



EXPERITEC, INC.
PURCHASE ORDER TERMS AND CONDITIONS

DEFINITIONS

As used herein "Buyer" means Experitec, Inc., "Seller" means the party with whom Buyer is contracting, "Order" means this Purchase Order and these terms and conditions, as well as any instrument, including all documents, exhibits, and attachments, referenced herein or attached hereto, and "Work" means all products or services provided under this Order.

1. ACCEPTANCE: Seller has read and understands this Order to be the exclusive agreement between Buyer and Seller. Seller's written acceptance or acknowledgement of this Order, shipment of goods, or commencement of performance hereunder shall constitute Seller's acceptance of the terms and conditions contained herein. Buyer expressly rejects any provisions additional to or different than the terms herein proposed and no action by Buyer shall constitute acceptance of any additional or different terms herein proposed. Any modifications or changes to this Order shall not be binding upon the Buyer unless made in writing and signed on its behalf by a duly authorized representative of Buyer.

2. DELIVERY AND DELAY: Time is of the essence. Seller agrees if performance, including delivery, is not expected to be made in accordance with the schedule set forth in the Order, Seller will immediately notify Buyer and take all reasonable steps at its own costs to expedite performance; provided however, Buyer reserves the right, without liability, in addition to its other rights and remedies, to arrange for completion by a third party and to charge Seller with any loss or additional costs or expenses incurred in the completion hereunder or to cancel the Order without penalty. For purposes of calculating any volume incentive, such cancelled orders will be counted as made, delivered, and purchased by the Buyer. Seller shall obtain Buyer's prior written approval for partial shipments prior to the first agreed upon shipment. Risk of loss of the goods shall remain with Seller until actual delivery of such goods to Buyer at which time legal title and risk of loss shall pass simultaneously to Buyer. All materials shall be suitably packed, marked, loaded, and shipped in accordance with the requirements of common carriers or as set forth in the Order at Seller's expense. Seller shall be liable for any damages as a result of their failure to follow these requirements, including liquidated damages for late delivery to the extent set forth in this Order. Seller shall be responsible for any excess transportation charges resulting from Seller's failure to follow any routing instructions given by Buyer. Seller shall pay all transportation charges for the delivery to Buyer and any return to Seller.

3. PRICING AND PAYMENT: Unless otherwise specified by Seller, Seller's prices shall remain in effect for thirty (30) days after the date of Seller's quotation or acceptance of the Order, whichever occurs later. A price quote for goods shall specify whether the price covers storing, installing, starting up or maintaining goods. Prices are F.O.B. Destination unless otherwise expressly agreed to in a writing signed by an authorized representative of Buyer. Buyer shall pay Seller for the Work provided in accordance with the Order. Seller shall submit invoices and any additional documentation requested by Buyer to accounts.payable@experitec.com. Buyer will pay Seller within sixty (60) days of receipt of a valid invoice and may withhold payment pending receipt of evidence, in whatever form requested, of the absence of liens, encumbrances, and claims on the Work for which this Order applies. Prices include all federal, state and local sales or like taxes and Seller shall be responsible for same.

4. INSPECTION: Buyer shall have the option to inspect and test the Work at any time during Seller's performance and upon completion of the Order. Inspection by Buyer shall not constitute acceptance of the Work and shall not relieve Seller of any of its obligations under this Order. Buyer's inspection shall not be construed as supervision of the Order and shall not make Buyer responsible for Seller's acts or omissions. Notwithstanding any oversight by Buyer, any Work provided hereunder that does not comply with this Order shall be corrected at Seller's expense. Buyer is entitled to final inspection before acceptance of Work under this Order.

5. WARRANTY: Seller warrants to Buyer that Work will be performed by trained personnel using proper equipment and instrumentation for the Work provided. Seller warrants that Work will be free from any defects in design, material, and workmanship, will be merchantable, will be fit for its intended purpose, will comply with any applicable specifications, and shall pass to Buyer with an unencumbered title. All Work is warranted for two (2) years from the date

of completion. During the warranty period, if Buyer identifies a non-conformity, Buyer shall notify Seller and shall direct Seller, at Seller's sole expense, to repair, correct, or refund the purchase price for that portion of the Work non-conforming under this Order. The warranty will continue as to repaired or corrected work for two (2) years from the completion of the repair or replacement. If Seller does not comply with this warranty, Buyer may repair or correct the defective or nonconforming work at Seller's expense. In addition to the foregoing warranties, Seller will pass on any manufacturer's or subcontractor's warranty to the fullest extent assignable.

6. INDEMNITY: Seller shall, to the fullest extent permitted by applicable law, indemnify, defend and hold harmless Buyer and their affiliates, their respective shareholders, managers, officers, employees, customers, and agents (Buyer and each such other person being referred to as an "indemnified party") from and against all claims, losses, damages, injuries, liabilities, fines, penalties, costs, and expenses (including all reasonable legal fees) (collectively "losses") as incurred (payable promptly upon written request) arising from and in connection with or otherwise with respect to: (a) Seller's, or any subcontractor's, fault, negligence, gross negligence, willful misconduct, fraud, or strict liability in relation to or in connection with the performance of the Work under this Order; (b) the negligence of Buyer as imputed to it for using the Seller, its agents, servants, or employees; (c) any breach of any representation or warranty of Seller, or any subcontractor, contained in this Order; provided, however, that Seller shall not be liable to an indemnified party to the extent such loss is determined to be a result of Buyer's direct negligence, gross negligence, or willful misconduct. The provisions of this paragraph relating to indemnification shall survive termination of this Order.

7. INSURANCE/SECURITY: Seller will provide proof of insurance in the form and amounts acceptable to Buyer. Seller may also be required to provide payment and/or performance securities to the extent specified in the Order.

8. INTELLECTUAL PROPERTY: Seller warrants that the sale and use of the Work provided hereunder will not infringe any United States or foreign patents, trademarks, tradenames, copyrights, trade secrets, or any other form of intellectual property and Seller agrees to indemnify Buyer to the extent of an infringement. Seller acknowledges that Buyer's patents, trademarks, tradenames, copyrights, trade secrets, or any other form of intellectual property that Buyer provides to Seller are Buyer's exclusive property and Seller disclaims all rights in the same. Where payment is made for experimental, developmental, or research work, as such, to be performed in accordance with special requirements of the Buyer, Seller agrees to disclose, and on request to assign, to Buyer each invention, property right, confidential process or know-how, and trade secret resulting therefrom or other form of intellectual property and Seller shall disclaim all rights in same. All drawings, artwork, special products, materials, information, or data furnished by the parties hereunder are Buyer's exclusive property, shall be used by Seller only for the Work, shall be deemed Buyer's Confidential Information as defined in Section 9, shall be kept confidential, and shall be returned promptly at Buyer's request. Buyer will market, distribute and/or sell the Work under its own trademark and trade name. Buyer has the right to use any of Seller's marks, names, other trade identities, copyrighted works, or other intellectual property to the extent that Seller has incorporated such property in or used such property in the manufacture of the Work supplied by Seller to Buyer.

9. CONFIDENTIALITY: All information that is furnished by Buyer to Seller pursuant to this Order, including that of a third party ("Confidential Information") will be subject to the following restrictions. Seller agrees that it will use all Confidential Information disclosed to it by Seller only in the manner contemplated in this Order, and for no other purpose. Confidential Information shall only be disclosed to those of its officers, employees, agents, independent contractors or advisors ("Representatives") as will be directly concerned with performance under this Order. Such Representatives shall not disclose any Confidential Information to any third party and have agreed in writing to keep such Confidential Information confidential in accordance with this Section. Except as provided above, Seller agrees that it will not disclose Confidential Information to any other person or entity without the express, prior written consent of the Buyer. Seller agrees that it will protect the confidentiality of Confidential Information with the same degree of care with which it protects its

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own confidential information and will return all copies (in any medium recorded) of Confidential Information to the Buyer immediately upon written request. The parties agree that Confidential Information shall be considered commercial secrets qualified for protection under applicable law. The parties shall have no obligation to protect the confidentiality of Confidential Information that: (a) can be demonstrated to have been known to the receiving party prior to the execution of this Order and was not acquired, directly or indirectly, from the disclosing party or from a third party under a continuing obligation of confidentiality; (b) can be demonstrated to have been in the public domain as of the date of this Order or comes into the public domain during the execution of this Order through no fault of the receiving party; or (c) can be demonstrated to have been independently developed by personnel of the receiving party who had no substantive knowledge of the Confidential Information. The provisions of this Section shall not apply to the disclosure of Confidential Information to any government, any agency or department thereof, provided that the party being required or requested to make such disclosure shall immediately notify the Buyer of such requirement and the terms thereof prior to such disclosure so that an appropriate protective agreement or order may be sought or other arrangements put in place prior to the disclosure of the Confidential Information. Buyer shall have the right to petition to the agency or department concerned regarding such disclosure and to seek confidential treatment of any Confidential Information to be disclosed on such terms as such party shall, in its sole discretion, determine. The foregoing obligations will survive termination of this Order and will remain binding on each party, its respective affiliates, successors and assigns forever.

10. FORCE MAJEURE: A delay or failure in performance of either party hereto shall not constitute default hereunder or give rise to any claim for damages if and to the extent such delay or failure is due solely to strikes, lockouts or other labor disputes, fires, acts of God or other causes beyond the affected party's reasonable control; provided, the affected party shall have given notice to the non-affected party of any such cause for delay or anticipated delay promptly following the commencement thereof and shall have used the affected party's best efforts to make or accept deliveries, as the case may be, as expeditiously as possible. If Buyer believes that the delay or anticipated delay in Seller's performance may impair Buyer's ability to meet its production schedules or may otherwise interfere with Buyer's operations and such delay may last for a period of time that exceeds five (5) days, Buyer may at its option, and without liability to Seller, immediately terminate this Order.

11. CHANGES AND AMENDMENTS: Buyer shall have the right to make changes in or additions to drawings, specifications, or instructions for the Work covered in this Order by giving Seller written authorization. Seller agrees to comply with such changes. If such changes cause an increase or decrease in costs or in the time for performance of the Work, equitable adjustment in the price and time for performance will be made and the Order will be modified in writing accordingly upon written approval of Buyer; provided, that any claim for adjustment by the Seller must be asserted within ten (10) business days after the change is ordered. Seller shall not perform any service involving costs in excess of the maximum amounts specified in the Order without the prior written authorization of Buyer.

12. TERMINATION AND SUSPENSION: Buyer, at its option, may terminate this Order for convenience by giving Seller written notice stating an effective date of termination. In such event, Buyer will pay Seller the part of the Order price that is proportionate to the percentage completed by Seller as of the date of termination and Seller shall deliver to Buyer the Work completed by Seller as of the date of termination. Buyer's liability for termination will never exceed the original price under this Order. Buyer shall not be liable to Seller for any other costs or for anticipated profit on Work not performed. Any default termination of Seller by Buyer subsequently determined to have been erroneous, shall be treated as a termination for convenience.

Buyer may terminate this Order in the event Seller is in default. Seller shall be considered in default if Seller is in breach of any of the terms of this Order and has failed to cure such breach or take action satisfactory to the Buyer to cure the breach within five (5) business days after being given written notice by Buyer.

In the event Buyer terminates this Order due to default, Buyer will not be responsible for payment except to the extent Buyer has accepted the Work of Seller.

Buyer may, at any time and at its sole discretion, issue written notice to Seller suspending performance of all or any portion of the Work to be performed under this Order. Seller agrees to discontinue Work to the extent specified in the notice; continue to protect and maintain the status of the Work; and take necessary steps to minimize any and all costs associated with the suspension. Upon receipt of notice to resume suspended Work, Seller shall, as soon as reasonably possible, resume performance under the Order to the extent required in the notice. If Seller intends to assert a claim for equitable adjustment as a result of the suspension it must, within ten (10) business days after receipt of notice to resume Work, submit a written notification of a claim and a proposal setting forth the impact of such suspension.

13. ASSIGNMENT AND SUBCONTRACTING: Seller's obligations authorized under this Order are not assignable or transferable and Seller agrees not to subcontract any of the Work authorized hereunder without the prior written approval of Buyer. In the event Buyer approves assignment or subcontract of the Work, Seller must require applicable third parties to be bound by the same terms and conditions as provided herein and Seller shall remain liable for all Work performed by the subcontractor.

14. RELATIONSHIP OF THE PARTIES: The relationship of the parties shall be that of independent contractors and not as partners or joint ventures. Each party is, and is intended to be, engaged in its own and entirely separate business. Buyer is not required to request a minimum amount of Work from Seller nor is Seller obligated to accept a minimum amount of Work from Buyer.

15. EXAMINATION OF RECORDS: Seller agrees that Buyer shall have access to and the right to examine any pertinent books, documents, papers, and accounting records of Seller which pertain to transactions under this Order for a period of seven (7) years after expiration of this Order. Seller agrees to assign this right to any third party who purchases the Work from Buyer.

16. NOTICES: All notices and other communications given hereunder shall be in writing and deemed to have been given when (i) personally delivered, (ii) one business day after delivery to a nationally recognized overnight courier service, (iii) upon the written confirmation of receipt following the transmission of a telecopy or (iv) three days after being mailed by certified mail, postage prepaid, to the addresses of Buyer or Seller as set forth in the Order or to such other addresses as either party may request by notice given in accordance with this paragraph.

17. CHOICE OF LAW; VENUE; MISCELLANEOUS: (a) This Order shall be governed by the laws of the State of Missouri excluding any conflict-of-laws rules or principles that might refer the governance or the construction of this Order to the law of another jurisdiction and all suits arising from or concerning this Order shall be filed in the Circuit Court of St. Louis County, Missouri, or the United States District Court for the Eastern District of Missouri. (b) The paragraph headings herein are for convenience only and form no part of the terms and conditions of this Order (c) Should Buyer have concerns about Seller's financial condition and/or ability to perform hereunder, Seller shall supply information requested by Buyer which Buyer feels is necessary to address said concerns. (d) No action arising out of transactions under the Order, regardless of form, may be brought by either party more than two [2] years after the cause of action has accrued. (e) If any provision of the terms and conditions of this Order is invalid under any statute or rule of law, such provision, to that extent only, shall be deemed omitted without affecting the validity of the remainder of the Order. (f) Any failure by either party to enforce any provision of this Order shall not constitute a waiver of the provision or prejudice the right of either party to enforce the provision at any subsequent time.

18. GOVERNMENT COMPLIANCE: Seller will comply with the Fair Labor Standards Act of June 30, 1938 (USC 201-209) as amended. Seller agrees to comply with Federal, State, and local laws, executive orders, rules, regulations, and ordinances which may be applicable to Seller's performance of its obligations under this Order; including, without limitation, all provisions of the U.S. Fair Labor Standards Act of 1938, as amended, and Subparagraphs 1 through 7 of Section 202 of Executive Order 11246, the applicable provisions of 41 C.F.R. Chapter 60, including, without limitation, the Affirmative Action clauses of the Rehabilitation



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Act of 1973 at C.F.R. Section 60-741.4 and all provisions of the Equal Employment Opportunity Act of 1972 the texts of which are hereby incorporated by reference. If any goods or materials are purchased for incorporation into the Work provided under a government contract or subcontract, the terms required to be inserted by that contract or subcontract shall be deemed to apply to the applicable Order.

19. ENTIRE AGREEMENT AND AMENDMENTS: This Order constitutes the entire agreement between the parties covering the subject matter and supersedes all previous or existing agreement covering the subject matter. No modifications or amendments shall be valid unless in writing and signed by the parties.