



1. Terms and Conditions

01/2018

General

THIS CONTRACT is made by and between TGW Systems, Inc., a Michigan corporation (hereinafter referred to as "TGW Systems") with an office at 3001 Orchard Vista Dr. SE, Suite 300, Grand Rapids, MI 49546, USA and the Purchaser. Purchaser agrees to contract for the products and services of TGW Systems, and TGW Systems agrees to provide products and services under the terms and conditions in this Contract.

Article 1: CONTRACT DOCUMENTS

The TGW Systems proposal and its appendices, including specifically these Terms and Conditions, form the Contract between the parties. In the event that any other Document conflicts with the provisions of this Contract Document, the provisions of this Contract Document shall govern. Any provision of Purchaser's Request for Proposal, Acknowledgement Form, Purchase Order or similar documents that is in addition to or different from the terms and conditions of this Contract Document is expressly rejected by TGW Systems and is of no force and effect.

Article 2: PAYMENT TERMS

Purchaser shall pay TGW Systems in U.S. dollars in accordance with payment terms specified in any writing incorporated into this Agreement. If no such writing is incorporated into this Contract or if payment terms are otherwise not provided, the following will apply:

- 30% down payment with PO, net 5
- 30% upon Approval of System Specifications Drawings, net 30
- 20% upon Notification of Shipping, net 30
- 10% upon mechanical installation, net 30
- 5% upon commencement of system commissioning, net 30
- 5% upon Beneficial Use, net 15

For all change orders and goods and services not included in the original purchase order, Purchaser agrees to remit payment within 30 days of the invoice date.

If payment (exclusive of amounts properly retained or withheld under the Agreement) has not been received by TGW within the terms provided in this Section, TGW may upon written notice to Purchaser cease work until such payment has been received, in which case the relevant milestone dates will be extended by at least the number of days of the cessation of work.

The pricing represented in this proposal is valid for 90 days from the date of this proposal. However, during periods of drastic price fluctuations, TGW Systems may adjust its proposal at any time prior to receipt of



Purchaser's order.

All charges quoted to the Purchaser shall be exclusive of Sales Tax and shipping costs, which TGW shall add to its invoices at the appropriate rate. Duties, taxes, fees, etc. shall be the responsibility of the Purchaser.

Purchaser agrees to pay interest on overdue invoices at the greater of: (i) one and one-half percent (1-1/2%) per month or (ii) the highest rate permitted by law.

Article 3: OCCUPATIONAL SAFETY AND HEALTH ACT (OSHA)

Environmental considerations and compliance with all occupational safety laws and regulations at the installation site will be the responsibility of Purchaser. To the extent not covered by the scope of work to be completed by TGW Systems, Purchaser will install, prior to operational commissioning, all equipment and apparatus necessary to comply with applicable occupational safety laws and regulations. Purchaser's failure to perform its obligations under this Article 3 will relieve TGW Systems from all damages agreed to elsewhere in the contract. All additional costs caused by this delay and circumstance are to be borne by the Purchaser.

Article 4: LIENS AND ENCUMBRANCES

Purchaser shall keep the equipment free of all liens and encumbrances, voluntary or involuntary, until TGW Systems receives full payment therefore.

Article 5: INDEMNIFICATION, LIMITATION OF LIABILITY AND EXCLUSION OF CONSEQUENTIAL DAMAGES

Purchaser shall indemnify and hold harmless TGW Systems and its agents and employees from and against any and all claims, damages, losses and expenses, including, but not limited to, reasonable attorney fees through all appellate and enforcement proceedings arising out of or resulting from the subject equipment, its construction, installation and/or operation, if operating conditions are other than as set forth in the proposal, or for any claims, damages, losses and expenses for which Purchaser is responsible in whole or in part.

TGW SYSTEMS' RESPONSIBILITY FOR ANY CLAIM, DAMAGE, LOSS, OR LIABILITY OF ANY KIND ARISING OUT OF OR RELATED TO ITS PERFORMANCE OF THIS CONTRACT SHALL NOT EXCEED THE CONTRACT VALUE ACTUALLY RECEIVED BY TGW SYSTEMS FROM PURCHASER.

IN NO EVENT WILL TGW SYSTEMS BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER AND / OR DIRECT FINANCIAL LOSSES OR EXEMPLARY DAMAGES ARISING FROM THE SUBJECT MATTER OF THIS CONTRACT, REGARDLESS OF THE TYPE OF CLAIM AND EVEN IF TGW SYSTEMS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, INCLUDING BUT NOT LIMITED TO, LOSS OF USE OF PRODUCTIVE FACILITIES OR EQUIPMENT, LOST PROFITS, ECONOMIC LOSSES, LOSS OF BUSINESS, LOSS OF OPERATION, DEPLETION OF GOODWILL, LOSS OF REVENUE, DOWNTIME COSTS, COSTS OF PROVIDING ALTERNATIVE EQUIPMENT, ADDITIONAL LABOR EXPENSES, LOSS OF CONTRACT, LOSS OF ANTICIPATED SAVINGS, PROPERTY DAMAGE OR LOST PRODUCTION, WHETHER SUFFERED BY



PURCHASER OR ANY THIRD PARTY, IRRESPECTIVE OF WHETHER CLAIMS OR ACTIONS FOR SUCH DAMAGES ARE BASED UPON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.

THE WARRANTY IN ARTICLE 25 IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, AND ALL OTHER OBLIGATIONS OR LIABILITIES OF TGW SYSTEMS, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE DISCLAIMED AND EXCLUDED BY TGW SYSTEMS.

IN NO EVENT SHALL TGW SYSTEMS BE LIABLE FOR DAMAGES OR PERSONAL INJURY RESULTING FROM THE USE OF ANY PRODUCT THAT HAS BEEN MODIFIED BY THE PURCHASER SUBSEQUENT TO ITS SHIPMENT FROM THE FACTORY, ASSEMBLED, INSTALLED, OR MAINTAINED INCORRECTLY OR IN AN INCOMPLETE MANNER, OR USED OTHER THAN FOR THE SPECIFIC PURPOSE FOR WHICH IT WAS SOLD BY TGW SYSTEMS.

Article 6: FORCE MAJEURE

TGW Systems shall not be liable for any damage or delay caused by fire, flood or other casualty, or by the combined action of workmen (including strikes and other labor difficulties), acts of God, explosion, freight embargoes, war, acts of government or military authority, acts or omissions of TGW Systems' suppliers or subcontractors, bankruptcy of suppliers and subcontractors, etc., or other similar occurrences beyond TGW Systems' reasonable control, whether occurring on Purchaser's site or elsewhere. In such event, TGW Systems shall be entitled to an extension of the time period of performance and all related costs and the parties agree to cooperate in good faith in order to resume the transaction contemplated by this supply agreement. If the execution of works is prevented for a continuous period of more than 12 weeks by reason of force majeure, TGW Systems may terminate this contract. The services provided by the TGW Systems until the moment of termination shall be paid by the Purchaser.

Article 7: DELAYS

If TGW Systems' performance is delayed or prevented by Purchaser failing to grant timely access to the site, by Purchaser's failure to provide clear areas for the work or for other causes uncontrolled by TGW Systems (including governmental acts and regulations), Purchaser agrees to reimburse TGW Systems for all expenses incident to such delay or prevention including, but not limited to, the costs of storing, maintaining, repairing and refurbishing equipment, demurrage, labor escalation and shut down and restart charges. In such event, Purchaser also agrees to excuse the delay and accept TGW Systems' performance at an appropriately deferred completion date.

Where TGW Systems' performance under this Contract is delayed as above, the stated purchase price shall be revised based upon labor wage rates and other conditions prevailing at the time of actual performance.

Article 8: TERMINATION / SUSPENSION

Purchaser may cancel any contract resulting from this Proposal for a material breach of contract due to TGW Systems substantially failing to perform the obligations under the contract, however only upon written notice to TGW Systems and after granting a reasonable cure period as dictated by the circumstances but in no event less than thirty (30) days to remedy the default, and only upon such terms as will reimburse TGW Systems for all costs incurred by TGW Systems (including its sub-contractors) in performing said contract, to which TGW Systems has become committed for fulfillment of the contract prior to cancellation. A material breach of contract shall be the refusal of assumption or abandonment of the activities under this contract and the violation of important contractual obligations provided such material breach is due to the deliberate act or serious negligence of TGW Systems.

A termination by Purchaser for other than material breach by TGW Systems is expressly excluded and of no force or effect

TGW Systems may terminate this contract with immediate effect upon written notice to Purchaser, if Purchaser: (i) fails to pay any amount when due under this Contract; (ii) has not otherwise performed or complied with any of the terms of the Contract, in whole or in part; or (iii) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

The following provisions shall apply if a suspension allowed under this Contract occurs at any time during performance of the Contract:

- a) The final contract price shall be adjusted to account for any increase which may occur in any of TGW Systems' costs, including, but not limited to, labor, materials and overhead, in the period during which work has been suspended.
- b) All costs of storage of material and equipment made necessary by the suspension shall be for Purchaser's account.
- c) Purchaser's account with TGW Systems under the contract shall be made current. Any portion of the contract price which is due on the date of suspension but has been retained by Purchaser, for any reason whatsoever, shall be paid to TGW Systems. Such payment shall be credited to Purchaser by TGW Systems upon recommencement of the work.
- d) Warranty periods which apply to equipment, or to any of its components or parts, and which are in effect on the date of suspension, shall not be interrupted or suspended in conjunction with the suspension of work. Purchaser expressly agrees to assume all consequences of the continued running of these warranty periods during the said suspension of work.

Article 9: TITLE

TGW Systems' scope of supply and services shall remain the property of TGW Systems until full settlement of all existing financial obligations of the Purchaser to TGW Systems. This property right shall also remain in force when the scope of supply and services is firmly connected to and/or integrated into the Purchaser's property so as to be categorized as a fixture under relevant law.

As long as the retention of title exists, the sale, pledging, granting a security interest in and/or leasing or any other form of transfer of the deliveries performed by TGW Systems is prohibited without TGW System's express permission in written form. In case of pledging or any other utilization of the system or parts of it by third parties,



the Purchaser shall have the obligation to assert TGW System's property rights and to inform TGW Systems about these circumstances without delay.

Purchaser shall keep TGW Systems' scope of supply and services fully insured through a Builders Risk Policy or equivalent coverage to their full value against risk of loss fire, theft, loss or other casualty, naming TGW Systems as an additional insured, and shall, upon request, provide TGW Systems certification of such insurance. The transfer of the risks of loss shall take place with delivery of the System or parts thereof.

Notwithstanding TGW Systems' retention of title, the parties hereby agree that TGW Systems is granted a Purchase Money Security Interest in all items within the scope of supply and services and may record evidence of that interest with the relevant public bodies by way of a financing statement, fixture filing and/or other appropriate record regardless of whether the scope of supply and services constitutes goods or fixtures.

Article 10: CHANGES

Purchaser may make minor changes within the general scope of work to the drawings or equipment specifications included in the Proposal by giving TGW Systems written notification thereof in a Change Order. As soon as practical after TGW Systems' receipt of such Change Order, TGW Systems shall submit to the Purchaser in writing the changes required to the contract price and to the manufacturing and installation schedule resulting from such Change Order. TGW Systems shall have no obligation to proceed with such Change Order until such time as TGW Systems and the Purchaser have agreed in writing upon an equitable adjustment to the contract price and the project schedule.

Any contract arising from this Proposal is based on furnishing of material and services as specified herein. If changes in the layout or arrangement are desired or required by conditions of which TGW Systems was unaware, or which were unforeseen or unsettled at the time the Proposal was submitted, TGW Systems shall have the right to make any changes in the material, services, design or schedule which it deems necessary. An addition or deduction to the contract price covering such changes will be made on the same price basis as the contract per se. In such case, TGW will provide a corresponding update of the price and schedule to the Purchaser but shall have no duty to proceed with the Work until there is a Change Order in place signed by both parties to this Contract. .

To the extent not addressed above, changes in system description, equipment specified, drawings, specifications, scope of work or other conditions affecting manufacturing and/or services may alter TGW Systems' ability to meet the completion date specified herein. Such changes, if accepted by TGW Systems in writing, will be made with the understanding that the specified project schedule shall be amended if necessary to permit such changes to be effected.

Article 11: LICENSES AND PERMITS

Purchaser shall secure all necessary municipal and state inspections, licenses and building or other permits in a timely manner to conform to the mutually agreed upon project schedule.

Article 12: LAWS AND REGULATIONS

Except as expressly set forth herein, TGW Systems does not assume responsibility for compliance with federal, state or local laws and regulations. All laws and regulations expressly referenced herein are those editions or versions thereof in effect on the date of this contract. In the event of revisions or changes thereto subsequent to the date of this contract, TGW Systems assumes no responsibility or liability for compliance therewith. If Purchaser desires a modification to the equipment as a result of a revision or change in such laws or regulations, such modification shall be treated as a Change Order under Article 10.

Article 13: PATENTS

- a) In any suit brought in the United States charging that the equipment described herein constitutes in and of itself an infringement of a United States patent, TGW Systems shall assume the expenses involved in the defense of the suit in an amount not to exceed the aggregate purchase price of the items or parts thereof found to directly infringe any such patent. If, as a result of any suit, the use of the equipment is enjoined, TGW Systems shall, at its option, procure for Purchaser the right to use the equipment, modify it so that it no longer infringes, or replace it with non-infringing equipment.

TGW Systems' obligations under subparagraph (a) above are conditioned upon Purchaser notifying TGW Systems promptly in writing when such suit is brought or threatened and giving TGW Systems full authority, information and assistance for the defense of such suit.

TGW Systems' obligations under subparagraph (a) do not apply to any item, or part thereof, manufactured to Purchaser's specifications, as to such item or product, TGW Systems assumes no liability for patent infringement.

EXCEPT AS HEREIN EXPRESSLY SET FORTH, TGW SYSTEMS DOES NOT ASSUME ANY OTHER OBLIGATION OR LIABILITY IN CONNECTION WITH PATENT INFRINGEMENT SUITS BROUGHT AGAINST PURCHASER OR AGAINST THE USER OF THE EQUIPMENT.

Article 14: SOFTWARE

Where TGW Systems supplied purchased (sub-licensed) software, the license is transferred to the Purchaser, who must abide by all terms as specified by that license.

The TGW Systems' Software as supplied with this project, both in electronic and written format, contains original created technology which is to remain the property of TGW Systems. TGW Systems only grants a non-transferable, non-exclusive license to use the Software. The purchase of this material handling system and associated Software requires the Purchaser to agree to the following conditions:

- a) TGW Systems does not offer source code, in any form, to be copied, archived or placed in escrow.
- b) Purchaser will not reverse engineer, decompile, disassemble or otherwise attempt to derive the source code, techniques, processes, algorithms, know-how or other information from TGW Systems software.
- c) TGW Systems Software is supplied without development tools.
- d) The Software supplied is only for use on the material handling equipment that is the subject of this contract, for operation at the designated Purchaser's site.
- e) Distribution or use of the Software for other purposes or locations is not permitted.
- f) Copying of the compiled software, on any media, for maintenance and backup purposes is permitted;



- copying of the Software for any other purposes is not permitted.
- g) Any TGW Systems trademarks, legends, copyrights, or other supporting information found on the original software materials must be included with the copies.
 - h) All Software is provided in a version suitable for the solution provided in this contract. TGW Systems assumes no obligation to upgrade any Software to a newer version.

Any Software warranty coverage provided as part of the TGW Systems system warranty is based on a separate Support agreement being in place between the Customer and TGW Systems and the Customer providing VPN access to the TGW Software installed at the Customer's site as a first approach to problem solving.

Article 15: ASSIGNMENT

Purchaser shall not, without the advance written consent of TGW Systems, assign any contract resulting from this Proposal or any interest therein. In other respects, said contract shall bind and inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties.

Article 16: SUPPLIED DATA

Purchaser acknowledges that TGW Systems has relied upon specifications, representations of operating conditions and other data supplied by Purchaser to TGW Systems in the selection and design of equipment and the preparation of this Proposal. In the event that actual operating conditions or any other conditions differ from those represented by Purchaser, any warranties contained herein which are or may be affected by such conditions shall be null and void, unless otherwise mutually agreed upon in writing by Purchaser and TGW Systems.

Article 17: PROPRIETARY MATERIAL

The entire contents of this Contract, including all drawings, system description, specifications, schedules, and details, as well as prior and subsequent discussions of the subject matter of this Contract, and prior and subsequent submissions and/or revisions, are designated as Confidential Material/Information proprietary to TGW Systems. This proprietary material is submitted to Purchaser for the sole purpose of Purchaser's evaluation of entering into a contractual relationship with TGW Systems. Purchaser shall not use this proprietary material for any other purpose. Purchaser shall not disclose this proprietary material to other than its own employees on a need-to-know basis, and shall safeguard it in the same manner that it safeguards its most valuable proprietary materials/information.

The above proprietary safeguards shall be binding upon Purchaser regardless of whether or not Purchaser and TGW Systems enter into a contractual relationship.

Article 18: BACK CHARGES

If Purchaser encounters a deficiency where it believes a back charge to TGW Systems is appropriate, all details must be submitted in writing to TGW Systems prior to incurring expense; including the circumstances of the perceived deficiency, proposed remedial action by Purchaser, and the anticipated cost of the remedy. TGW



Systems will evaluate the situation promptly and advise Purchaser of its conclusions in writing. Under no circumstances will TGW Systems pay claims or honor back charges that do not have its written consent prior to initiation of expense.

Article 19: SUBCONTRACTS

TGW Systems reserves the right to use subcontractors in the performance of any work to be performed by TGW Systems in accordance with this contract.

Article 20: INSPECTION

Purchaser shall inspect the equipment upon completion of the installation commissioning. TGW Systems shall have an opportunity to be present during Purchaser's inspection.

Purchaser shall, immediately after such inspection, inform TGW Systems, in writing, of any claimed deficiency in the performance of the equipment. If TGW Systems receives written notice of any claimed deficiency, TGW Systems shall have thirty (30) days or a reasonable period of time under the circumstances, whichever is longer; to correct any claimed deficiency which TGW Systems deems to be accurate.

Article 21: MISCELLANEOUS

All TGW Systems equipment is made to order and may not be returned for credit. Purchaser shall notify TGW Systems of any claim of defective workmanship and/or material immediately after receipt of equipment and shall await our instruction before returning goods to us.

Notwithstanding the general damage cap set forth in Article 5, claims for damages due to delays or performance issues with our equipment or software (if applicable) shall not exceed 5% of the contract value or the amount actually received by TGW, whichever is less. Liquidated damages for delays in the start of beneficial use of the system shall be agreed in the applicable statement of work.

Liquidated damages shall represent the exclusive compensation for scheduling delay so that further claims for damages for delay shall be excluded.

If the contractual deadline or schedule subject to liquidated damages is extended or amicably rescheduled, by Change Order, by actions of the Purchaser or for other reasons not attributable to TGW Systems, the beneficial use date shall be adjusted accordingly and liquidated damages will be assessed based only on delays beyond the adjusted date.

Purchaser shall be obliged to notify TGW Systems in writing of the delay within five workdays following the elapsed date, otherwise it shall forfeit the right to assert liquidated damages.

The placement of a formal purchase order with TGW Systems shall constitute the Purchaser's acceptance of the terms and conditions herein set forth, the printed conditions of the buyer's purchase order notwithstanding unless specifically agreed to in writing by TGW Systems.

In the event of breach of this contract or non-payment, Purchaser shall reimburse TGW Systems, upon demand, for any cost or expense, including, but not limited to, reasonable attorney fees through all appellate and



enforcement proceedings, incurred by TGW Systems in enforcing its rights under this contract.

All notices permitted or required hereunder shall be in writing and addressed to the party to whom notice is directed, sent by certified mail.

The agreement will be subject to, governed by and construed in accordance with the laws of the State of Michigan, without giving effect to its conflict of law rules. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. Purchaser consents to the jurisdiction of the state courts in Kent County, Michigan or the United States District Court in Grand Rapids, Michigan for the resolution of all disputes between the parties. All rights and remedies of TGW Systems as herein specified shall be cumulative and in addition to any other or further remedies provided in law or equity. Prior to the initiation of litigation the parties shall attempt to resolve any disputes through mediation. Unless the parties mutually agree to different rules or another source of a mediator, mediation shall occur through the current commercial rules of the American Arbitration Association. The mediation shall be convened within thirty (30) business Days of the demand for mediation by either party. Either party may terminate the mediation at any time after the first session by written notice to the non-terminating Party and mediator. The costs of the mediation shall be shared equally by the Parties. The invalidity or unenforceability of any provision of this contract shall not affect the enforceability or validity of remaining provisions and this contract shall be construed in all respects as if any invalid or unenforceable provision were omitted.

No term, condition, covenant or provision contained in this contract may be waived except in a writing signed by the waiving party. No oral statements, course of conduct or course of dealing shall be deemed a waiver. No waiver by any party hereto of any violation or breach of this contract shall be deemed or construed to constitute a waiver of any other violation or breach, or as a continuing waiver of any violation or breach.

This constitutes the entire contract between the parties with respect to the subject matter hereof and any prior discussion, negotiations and agreements between the parties are merged herein. No amendment or modification of this contract shall be enforceable except if in writing and signed by the party against whom enforcement is sought.

Nothing contained in the Contract or any other related agreement between TGW Systems and Purchaser shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

This Contract and any related agreement between TGW Systems and Purchaser is for the sole benefit of the parties hereto and their respective successors and permitted assigns, and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.

Article 22: EXCHANGE RATE

This pricing is based upon the current Euro-USD exchange rate as taken from the European Central Bank web site: (<http://www.ecb.europa.eu/stats/exchange/eurofxref/html/index.en.html>) corresponding to the submittal date of the proposal. When an order is placed, accepting this proposal, the current Euro-USD exchange rate will be applied and will affect the pricing, whether the exchange rate has increased or decreased.

ARTICLE 23: PRICE BASIS AND VALIDITY

Due to price fluctuations and reduction of available material on the steel market we are currently forced to make reservations with respect to the validity of the actual prices as well as the delivery dates of steel and so the price quoted is an estimate as it relates to the steel components. A material surcharge to cover changing material costs (MTZ) shall be applicable for any equipment using the MEPS quotation (<http://www.meps.co.uk>) benchmark for hot dipped galvanized coil. Possible variations of the steel price shall be calculated at the moment of material procurement (reference date = 12 weeks prior to start of installation) and charged without surcharge by TGW to the Purchaser in the form of a Change Order.

The MTZ on the reference date is calculated based on a three-month mean price of the MEPS quotations (the procurement month and the months preceding and following).

The Change Order is calculated as follows:

$$CO = Y * (Z - X)$$

X ... material price in \$ / metric ton at award of contract

Y ... material quantity in metric ton from Realization

Z ... material price in \$ / metric ton at moment of ordering (= three-month mean MTZ)

Z > X price addition, i.e. TGW charges the additional price of the increased steel price

Z < X price reduction, i.e. TGW passes on the reduced price of the steel price reduction

ARTICLE 24: NON-SOLICITATION AGREEMENT

TGW Systems has a considerable investment in the training and development of its employees and has entrusted them with confidential and proprietary information. In order to preserve that investment as well as the confidential and proprietary information, TGW Systems requires, with respect to any of its employees ("Restricted Employees") who have performed any work relating to a contract ("Relevant Contract") between TGW Systems and Purchaser, as a condition of entering into a contract with Purchaser, that Purchaser, for a period of two (2) years ("Restricted Period") after the Restricted Employee last performs work relating to a Relevant Contract, agree not to solicit its employees. Accordingly, during the Restricted Period, the Purchaser shall not solicit Restricted Employees for the purpose of hiring them or offer them a job directly or indirectly without the prior written consent of TGW Systems.

If the Purchaser breaches this provision, it will have to pay, in addition to other possible damages, compensation to TGW Systems in an amount equal to the gross pay the Restricted Employee received from TGW Systems during its last twelve (12) months of employment with TGW Systems; in case of a shorter term of employment of the Restricted Employee, the amount owed to TGW Systems will be twelve (12) times the highest monthly gross pay received by the Restricted Employee.

The claim for damages is not subject to reduction by court judgment, irrespective of the actual damages that may have been caused to TGW Systems by the breach of this Non-solicitation Agreement. Consequential claims on the part of TGW Systems for compensatory damages resulting from the solicitation will remain valid.



ARTICLE 25: WARRANTY

TGW Systems warrants that the material and workmanship components of the equipment sold pursuant to this Contract will be furnished in accordance with the specifications stated in writing.

Subject to the limitations indicated below, TGW Systems agrees to furnish the Purchaser without charge any equipment part proved to be defective within 2 years from date of beneficial use (warranty for spare parts is 12 months after the shipment date from manufacturing), provided the Purchaser gives TGW Systems immediate notice in writing and an examination of the part(s) proves the claim that such part(s) were defective when furnished. This provision is an exclusive remedy for defective parts and all other damages including but not limited to, consequential damages, of any sort are wholly excluded. TGW Systems reserves the right to repair, rework or replace the part(s) at its sole discretion.

Any warranty on equipment is contingent upon there being a Preventative Maintenance Agreement in place between the Purchaser and TGW Systems at the time of the warranty claim to ensure that the equipment is being taken care of appropriately according to TGW Standards or the Purchaser must have records detailing the preventative maintenance work provided by the Purchaser's technicians who were trained and certified by TGW Systems. This agreement needs to cover the period of the warranty. It is possible that warranty on items could be voided if the recommended Preventative Maintenance program is not followed by the Purchaser.

Any warranty on Software and Controls is contingent upon there being a Hotline Support agreement being in place for the duration of the warranty

Under warranty TGW Systems shall only bear the cost of the concerned defective part(s). All freight, installation, travel expenses and testing costs relative to any warranted part will be at the expense of the Purchaser. Any liability of TGW Systems under the warranties specified above is conditioned upon the equipment being installed, handled, operated, and maintained in accordance with the written instructions provided or approved in writing by TGW Systems.

The warranties specified above do not cover, and TGW Systems makes no warranties which extend to, normal wear and tear, or damage to the equipment due to deterioration or wear occasioned by chemicals, abrasion, corrosion or erosion; Purchaser's misapplication, abuse, alteration, operation or maintenance; abnormal conditions of temperature or dirt; or operation of the equipment above rated capacities or in an otherwise improper manner. Any defect needs to be reported immediately to TGW Systems by the Purchaser after discovery.

TGW Systems assigns to Purchaser any warranties issued by subcontractors and suppliers in connection with their work or scope of supply subject to all limitations in scope and time as set forth therein. In the event not addressed in such assigned warranties, the terms of this warranty, the limitations on damages set forth in Article 5 and the time limitations set forth above shall apply to all work supplied or performed by subcontractors or suppliers under this Agreement.

Warranty Claim – Return Delivery

Parts which are shipped to TGW Systems for repair or replacement covered by warranty must include a description of the defect or the error number. For parts, which are returned without an error description or identification with the assigned error number (TGW Systems reference), TGW Systems reserves the right to return them to the Purchaser at its expenses and risk.

TGW Systems does not accept any liability for damages caused during return transport (e.g. due to improper



packaging). The Purchaser is solely responsible for any transport damages of returned goods. In order to avoid any damages, Purchaser may consult with TGW Systems for suggested packaging procedures.

Software Warranty

TGW Systems Inc. warrants that all software created by TGW Systems Inc. being used on this application shall be free from defects in design for the following period of time: Two (2) years from date of beneficial use or acceptance by the Purchaser, whichever is earlier. TGW Systems Inc. further warrants to Purchaser that the software described herein will conform to the specifications herein set forth. If, within seven (7) working days after discovery of a defect, TGW Systems Inc. receives from the Purchaser written notice that the software described herein does not meet the warranty specified above, TGW Systems Inc. shall thereupon correct each defect, including nonconformance with the specifications. See Article 25 for further clarification.

This warranty shall not apply to any software program which has been altered by persons or entities other than TGW Systems Inc. Any modifications to software or hardware not approved prior thereto in writing by TGW Systems Inc. may, at TGW Systems Inc.'s discretion, void this warranty and release TGW Systems Inc. from responsibility as to operation and performance of the system.

Third Party Software

The TGW Systems Inc. solution could make use of Third Party Software. If such software is procured by TGW Systems Inc., the Third Party Software is hereby licensed to Licensee (end user) on the terms set forth by the Third Party Licensor(s). The Third Party Software shall be covered under the warranty terms as provided by the Third Party Licensor(s).

IMPORTANT

All equipment and components not manufactured by TGW Systems carry only such warranty as given by the manufacturer thereof, which warranty TGW Systems will assign or otherwise make available to Purchaser without recourse to TGW Systems, provided that such warranty is assignable or may be made available.

For service on motors, reduction units, electrical components, controls, air or hydraulic cylinders, contact the local authorized sales and service representative of respective manufacturer. If none is available in your locality, contact the TGW Systems representative. TGW Systems will not be responsible for units that have been tampered with or disassembled by anyone other than the authorized representative of the respective manufacturer.

THERE ARE NO WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, EXTENDING BEYOND THOSE SET FORTH IN THIS STATEMENT OF WARRANTY.

Revised November 2017

Article 26: PURCHASER'S COOPERATION

The Purchaser is responsible for the following at its own cost and expense:

- a) The Purchaser will make available to TGW Systems any documents and information that are necessary for the performance of this contract.
- b) The Purchaser shall assure that there are adequate safety procedures in place for the safety of TGW Systems personnel and provide adequate security for materials and equipment at the work site. The



- Purchaser shall provide adequate working conditions in compliance with OSHA and other relevant safety laws and regulations - especially for construction site safety.
- c) The employees of TGW Systems shall be informed about safety regulations to be additionally observed which are not implied by the nature of the subject matter of the contract or the services to be performed. The Purchaser shall immediately inform TGW Systems about possible infringements of safety regulations by employees of TGW.
 - d) If required, auxiliary personnel, lifting platforms, scaffolding etc. shall be available to TGW ready to use to perform the respective activities on site. In case the installation equipment, or special equipment such as cranes, forklift trucks, lifting platforms, welding machines etc. have to be provided by TGW Systems, the equipment rent plus a 10% allowance for overhead costs will be charged. The payment is based on the time from shipping to return of the equipment.
 - e) The Purchaser shall be obliged to provide the power and other utilities needed by TGW Systems to perform the contract (e.g. lighting, operating power, water etc.) including all required connections.
 - f) If necessary, the Purchaser shall provide secure rooms for the storage of the tools of TGW System's employees.
 - g) The Purchaser shall make sure that the TGW Systems employees are able to immediately start their service work after their arrival on site. If necessary, the TGW Systems employees shall be attended by a qualified person who is familiar with the premises. Resulting delays that are imputable to the Purchaser shall be at its expense.

2. Appendices

2.1 System Drawing

2.2 Material Flow Diagram

2.3 Schedule

This is a preliminary schedule based on the standard lead times for the TGW equipment. The detailed schedule will be put together by the project manager in cooperation with Purchaser during the engineering phase of the project. Parts of the schedules may be compressed or extended based on actual manufacturing times, crew sizes, and installation windows. Joint dates, which require action from Purchaser are noted as such. If joint dates are missed due to Purchaser, it is not the fault of TGW and all consequences have to be borne by Purchaser. TGW will make every effort to complete the project on or ahead of schedule.

2.4 Pricing Details

2.5 End User License Agreement: TGW Stingray Control Manager

License agreement to be signed during contract negotiation

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