



**TORRENT ENERGY SERVICES, LLC**  
**NEGOTIATED TERMS AND CONDITIONS OF PURCHASE FOR SERVICES**

**THIS AGREEMENT CONTAINS IMPORTANT TERMS INCLUDING INDEMNITY, RELEASE, LIMITATION OF LIABILITY, AND ALLOCATION OF RISK**

SUPPLIER:  
ADDRESS:  
PHONE:  
EMAIL ATTENTION:

COMPANY: Torrent Energy Services, LLC  
ADDRESS: 10350 Richmond Avenue, Suite 550, Houston, Texas 77042  
PHONE: 713-935-8900  
EMAIL ATTENTION:

This Agreement is made as of \_\_\_\_\_, 20\_\_ between Torrent and Supplier as stated above and shall apply to all Purchase Orders ("PO") between Torrent and Supplier for the purchase or supply of goods ("Products") and/or services ("Work").

1. General. All POs will be subject to the terms and conditions of this Agreement ("Conditions") and to any applicable contract between Torrent and Torrent's customer ("Prime Contract"), which is hereby incorporated by reference herein and is an integral part of this Agreement. Supplier shall assume toward Torrent all the obligations and responsibilities with Torrent assumes under the Prime Contract. In the event of any conflict between this Agreement and the Prime Contract, this Agreement shall control; provided, however, that if the Prime Contract imposes a stricter requirement, such stricter requirement shall control. No standard terms provided in either party's quotation, acknowledgment, PO, invoice, specification, or similar document will form part of this Agreement, except as expressly agreed in writing by the parties. In the case of conflict or inconsistency between any PO and these Conditions, these Conditions shall control.
2. Price and Quantity. The description, price, quantity and required date for delivery of Products and/or performance of Work shall be stated in the PO, inclusive of all handling, taxes, duties, fees or charges of any kind, including, but not limited to, wages, overtime, food and accommodation. Torrent reserves a security interest in all Products paid for but not delivered; Supplier will execute such documents of acknowledgment as are requested by Torrent.
3. Changes. Supplier may not substitute any Products or Work or make any changes to the specifications, quality assurance processes, components or scope of work for any Products or Work without Torrent's prior written consent which shall not be unreasonably withheld or delayed. Torrent may, at any time in its discretion, modify any PO for Product or Work, without restriction, by submitting written notice to Supplier. Adjustments in the PO services, price or time, if any, resulting from such changes shall be set forth in a change order ("Change Order"). No Change Orders will be allowed without Torrent's prior written consent.
4. Payment. Torrent shall pay undisputed amounts owed to Supplier within sixty (60) days of Torrent's receipt of a correct invoice. The parties will attempt to resolve any disputed amounts within a reasonable period of time. Torrent may deduct any amount owed by Supplier to Torrent as a setoff against any

amount due to Supplier. Torrent reserves the right to reject any invoice submitted more than six (6) months after the receipt of any Product and/or the completion of any Work.

5. Cancellation. Torrent may cancel any PO, in whole or in part, at any time and shall pay for any accepted Products and any Work that has been completed to Torrent's reasonable satisfaction as of the date of cancellation. Supplier will refund all amounts pre-paid by Torrent and not earned as of the date of cancellation within thirty (30) days of Torrent's cancellation.

6. Liens. Supplier shall not allow any liens to attach to the Products or to any property of Torrent or of Torrent's customers, as a result of Products provided and/or Work performed by Supplier. Supplier shall furnish, within seven (7) days of any request, receipts and releases showing that all related costs and expenses have been paid, and that no third party claims, liens or rights of liens exist by reason thereof against Torrent, its customers and its and their property. Supplier shall indemnify, defend and hold Torrent and its customers harmless from said liens and claims.

7. Independent Contractor. This Agreement shall not be construed as creating a joint venture, partnership or the like between the parties. Neither party shall act or be deemed to act on behalf of the other party, or have the right to bind the other party. Each party shall remain an independent entity, and act as an independent contractor. Each party shall at all times during the performance hereof be responsible for the payment of wages and benefits to, and as applicable, tax withholding from, its own employees. Without limiting the generality of the foregoing, the employees and subcontractors engaged by Supplier for the performance of any PO shall be the direct employees and subcontractors of Supplier, and Supplier shall remain solely responsible for all matters related to compliance with relevant employment laws.

8. Guarantee. Supplier represents, warrants and guarantees that all Products shall (a) be new and made or manufactured from new materials; (b) be free from liens, security interests, or other encumbrances; (c) be of merchantable quality and fit for the purpose for which they are normally used; (d) strictly comply with all specifications; (e) be free from defects in material, workmanship, and design; (f) not infringe any third party's intellectual property rights; (g) meet or exceed the highest applicable industry standards; and (h) comply with all applicable state, federal and local laws. All Work shall be performed (i) by skilled and experienced personnel with all due care and diligence in a timely and workmanlike manner; (ii) in accordance with the highest industry standards; (iii) in compliance with all applicable laws and codes and other requirements of the applicable PO; and (iv) in full compliance with any applicable Prime Contract. All warranties extend for a period of eighteen (18) months from acceptance or final completion date and shall inure to the benefit of Torrent's assigns, successors and customers; provided that the warranties concerning liens, encumbrances, ownership and intellectual property rights shall extend for any period of time during which any such rights may be enforced. If Products or Work fail to comply with this Agreement, Torrent may, in its sole and complete discretion, (y) require Supplier to repair, replace, re-perform, or refund the purchase price of, the affected Products or Work; or (z) procure substitute products or work and Supplier shall be liable for any additional costs incurred by Torrent in doing so. To the extent that any Products or components thereof are warranted against defects by their original manufacturers, and to the extent that such warranties are assignable to Torrent, Supplier shall assign such warranties to Torrent. Torrent may reject any noncomplying Product or Work without liability.

9. Liabilities and Indemnification.

a. Regardless of where/when title to Products is transferred, the risk of loss to all Products shall pass to Torrent at the time and place of delivery.

b. SUPPLIER SHALL RELEASE, DEFEND, INDEMNIFY AND HOLD TORRENT, ITS PARENTS, ITS AFFILIATES, ITS CUSTOMERS, ITS CONTRACTORS (EXCLUDING SUPPLIER) AND ITS AND THEIR RESPECTIVE EMPLOYEES, OFFICERS, DIRECTORS, REPRESENTATIVES, AGENTS AND INVITEES ("TORRENT GROUP") HARMLESS FROM AND AGAINST ANY CLAIMS, DEMANDS, CAUSES OF ACTION, JUDGMENTS,

PROCEEDINGS, AWARDS, DAMAGES, LOSSES, FINES, PENALTIES, COSTS, EXPENSES AND LIABILITIES, INCLUDING LITIGATION COSTS AND REASONABLE ATTORNEY'S FEES ("CLAIMS") ARISING OUT OF DEATH, ILLNESS OR INJURY, PROPERTY LOSS OR DAMAGE, OR ANY OTHER LOSS, DAMAGE OR COST, AS A RESULT OF OR IN CONNECTION WITH: (I) DEFECTS IN THE PRODUCTS OR WORK; (II) FAILURE BY SUPPLIER TO DELIVER THE PRODUCTS OR WORK IN ACCORDANCE WITH THE RELEVANT SPECIFICATIONS; (III) FAILURE BY SUPPLIER TO CARRY OUT THE WORK IN A SAFE MANNER AND TO STRICTLY COMPLY WITH ANY APPLICABLE LAWS, REGULATIONS, RULES OR INDUSTRY STANDARDS; (IV) BREACH OF THIS AGREEMENT BY SUPPLIER; OR (V) THE NEGLIGENCE OR WILLFUL MISCONDUCT OF SUPPLIER, ITS PARENTS, ITS AFFILIATES, ITS SUBCONTRACTORS AND ITS AND THEIR RESPECTIVE EMPLOYEES, OFFICERS, DIRECTORS, REPRESENTATIVES, AGENTS AND INVITEES.

- c. SUPPLIER SHALL RELEASE, DEFEND, INDEMNIFY AND HOLD TORRENT GROUP HARMLESS FROM AND AGAINST ANY CLAIMS ARISING OUT OF ANY ACTUAL OR ALLEGED INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADEMARK OR OTHER INTELLECTUAL PROPERTY OR PROPRIETARY RIGHT, OR ANY LITIGATION BASED THEREON, WITH RESPECT TO ANY GOODS (OR PART THEREOF), OR USE THEREOF, EXCEPT TO THE EXTENT THAT SUCH INFRINGEMENT RESULTS SOLELY FROM THE MANUFACTURE OF THE PRODUCTS PURSUANT TO DETAILED PROPRIETARY DESIGNS FURNISHED BY TORRENT.
- d. TORRENT SHALL RELEASE, DEFEND, INDEMNIFY AND HOLD SUPPLIER HARMLESS FROM TORRENT'S OWN CONSEQUENTIAL LOSS AND SUPPLIER SHALL SAVE, RELEASE, DEFEND, INDEMNIFY AND HOLD TORRENT HARMLESS FROM SUPPLIER'S OWN CONSEQUENTIAL LOSS RESULTING FROM, ARISING DIRECTLY OR INDIRECTLY OUT OF OR IN CONNECTION WITH THE PERFORMANCE OR NONPERFORMANCE OF AN ORDER, AND ALL WITHOUT REGARD TO THE SOLE, JOINT, CONCURRENT, GROSS, ACTIVE OR PASSIVE NEGLIGENCE, BREACH OF CONTRACT OR BREACH OF DUTY (STATUTORY OR OTHERWISE) OF EITHER PARTY.

10. LIMITATION OF LIABILITY. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR SPECIAL, INDIRECT, PUNITIVE, INCIDENTAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES ARISING OUT OF THIS AGREEMENT, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES.

11. Insurance. During performance under each PO, and for two years thereafter, Supplier shall maintain at its cost, including payment of any deductibles, insurance policies acceptable to Torrent, including, at minimum, the greater of the following or the requirements of any applicable Prime Contract: (a) Comprehensive General Liability including but not limited to Contractual Liability Coverage, with limits in respect to bodily injury and/or property damage of not less than US Dollars five million (\$5,000,000) per occurrence; (b) Automobile Liability covering all vehicles used in connection with the Work or Products with limits of not less than two million (\$2,000,000) per occurrence; (c) Worker's Compensation and Employer's liability in compliance with local statutory requirements; (d) Professional Liability with limits of not less than US Dollars two million (\$2,000,000) per occurrence if applicable; (e) Commercial Umbrella Liability insurance with limits of not less than ten million (\$10,000,000); and (f) any other insurance reasonably required by Torrent or applicable law.

All of Supplier's insurance policies required hereunder (except worker's compensation) shall (i) be endorsed to name Torrent, and such other parties as are required by Torrent, as additional insured; (ii) contain a waiver on the part of insurer, by subrogation or otherwise, of all rights against Torrent and such other parties as are required by Torrent; (iii) be primary and non-contributory with respect to any insurance Torrent may maintain; and (iv) be endorsed to provide that no insurance policy shall be cancelled or materially changed without thirty (30) days prior written notice to Torrent. Supplier shall furnish Torrent, upon execution of this Agreement and annually thereafter, with certificates of insurance evidencing the required insurance coverages, with insurers and underwriters authorized to do business in the jurisdiction where Products or Work are being provided, and with an A.M. Best rating of at least A-VII.

The amount of liability insurance is not designed to limit in any manner the extent and amount of Supplier's indemnity obligations hereunder.

12. Compliance. Supplier warrants that it has not given nor received any commissions, payments, gifts, kickbacks, lavish, or extensive entertainment or other things of value to or from any employee or agent of Torrent or any third party in connection with this Agreement and acknowledges that the giving or receiving of any such payments, gifts, entertainments, or other things of value is strictly in violation of Torrent's corporate policy and may result in the cancellation of this Agreement. Supplier shall notify Torrent's security department of any such solicitation by any of Torrent's employees, agents or any third party. Supplier warrants that it and its subcontractors will comply with and all Products will be produced, sold and delivered and all Work performed in compliance with all applicable laws, rules, and regulations, to the extent not inconsistent with United States law, including without limitation, where applicable: the United States Foreign Corrupt Practices Act; the Fair Labor Standards Act of 1938, as amended; the Immigration Reform and Control Act of 1986, as amended; the Illegal Immigration Reform and Immigration Responsibility Act of 1996, as amended; the Federal and State Department of Transportation Regulations; the Williams-Steiger Occupational Safety and Health Act of 1970 as amended; Executive Order 11246 (Equal Employment Opportunity); all export control laws and regulations imposed by any government; and all environmental laws. Supplier is strictly prohibited from utilizing any undocumented workers to perform any of its duties hereunder. Supplier shall conduct business in such a manner that adheres to general health, safety and environmental standards and expectations of Torrent and Torrent's customers, as applicable. Failure to meet such standards may result in termination of this Agreement. Supplier represents and warrants that its products do not contain conflict minerals sourced from the Democratic Republic of the Congo or any adjoining country, or that finance armed groups in such countries, and agrees to provide Torrent with such information regarding conflict minerals in Supplier's products as Torrent may reasonably request, including certifications as to the source of such conflict minerals.

13. Audit. Torrent has the right to audit and inspect, at any reasonable time during the performance of the PO and for four (4) years thereafter, Supplier's and its subcontractor's books, records, inventory, tooling, and plants to assure compliance with any PO or any applicable law. If the results of the audit reveal that Supplier has overcharged Torrent, Torrent shall notify Supplier of the amount of such overcharge which shall be promptly reimbursed by Supplier to Torrent, or at Torrent's sole discretion, Torrent may deduct the equivalent amount from Supplier invoices.

14. Confidentiality. Supplier acknowledges that any information of Torrent or its customers furnished to or obtained by Supplier for use with any PO, including, without limitation, (i) specifications, requirements, designs and the like for the Products and/or the performance of the Work; and (ii) the content of the PO, shall be deemed confidential and proprietary to Torrent ("Information"). Supplier will not disclose Information to third parties and will take all available actions to safeguard Information. Supplier shall not use Information except in performance of its obligations under the PO. Promptly upon completion of the PO or at the request of Torrent, whichever occurs first, Supplier shall return to Torrent or destroy, as directed by Torrent, all Information. Information does not include information which (a) is within or becomes part of the public domain through no fault of Supplier; (b) was already within Supplier's possession prior to its receipt in connection with this Agreement; (c) is disclosed by a third party not under an obligation of confidentiality with respect to such information; (d) is independently developed by Supplier without use of or reference to the Information.

15. Force Majeure. Neither party shall be liable for delays caused by acts of God, natural disasters, epidemics, riots, war, rebellion, sabotage, acts of terrorism, acts of public enemies, and acts of governmental authorities, provided notice thereof is timely given.

16. Notice. All notices hereunder shall be sent by courier, certified mail return receipt required, overnight carrier, email, or hand delivery to Torrent or Supplier to their PO point of contact. Notice will be deemed given when received.

17. Assignment. Supplier may not assign or subcontract any PO without the prior written consent of Torrent which will not be unreasonably withheld.

18. MISCELLANEOUS:

a. The construction, interpretation and performance of this Agreement, and any and all transactions related to the same shall be governed by and construed solely in accordance with the laws of the State of Texas, without reference or regard to its choice of law rules, statutes, or laws which would direct or refer to the laws of another jurisdiction. Time is of the essence in Supplier's performance. All headings are for convenience and do not constitute a part of this Agreement. Torrent and Supplier expressly agree that the "U.N. Convention on Contracts for the International Sale of Goods" does not form a part of this Agreement, and the same is hereby expressly renounced for all purposes.

b. Should any provision of this Agreement, or a portion thereof, be held invalid or illegal, such holding shall not affect the validity of the remaining provisions. The rights and remedies of Torrent under this Agreement are not exclusive, and shall apply in addition to any other rights and remedies available at law, in contract, in equity or otherwise.

c. Torrent and Supplier hereby agree that the exclusive forum for the adjudication of any controversy or dispute relating to the construction, interpretation of or performance under or any matter relating to this Agreement and any transactions related thereto, and/or the Products or Work shall be the state or federal courts located in Harris County, State of Texas, and both parties hereby consent to the personal jurisdiction of such courts for all such purposes. This Agreement constitutes the final, complete and exclusive agreement between Supplier and Torrent.

d. Should suit be commenced to enforce any of the terms of this Agreement, the prevailing party shall be entitled to all costs, expenses, and reasonable attorneys' fees. In addition to any other legal or equitable remedies, Torrent shall have the right to demand adequate assurances respecting Supplier's timely and conforming performance of this Agreement. Failure to enforce any or all of this Agreement in a particular instance shall not act as a waiver or preclude subsequent enforcement.

e. This Agreement and any PO may be signed in counterparts, which together shall constitute one agreement. The parties confirm that they have reviewed and considered this Agreement and consulted with their attorneys regarding the terms and effect thereof. Each of the parties has participated in the drafting and negotiation of this Agreement. Accordingly, for all purposes, this Agreement shall be deemed to have been drafted jointly by the parties.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed, effective as of the date first written above.

SUPPLIER

TORRENT ENERGY SERVICES, LLC

\_\_\_\_\_  
Name:

Title:

\_\_\_\_\_  
Name: Larry Huddleston

Title: Senior Vice President