



**GENERAL TERMS AND CONDITIONS**  
**(Goods and Services)**

Karl Senner, L.L.C.'s ("Company") proposal for the sale of parts, machinery, equipment and materials (collectively, the "Goods") and/or Services (the "Services") and together with the Goods (the "Work") for you ("Customer") shall be governed by the following terms and conditions.

**1. Company Personnel.** Company, at all time, shall remain an independent contractor of Customer and shall have full authority over the selection, assignment, quantity, supervision and control of Company employees in the performance of the Work. Customer shall deal exclusively with the Company's designated representative assigned to supervise the Work and only Company's authorized representative is authorized to bind the Company.

**2. Payment.** Unless otherwise agreed to in writing, including Company acceptance of Customer's purchase order, all Work performed shall be billed in accordance with Company's proposal and governed by these terms and conditions. Unless otherwise agreed to in writing by Company, all outstanding invoices for Work shall be paid by Customer within thirty (30) days from the date of the invoice or, if requested by Company, prior to the vessel's departure from the site such Work is performed. A service charge of 1-1/2% per month will be charged on all overdue balances. In the event Company retains an attorney or initiates litigation to collect any amounts due for Work performed hereunder, Customer agrees to pay Company's reasonable attorney's fees, plus all costs, fees and expenses related to such litigation.

**3. Taxes.** Customer shall pay all applicable sales and/or use taxes imposed by any government authority for the Work.

**4. Express Limited Warranty.** Company warrants that all Work shall be (i) performed in a good and workmanlike manner, (ii) in conformity with Customer's drawings and specifications, and (iii) free of defects and deficiencies in workmanship and materials. Company warrants its workmanship and materials (specifically excluding any defects or deficiencies in Goods that are purchased by Customer from any third party vendor) for a period of twelve (12) months from Company's delivery of the Goods to Customer or Company's completion of the services performed for Customer. Any non-conformities, defects or deficiencies in Company's Work will be corrected by

Company free of charge; provided, however, if any warranty work is to be performed at a location other than Company's main facility in Kenner, Louisiana, all related out-of-pocket expenses incurred by Company in connection with travel to and from such location to perform the warranty work will be paid directly by Customer or promptly reimbursed by Customer upon presentation of supporting documentation by Company. Out-of-pocket expenses include, but are not limited to, towage services, docking, crew boat transport, crane rental, warping, scaffolding, third party labor, support services, airfare, mileage allowance, per diem allowance, lodging, meals and waiting time. If, at Customer's request, Company performs warranty work at any time other than regular shift (straight time) hours, Customer shall pay the difference in Company's regular time hourly rates and Company's overtime or holiday rates. If Customer has someone other than Company perform warranty work, Company shall not be responsible for reimbursing such cost except if agreed to in writing by Company prior to the repair or replacement of the Work being commenced; provided, however, in no event shall Company be obligated to pay Customer more than the cost that Company would have incurred to perform such warranty work. Under no circumstances shall Company have any liability for any non-conformity, defect or deficiency in Goods purchased by Customer from a third-party vendor. Upon Customer's written request, Company agrees to assign (to the extent assignable and without recourse to Company), any vendor warranties that may be applicable to the Goods to Customer. COMPANY'S SOLE AND EXCLUSIVE RESPONSIBILITY TO CUSTOMER, ITS ASSIGNEES OR ANY THIRD PARTY FOR BREACH OF THE FOREGOING WARRANTIES SHALL BE LIMITED TO COMPANY'S AGREEMENT TO REMEDY OR CORRECT ANY NON-CONFORMING, DEFECTIVE OR DEFICIENT WORKMANSHIP OR MATERIALS AND DESIGN (BUT ONLY IF SELLER DESIGNED THE GOODS), REGARDLESS OF THE LEGAL BASIS FOR SUCH CLAIM INCLUDING, WITHOUT LIMITATION, COMPANY'S BREACH OF WARRANTY, BREACH OF THESE GENERAL TERMS AND CONDITIONS, COMPANY'S NEGLIGENCE OR OTHER LEGAL FAULT.

**5. Disclaimer of Consequential Damages.** NOTWITHSTANDING ANYTHING HEREIN TO THE

CONTRARY, UNDER NO THEORY OF LAW, WHETHER CONTRACT, QUASI-CONTRACT, STRICT LIABILITY, WARRANTY, INDEMNITY, TORT OR OTHER LEGAL FAULT, SHALL COMPANY, CUSTOMER, THEIR AFFILIATED COMPANIES AND THE EMPLOYEES, OFFICERS, AGENTS, REPRESENTATIVES AND INSURERS OF EACH OF THE FOREGOING, BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES INCLUDING, WITHOUT LIMITATION, ANY CLAIM FOR LOSS REVENUE, LOSS OF PROFIT, PUNITIVE DAMAGES, LOSS OF USE OF CAPITAL, DISRUPTION OR DELAY DAMAGES, OVERHEAD COSTS, INTEREST AND ATTORNEY'S FEES. EACH PARTY ACKNOWLEDGES THAT IT HAS READ AND AGREES TO THE FOREGOING WAIVER OF DAMAGES WHICH THE PARTIES AGREE IS AN INTEGRAL AND VALUABLE CONSIDERATION FOR THE RESPECTIVE RIGHTS AND OBLIGATIONS ASSUMED BY EACH PARTY HEREIN AND CANNOT BE MODIFIED, ALTERED OR SUPERSEDED IN ANY FORM OR MANNER, WHETHER ORALLY OR IN WRITING. EACH OF CUSTOMER AND COMPANY FURTHER ACKNOWLEDGES AND AGREES THAT IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND VOLUNTARILY AND UNCONDITIONALLY ACCEPTS THE FOREGOING WAIVER OF THESE SPECIFIED DAMAGES.

**6. Company Indemnity.** To the maximum extent permitted by law, Company agrees to be fully responsible for and to defend, indemnify and hold Customer, its affiliated companies, its other contractors and subcontractors and the employees, officers, agents, representatives and insurers of each of the foregoing (collectively, the "Customer Group"), harmless from and against any losses, liabilities, expenses, claims, demands or suits for bodily injury or death to persons and/or for property damage or loss suffered or sustained by Company, its affiliated companies, its subcontractors or by the employees, officers, agents, representatives and insurers of each of the foregoing (collectively, the "Company Group") incidental to, arising out of, in connection with, or resulting from the Work and which may be brought against Customer Group, whether caused, in whole or in part, by the negligence or other legal fault of Customer Group, by any defect or deficiency in Customer Group's equipment, property or premises or the unseaworthiness of Customer Group's vessel(s).

**7. Customer Indemnity.** To the maximum extent permitted by law, Customer agrees to be fully responsible for and to defend, indemnify and hold Company Group harmless from and against any losses, liabilities, expenses, claims, demands or suits for bodily injury or death to persons and/or for property damage or loss suffered or sustained by Customer Group incidental to, arising out of,

in connection with, or resulting from the Work and which may be brought against Company Group, whether caused, in whole or in part, by the negligence or other legal fault of Company Group, by any defect or deficiency in Company Group's equipment, property or premises or the unseaworthiness of Company Group's vessel(s).

**8. Insurance.** Each party shall maintain worker's compensation up to statutory limits and employer's legal liability insurance up to statutory limits of \$1,000,000 per occurrence, respectively and protection and indemnity (including crew coverage unless covered elsewhere) and commercial general liability coverage with limits of no less than \$5,000,000 per occurrence. Each party shall cause its worker's compensation insurer to waive all rights of subrogation against the other party. Each party shall be fully responsible for and shall insure its own property (including any vessels) against physical damage or loss regardless of the cause(s) thereof including the negligence or other legal fault of the other party, its employees, agents or representatives and shall cause their insurers to waive any subrogation rights against the other party, its employees, agents or representatives. Upon request, a party will provide the other party a certificate of insurance evidencing that the aforesaid coverages and endorsements are in effect; provided, however, that each party shall be responsible for maintaining such coverages whether evidence of such insurance is provided or not.

**9. Force Majeure.** Neither party will be liable for delays beyond such party's reasonable control in performance or completion of Work or delivery of equipment and materials due to epidemics or pandemics, delays of carriers, delays in manufacture or fabrication (not caused by the fault of a party), acts of God, embargo, riots, civil commotion, Government action or any other causes beyond such party's reasonable control, or for any direct or indirect losses due to any of such causes. Under no circumstances shall any payments due Company be excused or delayed as a result of a force majeure event.

**10. Dispute Resolution and Forum Selection.** Company and Customer agree that any suit, action or proceeding arising out of or related to the Work and these terms and conditions shall be brought exclusively in federal district court or state district court for the Parish of Jefferson, State of Louisiana. IN ANY SUCH ACTION, COMPANY AND CUSTOMER WAIVE ANY RIGHT TO A TRIAL BY JURY. Except to the extent the Work is governed by the general maritime laws of the United States, any dispute or claim arising out of the Work and/or this General Terms and Conditions shall be governed by the laws of the State of



Louisiana, without giving regard to its conflict of laws rules.

**11. Entire Agreement.** The foregoing terms and conditions constitute the full agreement of the parties and a complete and exclusive statement of the terms of their agreement. It is expressly understood and agreed by Customer hereto that these General Terms and Conditions shall supersede any conflicting terms and conditions contained in any previously issued or subsequently issued purchase order, work order, verbal instruction, electronic mail, facsimile or any other writing or communication provided by Customer. No pre-contractual or post-contractual representation, statement, condition, understanding or agreement purporting to modify or vary these terms and conditions shall be binding unless hereafter made in writing signed by a duly authorized representative of the party, and stating specifically that it is intended to vary or supplement the terms of this General Terms and Conditions.