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WHITING CORPORATION PROPOSAL NO.:

TERMS & CONDITIONS

THIS AGREEMENT IS MADE BY AND BETWEEN WHITING CORPORATION ("SELLER") AND ("PURCHASER") THIS _____TH DAY OF _____, 20__.

The parties agree that the following terms and conditions shall govern any order which may result from this proposal.

- 1. ACCEPTANCE OF TERMS:** THIS PROPOSAL CONSTITUTES AN OFFER SUBMITTED BY WHITING CORPORATION ("SELLER") FOR THE SALE TO PURCHASER OF THE EQUIPMENT ("EQUIPMENT") OR SERVICES ("SERVICES") DESCRIBED HEREIN. Acceptance of this offer shall signify acceptance of the express terms of the offer contained in these General Proposal Conditions. Any proposal for additional or different terms or any attempt by Purchaser to vary, in any degree, any of the terms in Purchaser's acceptance by purchase order or otherwise shall not operate as a rejection of this offer to sell unless such variance is in the terms of the description, quantity, price, or delivery schedule of the Equipment or Services, but shall be deemed a material alteration thereof, and this offer shall be deemed accepted by Purchaser without said additional or different terms. If this document shall be an acceptance of a prior offer by Purchaser, such acceptance is expressly conditional on Purchaser's assent to any additional or different terms contained herein. This Offer is submitted for consideration and acceptance within thirty (30) days from its date.
- 2. PRICES AND TAXES:** Unless otherwise stated herein, all sales shall be F.O.B. Seller's shipping point(s), and all prices specified herein are exclusive of any costs for sales, use, value added, excise, employment, gross receipts, business and occupation or similar present or future taxes imposed by any governmental body on the sale, delivery, erection/installation, use or other handling of the Equipment or in connection with any transactions contemplated by this Proposal. If any such taxes are incurred, Purchaser shall reimburse Seller the amount of such tax, including any fine, penalty, or interest thereon incurred as a result of Purchaser's instructions or lack thereof, immediately upon presentation of Seller's invoice thereof. Upon request, the Purchaser shall supply Seller with copies of evidence of payment of or exemption from any taxes, levies or duties which the Purchaser is obligated to pay.
- 3. WARRANTY:** Seller warrants that the Equipment, insofar as it is of Seller's or Seller's subcontractor's manufacture, will be free from defects in material and workmanship for a period of twelve (12) months from date of shipment by Seller ("Warranty Period") , "exclusive of typical wear, consumable items, improper use and improper maintenance." All equipment manufactured by Seller's equipment suppliers carries only the warranty given by the supplier, which warranty Seller, at its option, will either assign or will make available to Purchaser without recourse to Seller. Seller's obligation under this warranty, and Purchaser's exclusive remedy for the breach thereof, shall be limited to Seller's correction of any defect in material or workmanship by, at Seller's option, (a) providing repair or replacement part(s) during normal business hours for Equipment F.O.B. Seller's factory, or (b) repairing any defective part(s); provided, however, that Purchaser shall be responsible for providing Seller with free and safe working access to said defective part(s) during normal business hours. In no event, however, is Seller's obligation to exceed the replacement cost of the defective part(s) F.O.B. Seller's factory. Seller shall have the option of requiring the return of any defective part, transportation prepaid, before recognizing any claim. This warranty shall not apply to any Equipment which has been, in Seller's opinion, (1) repaired or altered outside Seller's factory in any manner so as to affect its serviceability or proper operation; (2) subjected by persons other than Seller to improper handling, erection/installation, operation, lubrication, maintenance, repair or alteration; (3) repaired or maintained with non-Whiting parts; or (4) subjected to misuse, negligence, accident, or deterioration occasioned by chemicals, corrosion or erosion.

"Seller reserves the right to refuse to honor warranty claims, for any equipment, where payment has not been made in accordance with the terms of the contract."

THE FOREGOING CONSTITUTES SELLER'S SOLE RESPONSIBILITY UNDER THIS WARRANTY AND AGREEMENT, AND PURCHASER'S EXCLUSIVE REMEDY FOR THE BREACH THEREOF, EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, THERE ARE NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

- 4. PAYMENTS:** If specified herein, Seller shall submit requests for Progress Payments in proportion to the percentage of Seller's costs incurred to date to anticipated total costs during performance of work at Seller's facility under any contract which ensues from this Offer. Purchaser shall honor Seller's Request for Progress Payments and shall effect payment in sufficient time for funds to be deposited in Seller's account within thirty (30) days from the date of Seller's Request for Progress Payment. In addition, Seller shall submit invoices for Equipment and/or Services which are shipped/performed. Purchaser shall effect payment of Seller's invoices for Partial Deliveries in sufficient time for funds to be deposited in Seller's account within thirty (30) days from the date of Seller's invoice. Notwithstanding the provisions of a contract between the Purchaser and other parties associated with this project, Purchaser shall not withhold any funds due Seller unless Seller's direct action or direct inaction has solely caused other parties to withhold funds specifically arising directly out of Seller's actions or inactions. In such event, Purchaser shall advise Seller in writing, and in sufficient detail, of the cause for such withholding and allow Seller to correct said failure. In no event shall payment of retainage funds exceed ninety (90) days from date of shipment.

Seller shall assess a late charge of 1-1/2% per month for all payments exceeding thirty (30) days from the date of invoice and reserves the right to assert a lien against Purchaser/Owner if funds remain unpaid.

Seller further reserves the right to offset against this Order or any future Orders any unpaid amounts due them for work performed.



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5. **BREACH OF CONTRACT:** Should Purchaser fail to make timely payment of Seller invoices or otherwise breach the terms cited herein, Seller shall have the right to suspend performance and/or terminate all work upon written notice to the Purchaser. If Purchaser corrects the breach within ten (10) days following the suspension/Termination notice, Seller will resume work and shall be entitled to recover any additional costs, to include reasonable profit resulting from this work stoppage as well as an extension of the required delivery date. Seller shall be entitled to reimbursement of costs incurred to date in accordance with Article 10-Cancellation if Purchaser fails to correct the breach within the stated time. In the event of a breach of the contract by Purchaser, and in addition to any other remedies available to Seller, Purchaser hereby agrees to pay, to the fullest extent permitted by law all costs and expenses including attorneys' fees which Seller may reasonably incur in any legal proceedings, formal or informal, to enforce the contract, provided that Seller is the prevailing party in such proceedings.
6. **SECURITY INTEREST:** At Seller's request, Purchaser shall (a) grant Seller a security interest in Equipment until Seller receives full cash payment therefore, said security interest to be effected by Purchaser's execution of a security agreement covering Equipment on Seller's then current security agreement form, and filed in the State of Purchaser's headquarters and/or the place where the equipment is to be delivered, and (b) perform all acts necessary to perfect and maintain such security interest in Seller, including the execution of financing statements. Purchaser shall keep the Equipment free of all other liens and encumbrances, voluntary or involuntary, until Seller receives full cash payment therefore at which time title in Equipment shall then pass to Purchaser.
7. **PROSECUTION OF THE WORK-FORCE MAJEURE:** Seller shall not be responsible for losses or damages, to include consequential damages, to Purchaser (or to any third party) occasioned by delays in the performance, or nonperformance, of any of Seller's obligations, or by loss of or damage to Equipment, when caused directly or indirectly by acts of God, substantial changes in general economic conditions, acts of government or military authority, casualty, fire, riot, strikes or other labor difficulties, acts of Purchaser, failure of shipping facilities, inability to obtain labor, supplies, fuel, material, parts, energy, and transportation facilities, or any other cause beyond

Seller's control. In any such event of Force Majeure, the schedule for Seller's performance shall be extended for the period of time attributable to the delay, and Seller shall be entitled to an equitable price adjustment to include all additional costs necessitated by the delay plus overhead and reasonable contract profits thereon.

8. **HOLD HARMLESS:** PURCHASER SHALL INDEMNIFY, HOLD HARMLESS AND AGREE THAT IN NO EVENT SHALL SELLER BE LIABLE FOR ANY CONSEQUENTIAL, LIQUIDATED, SPECIAL, INDIRECT, OR INCIDENTAL DAMAGES OF ANY KIND OR CHARACTER, INCLUDING BUT NOT LIMITED TO: LOSS OF USE OF PRODUCTIVE FACILITIES OR EQUIPMENT, LOST PROFITS, LOST PRODUCTS, OR INCREASED COSTS OF PRODUCTION WHETHER SUFFERED BY PURCHASER OR ANY THIRD PARTY.
9. **SUSPENSION:** Purchaser may suspend performance of any contract resulting from this Offer only upon thirty day's written notice to Seller and upon Seller's written consent thereto, and only upon such terms as will indemnify and reimburse Seller for any and all work performed, Equipment delivered and costs incurred up to the date of suspension, for all costs to which Seller has become committed for fulfillment of the contract prior to suspension, and for all costs incurred as a direct result of the suspension, plus a reasonable profit on the foregoing.

The following provisions shall also apply if a suspension occurs under any contract resulting herefrom: (a) The final contract price shall be adjusted to account for any increase which may occur in any of Seller's costs, including but not limited to labor, materials, overhead, interest and profit in the period during which work has been suspended. (b) All costs of storage of material and Equipment made necessary by the suspension shall be for Purchaser's account. (c) Purchaser's account with Seller shall be made current. Any portion of the contract price which is due on the date of suspension, but has been retained by Purchaser for any reason whatsoever, shall be paid to Seller; such payment shall be credited to Purchaser by Seller upon recommencement of the work. (d) Warranty periods which apply to Equipment or to any of its components or parts, which are in effect on the date of suspension, shall not be interrupted or suspended in conjunction with the suspension of work. Purchaser expressly agrees to assume all consequences of the continued running of these warranty periods during the said suspension. In the event Notice to Resume Work is not received within sixty (60) days from the date of Suspension Notification, Seller shall have the right to cancel order and receive all cancellation costs due them as defined in Article 10. Cancellation.

10. **CANCELLATION:** The Purchaser may cancel any contract resulting from the Offer only upon written notice to Seller and only upon such terms as will indemnify and reimburse Seller for all loss or damage resulting therefrom, including, without limitation, Seller's direct costs incurred, overhead, reasonable contract profits, interest, costs and expenses to which Seller has become committed for fulfillment of the contract prior to cancellation, and reasonable costs and expenses of settlement with Seller's suppliers and subcontractors. Minimum cancellation charge shall be 10% of purchase price. No warranty will be provided on uncompleted work or components shipped to the Purchaser.
11. **STORAGE:** If Purchaser declines or is unable to take delivery at the time(s) specified in any contract resulting from this Offer, Purchaser shall have the responsibility to store the Equipment at its risk and for its account. If Purchaser declines or is unable to effect such storage, Seller will have the Equipment stored for the Purchaser at Purchaser's risk and account. In such events, the equipment will be considered shipped-in-place and Purchaser will pay all storage, handling and rehandling charges and will continue to make payment according to the payment terms contained in said contract.
12. **LAWS AND REGULATIONS:** In the event this transaction occurs outside of the State of Illinois, Seller does not assume responsibility for compliance with federal, state, or local laws and regulations. Any laws and regulations expressly referenced herein are those editions or versions thereof in effect on the date of this Offer. In the event of revisions or changes thereto subsequent to the date of this Offer, Seller assumes no responsibility or liability for compliance therewith. If Purchaser desires a modification to the Equipment as a result of a revision or a change in such laws or regulations, such modification shall be treated as a Change Order under Article 13 hereof and Seller shall be compensated for the additional costs incurred as a result of the revisions or changes.



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- 13. CHANGE ORDER:** The Purchaser may make changes, within the general scope of work included in this Offer, to the plans, Equipment or specifications included in this Offer by giving Seller written notice in a Change Order. Within thirty (30) days from Seller's receipt of such Change Order, Seller shall submit to Purchaser the changes required in the contract price and delivery schedule resulting from such Change Order. Seller shall have no obligation to proceed with work under such Change Order until Seller and Purchaser agree in writing to such change in the contract price and the delivery schedule. Purchaser understands that a request for a change in the scope of work may delay delivery until acceptance or rejection of such potential change order is finalized and formally incorporated in the contract document.
- 14. PURCHASER SUPPLIED DATA:** Purchaser acknowledges that Seller has relied upon all specifications, information, representation of operating conditions and other data supplied in writing by Purchaser to Seller in the selection of design of the Equipment and the preparation of this Offer.
- 15. DIFFERING SITE CONDITIONS:** In the event that actual operating conditions or other conditions differ or have been substantially changed from those represented by Purchaser and relied upon by Seller, Purchaser shall agree to reimburse Seller for all costs associated with the additional time, labor, and material, to include reasonable profit and freight, if applicable, which may occur as a result of these differing site conditions. Any warranties or other provisions contained herein which are affected by such conditions shall be null and void, unless otherwise mutually agreed upon in writing.
- 16. ASSIGNMENT AND SUBCONTRACT:** Purchaser shall not assign any contract resulting from this Offer without the advance written consent of Seller. Seller reserves the right to subcontract certain portions of the work covered by said contract.
- 17. PATENTS:** A. Seller assumes the expenses involved in and shall have the option to direct the defense of suits brought in the United States on the charge that the Equipment manufactured by Seller and used in the manner for which it was sold constitutes in and of itself an infringement of a United States Patent, in an amount not to exceed the aggregate purchase price of the items or parts thereof found to directly infringe any such patent. If, as a result of any such suit, the use of the Equipment is enjoined, Seller shall have the exclusive option to procure for Purchaser the right to use the Equipment, modify it so that it no longer infringes, replace it with non-infringing Equipment, or refund the purchase price of the Equipment and remove the Equipment.
- B. Seller's obligations under Article 17A above are conditional upon Purchaser's notifying Seller promptly in writing when such suit is brought or threatened and giving Seller full authority, information and assistance for the defense of the suit.
- C. Seller's obligations under Article 17A above do not apply to any item, or part thereof, manufactured to Purchaser's specifications, or to any product manufactured by use of Seller's Equipment and, as to such item or product, Seller assumes no liability for patent infringement. Except as herein expressly set forth, Seller does not assume any other obligation or liability in connection with patent infringement suits brought against Purchaser or the user of the Equipment.
- 18. DELIVERY/FREIGHT RATES:** If shipment is to be made by commercial carrier, Seller's delivery of the Equipment to such carrier at point of shipment shall constitute delivery to Purchaser, and Purchaser shall assume all risk for subsequent loss or damage. Any increases or decreases in freight charges between the effective date of this Offer and the date of final shipment will be for Purchaser's account.
- 19. CONFIDENTIAL INFORMATION:** All drawings, data, specifications and information supplied by Seller to Purchaser relating to the design, erection/installation, operation, and maintenance of the Equipment are the proprietary and/or confidential materials or information of Seller and title shall remain the sole and exclusive property of the Seller. Purchaser shall not use such materials or information for any purpose other than in its consideration of the Equipment for purchase, proper operation, and maintenance, and shall not disclose such material or information to others or allow others to use such material or information without the advance written permission of Seller.
- 20. LIMITATION OF LIABILITY: SELLER'S RESPONSIBILITY FOR ANY AND ALL CLAIMS, DAMAGES, LOSSES, OR LIABILITIES ARISING OUT OF SERVICES OR THE SUPPLY OF EQUIPMENT AND/OR PARTS, IN THE AGGREGATE SHALL NOT EXCEED THE LESSER OF THE PURCHASE PRICE OF THE EQUIPMENT AND PARTS OR SERVICES OR ONE MILLION DOLLARS; AND EXCEPT IN THE CASE OF PERSONAL INJURIES OR DAMAGE TO THE PROPERTY OF UNAFFILIATED THIRD PARTIES SELLER SHALL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER, INCLUDING BUT NOT LIMITED TO LOSS OF USE OF PRODUCTIVE FACILITIES OR EQUIPMENT, LOST PROFITS, LOST PRODUCT, INCREASED COSTS OF PRODUCTION OR OTHER ECONOMIC DAMAGES IRRESPECTIVE OF WHETHER CLAIMS OR ACTIONS FOR SUCH DAMAGES ARE BASED UPON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.**
- 21. INSTALLATION SERVICES:** Purchaser shall have the responsibility for and shall properly erect/install the Equipment at its own expense. Unless otherwise stated in a contract resulting from this Offer, no erection/installation services are included in the contract price. Upon execution of an appropriate supplementary agreement, Seller will furnish a Service Engineer, who will remain in Seller's general employ, but be subject to Purchaser's direction and control, to advise Purchaser in the erection/installation of the Equipment. In such event, Purchaser shall furnish all tools, labor and supervision, and shall pay for the Service Engineer's services, including traveling time, at Seller's then prevailing rate, plus all traveling and living expenses.



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- 22. INITIAL OPERATION SERVICES:** Unless otherwise stated, initial operation services are not included in the price of Equipment. Upon execution of an appropriate supplementary agreement, Seller will furnish an Operating Engineer, who will remain in Seller's general employ, but be subject to Purchaser's direction and control, to assist in the initial operation of the Equipment. Purchaser shall pay for the Operating Engineer's services, including travel time, at Seller's then prevailing rate, plus all traveling and living expenses.
- 23. INSTRUCTIONS TO USERS OF EQUIPMENT:** Purchaser shall be responsible for ensuring that all individuals who are to operate or work around the Equipment, whether or not they are employed by Purchaser, read, understand and follow all of Seller's instructions and warnings relating to proper operation of the Equipment. Such instructions and warnings will be identified in Seller's operation, maintenance and repair manuals, in its drawings, on its warning signs attached to the Equipment or in other of its documentation provided to Purchaser.
- 24. CONTRACT INTERPRETATION:** A. Any contract resulting from this Offer shall be construed, performed and enforced in accordance with the laws of the State of Illinois.

B. The terms and conditions herein and all communications, descriptions, drawings, specifications, and other documents attached hereto and specifically incorporated herein, shall upon the formation of a binding contract in accordance with Article 1, be deemed to constitute the sole and entire agreement and contract between the parties as to the subject matter hereof. No changes in or modifications to said agreement shall be binding upon the parties or either of them, unless they shall be in writing and signed by both parties.
- 25. GOVERNING LAW:** Seller and Purchaser acknowledge that the transaction which is the subject matter of this Order bears a reasonable relation to the State of Illinois and agree that the Law of Illinois, including the Uniform Commercial Code, as codified in Chapter 26 of Illinois Revised Statutes, shall govern their rights and duties with respect to the contract including the construction, performance, and enforcement of the contract.
- 26. CONSENT TO JURISDICTION:** Purchaser hereby consents to the exclusive jurisdiction of state and federal courts located in Chicago, Illinois for any action brought by either party with respect to claims relating to or arising out of the transaction which is the subject of this Offer.
- 27. ATTORNEYS' FEES:** In the event of a breach of the contract by Purchaser, and in addition to any other remedies available to Seller, Purchaser hereby agrees to pay, to the fullest extent permitted by law, all costs and expenses including attorneys' fees which Seller may reasonably incur in any legal proceedings, formal or informal, to enforce the contract, provided that Seller is the prevailing party in such proceedings.

ACCEPTED AND AGREED TO BY PURCHASER

(Purchaser)

WHITING CORPORATION

By: _____

By: _____

Title: _____

Date: _____