



## TERMS AND CONDITIONS OF PURCHASE

**1. ACCEPTANCE.** The purchase order together with the following terms and conditions (the "Order") constitute Utimaco's offer to purchase the goods and/or services that are itemized on the purchase order form. Supplier's processing or approval of the Order shall constitute the acceptance of all the terms and conditions set forth herein. Any variation or addition to the terms and conditions herein shall not be binding upon Utimaco unless expressly agreed to in writing by Utimaco. These terms and conditions apply to Utimaco Inc. or its affiliate or subsidiary company including GEOBRIDGE Corporation (individually and collectively "Utimaco"), and Supplier acknowledges that Utimaco Inc. and any of its affiliate or subsidiary companies may use, or benefit from the use of any services performed by Supplier hereunder.

**2. GOVERNING TERMS.** In the event that Utimaco has entered into a contract ("Agreement") with Supplier which is in force and which enables Utimaco to place Orders with Supplier under its terms and conditions, then the terms and conditions contained in the Order shall be superseded by the terms and conditions of the Agreement. The Order placed by Utimaco shall then be deemed to incorporate by reference the terms and conditions of the aforementioned Agreement, in place of the terms and conditions of the Order.

**3. INSPECTION.** All goods and services provided hereunder shall be subject to inspection and initial tests by or on behalf of Utimaco, within a reasonable time after the goods and services are delivered to Utimaco. In the event that such inspection reveals any damage to, or nonconformity with, or error, shortage or deficiency in the goods and services, Utimaco shall not be deemed to have accepted the goods and services, and shall notify Supplier of the claimed damages, errors, shortages, nonconformities or deficiencies. Utimaco shall incur no liability to pay for such defective or nonconforming goods or services and shall be entitled to return any defective or nonconforming goods to Supplier, or dispose of such goods, if requested by Supplier, all at Supplier's expense. Payment prior to acceptance does not constitute acceptance.

**4. NON-CONFORMING GOODS.** Shipment of non-conforming goods is a breach of contract by Supplier unless Supplier reasonably notifies Utimaco that the goods were shipped only as an accommodation and such goods are accepted by Utimaco in writing on that basis.

**5. REJECTIONS.** Notwithstanding any other provision of the Order, if any of the goods or services are found at any time to be defective in material or workmanship or otherwise non-conforming to the requirements of the Order in the sole judgment of Utimaco, in addition to any other rights which it may have hereunder, or at law or in equity, Utimaco shall have the right to reject and return said goods or services at Supplier's expense and risk.

**6. WARRANTIES.** Supplier represents and warrants that (i) all goods and services including all components thereof will be free from defects in material and workmanship; in conformity with applicable specifications; free from defects in design; and suitable for the intended purpose (ii) title to goods shall be delivered free and clear of all claims, liens, charges, encumbrances or security interests, (iii) goods and services provided hereunder shall not infringe upon any patent, copyright, trademark, trade secret or other proprietary rights of third parties. Supplier also represents and warrants that any services provided pursuant to the Order shall be performed in a professional manner by qualified personnel. In addition to any other rights and remedies Utimaco may be entitled to for any breach of the foregoing warranties, Supplier shall, at Supplier's expense, promptly make all adjustments, repairs and replacements necessary to correct any defects.

**7. INFRINGEMENT OF PROPRIETARY RIGHTS.** Supplier shall indemnify and hold Utimaco harmless from any suit, claim or proceeding brought against Utimaco alleging that Utimaco's use of any goods purchased under the Order or services provided constitutes an infringement or other violation of any patent, trademark, trade name, trade secret, copyright or other proprietary rights ("Infringement"). In the event an injunction is sought against Utimaco's use of any goods or services as a result of any such claim, Supplier shall either procure for Utimaco the right to continue use of the goods or services or replace or modify the goods or services so that they are no longer subject to a claim of infringement, provided such replacement goods or services shall substantially meet or exceed the specifications of the original as determined by Utimaco.

**8. INDEMNIFICATION.** Supplier shall indemnify, defend and hold Utimaco, its and their shareholders, officers, directors, employees, customers, and users of Supplier's goods and services harmless from and against any third party claims and against all causes of action, claims, costs, damages, liabilities, losses, and expenses (including reasonable attorneys' fees and court costs) paid or incurred in connection with claims from any alleged breach of warranty, breach of representation, breach of the Order, or any act of negligence, omission or error, willful misconduct or which otherwise



are alleged to be caused by Supplier's goods, its agents, employees, affiliates or subcontractors as it relates to the services, to the goods or the delivery or installation thereof under the Order.

**9. PRICE AND PAYMENT.** Supplier's invoice for the goods or services provided under the Order (i) shall reference the purchase order number, (ii) shall only be valid if it conforms to the pricing terms set forth on the attached purchase order unless Utimaco has executed an amendment hereto and (iii) shall be payable in accordance with the payment terms set forth on the face of the Order or net 60 days. Supplier agrees that it will follow Utimaco's directions to enable Utimaco's payment through the payment method selected by Utimaco, which may be an electronic funds transfer method. To the extent applicable, Supplier will only be reimbursed for expenses that are reasonable, warranted and cost effective, and have been approved in advance by Utimaco. For each item of expense for which reimbursement is requested, Supplier will submit substantiating documentation in accordance with Utimaco's policies. All approved business expenses and pass-through charges will be reimbursed at cost (as actually incurred), without mark-up.

**10. TAXES.** Supplier shall separately itemize and collect from Utimaco and shall remit to Supplier's appropriate tax authorities all applicable sales taxes as they relate to services performed or goods purchased under the Order in a timely manner prior to imposition of any interest or penalty. Utimaco shall be responsible for all sales taxes imposed with respect to transactions pursuant to the Order when Supplier adds such taxes to Supplier's invoice for the goods or services to which they relate. In no event will Utimaco be responsible for any taxes based on Supplier's net income or gross receipts, or other such taxes based on Supplier doing business in any particular jurisdiction.

**11. DELIVERY.** Delivery shall be made DDP (Incoterm 2010) at the delivery address shown on the purchase order, unless otherwise specified thereon. Risk of loss shall not pass to Utimaco until goods have been actually received by Utimaco or Utimaco's authorized representative. Deliveries are to be made at the dates and times specified on the Order. Time is of the essence for all deliveries. Deliveries are to be made in the quantities so specified on the Order. All items delivered shall be suitably packaged so as to be protected against hazards of shipment, storage, and exposure.

**12. SUPPLIER PERSONNEL.** Supplier warrants that Supplier's personnel, which shall include any of Supplier's agents or subcontractors, will not hold themselves out as employees or agents of Utimaco, nor seek to be treated as employees of Utimaco for any purpose, including claims of entitlement to fringe benefits provided by Utimaco, or for disability income, social security taxes or benefits, Federal unemployment compensation taxes, State unemployment insurance benefits or Federal income tax withholding at source. Supplier will file all applicable tax returns for all of its personnel assigned hereunder in a manner consistent with its status as an independent contractor of services; and Supplier will make all required payments and deposits of taxes in a timely manner. Upon written notice to Supplier, Utimaco shall be entitled to require Supplier to replace any individual who is assigned by Supplier to a project and bar such individual from performing any services for Utimaco if Utimaco determines in its reasonable discretion that the individual is unacceptable for any reason, including if the individual (i) is not compatible with Utimaco employees connected with the project, (ii) fails to comply with any applicable laws, ordinances, regulations, codes, or with Utimaco's security or other policies or procedures (whether or not specified herein), or (iii) fails (in Utimaco's sole determination) to perform assignments in a professional and competent manner. Supplier will comply with and will ensure that its personnel comply with (i) the requirements of all applicable laws, ordinances, regulations, codes and executive orders in connection with the provision of services under this Agreement; (ii) Utimaco's security and privacy policies (including, but not limited to, its information security standards); (iii) Utimaco's work place policies and procedures; and (iv) Utimaco's corporate policies designed to adhere to applicable laws, regulations or regulatory guidance (including any drug testing and background check requirements). Supplier will not assign, or retain on assignment, any person to provide services for Utimaco that Supplier knows or has reason to believe has a criminal background.

**13. EXCUSABLE DELAYS.** Neither party hereto shall be responsible for delays or failures in performance resulting from acts beyond its reasonable control and without its fault or negligence. The party claiming such excusable delay condition shall notify the other party as promptly as possible after such party becomes aware of the occurrence of such excusable delay condition, but in no event less than 48 hours after such excusable delay becomes known or should have become known. Notwithstanding the foregoing, Utimaco shall have the right, at its option, without any liability to Supplier, to cancel all or part of an Order, by written notice to Supplier, should any portion or portions of the Order be affected by such excusable delay.

**14. CHANGES.** Utimaco may at any time by signed written change order make changes as to where the goods are to be delivered, or the method of shipment or packing. If any such change causes an increase or decrease in cost or the time required for the performance of any part of the work under the Order, an equitable adjustment shall be made in the Order price or delivery schedule or both, and the Order shall be modified in writing accordingly. Any claim by



Supplier for such equitable adjustment under this clause must be asserted within twenty (20) days from the date of receipt by Supplier of Utimaco's notification of change hereunder.

**15. COMPLIANCE WITH LAWS.** Supplier represents and warrants that no applicable international, country, federal, state or local laws, ordinances, regulations or codes have been violated in the manufacture, procurement, or sale of any of the goods or services furnished, work performed or services rendered pursuant to the Order.

**16. CONFIDENTIAL INFORMATION.** Supplier will preserve as confidential all information related to the business of Utimaco and its customers or vendors that may be obtained from any source as a result of the Order. Supplier will not disclose to any third party or use for its benefit any information relating to the pricing, methods, processes, financial data, lists, apparatus, statistics, programs, research, development, trade secrets, hardware, software, screens, specifications, designs, drawings, intellectual property or related information of Utimaco, or its or their clients or customers or vendors, concerning past, present or future business activities of said entities. Supplier further agrees to maintain and cause its employees, agents and subcontractors to maintain the existence of the Order and the nature of its obligations hereunder strictly confidential and not to disclose any of the foregoing confidential information to any third party. Any data, information or materials furnished by or on behalf of Utimaco in connection with the Order shall be returned to Utimaco upon its request. If Supplier becomes aware of any threatened or actual violation of Supplier's obligations with respect to Utimaco's confidential information, Supplier shall immediately notify Utimaco thereof and Supplier will, and will assist Utimaco with its effort to, cure or remedy such violation.

**17. ASSIGNMENT.** Assignment of the Order or any interest therein or any payment due or to become due thereunder, without the written consent of Utimaco, shall be void, except that Utimaco may assign the Order or any rights acquired hereunder to any Utimaco affiliate or subsidiary upon notice to Supplier. After any such assignment, Supplier agrees that it shall only look to the Utimaco affiliate or subsidiary and not the entity originally named in the "Ship To/Sold To" field of the Order for any duties, obligations, liabilities or payments, which have been assigned.

**18. SUBCONTRACTING.** Supplier may not subcontract the performance of its obligations hereunder without the prior written consent of Utimaco. To the extent that Supplier subcontracts all or any of its obligations hereunder to a third party, Supplier shall be fully responsible for all acts and omissions of its subcontractors and consultants. Nothing in the Order shall be construed to create any contractual relationship between Utimaco and any subcontractor or consultant, nor any obligation on the part of Utimaco to pay or to see to the payment of any money due any subcontractor or consultant, except as may otherwise be required by law. Written approval of any subcontractor by Utimaco shall not constitute a waiver of any rights of Utimaco to reject goods or services, which are not in conformance with any of the specifications of the Order.

**19. PUBLICITY.** Supplier will not (i) disclose the identity of Utimaco as a customer or the existence, nature or terms of the Order, or (ii) use Utimaco's proprietary indicia, trademarks, service marks, trade names, logos, symbols or brand names, or otherwise refer to or identify Utimaco in advertising, publicity releases, or promotional or marketing publications, correspondence to third parties or other references or identifications.

**20. INDEPENDENT CONTRACTOR.** Supplier is an independent contractor and shall perform the Order on a non-exclusive basis and nothing contained herein shall be deemed to create any partnership, joint venture, or relationship of principal and agent between the parties hereto or any of their affiliates or subsidiaries, or to provide either party with any right, power, or authority, whether express or implied to create any duty or obligation on behalf of the other party.

**21. RIGHTS AND REMEDIES.** All remedies in the Order are cumulative and in addition to (not in lieu of) any other remedies available at law or in equity. Failure to exercise any right or remedy shall not be deemed a waiver or release thereof in the event of continuation or repetition of events or circumstance giving rise thereto. Utimaco may seek to obtain injunctive or other equitable relief without the posting of a bond or security to prevent or curtail any breach, threatened or actual, of Section 16. Utimaco shall in no way be liable for any indirect, incidental, special or consequential damages suffered by Supplier, its agents or subcontractors arising from its performance or non-performance of the terms of the Order.

**22. GOVERNING LAW.** The Order shall be governed by and construed in accordance with the laws of the state of California, as if the Order were made in that state for performance entirely within that state. The state and federal courts of the State of California shall be proper forums for any legal controversy between Utimaco and Supplier arising in connection with the Order, which courts shall be the exclusive forums for all such suits, actions or proceedings. IN ANY ACTION OR PROCEEDING COMMENCED PURSUANT TO THE ORDER, BOTH PARTIES IRREVOCABLY WAIVE TRIAL BY JURY.



**23. NON-SUBORNATION.** Supplier has not made or offered to make, and will not make or offer to make, any payments to, or conferred or seek to confer, any benefit or anything of value upon any person, including any employee, agent or fiduciary of Utimaco or any third party, with the intent to influence the conduct of Utimaco, such third party or any of their to do or omit to do any act in violation of their duties or responsibilities in employees, agents or fiduciaries, or with the intent to induce or reward any person connection with the Order.

**24. TERMINATION.** Utimaco may terminate the Order, in whole or in part, without liability, by written notice if Supplier fails to perform or comply with the terms of the Order. Utimaco may terminate any order for goods or services at any time immediately upon written notice provided to Supplier. The rights and remedies of Utimaco provided in this paragraph shall not be exclusive and are in addition to any other rights and remedies available at law or in equity. If the Order is terminated in whole or in part by Utimaco, Supplier shall be compensated proportionately to the extent that items have been accepted by Utimaco or services rendered prior to the effective date of termination less any deductions or set-off. Utimaco shall have no further liability whatsoever, and Supplier will provide Utimaco with reasonable termination assistance upon request.

**25. RIGHT TO AUDIT.** Utimaco reserves the right to audit and review, with reasonable notice to Supplier, Supplier's books, ledgers, supporting records and documentation and related procedures and controls which pertain to Utimaco's confidential information or any charges paid by Utimaco in connection with the Order.

**26. SET-OFF.** Utimaco shall be entitled at all times to set-off any amount owing at any time from Supplier to Utimaco against any amount payable at any time by Utimaco.

**27. DISCOUNTS.** In connection with any discount offered for prompt payment, time for earning the discount will be computed from the date the correct invoice is received and accepted at the office specified by Utimaco. In the event of electronic invoice transmission, the date used will be the date that the electronic file is received into Utimaco's electronic system, regardless of invoice date on file. For the purpose of earning any such discount, payment will be deemed to be made on the date it is issued by Utimaco, or transmitted electronically from Utimaco's account. Utimaco agrees that it shall promptly forward any such payment to Supplier via a mutually agreed upon payment method.

**28. COMPLETE AGREEMENT.** The Order together with all appendices, exhibits, schedules, attachments and addenda attached hereto, is the entire agreement and expresses the complete, exclusive, and final understanding of the parties with regard to the subject matter herein, and may not be altered, amended or modified except in a writing signed by the parties. A failure or delay of any party to the Order to enforce at any time any of the provisions of the Order or to require at any time performance of any of the provisions hereof, shall in no way be construed to be a waiver of such provisions of the Order.

**29. SURVIVAL.** The provisions of the Order which by their sense and context are meant to survive expiration or sooner termination of the Order shall so survive.