



**SCIENCE AND ENGINEERING SERVICES, LLC (SES)**

**GENERAL TERMS AND CONDITIONS FOR THE DOMESTIC SALE OF GOODS OR SERVICES**

**REV. 08/05/2021**

**("SES Terms and Conditions")**

**1. DEFINITIONS:**

The following terms shall have the meanings set forth below:

- a. "SES" means the entity providing Goods or performing Services under the Contract.
- b. "Buyer" means the entity to which SES is providing Goods or Services under the Contract.
- c. "Offer" means SES's proposal or bid provided in response to the Buyer's request for proposal/bid.
- d. "Goods" means the equipment, parts, materials, supplies, and other goods SES has agreed to supply to Buyer under the Contract.
- e. "Services" means the services SES has agreed to perform for Buyer under the Contract.
- f. "Contract" means either the contract agreement signed by both parties, or the purchase order signed by Buyer and accepted by SES in writing, for the sale of Goods or Services, together with these SES Terms and Conditions, SES's final quotation, the agreed scope(s) of work, and SES's order acknowledgement. In the event of any conflict, the SES Terms and Conditions shall take precedence over other documents included in the Contract.
- g. "SES Terms and Conditions" means these "General Terms and Conditions for the Domestic Sale of Goods or Services," together with any modifications or additional provisions specifically stated in SES's final quotation or specifically agreed upon by SES in writing.
- h. "Contract Price" means the price stated in the Contract for the sale of Goods and Services, including adjustments (if any) in accordance with the Contract.
- i. "Work" means all Goods and Services that SES has agreed to supply, and/or perform, for Buyer under the Contract.

**2. FORMATION AND ACCEPTANCE OF CONTRACT:**

- a. All Contracts must be in writing (English) and accepted subject to these SES Terms and Conditions. Additional or differing terms and/or conditions proposed by the Buyer or included in the Buyer's PO or attachments thereto are hereby objected to by SES and shall have no effect unless expressly negotiated and accepted in writing by SES as part of this Contract. No representations, warranties, guarantees, or other statements not contained in SES's Offer or acknowledgement of PO shall be binding on SES unless otherwise expressly accepted in writing by SES. SES will not commence Work or be bound by the Contract unless or until the Contract has been accepted in writing by SES. Buyer and SES are referred to herein individually as "Party" or collectively as the "Parties."
- b. No alteration or variation to the Contract shall apply unless agreed to in writing by the authorized representatives of both Parties.

**3. VALIDITY OF SES'S OFFER AND PRICES:**

- a. SES's Offer is open for acceptance within the period stated therein or, when no period is so stated, within thirty (30) days after its submittal date. Unless accepted by the Buyer in writing within the Offer validity period, SES reserves the right to withdraw or revise the Offer.

- b. The prices contained in SES's Offer are predicated upon the use of these SES Terms and Conditions for domestic sales of Goods and/or Services. The use of different or additional terms and conditions may result in higher prices. The prices apply only to the specific quantities, delivery schedules, and assumptions set forth in SES's Offer. If the Offer is made prior to SES's receipt and review of all applicable specifications and proposed contract documents, prices quoted in SES's Offer are subject to revision once missing documents are received.
- c. Unless otherwise specified in SES's Offer, prices do not include any freight-related charges, taxes, or duties, including, but not limited to, federal, state, or municipal excise, sales, use, or value-added taxes or import duties, if any. All such freight-related charges, taxes, duties, and interest and penalties thereon, if any, relating to the Services performed or the Goods produced or sold hereunder will be paid by Buyer, excluding taxes based upon SES's income and *ad valorem* property taxes of SES. Buyer shall reimburse SES upon demand for any such freight-related charges, taxes, duties, or similar charges that SES is required to pay or collect.

#### **4. TERMS OF PAYMENT:**

- a. Unless stated differently on SES's Offer, payment terms are net thirty (30) days from date of invoice, with no discount allowed for earlier payment. Buyer's payment(s) must be made in United States currency and must be accompanied by remittance detail containing at a minimum SES's invoice number and amount paid per invoice.
- b. SES may establish credit terms with Buyer through application to SES's credit and collections department. If applicable, SES may re-evaluate Buyer's credit terms at all times. If SES determines in its sole discretion that Buyer fails to qualify for credit terms at any time, then SES may modify or withdraw credit terms including, but not limited to, requiring advance payment, letters of credit, guarantees, or other security.
- c. If Buyer becomes delinquent in payments to SES, then SES has the right to (i) refuse to process any credit to which Buyer may be entitled; (ii) set off any credit or sum owed by SES to Buyer against any undisputed amount owed by Buyer to SES; (iii) withhold future deliveries to Buyer; (iv) declare Buyer's performance in breach and terminate the Contract; (v) make future deliveries on a cash-with-order or cash-in-advance basis; (vi) charge interest on delinquent amounts at a rate of 1.5% per month or the maximum rate permitted by law; (vii) charge storage or inventory carrying fees on Goods, if applicable; (viii) if Buyer is delinquent on a payment schedule, accelerate all remaining payments and declare the total outstanding balance then due and owing; or (ix) combine any of the above rights and remedies as may be permitted by applicable law. The above remedies are in addition to all other remedies available at law or in equity.

#### **5. DELIVERY SCHEDULE:**

- a. Unless otherwise stated in SES's Offer or agreed upon in writing by both Parties, all periods stated for delivery or performance schedules in SES's Offer are only estimates without legal force and not binding upon SES.
- b. The Agreed Upon Delivery Deadline begins when the Contract is executed by both Parties, but not before all details concerning the Contract's execution are clear, and SES has received all Buyer-supplied documents and authorizations, as well as any agreed upon advanced payment.
- c. A Buyer's modification request is only valid if accepted in writing by SES. In any case, such modification request extends the delivery deadline until SES has evaluated its feasibility and for the time necessary to manage the amended instructions.
- d. If the Buyer's acts or omissions (including but not limited to failure to promptly provide specifications, drawings, and other relevant information) delay or prevent SES from any of its contractual obligations, the delivery/completion period, and Contract Price shall be adjusted accordingly.
- e. If delivery is delayed due to any act or omission of Buyer, or if having been notified that the Goods are ready for dispatch, Buyer fails to take delivery or provide adequate shipping instructions, SES shall be entitled to store the Goods at Buyer's additional expense. Upon placing the Goods into storage, delivery shall be deemed complete, risk of loss or damage in the Goods shall pass to Buyer, and Buyer shall pay SES storage cost.

**6. PACKING AND PACKAGING:**

SES shall package the Goods and/or Services per SES's standard commercial packing and packaging methods. Any nonstandard or special packing or packaging requested by the Buyer shall be at the Buyer's sole expense.

**7. DELIVERY TERMS, TITLE, AND RISK OF LOSS:**

- a. Unless otherwise agreed by SES in writing, all domestic shipments shall be delivered FOB origin (Uniform Commercial Code) with risk of loss and title transferring to Buyer at SES's shipping dock.
- b. Title and risk of loss to Buyer-owned materials in SES's possession shall remain with the Buyer. SES shall not be liable for any loss or damage to Buyer-owned materials stored by SES unless caused solely by SES's negligence. Payment by SES for such loss or damage shall be limited to the direct manufacturing cost of the Buyer-owned materials (if Buyer or its affiliates manufactured it) or the replacement cost (if it was purchased from a third party), less the salvage value. The Buyer shall be responsible for insuring its materials against all loss or damage not caused solely by SES's negligence. SES assumes no liability for loss or damage to Buyer-owned materials caused by any force majeure circumstance as defined in Clause 8.a below.
- c. As collateral security for the full payment of the Contract Price of the Goods, Buyer hereby grants to SES a lien on and security interest in and to all of the right, title and interest of Buyer in, to and under the Goods, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a purchase money security interest under the Alabama Uniform Commercial Code. SES shall have the right to file any and all documents and take any action it deems necessary to fully establish protection of its security interest in the Goods; however, the failure of SES to file any such document shall not in any way act as a waiver of SES's right to such security interest.

**8. FORCE MAJEURE:**

- a. SES shall not be in default because of any failure in performance of the Contract if such failure arises out of causes beyond SES's reasonable control and without the fault or negligence of SES, including but not limited to an Act of God, war, armed conflict or terrorist attack, riot, fire, explosion, accident, flood, sabotage, epidemic, pandemic, quarantine; labor difficulties, strike, lockout or injunction; restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials; or telecommunication breakdown or power outage. In the event and to the extent a Force Majeure event prevents or delays Contract performance, the Contract shall be suspended, without liability, and the delivery deadlines shall be extended for the duration of the Force Majeure event and its impact.
- b. SES shall have no obligation to supply any Goods and/or Services unless and until it has received all necessary licenses or authorizations or qualified for general licenses or license exceptions under applicable import, export control, and sanction laws, regulations, orders, and requirements, as they may be amended from time to time (including without limitation those of the United States and the jurisdiction in which SES is established or from which the items are supplied). If for any reason any such licenses, authorizations, or approvals are denied or revoked, or if there is a change in any such applicable laws, regulations, orders, or requirements that would prohibit SES from fulfilling the Contract, or would in the reasonable judgment of SES otherwise expose SES and/or SES's affiliate(s) to a risk of liability under applicable laws, regulations, orders or requirements, SES shall be relieved without liability of all obligations under the Contract.
- c. If SES is delayed or prevented from performing its obligations because of this Clause for more than 180 consecutive calendar days, SES may terminate the then unperformed portion of the Contract by notice in writing given to the Buyer, without liability provided that Buyer shall be obliged to pay the reasonable cost and expense of any Work in progress and to pay for all Goods delivered and Services performed as at the date of termination.

## **9. CHANGE ORDERS:**

- a. The Buyer may at any time, by written notice to SES, request changes within the general scope of the Contract in any one or more of the following: (i) drawings, designs, or specifications; (ii) increased quantities; (iii) method of shipment or packaging; (iv) place of delivery; and (v) delivery schedule.
- b. Contract changes requested by Buyer and received by SES after formation and acceptance of the Contract shall not be considered effective unless and until a mutual agreement has been reached in writing between Buyer and SES concerning the effect of said changes on price, delivery, and/or other SES Terms and Conditions. SES is not obligated to perform any additional services not specified in the accepted Contract and has the right to refuse a change SES cannot meet. SES shall consider Buyer's change request and provide written acceptance or rejection thereof within ten (10) business days of receipt. SES's failure to accept or reject Buyer's requested changes in writing within ten (10) business days of receipt shall be deemed a rejection. Any acceptance or rejection decision shall be at the sole discretion of SES.
- c. If any such change causes an increase or decrease in the Contract Price, or the time required for, the performance of the Contract, an equitable adjustment shall be made in the Contract Price, the delivery schedule, or both, and the Contract shall be modified in writing accordingly.
- d. SES shall assert its right to an adjustment within thirty (30) days from the date of SES's receipt of the written change order request or such longer period as may be authorized in writing by Buyer.

## **10. TERMINATION:**

In addition to any remedies that may be provided under these SES Terms and Conditions, SES may terminate this Contract with immediate effect upon written notice to Buyer, if Buyer: (i) fails to pay any amount when due under this Contract and such failure continues for thirty (30) days after Buyer's receipt of written notice of nonpayment; (ii) has not otherwise performed or complied with any of these SES Terms and Conditions, in whole or in part; or (iii) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

## **11. LIMITATIONS OF LIABILITY:**

- a. IN NO EVENT SHALL SES BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT OR DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SES HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.
- b. IN NO EVENT SHALL SES'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS CONTRACT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO SES FOR THE GOODS SOLD HEREUNDER OR, AS TO SERVICES, FOR THE AMOUNTS PAID TO SES FOR SERVICES PERFORMED HEREUNDER.
- c. THIS LIMITATION OF LIABILITY IS A MATERIAL BASIS FOR THE PARTIES' BARGAIN AND REFLECTS THE BARGAINED-FOR ALLOCATION OF RISKS BETWEEN SES AND BUYER, WITHOUT WHICH SES WOULD NOT HAVE AGREED TO PROVIDE THE GOODS OR SERVICES AT THE CONTRACT PRICE.

## **12. WARRANTY:**

- a. SES warrants that subject to the other provisions of these SES Terms and Conditions, (i) all Goods and Services under the Contract shall be completed in a professional and workmanlike manner exercising reasonable care consistent with standards in the trade, profession, or industry; and (ii) Goods manufactured by SES shall conform with SES's specifications therefor and be free of defects in materials and workmanship.

- b. It is the Buyer's duty to inspect the delivered Goods or Services for substantial defects, completeness, and correctness immediately after delivery. The Buyer must immediately notify SES in writing with details of any obvious defects, but not later than thirty (30) days after delivery. In addition, the Buyer must notify SES in writing with details of hidden defects immediately after discovering such defects, but within the warranty period. Any failure to give notice in due time and due form results in approval of the Goods or Services.
- c. SES will correct either by repair or replacement, at SES's option, any non-conforming Service or defect of material or workmanship which appear in Goods manufactured by SES that develops within twelve (12) calendar months after delivery to the original Buyer (the "Warranty Period"), provided that SES's investigation and inspection disclose that such defect developed under normal and proper use. All Goods claimed defective must be returned to SES transportation charges prepaid and returned to Buyer with transportation charges collect unless SES's investigation proves the Good to be defective and SES is responsible for the defect. In such a case, SES will pay all reasonable transportation charges. Any warranty and liability for defects are subject to the Buyer fully complying with Buyer's contractual obligations and the requirements of Clause 12.b.
- d. SES makes no warranty concerning parts, components, or accessories not manufactured by SES. All Goods not manufactured by SES are sold only with the warranties provided by the manufacturer of Goods, if any.
- e. Notwithstanding the provisions of this Warranty, SES shall not be liable for any defects caused by: fair wear and tear; materials or workmanship made, furnished or specified by Buyer; misuse, abuse, or neglect; lack of proper maintenance; any modification or repair not previously authorized by SES in writing; nor the use of non-authorized software or spare or replacement parts.
- f. No claim of any kind concerning the conformance of the Goods and/or Services to the foregoing specifications (including any exceptions or waivers), whether or not based on negligence, warranty, strict liability, or any other theory of law, will be greater than SES's price of the non-conforming Goods or Services in respect to which such claim is made.
- g. THE FOREGOING CONSTITUTES SES'S SOLE WARRANTY AND BUYER'S EXCLUSIVE REMEDY FOR BREACH THEREOF. THESE WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, CONDITIONS, OR REPRESENTATIONS, WHETHER ORAL, WRITTEN, EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, WHICH ARE HEREBY DISCLAIMED AND EXCLUDED BY SES, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY. IN NO EVENT WILL SES BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR INDIRECT DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUES OR USE EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. NO EXTENSION OF THESE WARRANTIES WILL BE BINDING UPON SES UNLESS SET FORTH IN WRITING AND SIGNED BY SES'S AUTHORIZED REPRESENTATIVE.

### **13. EXPORT REGULATIONS:**

- a. The Parties shall comply with all applicable import and export control laws and regulations of the United States and the government of any country in which the Parties conduct business according to the Contract, including, without limitation, the United States Export Administration Regulation ("EAR"), the United States International Traffic in Arms Regulations ("ITAR"), the United States Office of Foreign Assets Control Regulations, the United States Foreign Trade Regulations, the United States Customs and Border Protection Regulations, or other U.S. agencies and shall retain documentation evidencing such compliance. Buyer will obtain import and export approvals (licenses, exemptions, or exceptions) as required for articles/hardware, services, and technical data delivered and will retain documentation evidencing compliance with those laws and regulations. Buyer agrees that it will not export or re-export Goods to any denied/restricted/embargoed countries, organizations, or persons designated by the United States Government unless otherwise authorized by the United States Government. Buyer further agrees that it will not sell, transfer, export, or re-export Goods for use in activities that involve the development, production, use or stockpiling of nuclear, chemical, biological weapons or missiles, nor use such Goods in any facilities that are engaged in activities related to such weapons. Buyer agrees to indemnify and hold SES harmless from any fines, penalties, or other liability imposed by any government

entity arising from any failure of Buyer to comply with such laws and regulations. Notwithstanding anything to the contrary herein, the Parties' obligations to adhere to import and export laws and regulations shall survive the expiration or termination of the Contract.

- b. SES agrees to provide the Buyer information and assistance as reasonably required to secure any required authorizations or licenses.
- c. If applicable, Buyer shall provide SES timely copies of valid end-user certificates or end-user statements and other official export documentation. SES shall be entitled to an equitable adjustment to SES's price and delivery schedule to cover additional costs and/or delays incurred due to the Buyer's failure to obtain import or export authorization in a timely manner.

**14. PATENT, COPYRIGHT, AND TRADEMARK INDEMNIFICATION:**

- a. SES makes no warranty against patent or other intellectual property infringement, statutory or otherwise. Subject to the limitations set forth in Clause 11, SES shall indemnify Buyer in the event of SES's direct infringement of any US patent, mask work, US copyright, US trademark, or any other US intellectual property right ("Covered IP Right") existing at the date of the Contract's formation arising from the use or sale of any Good furnished by SES to Buyer under the Contract to the extent that:
  - I. the infringing Goods are the design of SES and not made in accordance with the drawings, samples, or manufacturing specifications designated by Buyer, and provided that
  - II. Buyer notifies SES in writing as soon as reasonably practicable of any claim made or to be made or of any action threatened or brought against Buyer, and
  - III. Buyer permits SES, at SES's expense, to conduct and control any litigations and negotiations to settle the claim and reasonably cooperates with SES to defend any such claim and related settlement negotiations.
- b. In the event of final adjudication by a court of competent jurisdiction that its Good infringes or violates any third party Covered IP Right, SES shall at its sole option and its own expense, either: (i) obtain for Buyer a license to continue using the Good; or (ii) replace it with a substantially equivalent non-infringing Good; or (iii) modify it, so it becomes non-infringing but substantially equivalent; or (iv) if none of the above is reasonably available, SES may require Buyer to return the infringing Goods and all rights thereto, and refund to Buyer the price originally paid by Buyer to SES for the infringing Good.
- c. SES shall have no obligation under this provision to the extent any claim is based on: (i) infringement resulting from changes or modifications made to or from the Goods by a party other than SES or SES's authorized representative; (ii) the combination, operation, or use of the Goods with equipment, devices, software, or data not supplied by SES; (iii) the use or installation of the Goods in an environment for which the Goods were not intended; (iv) Buyer's failure to use updated or modified versions of the Goods provided by SES; (v) the negligent acts or omissions or willful misconduct of Buyer, its employees, representatives, or affiliates; or (vi) any settlements of a claim, suit or proceeding made without SES's prior written consent.
- d. This Clause, and the indemnification provided herein, does not apply to any Goods manufactured, sold, or used, in whole or in part, pursuant to Buyer's specifications, designs, drawings, or other technical data. THE FOREGOING CONSTITUTES THE ENTIRE LIABILITY OF SES AND BUYER'S SOLE AND EXCLUSIVE REMEDY CONCERNING ANY CLAIMS OF INFRINGEMENT OF ANY THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS.
- e. In the event any Good to be furnished under the Contract is to be made in accordance with drawings, samples, or manufacturing specifications designated by Buyer, Buyer agrees to defend, indemnify and hold SES harmless to the same extent and subject to the same requirements as SES's indemnification of Buyer as set forth in 14.a through 14.d above.

**15. CONFIDENTIAL AND PROPRIETARY INFORMATION:**

- a. These conditions of sale do not supersede any confidentiality agreement executed by Buyer and SES that otherwise applies to Goods and Services delivered in connection with the Contract. In the absence of such confidentiality agreement, each Party may use the other Party's proprietary and confidential information ("Proprietary Information") only for purposes directly relating to the Contract. Furthermore, each Party (the "Receiving Party") shall keep confidential and not directly or indirectly disclose to any third party any Proprietary Information, which is conspicuously marked or identified in writing as confidential or proprietary information, furnished to it by the other Party (the "Disclosing Party") without the Disclosing Party's prior written consent.
- b. "Proprietary information" includes, but is not limited to, business, financial, statistical, and commercial information, pricing, technical data and information, formula, analyses, trade secrets, ideas, methods, processes, know-how, computer programs, designs, datasheets, schematics, configurations, and drawings. Proprietary Information does not include information that (i) is or becomes generally available to the public other than because of disclosure by Receiving Party, (ii) was available on a non-confidential basis before its disclosure by Disclosing Party, (iii) is or becomes available to Receiving Party on a non-confidential basis from a source other than Disclosing Party when such source is not, to the best of Receiving Party's knowledge, subject to a confidentiality obligation with Disclosing Party, or (iv) was independently developed by Receiving Party without reference to the Confidential Information, and Receiving Party can verify the development of such information by written documentation.

**16. NOTICES:**

All notices, requests, consents, claims, demands, waivers and other communications hereunder (each, a "Notice") shall be in writing and addressed to the Parties at the addresses set forth on the face of the Contract or to such other address that may be designated by the receiving Party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Contract, a Notice is effective only (a) upon receipt of the receiving Party, and (b) if the Party giving the Notice has complied with the requirements of this Clause.

**17. WAIVER:**

No Contract provisions shall be waived by any act or knowledge on the part of the Parties, except by a written instrument signed by a duly authorized representative of both Parties. Either Party's failure or delay to enforce any of the Contract provisions shall not be construed as a continuing waiver of any provisions hereunder, nor shall any such failure prejudice the right of either Party to take any action in the future to enforce any provisions hereunder.

**18. ASSIGNMENT:**

Buyer shall not assign any of its rights or delegate any of its obligations under this Contract without the prior written consent of SES. Any purported assignment or delegation in violation of this Clause is null and void. No assignment or delegation relieves Buyer of any of its obligations under this Contract.

**19. COMPLIANCE WITH LAWS:**

- a. SES shall take reasonable steps to ensure the Goods and/or Services are in conformity with applicable laws and regulations; however, Buyer acknowledges that the Goods and/or Services may be used in various jurisdictions for various applications subject to disparate regulations and therefore that SES cannot warrant compliance with all applicable laws and regulations. SES disclaims any representation or warranty that the Goods and/or Services conform to federal, state or local laws, regulations, ordinances, codes or standards, except as expressly set forth by SES in writing. Buyer shall comply with all applicable laws, regulations and ordinances. SES may terminate this Contract if any governmental authority imposes antidumping or countervailing duties or any other penalties on the Goods or Services.

- b. The Goods and/or Services covered by a quotation/order may be subject to various laws including U.S. and foreign export controls. SES is committed to complying with all relevant export laws. If the Goods and/or Services are of United States origin and are being exported from the United States, the following statement applies, "These Goods and/or Services were exported from the United States in accordance with the Export Administration Regulations. Diversion contrary to U.S. law is prohibited." Buyer is responsible for applying for export licenses, if required, based on end user or country of ultimate destination. SES's obligations are conditioned upon Buyer's compliance with all U.S. and other applicable trade control laws and regulations. Buyer shall not trans-ship, re-export, divert or direct Products other than in and to the ultimate country of destination declared by Buyer and specified as the country of ultimate destination on SES's invoice. Buyer agrees to indemnify and hold SES harmless from any and all costs, liabilities, penalties, sanctions and fines related to non-compliance with applicable export laws and regulations.
- c. Buyer represents and warrants that it is not subject to any trade sanctions imposed by the U.S., EU and/or UN and that it is in compliance and shall comply with all applicable laws and regulations relating to trade restrictions and/or export controls (including trade sanctions imposed by the US, EU and/or UN) with respect to Goods and/or Services sold hereunder, and shall provide evidence of compliance with the foregoing as SES may reasonably request from time to time.
- d. Buyer represents and warrants that it is in compliance and shall comply with all applicable anti-bribery and anti-corruption laws, including the U.S. Foreign Corrupt Practices Act, and has not, directly or indirectly, offered, paid, promised, or authorized the giving of money or anything of value to any government official for the purpose of influencing any act or decision of such government official. Buyer is not on, nor is Buyer associated with any organization that is on, any list of entities maintained by the United States Government that identifies parties to which the sale of Goods and/or Services is restricted or prohibited.

## **20. DISPUTE RESOLUTION:**

If any dispute arises out of or relating to the Contract or its breach, representatives of the Parties shall meet promptly in a good faith effort to resolve such dispute through negotiations. If the Parties do not resolve the dispute within thirty (30) days after the representatives' first meeting, then either Party, by written notice to the other, may request mediation. Any mediation under this Clause shall be conducted according to the laws and regulations of the State of Alabama, USA, at a neutral site in Madison County, AL, USA, selected by the mediator that is reasonably convenient to both Parties. Each Party to mediation shall bear its own expense for mediation, and the Parties shall equally share the fees and costs of the mediator. If mediation is not timely requested or does not end in a resolution of the dispute, then the Parties agree to finally and exclusively resolve the dispute through binding arbitration before a mutually acceptable arbitrator in Madison County, AL, USA, in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The arbitrator may only award or grant to the Parties such remedies as a court of competent jurisdiction could award or grant within the locality where the arbitration occurs and may not award consequential or punitive damages. In addition, the arbitrator may, in appropriate circumstances, provide injunctive relief. Judgment upon the award rendered by the arbitrator may be entered in any court having proper jurisdiction. The prevailing Party shall be entitled to compensation for the expense of the arbitration, including, but not limited to, the award of all reasonable attorneys' fees and costs. Notwithstanding the foregoing, SES shall not be required to pursue mediation or arbitration under this Clause in connection with claims brought by SES against Buyer arising out of Buyer's failure to pay for any Goods or Services in whole or in part.

## **21. GOVERNING LAW AND JURISDICTION:**

The Contract, including these SES Terms and Conditions, is governed by and construed exclusively under the laws of the State of Alabama, USA. Both SES and Buyer hereby consent exclusively to the jurisdiction and venue of (i) The Courts of General Jurisdiction of the State of Alabama in the County of Madison, or (ii) The Federal District Court for the Northern District of Alabama, in any lawsuit involving the Contract. SES and Buyer hereby agree that the above sets forth the sole and exclusive jurisdiction and venue in which any lawsuit involving the Contract may be filed.



**22. SURVIVAL:**

Any Clause or provision herein that by their nature should apply after any termination or expiration of the Contract (including, but not limited to, Limitations of Liability, Warranty, Export Regulations, Confidential and Proprietary Information, Compliance with Laws, Dispute Resolution, Governing Law and Jurisdiction, Survival) shall survive any termination or expiration of the Contract and continue in full force and effect.

**23. SEVERABILITY:**

If any provision of these SES Terms and Conditions is found by any court or other authority of competent jurisdiction to be invalid, illegal, or unenforceable, such provision shall be construed as severable and shall not in any way render invalid or unenforceable the remainder of the provisions which shall remain in full force and effect.

**24. HEADINGS:**

The headings contained herein are for reference purposes only and shall not affect the meaning or interpretation of these SES Terms and Conditions.