

Paragon Energy Solutions, LLC
Terms and Condition of Sale

This Terms and Condition of Sale (“Agreement”) is to set forth the terms and conditions and scope of agreement under which Seller will provide Goods, materials, and any incidental Services as described in Purchase Order(s) executed in accordance with the procedures set forth herein.

1. Engagement.

Buyer hereby retains Seller to furnish goods (“**Goods**”) and/or services (“**Services**”), and Seller hereby agrees to furnish said Goods and/or Services to Buyer (Sellers actions taken to furnish said Goods and/or Services is referred to as “**Work**”), as more particularly described in the Agreement, subject to the terms and conditions set forth herein. All terms and conditions of this Addendum shall apply through the Term.

2. Priority.

Buyer expressly assents to the terms and conditions of this Addendum and agrees the terms and conditions of this Addendum prevail over any terms and conditions contained in the Agreement. Terms and conditions contained in the Agreement that differ or conflict with the terms and conditions or the spirit of the terms and conditions of this Addendum, whether directly or indirectly, shall have no effect. The components of the Agreement take precedence in the following order:

- (i) Change Orders, if any (to be effective any change to the language of the Agreement must be signed by both Parties as described more particularly in paragraph 24);
- (ii) Purchase orders, statements of work, and the like incorporated into or referenced by this Agreement; and
- (iii) Addendums to this Agreement;
- (iv) This Agreement;
- (v) Any other documents, laws, and the like incorporated into or referenced by the quote, project, or scope of work.

Notwithstanding anything contained herein to the contrary, Sections governing Intellectual Property and Confidentiality of this Agreement shall take priority over any and all conflicting provisions in any other document listed in this paragraph 2.

3. Term.

This Addendum shall commence on the Effective Date and be effective through the life of the Agreement (“**Term**”). The end of the Term will not relieve either Party of any obligations under this Agreement that by their nature survive the end of the Term.

4. Inspection.

Buyer may inspect or test any Goods upon delivery or Services upon completion. Goods and/or Services provided under the Agreement shall be deemed accepted if Buyer fails to provide written

notice to the contrary within ten (10) days after delivery or completion. In the event Buyer properly rejects any Goods and/or Services for non-compliance with the Agreement, Seller shall, within a reasonable time after receipt of notice but in no event less than thirty (30) days after notice, repair or replace such Goods and/or Services at no increase in Agreement price; or, if both Parties agree, Buyer may accept non-conforming Goods and/or Services at an agreed upon price reduction.

5. Extensions.

Seller's time to perform shall be extended by any amount of time necessitated by delays caused by Buyer, including any delayed responses by Buyer in response to Seller's request for information, approval, or releases. Seller shall not be responsible for delays caused by a carrier and/or customs.

6. Shipping Terms, Title, and Risk of Loss.

Risk of loss or damage to the Goods provided under the Agreement shall remain with the Seller until, and shall pass to the Buyer upon, delivery of the Goods to a carrier (f.o.b. origin). Title to all Goods provided under the Agreement shall pass to Buyer upon delivery of the Goods to a carrier.

7. Compensation.

Seller may issue invoices for all completed Work, or any portion thereof, as set forth in the purchase order. Seller shall make payment within thirty (30) days of receipt of an invoice.

8. Confidentiality.

"Confidential Information" shall include, but not be limited to, business records, financial information, customer information, formulas, ideas, manuals, price lists, advertising and promotional materials, fine arts, graphics, notes, records, charts, engineering, operating, technical data, and the like that a Party keeps private, as well as technical information and technology controlled by United States export control laws and regulations such as, but not limited to, U.S. Department of Energy regulations at 10 C.F.R. Part 810 ("Part 810") and the U.S. Department of Commerce Export Administration Regulations.

"Restricted Country" means any country not listed in Appendix A to Part 810, with the exception of Chile. Chile is listed in Appendix A to Part 810 but for purposes of this Agreement shall be considered to be a Restricted Country.

"Restricted Person" means any person who is a citizen of a Restricted Country who is not (1) a citizen of the United States of America, (2) a permanent resident alien of the United States of America, or (3) a "protected person" as that term is defined in 8 U.S.C. 1324b(a)(3).

Each Party agrees (a) that this Paragraph 8 applies to all past agreements between the Parties; (b) to protect the Confidential Information of the other Party with at least the same degree of care used to protect its own most Confidential Information; (b) to exercise at least reasonable care to protect Confidential Information; (c) not to use (except for the purpose described herein), publish or disclose to third-parties such Confidential Information, without the written consent of the other Party, which shall not be unreasonably withheld; (d) to disclose Confidential Information only to

those of its employees who need to know such information and are permitted to receive such information in accordance with the requirements in Part 810, and certifies that such employees shall be bound to protect Confidential Information in accordance with the scope of this Agreement; and (e) upon the request of the other Party, to promptly return all written copies of its Confidential Information and/or destroy all electronic copies of its Confidential Information. Neither Party may grant written consent to disclose Confidential Information if the third party is located in a Restricted Country or is a Restricted Person, as the disclosure may trigger a requirement to obtain prior consent from the U.S. Department of Energy under Part 810.

Notwithstanding anything to the contrary stated herein, at any time during or after the Term of the Agreement, either Party may provide copies, summaries and analyses of Confidential Information to any regulatory, governmental, judicial, or supervisory authority including, without limitation, the staff or advisors of any such parties, during the course of regulatory proceedings or if such disclosure is necessary in order to maintain or obtain regulatory or governmental approvals, applications exemptions, or other matters pertaining to the disclosing Party's business, provided that the disclosing Party exercises reasonable efforts to obtain assurance that confidential treatment will be accorded such information.

9. Intellectual Property.

9.1 Certain Definitions.

For the purposes of this paragraph 9.1, the following definitions shall apply:

“Pre-Existing (or Background) Intellectual Property” means with respect to a Party, such Party's Intellectual Property which is: (a) necessary to permit the other Party to perform its obligations under the Agreement, or to make or use the Goods and/or Services performed pursuant to the Agreement; and (b) that consists of Intellectual Property or information that a respective Party has control of, conceived, developed, or owns as of the Effective Date of the Agreement. Wherein, for purposes of this definition only, “controlled by” means, with respect to any information, or Intellectual Property, the possession of (whether by ownership or license, other than pursuant to the Agreement) or the ability of a Party to grant the other Party access, a license, or a sublicense to such information, or Intellectual Property on the terms and conditions set forth in the Agreement without requiring a third-party's consent, or violating the terms of any agreement or other arrangement with or obligation to a third-party existing at the time such Party would be required under the Agreement to grant the other Party such access, license, or sublicense.

“Extrinsic Intellectual Property” means such Party's Intellectual Property that is developed or acquired by such Party independently from the Work under the Agreement.

“Intrinsic (or Foreground) Intellectual Property” means any and all Intellectual Property rights developed in whole or in part by Seller during performance of the Work that is not Pre-Existing Intellectual Property or Extrinsic Intellectual Property.

“Intellectual Property” means all intellectual property and other proprietary rights, whether existing under statute or at common law or in equity, in force or recognized now or in the future, including: (a) copyrights, moral rights (including rights of attribution and rights of

integrity), patents, trade secrets, methods, templates, concepts, data, formulas, know-how, structures, techniques, inventions, developments, processes, discoveries, improvements, applications, programs, source code, object code, databases, protocols, models, devices, designs, ideas, images, text, works, manuals, and other intellectual property and proprietary rights; (b) any and all applications and rights to apply for any of the rights referred to in subsection (a); and (c) any and all renewals, extensions, future equivalents, and restorations of any of the rights referred to in subsection (a) or subsection (b).

9.2 Ownership/Licensing of Pre-Existing Intellectual Property and Extrinsic Intellectual Property.

All Pre-Existing Intellectual Property and Extrinsic Intellectual Property owned by a Party is and will remain the sole and exclusive property of such Party, as applicable, and/or its respective licensor(s).

If Pre-Existing Intellectual Property of Seller is embodied in or necessary for the use of any Goods and/or Services, Seller grants to Buyer, as applicable, a worldwide, non-exclusive, perpetual, irrevocable, license of the Pre-Existing Intellectual Property of Seller that is embodied in or incorporated into the Goods and/or Services solely for the purpose of using the Goods and/or Services as intended under the Agreement, and for no other purpose. All rights not granted herein are reserved. Nothing in the Agreement shall be deemed to constitute the grant of any license or other right to Pre-Existing Intellectual Property of Seller or third-party Intellectual Property except as expressly set forth herein.

9.3 Ownership/Licensing of Intrinsic Intellectual Property.

All Intrinsic Intellectual Property shall be the sole and exclusive property of Seller. If Intrinsic Intellectual Property of Seller is embodied in or necessary for the use of any Goods and/or Services, Seller grants to Buyer, as applicable, a worldwide, non-exclusive, perpetual, irrevocable, license of the Intrinsic Intellectual Property of Seller that is embodied in or incorporated into the Goods and/or Services solely for the purpose of using the Goods and/or Services as intended under the Agreement, and for no other purpose.

9.4 Third Party Intellectual Property.

If Goods and/or Services developed by Seller incorporates any Intellectual Property or other property owned by a third-party, Seller shall have sufficient authority to grant rights and licenses as required by the Agreement, or the third-party owner shall have granted the same to Buyer.

10. Termination.

The Agreement may only be terminated as follows:

Buyer may terminate the Agreement for its convenience by providing written notice to Seller. Upon notice of such termination, Seller shall stop all Work hereunder and shall cause any and all of its suppliers and lower-tier subcontractors to cease Work.

In the event Buyer terminates the Agreement, Buyer shall pay to Seller, as full and final compensation, all amounts corresponding to Work, or any portion thereof, that was performed and not previously paid and all direct and indirect costs and expenses incurred by the Seller in the performance of the Agreement up to the time of receiving notice of termination, including Work scheduled or ordered prior to termination that cannot reasonably be cancelled, plus a reasonable profit margin.

If Buyer takes any of the actions described in this paragraph 10, Buyer shall not be entitled to any other remedy for breach of the Agreement by the Seller.

11. Notices.

Any notice required or permitted to be given under the Agreement shall be sufficient if in writing and either hand delivered by commercial courier or sent by registered or certified mail to the intended recipient at its address set forth below its signature at the end of this Addendum. Either Party may change such notice address from time to time by delivery of a written notice of the new address to the other Party in accordance with this paragraph 11.

12. Indemnity.

On a pro-rata basis to the extent of Seller's fault, Seller shall indemnify, defend and hold harmless Buyer and its members, managers, officers, directors, employees and agents, from and against any and all claims, liability, losses, damages, costs, or expenses (including reasonable attorneys' and experts' fees), awards, fines, penalties, judgments and settlements arising as a result of Seller's acts or omissions in performing the Work. Buyer and Seller shall notify each other of any written claims or demands against themselves for which Seller is responsible hereunder ("**Indemnified Claim**"). Buyer shall not settle an Indemnified Claim without Seller's prior written consent.

In no event shall any Party be liable to the other Party for any punitive damages, consequential damages, diminution or decline in value, lost opportunity, loss in value of any investment, exemplary damages, special damages, indirect damages, or any similar items.

Seller's liability respecting all claims arising in respect of the Agreement shall not exceed the Agreement price.

Notwithstanding the foregoing, Buyer shall not be entitled to indemnification for warranty claims (paragraph 17).

13. Insurance.

During the Term, Seller shall maintain the following insurance coverage: (i) professional liability insurance with limits of at least \$1,000,000 each claim, \$2,000,000 aggregate; (ii) commercial general liability insurance, including contractual liability coverage, with limits of at least \$1,000,000 each claim, \$2,000,000 aggregate; and (iii) workers' compensation insurance as required by law. Seller shall ensure that Buyer is named as an additional insured to receive notice of any insurance cancellation under its commercial general liability insurance policy during the Term.

14. Force Majeure.

Neither Party shall be in breach of the Agreement to the extent that any delay or default in performance is due to causes beyond the reasonable control of the delayed or defaulting Party (“**Force Majeure Event**”), provided that the delayed or defaulting Party makes reasonable efforts to limit the impact of any Force Majeure Event and reasonably notifies the other Party (a) of the Force Majeure Event; (b) an estimate of the duration of the Force Majeure Event; and (c) a plan to mitigate the effects of the delay. Force Majeure Events include but are not limited to acts of God or the public enemy, acts of government, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, supply chain disruptions, and delays of common carriers.

15. Records and Audits.

Subject to visitation policies, Seller shall provide Buyer’s personnel reasonable access for inspection, audit, and reporting of the quality and progress of Seller’s performance under the Agreement. Buyer shall not have the right to audit for rates, costs, or expenses related to the Agreement.

16. Assignment and Subcontracting.

The Agreement will be binding upon and inure to the benefit of the successors and assigns of each of the Parties. Except as otherwise provided in the Agreement, the Parties shall not assign or transfer any of their respective rights or obligations under the Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned, or delayed, and any such attempted assignment will be void. However, the Agreement is assignable by either Party, without the consent of the other Party, but with prior written notice to the other Party, if the assignment occurs in connection with a merger, acquisition, change in legal structure (e.g., from a limited liability company to a corporation), or a sale of substantially all of such Party’s assets.

17. Warranties.

Seller warrants that all Goods and/or Services completed pursuant to the Agreement shall (a) comply with the requirements of the Agreement; (b) be free of defect (except to the extent of designs provided by Buyer or a third-party engaged by Buyer); (c) be free and clear of all liens; and (d) be free of any rightful claims of any third-party by way of infringement of any Intellectual Property right.

For a period of twelve (12) months after Goods and/or Services are placed into operation, or eighteen (18) months after Goods and/or Services are delivered or completed, whichever occurs first, Seller shall repair any Goods and/or Services that fail to comply with the warranties specified in this paragraph 17 at no cost to Buyer.

Unless installation is an element of the Work, Paragon shall not be obligated to remove or reinstall any Product furnished or items Serviced hereunder from the location of their installation, and shall not be responsible for the costs of removal or reinstallation of structural parts or items not furnished by Paragon hereunder.

The following shall void the warranties: (a) failure of Buyer to handle, store or install the any Goods after delivery in accordance with Seller's specifications; (b) improper erection and operation or maintenance of Buyer's facilities (or the facilities of any of Buyer's customers where the Goods and/or Services are incorporated); (c) any use other than in accordance with Seller's written documentation; (d) any modifications or attempted repairs by any person other than Seller; (e) erosion or corrosion; and (f) normal wear and tear.

The warranties set forth in this paragraph 17 are the sole and exclusive warranties made by Seller. Seller disclaims any implied warranties, including but not limited to any implied warranties of merchantability and fitness for a particular purpose.

18. Replacement Costs.

Buyer shall not be entitled to recover replacement costs if it chooses to procure replacement Goods and/or Services from another source.

19. Nuclear Liability.

The Parties acknowledge and agree that for the Work anticipated to be performed under the Agreement that Buyer remains responsible as the designer/design authority/operator and/or owner of any nuclear power plant at which any Goods and/or Services under the Agreement are incorporated.

In addition to the preceding, should any Goods and/or Services furnished hereunder be incorporated into a nuclear facility, Buyer agrees to include in any agreement with any operator of any nuclear facility incorporating the Goods and/or Services indemnity and hold harmless language in favor of Paragon Energy Solutions, LLC, against any and all claims, actions, suits or proceedings and any expense in connection therewith (including any expense of litigation and/or settlement), arising out of, related to or based upon injury to or death of persons or damage to, contamination or loss of, or loss of use of any property wherever located (including that of the nuclear facility owner/operator), due to nuclear energy hazard, nuclear incident and/or precautionary evacuation resulting in public liability as defined in and subject to:

- i) where applicable the Atomic Energy Act of 1954 as amended (the "Act"), its implementing regulations as well as any financial protection required by the Act;
- ii) or analogous terminology and equivalent law of the country other than the USA where a nuclear installation is located and occurring in the course of, or arising out of, or resulting from the performance of the Agreement.

20. Governing Law.

The Agreement shall be governed by and construed in accordance with the laws of the state of Texas, without reference to its choice of law rules.

21. Dispute Resolution.

The Parties agree that the appropriate forum for resolution of any dispute pertaining to the Agreement shall be a court of competent jurisdiction as follows:

Any such litigation shall be brought and prosecuted exclusively in Federal District Court; with venue in the United States District Court for the Northern District of Texas, Fort Worth Division, in Fort Worth, Texas.

Provided, however, that in the event that the requirements for jurisdiction in the Federal District Court for the Northern District of Texas, Fort Worth Division, in Fort Worth, Texas, are not present, such litigation shall be brought exclusively in the District Court of Tarrant County of the State of Texas.

22. Import and Export Laws and Regulations.

Seller agrees that it shall comply with all laws and regulations in the United States, or any other relevant jurisdiction, relating to the import and export of nuclear materials, technology or information, tangible or intangible, and shall obtain any relevant licenses and give any relevant notices in relation thereto. Neither Party shall export, reexport, transfer or retransfer, directly or indirectly, any proprietary information that is subject to export control laws, except as permitted by such export control laws.

23. Amendments and Waivers.

No amendment or modification of the Agreement shall be valid unless evidenced by a written instrument executed by the Parties hereto. No action or failure to act shall be considered a waiver of any provision of the Agreement unless specifically set forth in a written instrument signed by both Parties. No waiver of any provision or condition of the Agreement shall be deemed a waiver of any similar or dissimilar provision or condition at the same time or any prior or subsequent time.

24. Change Orders.

Buyer may at any time request, in writing, changes through a proposed change order (“**Change Order**”), including but not limited to changes in any one or more of the following: (a) drawings or specifications; (b) additions to or deletions from quantities ordered; (c) delivery schedule; (d) method of shipment or packing; and (e) place of delivery. If any such request causes an increase or decrease in Seller’s cost of, or the time required for the performance of, any part of the Work, Seller will notify Buyer as to any such changes. For any proposed Change Order to be effective, both Parties must agree to the changes in a writing signed by authorized representatives of both Parties. If the Parties are unable to negotiate a duly executed Change Order, the original terms of the Agreement shall continue to apply through the Term of the Agreement.

25. Suspension.

Buyer may at any time request, in writing, to suspend the Work under the Agreement in whole or in part for up to six (6) months. Upon receipt of such notice, Seller shall discontinue Work to the extent specified in the notice.

In the event Buyer suspends the Agreement, or any part thereof, Buyer shall pay to Seller all amounts corresponding to Work, or any portion thereof, that was performed and not previously paid and all direct and indirect costs and expenses incurred by the Seller in the performance of the

Agreement up to the time of suspension, including work scheduled or ordered prior to suspension that cannot reasonably be cancelled, plus a reasonable profit margin.

To the extent the suspension causes an increase or decrease in Seller's cost of, or the time required for the performance of, any part of the Work, Seller may request an equitable adjustment via Change Order. Seller shall not be obligated to resume performance until such Change Order is signed by both Parties.

26. Invalid Provisions.

The invalidity or unenforceability of any provision of the Agreement shall not affect the other provisions hereof, and the Agreement shall be construed in all respects as if such invalid or unenforceable provision were replaced by a valid and enforceable provision as similar as possible to the provision replaced.

27. Electronic Signatures.

Each Party (a) has agreed to permit the use, from time to time and where appropriate, of signatures that are sent by fax, e-mailed PDF or other electronic means (an “**Electronic Signature**”) in order to expedite execution of the Agreement, the other documents contemplated by the Agreement and the transaction contemplated by the Agreement, (b) intends to be bound by said Party's respective Electronic Signature, (c) is aware that the other will rely on the Electronic Signature, and (d) acknowledges such reliance and waives any defenses to the enforcement of the Agreement or the document or matter in question based on the fact that a signature was sent electronically.

28. Entire Agreement.

The Agreement, including the Addendum, constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes any and all prior and contemporaneous agreements, negotiations, correspondence, undertakings and communications of the Parties, oral or written, with respect to that subject matter.