

PACIFIC-GULF MARINE, INC
PURCHASE & SERVICE ORDER GENERAL TERMS & CONDITIONS

As used in the following clauses, "Buyer" shall mean Pacific-Gulf Marine, Inc., and "Vendor/Contractor" shall mean the person, firm or corporation to whom this Purchase & Service Order ("Order") is issued, whether a manufacturer, supplier, or general, special or independent contractor.

CONDITIONS. The following General Terms and Conditions are always applicable, including when this Order provides for performance of any work.

GENERAL CONDITIONS

1. Contract. This Order, when accepted by Vendor/Contractor either in writing or by shipment of any article or other commencement of performance hereunder, constitutes the entire contract between Vendor/Contractor and Buyer concerning its subject matter, and neither any contrary or additional conditions then specified by Vendor/Contractor nor any subsequent amendment or supplement shall have any effect without Buyer's written approval. Buyer has the right to cancel this Order, if articles are not shipped as promised by Vendor/Contractor or by date required by Buyer. Time is of the essence in fulfilling this contract.

2. Quality Inspection. The Vendor/Contractor warrants that all articles, materials, and work furnished shall be of good quality and free from any defects and shall at all times elected by the Buyer be subject to Buyer's inspection.

Neither Buyer's inspection nor failure to inspect shall relieve Vendor/Contractor from this warranty or any obligations hereunder. If, in Buyer's opinion, any article, material or work fails to conform to specifications or is otherwise defective, Vendor/Contractor shall promptly replace same at Vendor's/Contractor's expense. No acceptance, partial payment or full payments by Buyer shall constitute a waiver of the foregoing; and nothing herein shall exclude or limit any warranties implied by law.

3. Taxes. Unless otherwise provided herein or by law, the Vendor/Contractor agrees to pay all taxes which may become due as a result of work performed in completing this Order. Vendor/Contractor further assumes the liability for payment of federal and state payroll taxes and for contributions of unemployment insurance, old age pensions, annuities, retirement, union dues, and other benefits imposed or assessed under any provisions of any law and measured by wages, salaries or other remuneration paid or payable by Vendor/Contractor to its employees engaged in the performance of this Order or in any operations incidental thereto, and agrees to assume the liability of each contractor should the subcontractor breach these obligations with respect to its employees. Vendor/Contractor further agrees that it and all subcontractors will enter into any agreement prescribed by any federal or state governmental body to effectuate the purposes hereof and will comply with all regulations accepting assumption of liability for such taxes and contributions. VENDOR/CONTRACTOR WILL

INDEMNIFY, HOLD HARMLESS, AND INDEMNIFY BUYER AGAINST ALL CLAIMS, TAXES, PAYROLL TAXES, ATTORNEY'S FEES, PENALTIES, INTEREST AND COSTS WHICH MAY BE MADE OR ASSESSED AGAINST BUYER UNDER ANY LAW, RULE OR REGULATION WITH RESPECT TO EMPLOYEES OF THE VENDOR/CONTRACTOR OR ITS SUBCONTRACTORS.

4. Compliance. In performance hereunder and every activity connected therewith, Vendor/Contractor specifically agrees to adequately protect all work and Buyer's property, and to take steps to protect all persons and Buyer and Buyer's property from death, injury or damage arising out of Vendor/Contractor's work and to provide or maintain all passageways, guard fences, lights, and other facilities required to maintain safe working conditions required by any governmental authorities.

Without limiting the foregoing, Vendor/Contractor warrants that all articles and materials furnished were and shall be produced in compliance with the Fair Labor Standards Act of 1938 as amended.

5. INFRINGEMENT. VENDOR/CONTRACTOR SHALL INDEMNIFY AND DEFEND BUYER AGAINST ALL CLAIMS, SUITS, LIABILITY AND EXPENSE, INCLUDING ATTORNEY'S FEES EXPENDED IN DEFENSE OF ANY SUCH CLAIMS OR ENFORCING BUYER'S RIGHTS TO INDEMNITY AND DEFENSE FROM VENDOR/CONTRACTOR, ON ACCOUNT OF ALLEGED INFRINGEMENT OF ANY PATENT, COPYRIGHT OR TRADEMARK, RESULTING FROM OR ARISING IN CONNECTION WITH THE MANUFACTURE, SALE, NORMAL USE, DISPLAY, SALE OR OTHER NORMAL DISPOSITION OF ANY ARTICLE OR MATERIAL FURNISHED HEREUNDER. BUYER MAY PARTICIPATE IN THE DEFENSE OF ANY SUCH CLAIM OR SUIT WITHOUT RELIEVING VENDOR/CONTRACTOR OF ANY OBLIGATION HEREUNDER.

6. Assignment. Neither this Order nor any claim against Buyer arising directly or indirectly out of or in connection with this Order shall be assignable by Vendor/Contractor or by operation of law, nor shall Vendor/Contractor subcontract

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any obligations hereunder without Buyer's prior written consent.

7. Default. If Vendor/Contractor or any subcontractor breaches any provision hereof, or becomes insolvent, enters bankruptcy, receivership or other like proceeding (voluntarily or involuntarily), or makes an assignment for the benefit of creditors, Buyer shall have the right, in addition to any other rights it may have hereunder or by law, to terminate this Order by giving Vendor/Contractor written notice; whereupon (a) Buyer shall be relieved of all further obligations hereunder, except to pay the reasonable value of Vendor/Contractor's prior performance, but not more than the contract price; and (b) Buyer may, at its option, complete performance of the work, in which event; (1) title to any product(s) of Vendor/Contractor's work, whether completed or partially completed, as well as all materials prepared, procured or set aside by Vendor/Contractor for use in the work, shall vest in Buyer at Buyer's option upon giving written notice to Vendor/Contractor, and Buyer may enter Vendor/Contractor's premises and remove the same therefrom, and (2) Vendor/Contractor shall be liable to Buyer for all costs incurred by Buyer in completing such performance, in excess of the contract price (whether or not Buyer exercises any of its options herein). Time is of the essence hereof, and Buyer's right to require strict performance by Vendor/Contractor shall not be affected by any previous waiver, forbearance or course of dealing. Should Vendor/Contractor claim that Buyer has defaulted in payment of the purchase price or any installments or partial payments, Vendor/Contractor does not have the right to enter Buyer's premises and remove any product(s) without the prior written approval of Buyer.

Furthermore, no partial payment made by Buyer shall be construed or deemed to be an acceptance of any work performed or an implied ratification of any future work.

8. Withholding. Buyer shall have the right to withhold, without liability for interest because of such withholding, any money ever payable by it hereunder and apply the same to payment of any obligation of Vendor/Contractor to Buyer or to any other parties arising in any way out of this Order or its performance. Vendor/Contractor specifically authorizes Buyer to deduct from any amount payable to Vendor/Contractor, whether or not arising out of this Order, all amounts which may be payable by Vendor/Contractor to Buyer and also all amounts for which Buyer may become

liable to other parties by reason of Vendor/Contractor's acts in performing or failing to perform this Order.

9. Force Majeure. Either Vendor/Contractor or Buyer shall be excused from performance of the obligations hereunder, upon proper notice to the other, when and to the extent that such performance is delayed or prevented (and, in Buyer's case, its need for the articles, materials or work is reduced or eliminated) by acts of God or any circumstance reasonably beyond the parties' control, including but not limited to fire, explosion, strike or other labor dispute, any act or omission of any governmental authority, acts of public enemy, insurrections, terrorist acts, riots labor or materials shortage, storms, fog, embargoes, breakdown or damage to equipment or facilities or acts of military authority.

10. RISK ALLOCATION. VENDOR/CONTRACTOR AGREES THAT IT SHALL BEAR THE RISK OF ANY LOSS, DESTRUCTION, INJURY OR DAMAGE TO THE OBJECT OF WORK TO BE PERFORMED HEREUNDER UNTIL SUCH TIME AS BUYER HAS IN WRITING UNCONDITIONALLY ACCEPTED VENDOR/CONTRACTOR'S WORK AND ALL OF THE COMPONENTS OF THAT WORK.

11. Reliance on Inspection. Vendor/Contractor acknowledges that all obligations undertaken under this Order are based upon Vendor/Contractor's independent investigations and inspections, and Vendor/Contractor understands the nature of the work to be performed and the obligations which are undertaken.

12. Surety Bond. Upon written demand from Buyer, Vendor/Contractor shall obtain a surety or performance bond in a principal amount satisfactory to Buyer for the performance of all work under this Order.

13. Conflicts and Severability. In the event of a conflict between any provisions of this Order or any written attachment furnished by Buyer and any provisions of any written attachment presently or subsequently furnished by Vendor/Contractor, it is understood and agreed that the provisions of this Order and those of all attachments furnished by Buyer shall be controlling. Furthermore, should any section or sections, terms or clauses of this Order be deemed inapplicable or contrary to public policy or otherwise unenforceable, it will not affect the other clauses of this Order, and their meaning is to be given full effect and consequence upon Vendor/Contractor and Buyer.

SERVICE ORDER CONDITIONS

GENERAL CAUTION. FLAMMABLE LIQUIDS AND GASES MAY BE PRESENT IN EQUIPMENT AND WORK AREAS INVOLVED IN PERFORMANCE OF THIS ORDER. VENDOR/CONTRACTOR MUST TAKE EXTREME CARE IN SUCH PERFORMANCE, AND VENDOR/CONTRACTOR ACCEPTS THE ENTIRE RISK TO

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VENDOR/CONTRACTOR AND VENDOR/CONTRACTOR'S EMPLOYEES AND PROPERTY IN CONNECTION HEREWITH, SUBJECT TO THE FOLLOWING:

1. Performance. Vendor/Contractor shall perform all work diligently, carefully and in good and workmanlike manner; shall furnish all labor, supervision, machinery, equipment, materials and necessary supplies, unless otherwise stated by Buyer; shall obtain and maintain all building and other permits and licenses required by public authorities in connection with performance of the work; and, if permitted to subcontract, shall be fully responsible for all work performed by subcontractors. Vendor/Contractor shall conduct all operations in Vendor/Contractor's own name and as an independent contractor, and not in the name of, or as agent for Buyer.

2. LIABILITY – INDEMNITY. VENDOR/CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR ALL MATERIALS, EQUIPMENT AND WORK UNTIL THE PROJECT IS COMPLETED TO BUYER'S SATISFACTION, EXCEPTING ONLY LOSS OR DAMAGE OF WORK IN PROGRESS AND MATERIALS ON THE PREMISES AND INTENDED FOR INCORPORATION IN THE WORK, RESULTING FROM ANY PERIL WHICH WOULD BE COVERED BY A STANDARD FIRE AND EXTENDED COVERAGE INSURANCE POLICY (INCLUDING VANDALISM AND MALICIOUS MISCHIEF). SUBJECT THERETO, VENDOR/CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS BUYER AGAINST ANY AND ALL LOSS OR DAMAGE ARISING OUT OF THE NEGLIGENCE OF VENDOR/CONTRACTOR OR ANY SUBCONTRACTOR AND NOT WITHIN VENDOR/CONTRACTOR'S INDEMNITY IN THE NEXT-FOLLOWING SENTENCE. VENDOR/CONTRACTOR SHALL INDEMNIFY, HOLD HARMLESS, AND DEFEND BUYER AND ITS EMPLOYEES AND AGENTS AGAINST ALL CLAIMS, SUITS, LIABILITY AND EXPENSE, INCLUDING ATTORNEY'S FEES EXPENDED IN DEFENSE OF ANY SUCH CLAIMS OR ENFORCING BUYER'S RIGHTS TO INDEMNITY AND DEFENSE FROM VENDOR/CONTRACTOR, ON ACCOUNT OF INJURY OR DEATH OF PERSONS (INCLUDING EMPLOYEES OF BUYER OR VENDOR/CONTRACTOR, AND SUBCONTRACTORS AND THEIR EMPLOYEES) OR DAMAGE OF PROPERTY ARISING OUT OF, OR IN CONNECTION WITH PERFORMANCE OF THIS ORDER, AND NOT CAUSED BY BUYER'S NEGLIGENCE WITHOUT ANY CONTRIBUTORY OR COMPARATIVE NEGLIGENCE OR FAULT OF VENDOR/CONTRACTOR OR ITS SUBCONTRACTORS.

BUYER HAS THE RIGHT, SHOULD IT CHOOSE TO DO SO, TO PARTICIPATE IN THE DEFENSE OF ANY SUCH CLAIM OR SUIT WITHOUT RELIEVING VENDOR/CONTRACTOR OF ANY OBLIGATION HEREUNDER.

3. Use of Premises. Vendor/Contractor shall perform all work in such manner as to cause minimum interference with the operations of Buyer and of other parties on the premises. Vendor/Contractor shall take, and cause Vendor/Contractor's and every subcontractor's employees, agents, licensees and permittees to take all necessary precautions (including those required by Buyer's safety regulations) to protect the premises and all persons and property thereon from damage or injury. Upon completion of the work, Vendor/Contractor shall leave the premises clean and free of all equipment, waste materials and rubbish. Vendor/Contractor will inspect all premises involved in the work performed under this Order before the work begins.

4. Bills and Liens. Vendor/Contractor shall pay promptly all indebtedness for labor, materials and equipment used in performance of the work. Vendor/Contractor shall not be entitled to receive final payment from Buyer until Vendor/Contractor furnishes evidence satisfactory to Buyer of full payment of such indebtedness. Vendor/Contractor shall not permit any lien or charge to attach to the work or the premises, but if any does so attach, Vendor/Contractor shall promptly procure its release and indemnify Buyer against all damage and expense incident thereto. The terms of the Public Vessels Act (46 U.S.C. § 741) apply to exempt vessels and cargos from seizure or arrest. Further, Vendor/Contractor agrees to forego any rights under writ of foreign attachment to arrest or seize any vessels operated or owned by Buyer for debts under this Order in consideration of this Order and any future Orders.

5. Changes. Vendor/Contractor shall make no change in the work or perform any additional work without Buyer's specific written approval.

Buyer may order changes in the work or require additional work at any time, and Vendor/Contractor shall comply therewith; but the price hereunder shall be increased by any amount equal to increase (if any) in Vendor/Contractor's cost of labor and materials.

6. Insurance. In consideration of this Order, Vendor/Contractor shall always maintain the following insurance, with insurers satisfactory to Buyer, with coverage for the contractually assumed liability and indemnity obligations herein and limits not less than specified. Buyer may place and carry any other insurance as Buyer may

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require. Whenever requested, Vendor/Contractor shall furnish evidence satisfactory to Buyer that such insurances are in effect by providing a Certificate of Insurance.

7. Vendor/Contractor agrees that the United States District Court for the Eastern District of Louisiana has the exclusive venue and jurisdiction to resolve any dispute raised by

Vendor/Contractor relating to or arising out of or from this Order, with the 24th Judicial District Court for the Parish of Jefferson, State of Louisiana, being a secondary source of venue and jurisdiction only in the event the United States District Court for the Eastern District of Louisiana lacks subject matter jurisdiction.

SERVICE ORDER INSURANCE REQUIREMENTS

COVERAGE	Description
Workmen’s Compensation, including Longshoremen & Harbor Worker’s Act coverage	Always required – no minimum
Employer’s Liability	E bodily injury by accident, each accident E bodily injury by disease each accident E bodily injury by disease in the aggregate
Maritime Employers Liability (Jones Act) *See Note	M each person per occurrence M in the aggregate
Comprehensive General Liability	C combined single per occurrence limit for bodily injury and property damage C in the aggregate
Ship Repairers Legal Liability *See Note	S per vessel, per occurrence
Pollution Liability	P per occurrence
Tower’s Liability	T applies to dead-ship tow
Comprehensive Automobile Liability	A combined single per occurrence limit for bodily injury and property damage A in the aggregate

Note: See TABLE BELOW OF MINIMUM LIABILITY LIMITS REQUIRED for values of variables E M C S P T or A

TABLE OF MINIMUM LIABILITY LIMITS REQUIRED

RISK CONSIDERATIONS / COVERAGE CODE	E	M	C	S	P	T	A
Shipyards Availabilities w/o Dead-ship Tow	\$5M	\$5M	\$5M	\$5M	\$1M		
Shipyards Availabilities with Dead-ship Tow	\$5M	\$5M	\$5M	\$5M	\$1M	\$5M	
Pier-side, Spaces Made Safe for Hot Work or Workers	\$2M	\$2M	\$2M	\$2M	\$1M		\$1M
Pier-side, No Spaces Made Safe for Hot Work or Workers	\$1M	\$1M	\$1M	\$1M	\$1M		\$1M
Tech Rep Services	\$1M	\$1M	\$1M				