequential, incidental, indirect or punitive damages, or claims of Buyer's customers for any of the foregoing types of damages.

15.3 All Seller liability shall end upon expiration of the applicable warranty period, provided that Buyer may continue to enforce a claim for which it has given notice prior to that date by commencing an action or arbitration, as applicable under this Contract, before expiration of any statute of limitations or other legal time limitation but in no event later than one year after expiration of such warranty period.

15.4 Seller shall not be liable for advice or assistance that is not required for the work scope under this Contract.

15.5 If Buyer is supplying Products or Services to a third party, or using Products or Services at a facility owned by a third party, Buyer shall either (i) indemnify and defend Seller from and against any and all claims by, and liability to, any such third party in excess of the limitations set forth in this Article 15, or (j) require that the third party agree, for the benefit of and enforceable by Seller, to be bound by all the limitations included in this Article 15.

15.6 For purposes of this Article 15, the term "Seller" means Seller, its affiliates, subcontractors and suppliers of any tier, and their respective employees. The limitations in this Article 15 shall apply regardless of whether a claim is based in contract, warranty, indemnity, tort/vicarious liability (including negligence), strict liability or otherwise, and shall prevail over any conflicting terms, except to the extent that such terms further restrict Seller's liability.

16. Governing Law and Dispute Resolution

16.1 This Contract shall be governed by and construed in accordance with the laws of (i) the State of New York if Buyer's place of business is in the U.S. or (ii) England if the Buyer's place of business is outside the U.S., in either case without giving effect to any choice of law rules that would cause the application of laws of any other jurisdiction (the "Governing Law"). If the Contract includes the sale of Products and the Buyer is outside the Seller's country, the United Nations Convention on Contracts for the International Sale of Goods shall apply.

16.2 All disputes arising in connection with this Contract, including any question regarding its existence or validity, shall be resolved in accordance with this Article 16. If a dispute is not resolved by negotiations, either party may, by giving written notice, refer the dispute to a meeting of appropriate higher management to be held within twenty (20) business days after the giving of notice. If the dispute is not resolved within thirty (30) business days after the giving of notice, or such later date as may be mutually agreed, either party may commence arbitration or court proceedings, depending upon the location of the Buyer, in accordance with the following:

(a) If the Buyer's pertinent place of business is in the U.S., legal action shall be commenced in federal court with jurisdiction applicable to, or state court located in, either Cobb County, Georgia or the location of Buyer's principal place of business; or (b) if the Buyer's pertinent place of business is outside the U.S., the dispute shall be submitted to and finally resolved by arbitration under the Rules of Arbitration of the International Chamber of Commerce ("ICC"). The number of arbitrators shall be one, selected in accordance with the ICC rules, unless the amount in dispute exceeds the equivalent of U.S. \$5,000,000, in which event it shall be three. When three arbitrators are involved, each party shall appoint one arbitrator, and those two shall appoint the third within thirty (30) days, who shall be the Chairman. The seat, or legal place, of arbitration, shall be London, England. The arbitration shall be conducted in English. In reaching their decision, the arbitrators shall give full force and effect to the intent of the parties as expressed in the Contract, and if a solution is not found in the Contract, shall apply the governing law of the Contract. The decision of the arbitrator(s) shall be final and binding upon both parties, and neither party shall seek recourse to a law court or other authority to appeal or revisions of the decision.

16.3 Notwithstanding the foregoing, each party shall have the right at any time, at its option and where legally available, to immediately commence an action or proceeding in a court of competent jurisdiction, subject to the terms of this Contract, to seek a restraining order, injunction, or similar order to enforce the confidentiality provisions set forth in Article 6 and/or the nuclear use restrictions set forth in Section 19.1, or to seek interim or conservatory measures. Monetary damages shall only be available in accordance with Section 16.2.

17. Inspection and Factory Tests

Seller will apply its normal quality control procedures in manufacturing Products. Seller shall attempt to accommodate requests by Buyer to witness Seller's factory tests of Products, subject to appropriate access restrictions, if such witnessing can be arranged without delaying the work.

18. Software, Leased Equipment, Remote Diagnostic Services, PCB Services

If Seller provides any software to Buyer, the Software License Addendum shall apply. If Seller leases any of Seller's equipment or provides related Services to Buyer, including placing Seller's equipment at Buyer's site to provide remote Services, the Lease Addendum shall apply. If Seller provides remote diagnostic services to Buyer, the Remote Diagnostic Services Addendum shall apply. If Seller provides PCB Services to Buyer, the PCB Services Addendum shall apply. If there is any conflict between these Terms and Conditions for the Sale of Products and Services, Form ES 104 and the terms of any addendum incorporated pursuant to this Article 18, the terms of the addendum shall take precedence with respect to the applicable scope.

19. General Warranties

19.1 Products and Services sold by Seller are not intended for use in connection with any nuclear facility or activity, and Buyer warrants that it shall not use or permit others to use Products or Services for such purposes, without the advance written consent of Seller. If, in breach of this, any such use occurs, Seller (and its parent, affiliates, suppliers and subcontractors) disclaims all liability for any nuclear or other damage, injury or contamination, and, in addition to any other rights of Seller, Buyer shall indemnify and hold Seller (and its parent, affiliates, suppliers and subcontractors) harmless against all such liability. Consent of Seller to any such use, if any, will be conditioned upon additional terms and conditions that Seller determines to be acceptable for protection against nuclear liability.

19.2 Seller may assign or novate its rights and obligations under the Contract, in whole or in part, to any of its affiliates or may assign any of its accounts receivable under this Contract to any party without Buyer's consent. Buyer agrees to execute any documents that may be necessary to complete Seller's assignment or novation. Seller may subcontract portions of the work, so long as Seller remains responsible for it. The delegation or assignment by Buyer of any or all of its rights or obligations under the Contract without Seller's prior written consent (which consent shall not be unreasonably withheld) shall be void.

19.3 Buyer shall notify Seller immediately upon any change in ownership of more than fifty percent (50%) of Buyer's voting rights or of any controlling interest in Buyer. If Buyer fails to do so or Seller objects to the change, Seller may (a) terminate the Contract, (b) require Buyer to provide adequate assurance of performance (including but not limited to payment), and/or (c) put in place special controls regarding Seller's Confidential Information.

19.4 If any Contract provision is found to be void or unenforceable, the remainder of the Contract shall not be affected. The parties will endeavor to replace any such void or unenforceable provision with a new provision that achieves substantially the same practical and economic effect and is valid and enforceable.

19.5 The following Articles shall survive termination or cancellation of the Contract: 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 15, 16, 18, 19 and 20.

19.6 The Contract represents the entire agreement between the parties. No oral or written representation or warranty not contained in this Contract shall be binding on either party. Buyer's and Seller's rights, remedies and obligations arising from or related to Products and Services sold under this Contract are limited to the rights, remedies and obligations stated in this Contract. No modification, amendment, rescission or waiver shall be binding on either party unless agreed in writing.

19.7 Except as provided in Article 15 (Limitations of Liability) and in Section 19.1 (no nuclear use), this Contract is only for the benefit of the parties, and no third party shall have a right to enforce any provision of this Contract, whether under the English Contracts (Rights of Third Parties) Act of 1999 or otherwise.

19.8 This Contract may be signed in multiple counterparts that together shall constitute one agreement.

20. US Government Contracts

20.1 This Article 20 applies only if the Contract is for the direct or indirect sale to any agency of the U.S. government and/or is funded in whole or in part by an agency of the U.S. government.

20.2 Buyer agrees that all Products and Services provided by Seller meet the definition of "commercial-off-the-shelf" ("COTS") or "commercial item" as those terms are defined in Federal Acquisition Regulation ("FAR") 2.101. To the extent the Buy American Act Trade Agreements Act, or other domestic preference requirements are applicable to this Contract, the country of origin of Products is unknown unless otherwise specifically stated by Seller in this Contract. Buyer agrees any Services offered by Seller are exempt from the Service Contract Act of 1965 (FAR 52.222-41). Buyer represents and agrees that this Contract is not funded in whole or in part by American Recovery Reinvestment Act funds unless otherwise specifically stated in the Contract. The version of any applicable FAR clause listed in this Article 20 shall be the one in effect on the effective date of this Contract.

20.3 If Buyer is an agency of the U.S. Government, then as permitted by FAR 12.302, Buyer agrees that all paragraphs of FAR 52.212-4 (except those listed in 12.302(b)) are replaced with these Terms and Conditions. Buyer further agrees the subparagraphs of FAR 52.212-5 apply only to the extent applicable for sale of COTS and/or commercial items and as appropriate for the Contract Price.

20.4 If Buyer is procuring the Products or Services as a contractor, or subcontractor at any tier, on behalf of any agency of the U.S. Government, then Buyer agrees that FAR 52.212-5(e) or 52.244-6 (whichever is applicable) applies only to the extent applicable for sale of COTS and/or commercial items and as appropriate for the Contract Price.

Form ES104 (Rev 3): SOFTWARE LICENSE ADDENDUM TO TERMS AND CONDITIONS FOR SALE OF PRODUCTS AND SERVICES

This Addendum incorporates by reference the Form ES104 (REV 3) TERMS AND CONDITIONS FOR SALE OF PRODUCTS AND SERVICES, and includes the following additional provisions contained herein. In the event of any conflict between this Addendum and the TERMS AND CONDITIONS FOR SALE OF PRODUCTS AND SERVICES, the Addendum shall take precedence.

1. Definitions. Unless otherwise agreed to by Licensor, the following terms shall mean:

"Derivative Works" includes but is not limited to (a) any work based upon one or more pre-existing works, such as a revision, enhancement, modification, translation, abridgement, condensation, expansion, extension or any other form in which such pre-existing works may be recast, transformed, or adapted, and that, if prepared without the authorization of the owner of the copyright to such pre-existing works, would constitute a copyright infringement, and/or (b) any compilation that incorporates such pre-existing works. For Software, Documentation, and Third Party Software (as defined below), Derivative Works also includes any and all corrections, bug fixes, and updates to the Software, Documentation, Third Party Software, and Derivative Works, but does not include any Licensee or Licensee-funded third party developments, provided such developments only make "calls" of the Software, Third Party Software or Derivative Works thereof or "object requests" that reference or cause execution of the base Software, Third Party Software, and/or Derivative Works thereof.

"Documentation" means all material, including all printed material and on-line or electronic documentation (excluding training materials), referencing the Software and/or Third-Party Software provided hereunder.

"Licensee" means the Buyer as that term is defined in the Terms and Conditions.

"Licensor" means the Seller as that term is defined in the Terms and Conditions.

"Software" means Licensor's proprietary computer software and software security devices provided by Licensor under this License.

"Terms and Conditions" means Licensor's Terms and Conditions for Sale of Products and/or Services to which this License is attached.

"Third-Party Software" means any proprietary computer software owned by a third party that Licensor may provide to Licensee hereunder.

2. License Grant. 2.1 Subject to the terms of this License, Licensor hereby grants to Licensee a non-transferable and nonexclusive license to use Software and Documentation, including upgraded, modified or enhanced versions provided by Licensor, and to use Third-Party Software, all for Licensee's internal business purposes only.

2.2 Licensee has no right to (i) lease, rent, transfer, distribute, sublicense, timeshare, or allow third parties to access Software, Documentation, or Third-Party Software, nor assign any rights hereunder to a third party without Licensor's prior, written agreement; (ii) disassemble, decompile, reverse engineer, or otherwise attempt to reconstruct or discover the source code of the Software or Third-Party Software; (iii) pledge Software or Third-Party Software as collateral or otherwise, or encumber such Software or Third-Party Software with any lien or security interest; or (iv) remove any product identification, copyright, trademark, or other notice from Software, Documentation or Third-Party Software. If Licensee believes that it is entitled to reverse engineer Software as a matter of local law (e.g., the Council Directive of May 14, 1991, of the Council of the European Communities, as amended), Licensee agrees that it shall first request technical information from Licensor. Licensee shall use any technical information delivered by Licensor only for purposes of ensuring "interoperability" and compatibility and shall treat such technical information as Proprietary Information (defined below). Any reverse engineering of Software shall void any warranties or indemnification obligations of Licensor and shall automatically release Licensor from any obligation to provide support services under this or any separate agreement.

2.3 Certain software Licensor provides to Licensee may contain Third-Party Software, including but not limited to "open source" software. Use of Third-Party Software and its source code may be governed by separate copyright notices and license provisions, which may be found or identified in Documentation or on the media delivered with Software and which are incorporated by reference into this License. Licensee shall not modify or combine Software and/or any Third-Party Software in any manner that could cause, or could be interpreted or asserted to cause, Software or any modifications thereto to become subject to the terms of any license applicable to Third Party Software. All Third-Party Software provided hereunder is bundled with Products and licensed for use with Products only.

2.4 Unless otherwise agreed to by Licensor or specified in an exhibit attached hereto, Licensee shall only have the right to install and use a single copy of Software and Third-Party Software on a single computer workstation for use by a single user.

2.5 Licensee may make one (1) copy of Software, Documentation, and Third-Party Software for backup purposes only. Licensee must reproduce and include all proprietary rights and copyright notices on any backup copies. Except as authorized under this License, no copies of Software, Documentation, or Third-Party Software may be made by Licensee or any third party; provided, however, Licensee may print on-line Software documentation for its own internal use, provided the maximum number of copies may not exceed the number of users licensed hereunder.

3. Support Services/Upgrades. This License does not obligate Licensor to provide maintenance and support on any Software or Third-Party Software licensed hereunder. Support services are available under separate agreement. If Software is an upgrade of a previous version (provided such upgrade was obtained under a separate support services agreement with Licensor or a Licensor authorized distributor), Licensee may use the upgraded Software only in accordance with this License.

4. Verification. During the term of this License and for 3 years thereafter, Licensor may upon reasonable notice require that an independent audit of the use of Software and Third-Party Software be conducted during Licensee's normal business hours. Upon such notice, Licensee shall provide Licensor's independent auditor site access and the right to inspect relevant portions of Licensee's computer system on which Software and Third-Party Software resides. Licensee agrees to pay promptly: (a) all underpaid license fees and (b) if the underpayment is more than 5% of the license fees paid before audit, all audit costs and expenses.

5. Term and Termination. 5.1 Software, Documentation, and Third-Party Software shall be considered accepted by Licensee upon receipt.

5.2 This License is effective until terminated. Licensor may terminate this License immediately if Licensee fails to comply with any of the terms and conditions herein. The license for any Software or Third Party Software provided with leased equipment shall terminate concurrently with termination of the lease. Upon termination, Licensee shall (a) cease using Software, Documentation, and Third-Party Software and (b) certify to Licensor within one (1) month of the termination that Licensee has destroyed or returned to Licensor Software, Documentation, and Third-Party Software, and all copies thereof.

6. Ownership. 6.1 All Software, Documentation, and Third-Party Software are licensed and not sold. Licensee agrees that Licensor and its suppliers own all proprietary rights, including, but not limited to

any patent, copyright, trade secret, trademark, and other proprietary rights, in and to Software, Documentation, and Third-Party Software, including any Derivative Works (defined in the Terms and Conditions) thereof regardless of the source of development, including but not limited to cases where Licensee engages a third party to perform such development and any corrections, bug fixes, and updates to such Software, Documentation, Third-Party Software, or Derivative Works.

6.2 Therefore, to the extent that any Derivative Works of Licensor's proprietary Software or of Third Party Software supplied by Licensor is developed, Licensee hereby (a) agrees that the intellectual property rights to such Derivative Works are automatically vested in Licensor (or its affiliates, in Licensor's sole discretion) or in the owner of Third Party Software, as applicable, and may be used by Licensor (or the owner of any Third Party Software Derivative Works) without limitation and without any obligation to Licensee on behalf of Licensor and/or such other relevant owner; (b) irrevocably transfers and assigns to Licensor all intellectual property rights, moral rights, title, and interest throughout the world in and to any such Derivative Works, including, but not limited to, all rights in and to any Inventions and designs embodied in such Derivative Works or its associated technology; (c) agrees and forever waives any right to assert any claim contrary to (a) and (b) in this Article 6.2; and (d) agrees to take all steps necessary to fulfill the requirements as set forth in this Article 6.2 for any such Derivative Works whether developed by Licensee or by any third party under Licensee's direction. If by operation of law such rights are not automatically transferred and assigned as provided above, Licensee shall execute and deliver such instruments and take such other action as may be requested by Licensor to perfect and protect Licensor's (or Third Party Software owner's) rights in any Derivative Works and to carry out the assignments effected by this Article 6.

6.3 Notwithstanding the foregoing, Licensor grants Licensee a "right to use" license to any Software or Third Party Software Derivative Works for internal business purposes only under the same terms and conditions that apply to Software, Documentation, or Third Party Software under Article 2 herein.

6.4 For the purposes of Article 6, the term "Licensor" shall mean Licensor, its affiliates, and their successors or assigns.

7. Limited Warranties. 7.1 Licensor warrants, for Licensee's benefit alone, that under normal use the media in which Software is embedded shall be free from defects in material and workmanship, for a period of ninety (90) days from the date of delivery of the initial Software ("Warranty Period").

7.2 Licensor warrants, for Licensee's benefit alone, that during the Warranty Period, Software will perform substantially in accordance with its Documentation. If, during the Warranty Period, an Error occurs (where "Error" is defined as a problem caused by an incorrect operation of the unmodified computer code in Software or an incorrect statement or diagram in Documentation that produces incorrect results), Licensor will use commercially reasonable efforts to correct such Error, provided Licensee furnishes Licensor with the following: (a) written notice of the warranty claim, including a description of the failure to perform in accordance with Documentation and a specific description of the operating conditions (including the specific software/hardware configuration) under which the failure occurred, and (b) to the extent feasible, a representative sample of inputs for repeating and analyzing the failure. If Licensor is unable, after commercially reasonable efforts, to correct the Error, Licensee's sole remedy shall be termination of this License and a refund of the license fees allocable to the specific nonconforming Software that have been paid by Licensee to Licensor hereunder.

7.3 Article 7 provides the exclusive remedies for all claims based on failure of or defect in Software and Documentation, whether the failure or defect arises before, during, or after the applicable Warranty Period and whether a claim, however described, is based on contract, warranty, indemnity, tort/extracontractual liability (including negligence), strict liability, or otherwise. The warranties provided in Article 7 are exclusive and are in lieu of all other warranties, conditions, and guarantees whether written, oral, implied, or statutory. NO IMPLIED STATUTORY WARRANTY OR CONDITION OF MERCHANTABILITY, SATISFACTORY QUALITY, OR FITNESS FOR A PARTICULAR PURPOSE APPLIES. WITHOUT LIMITING THE FOREGOING, LICENSOR DOES NOT WARRANT THAT THE SOFTWARE OR DOCUMENTATION (OR LICENSEE'S USE THEREOF) WILL BE FREE FROM ALL ERRORS OR ITS USE WILL BE UNINTERRUPTED.

7.4 Any remedial steps taken by Licensor hereunder shall not extend the applicable Warranty Period.

7.5 Except as expressly authorized by Licensor in writing, all Third-Party Software shall carry only the warranties provided by the owners thereof and Licensor gives no warranties for such Third-Party Software.

8. Proprietary Information; Equitable Relief. 8.1 All information concerning or embedded in Software (including but not limited to source code and training materials), Documentation, and Third-Party Software is confidential and shall be considered Licensor's (or its suppliers') proprietary information ("Proprietary Information") whether or not the information is marked as Proprietary Information. Proprietary information includes commercially valuable, substantial trade secrets, the design and development of which reflect the effort of skilled development experts and investment of considerable amounts of time and money.

8.2 Licensee acknowledges: (a) any use of Software, Documentation, or Third-Party Software in a manner inconsistent with this License or (b) any other misuse of Proprietary Information of Licensor (or its suppliers), will cause immediate irreparable harm to Licensor (or its suppliers) for which there is no adequate remedy at law. Licensee agrees that Licensor (or its suppliers) shall be entitled to immediate and permanent injunctive relief from a court of competent jurisdiction in the event of any such misuse or threatened misuse by Licensee. The parties agree and stipulate that Licensor shall be entitled to such injunctive relief without posting of a bond or other security; provided, however, that if the posting of a bond is a prerequisite to obtaining injunctive relief, then a bond in an amount equivalent to U.S. \$1,000 shall be sufficient. Nothing contained herein shall limit Licensor's right to any remedies at law, including the recovery of damages from Licensee for breach of this License.

8.3 The confidentiality obligations set forth in the Terms and Conditions with respect to items of Confidential Information shall expire, with respect to Software, and Documentation, five years after termination of the Contract.

8.4. Upon request Licensee agrees to provide Licensor with a signed copy of this License.

By: _____

Title: _____

Name: _____

Date: _____

EQUAL BENEFITS ORDINANCE DISCLOSURE

As a condition of being awarded a contract with the City of Long Beach ("City"), the selected Contractor/Vendor ("Contractor") may be required during the performance of the Contract, to comply with the City's nondiscrimination provisions of the Equal Benefits Ordinance ("EBO") set forth in the Long Beach Municipal Code section 2.73 et seq. The EBO requires that during the performance of the contract, the Contractor shall provide equal benefits to its employees with spouses and employees with domestic partners. Benefits include but are not limited to, health benefits, bereavement leave, family medical leave, membership and membership discounts, moving expenses, retirement benefits and travel benefits. A cash equivalent payment is permitted if an employer has made all reasonable efforts to provide domestic partners with access to benefits but is unable to do so. A situation in which a cash equivalent payment might be used if where the employer has difficulty finding an insurance provider that is willing to provide domestic partner benefits.

The EBO is applicable to the following employers:

- For-profit employers that have a contract with the City for the purchase of goods, services, public works or improvements and other construction projects in the amount of \$100,000 or more
- For-profit entities that generate \$350,000 or more in annual gross receipts leasing City property pursuant to a written agreement for a term exceeding 29 days in any calendar year

Contractors who are subject to the EBO must certify to the City before execution of the contract that they are in compliance with the EBO by completing the EBO Certification Form, attached, or that they have been issued a waiver by the City. Contractors must also allow authorized City representatives access to records so the City can verify compliance with the EBO.

The EBO includes provisions that address difficulties associated with implementing procedures to comply with the EBO. Contractors can delay implementation of procedures to comply with the EBO in the following circumstances:

- 1) By the first effective date after the first open enrollment process following the contract start date, not to exceed two years, if the Contractor/vendor submits evidence of taking reasonable measures to comply with the EBO; or
- 2) At such time that the administrative steps can be taken to incorporate nondiscrimination in benefits in the Contractor/vendor's infrastructure, not to exceed three months; or
- 3) Upon expiration of the contractor's current collective bargaining agreement(s).

Compliance with the EBO


If a contractor has not received a waiver from complying with the EBO and the timeframe within which it can delay implementation has expired but it has failed to comply with the EBO, the Contractor may be deemed to be in material breach of the Contract. In the event of a material breach, the City may cancel, terminate or suspend the City agreement, in whole or in part. The City also may deem the Contractor an irresponsible bidder and disqualify the Contractor from contracting with the City for a period of three years. In addition, the City may assess liquidated damages against the Contractor which may be deducted from money otherwise due the Contractor. The City may also pursue any other remedies available at law or in equity.

By my signature below, I acknowledge that the Contractor understands that to the extent it is subject to the provisions of the Long Beach Municipal Code section 2.73, the Contractor shall comply with this provision.

Printed Name: Kevin Beaver Title: VP Marketing
Dresser Meters & Instruments
Signature: Kevin Beaver Date: 2/15/12
Business Entity Name: Dresser, Inc., Meters & Instruments

EQUAL BENEFITS ORDINANCE CERTIFICATION OF COMPLIANCE

Section 1. CONTRACTOR/VENDOR INFORMATION

Name: Dresser, Inc, Meters & Instruments Federal Tax ID No. 
Address: 16240 Port Northwest Drive, Suite 100
City: Houston State: TX ZIP: 77041
Contact Person: Drane Fogle Telephone: 832-590-2303 / 832-590-2551
Email: Drane.Fogle@gp.com Fax: 832-590-2494

Section 2. COMPLIANCE QUESTIONS

- A. The EBO is inapplicable to this Contract because the Contractor/Vendor has no employees. Yes No
- B. Does your company provide (or make available at the employees' expense) any employee benefits? Yes No
(If "yes," proceed to Question C. If "no," proceed to section 5, as the EBO does not apply to you.)
- C. Does your company provide (or make available at the employees' expense) any benefits to the spouse of an employee?
 Yes No
- D. Does your company provide (or make available at the employees' expense) any benefits to the domestic partner of an employee?
 Yes No (If you answered "no" to both questions C and D, proceed to section 5, as the EBO is not applicable to this contract. If you answered "yes" to both Questions C and D, please continue to Question E. If you answered "yes" to Question C and "no" to Question D, please continue to section 3.)
- E. Are the benefits that are available to the spouse of an employee identical to the benefits that are available to the domestic partner of an employee?
 Yes No
(If "yes," proceed to section 4, as you are in compliance with the EBO. If "no," continue to section 3.)

Section 3. PROVISIONAL COMPLIANCE

- A. Contractor/vendor is not in compliance with the EBO now but will comply by the following date:

_____ By the first effective date after the first open enrollment process following the contract start date, not to exceed two years, if the Contractor/vendor submits evidence of taking reasonable measures to comply with the EBO; or

_____ At such time that the administrative steps can be taken to incorporate nondiscrimination in benefits in the Contractor/vendor's infrastructure, not to exceed three months; or

_____ Upon expiration of the contractor's current collective bargaining agreement(s).

- B. If you have taken all reasonable measures to comply with the EBO but are unable to do so, do you agree to provide employees with a cash equivalent? (The cash equivalent is the amount of money your company pays for spousal benefits that are unavailable for domestic partners.)

___ Yes ___ No

Section 4. REQUIRED DOCUMENTATION

At time of issuance of purchase order or contract award, you may be required by the City to provide documentation (copy of employee handbook, eligibility statement from your plans, insurance provider statement, etc.) to verify that you do not discriminate in the provision of benefits.

Section 5. CERTIFICATION

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that I am authorized to bind this entity contractually. By signing this certification, I further agree to comply with all additional obligations of the Equal Benefits Ordinance that are set forth in the Long Beach Municipal Code and in the terms of the contract of purchase order with the City.

Executed this 15th day of February, 2012 at _____, _____

Name Kevin Beaver

Signature Kevin Beaver

Title UP Marketing

Federal Tax ID No. [REDACTED]

Dresser meters & Instruments