

CAERUS - SERVICE ORDER -TERMS AND CONDITIONS

THIS AGREEMENT CONTAINS PROVISIONS REQUIRING ONE PARTY TO BE RESPONSIBLE FOR THE NEGLIGENCE, STRICT LIABILITY OR FAULT OF THE OTHER PARTY

1. **DEFINITIONS.**

- 1.1. "Affiliate" means, with respect to a party, any individual, partnership, corporation or other entity directly or indirectly controlling, controlled by, or under common control with the party.
- 1.2. "Contract Price" means the compensation for goods and/or services that Caerus and Contractor agree will be paid to Contractor at the time and in the manner provided for in this Service Order.
- 1.3. "Contractor" means the party named in this Service Order as the provider of Work to Caerus.
- 1.4. "Contractor Group" means Contractor, its Affiliates and Subcontractors, and their respective directors, officers, employees, representatives and agents.
- 1.5. "Contractor Representative" means the individual designated by Contractor to represent Contractor in connection with all matters related to the Work.
- 1.6. "Defect" means an error, fault, or nonconformance with relevant specifications for material or equipment supplied, or goods sold, or in services provided by Contractor or its Affiliate or Subcontractor.
- 1.7. "Caerus" means Caerus Piceance LLC or any Affiliate identified in this Service Order.
- 1.8. "Caerus Policies" means the policies and practices as described on Caerus' website, <http://caerusoilandgas.com/policies/>, and such other policies and practices and amendments, as are identified by Caerus to Contractor from time to time.
- 1.9. "Caerus Group" means Caerus (as defined above), its Affiliates, co-owners at the Site, joint-venturers, partners, other contractors and subcontractors, and their respective directors, officers, employees, representatives and agents. In addition, for the avoidance of doubt, Caerus Oil & Gas LLC and its members, and its and their managers, officers, employees, representatives and agents, are all included as members of Caerus Group.
- 1.10. "herein"/"hereunder" means in/under this Service Order.
- 1.11. "include(s)"/"including" means include(s)/including without limitation.
- 1.12. "Law" shall mean any applicable statute, law (including common law), rule, regulation, requirement, ordinance, order, code, ruling, writ, injunction, decree, or other official act of or by any (i) federal, state, local, municipal, tribal or other government, (ii) governmental, regulatory or administrative agency, commission, body or other authority exercising or entitled to exercise any administrative, executive, judicial, legislative, regulatory or taxing authority or other taxing power, and (iii) any court or governmental tribunal.
- 1.13. "Representative" means the employee, director, officer, subcontractor, supplier, contractor, server, agent, or other representative of a party.
- 1.14. "Service Order" means the face of this Service Order, these Terms and Conditions and all specifications, drawings and attachments, exhibits, and documents referenced herein.
- 1.15. "Site" means the location at which Contractor is performing the Work for Caerus.
- 1.16. "Subcontractor" means a party that Contractor engages to perform all or a part of the Work.
- 1.17. "UTERO" means the Ute Tribal Employment Rights Office Ordinance 18-004 and all amendments, supplements, or revisions thereto and any replacement ordinance governing the employment of Ute tribal members.
- 1.18. "Warranty Period" means (i) in the case of goods, material or equipment supplied or sold, the period commencing on the date the goods, materials or equipment are received by Caerus or, if installed by Contractor, the date of such installation, and ending twelve (12) months thereafter, and (ii) in the case of services provided, the period commencing the date Contractor completes such services and ending twelve (12) months thereafter.
- 1.19. "Work" means the performance of work, provision of services and/or the supply or sale of goods, material or equipment by Contractor to Caerus from time to time under this Service Order.

2. **ACCEPTANCE.**

- 2.1. This Service Order shall become a binding agreement upon Contractor signing and returning a written acceptance of the Service Order or upon Contractor otherwise acknowledging acceptance of the Service Order or commencing performance of the Service Order, whichever occurs first. Upon acceptance Contractor shall supply the Work to Caerus in accordance with the Service Order.

3. **CONDUCT OF WORK.** Contractor shall perform the Work with due diligence and in a good and workmanlike manner to completion.

3.1. **Contractor's responsibilities.** Contractor, at its sole cost, risk and expense, shall:

- 3.1.1. Furnish the services of all personnel and supervisors required to complete the Work.
- 3.1.2. Supply all machinery, equipment, tools, materials, transportation, and supplies required to complete the Work. Contractor shall store all such machinery, equipment, tools, and supplies in an orderly manner in a designated storage area at the Site.
- 3.1.3. Provide all necessary safeguards, as are dictated by current industry standards, for the protection of all aspects of the Work and all persons involved in the Work.
- 3.1.4. Obtain and provide evidence to Caerus of all permits and licenses that are required to perform the Work, except for air permits and EPA permits.
- 3.1.5. Pay (1) any occupation or similar taxes and all sales, use or consumer taxes required; (2) all payroll taxes, and charges for social security, unemployment compensation, retirement pensions or benefits, that are required to be made with respect to the wages and salaries of persons employed by Contractor that are imposed by federal or state laws; and (3) for all labor and materials furnished by Contractor for the Work and the charges of all Subcontractors.
- 3.1.6. Take such other action as may be requested by Caerus and agreed to by Contractor. Contractor shall be responsible for Work performed, material and equipment supplied, and goods sold, by an Affiliate, Subcontractor, vendor or supplier of Contractor.
- 3.1.7. Upon termination of the Work, promptly return to Caerus any Caerus owned equipment, supplies and tools owned by Caerus and in Contractor's possession.

3.2. **Caerus' responsibilities.** Caerus shall:

- 3.2.1. Furnish materials and equipment, if any, which Caerus has agreed to furnish in this Service Order.
- 3.2.2. Provide the Site for the Work and access to the Site, with adequate space on or near the Site as may be necessary for Contractor's office, warehouse, materials storage and employee parking
- 3.2.3. Furnish necessary construction utilities.

4. **PAYMENT OF CONTRACT PRICE/INVOICING.** The Contract Price shall be due the later of (i) the date the Work is found to be satisfactory by Caerus, or (ii) forty-five (45) days after Caerus' receipt of an invoice for the Work. Contractor shall submit invoices no later than thirty (30) days following the completion of Work under this Service Order. Contractor shall submit itemized invoices and supporting documents to the address on the front of this Service Order marked to the attention of Accounting.

5. **WARRANTIES.**

- 5.1. For services provided, Contractor warrants for the Warranty Period that the services are in accordance with the specifications set forth in this Service Order; that they have been completed in accordance with applicable codes and in accordance with sound engineering practices.
- 5.2. For goods sold or material and equipment manufactured or supplied by Contractor or a Subcontractor, Contractor warrants good and merchantable title to such goods, material or equipment; that they will be free from Defects in material and workmanship during the Warranty Period; that they will conform to applicable specifications, and drawings set forth in this Service Order; or if not manufactured or produced to designs that Caerus furnishes, will be free from Defects in design during the Warranty Period. Contractor shall obtain and assign to Caerus, to the maximum extent possible, any and all manufacturer and supplier warranties applicable to such goods, material, and equipment supplied by Contractor Group.

- 5.3. Caerus may require Contractor, at no cost to Caerus, to redesign, resupply or otherwise correct a Defect or to otherwise remedy a breach of the foregoing warranties, whether or not the Work has been accepted.
6. **INSPECTION AND ACCEPTANCE.**
- 6.1. **Inspection and Testing of Components.** Contractor shall be responsible for inspecting and testing materials and equipment that constitute part of the Work. The Caerus Representative shall have the right at any time to inspect and test the Work at all places and stages of production and installation, without such action being treated as either discharging Contractor's responsibility or constituting acceptance of the work.
- 6.2. **Care, Custody and Control.** When Contractor determines that the Work or a discrete portion of the Work is ready for initial start-up operation or service, the Contractor Representative shall advise the Caerus Representative in writing and the care, custody or control of Work or such portion thereof shall pass to Caerus unless the Caerus Representative advises Contractor within five (5) days thereafter that the Work or the portion of the Work is not ready for initial start-up operation or service. Caerus shall assume risk of loss or damage from and after the date of transfer. Transfer of care, custody and control of the Work or a portion of it to Caerus pursuant to this Section 6.2 does not constitute acceptance pursuant to Section 6.3.
- 6.3. **Acceptance of the Work.** Within fifteen (15) days after either performance tests are completed or the transfer of care, custody and control of all of the Work to Caerus, the Caerus Representative shall advise Contractor in writing of any Defects in the Work Caerus has discovered. If the Caerus Representative does not give notice of Defects within the fifteen (15) day period, or if after Contractor corrects the Defects the Caerus Representative does not advise Contractor in writing within ten (10) days of the completion of such corrective action of any further Defects, Caerus shall be deemed to have accepted the Work; provided, however, that Contractor shall remain responsible for any Defects discovered during the Warranty Period pursuant to Section 5.
7. **PATENTS.** Contractor shall defend, indemnify and hold the Caerus Group harmless from and against any action, claim or demand, and all costs and expenses, including attorneys' fees, that arise in connection with any infringement or alleged infringement of U.S. Letters Patent, trademark or copyright laws with respect to the Work.
8. **USE OF NAME.** Contractor shall not use the name, logos or trade marks of Caerus or any of its Affiliates in any advertising, promotional material or publicity release (in any media whatsoever, including electronic or web-based) without Caerus' prior written consent.
9. **CONFIDENTIALITY.** Contractor shall, and shall cause its Representatives to, maintain in confidence all information received from Caerus and all information that pertains to Caerus received from any other source, and shall not disclose such information to any third party or use it for any purpose other than for the performance of this Service Order. Such confidence shall not apply to information: a) known to Contractor prior to obtaining it from Caerus; b) which, at the time of disclosure by Contractor, is in the public domain through no breach of these confidentiality obligations by Contractor; or c) obtained by Contractor from a third party not bound by confidentiality obligations to Caerus. Contractor shall comply with any other reasonable confidentiality requests of Caerus which may include execution of a confidentiality letter or agreement.
10. Contractor shall not use any Proprietary Information except in connection with the Work and shall not disclose any Proprietary Information or details of the Work to any third party except to those who are to perform the Work, and then only to the extent that such disclosure is required to perform the particular portion of the Work and only if the third party agrees in writing to keep such Proprietary Information confidential. Contractor shall take all reasonable precautions to safeguard any documents containing Proprietary Information which Caerus provides to Contractor under this Agreement. Contractor shall obtain the Caerus Representative's prior approval of any photographs and the text of any announcement or publication concerning the Work that either Contractor or any Subcontractor wishes to make.
11. **RISK OF LOSS; LIENS; CLEAN-UP; STORAGE.**
- 11.1. **Risk of Loss.** Contractor is responsible for and shall replace, repair or reconstruct and shall furnish such material, equipment or supplies that it furnishes for the Work which are lost, stolen, damaged or destroyed prior to the time that care, custody and control thereof are transferred to Caerus pursuant to Section 6.2, regardless of the cause of the loss, theft, damage or destruction.
- 11.2. **Liens.** Contractor shall make timely payments to all workmen, materialmen and Subcontractors and take all other action necessary to keep the Site and the Work free of third party liens. Caerus may withhold payment of amounts due to Contractor until it has been furnished with proof satisfactory to it that either all amounts have been paid or Contractor has provided for satisfactory payment. If a third party lien attaches to the Site of the Work or Caerus receives a notice of intent to file lien, Caerus may make any payment necessary to discharge the lien or potential lien, and it may offset the amount of the lien together with damages, court costs and reasonable attorneys' fees that it incurs because of the lien, potential lien, or its discharge, against any payment owing or to be owed to Contractor. Notwithstanding the foregoing, Caerus agrees that it will not pay any such claim or indebtedness as long as same is being actively contested by Contractor and Contractor has taken all actions necessary (including the posting of a bond when appropriate) to protect the property interests of Caerus and any other party affected by such claim or indebtedness. CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD THE CAERUS GROUP HARMLESS FROM AND AGAINST ANY THIRD PARTY LIENS ARISING OUT OF OR CONNECTED WITH THE WORK, INCLUDING COURT COSTS AND REASONABLE ATTORNEYS' FEES INCURRED AS A RESULT OF SUCH THIRD PARTY LIENS. RECEIPT OF PAYMENT FOR COMPLETED WORK SHALL NOT RELEASE CONTRACTOR FROM THIS OBLIGATION. Caerus may request Contractor to provide a list of the names and contact numbers for all Subcontractors used in performing the Work, in accordance with Section 22.
- 11.3. **Clean-up and Notice.** Contractor shall remove its material and equipment from the Site upon completion of the Work and shall clean up the Site in a good and workmanlike manner. If Contractor fails to remove its material and equipment and clean up the Site within thirty (30) days after completion of the Work at the Site, Caerus may remove the materials and equipment and clean up the Site at Contractor's expense and deduct its costs from sums that Caerus owes Contractor.
- 11.4. **Spills/Releases.** Contractor shall take all reasonable and necessary precautions to prevent any release to the environment of any pollutant or contaminant, including, but not limited to, any material or substance deemed to be E&P Waste, such as oil field fluids, chemical pollutants, contaminants, waste, petroleum waste, used oil, toxic substances, hazardous wastes and materials. Where applicable, Contractor shall have a current spill response plan in compliance with applicable Law and shall provide a copy of the plan to Caerus on request. Contractor shall be responsible for immediately responding to and remediating all spills on Caerus property or leases resulting from the Work. In the event of a liquid, solid or gaseous spill or release of an oil product or other hazardous material (e.g. methane, propane, crude or refined oil, condensate, produced water, etc.), regardless of the quantity released, Contractor shall immediately notify the applicable Caerus supervisor or contract representative and identify the steps implemented by Contractor to address the release. In the event of any release of any pollutant or contaminant into the environment caused by Contractor Group, Contractor shall be solely responsible for: (i) immediate cessation of the release, its clean-up, and disposal of all wastes resulting from or related to such release by Contractor; (ii) obtaining necessary governmental approval or permits; (iii) any losses arising out of or relating to such release.
- 11.5. **Storage.** Contractor is responsible for providing secondary containment structures to prevent chemical leaks or spills from contacting soils. Contractor shall ensure that all chemicals used in connection with the Work are stored in appropriate containers and that all chemical drums are stored on pallets or other suitable structures in accordance with storm water regulations, Caerus' spill prevention, control and countermeasure plan, and other applicable regulations. Contractor shall reimburse Caerus for costs incurred to repair storm water structures or to reclaim environmental damage resulting from or relating to the Work.
12. **Incident Reports.** Contractor shall give immediate verbal notification to the Caerus of all accidents, injuries, illnesses or other incidents, including, but not limited to, deaths, injuries requiring medical attention or hospitalization, fires, explosions, toxic release, spills and other events which may threaten public welfare (each individually, an "Incident," and collectively, "Incidents"). In addition, Contractor shall give immediate verbal notification of regulatory agency notices of violation, warning, or compliance inspections arising out of performance of the Work. Contractor shall furnish Caerus a copy Contractor's incident report as soon as possible, but no later than 24 hours following awareness of the Incident, and shall provide Caerus an opportunity to provide supplementary comments. Upon request by Caerus, Contractor shall also furnish copies of reports, statements, or information in its possession regarding Incidents. Contractor shall, upon request of Caerus, provide to Caerus a copy of the Contractor's Incident Response Plan. Caerus reserves the right, to require Contractor to utilize a third-party incident management company of Caerus' choosing for Incidents relating to the Work.
13. **INDEMNITIES.**
- 13.1. CONTRACTOR HEREBY AGREES TO RELEASE, DEFEND, INDEMNIFY AND HOLD THE CAERUS GROUP HARMLESS FROM AND AGAINST ANY AND CLAIMS ARISING OUT OF BODILY INJURY (INCLUDING SICKNESS TO OR DEATH OF PERSONS AND LOSSES THEREFROM TO RELATIVES OR DEPENDENTS) TO THE CONTRACTOR GROUP, OR LOSS OR DESTRUCTION OF PROPERTY OR INTERESTS IN PROPERTY OF THE CONTRACTOR GROUP, IN ANY MANNER CAUSED BY, DIRECTLY OR INDIRECTLY RESULTING FROM, INCIDENT TO, CONNECTED WITH OR ARISING OUT OF PERFORMANCE OF THE WORK, WHETHER OR NOT RESULTING IN WHOLE OR IN PART FROM THE SOLE, CONCURRENT, OR

COMPARATIVE NEGLIGENCE, OR STRICT LIABILITY OF THE CAERUS GROUP, OR ANY DEFECT IN THE PREMISES, EQUIPMENT OR TOOLS OWNED, OPERATED OR CONTROLLED BY THE CAERUS GROUP, EXCEPT TO THE EXTENT SUCH CLAIMS ARE CAUSED BY THE GROSS NEGLIGENCE, FRAUDULENT CONDUCT OR WILLFUL MISCONDUCT OF THE PERSON OR ENTITY SEEKING RELEASE, DEFENSE, OR INDEMNITY. Contractor agrees that this voluntary and mutual indemnity agreement will be supported by insurance of the types and with at least the minimum amounts required in Section 14, and shall be primary and non-contributory to any other insurance providing coverage to any member of the Caerus Group. Contractor agrees to consult and cooperate in good faith with Caerus in the selection and retention of legal counsel to represent Caerus in any action, claim, suit, litigation, arbitration or government investigation ("Action") with respect to any Claims. Notwithstanding the foregoing, Caerus may select its own counsel to participate in any Action at Caerus' sole cost and expense; provided, however, Caerus' right to participate in any Action shall not limit Contractor's obligations under this Section 13.1. For the avoidance of doubt, application of this Section 13.1 shall not prevent Caerus from requiring Contractor to repair, replace, or reperform defective Work pursuant to Sections 5 and 6.

- 13.2. CAERUS HEREBY AGREES TO RELEASE, DEFEND, INDEMNIFY AND HOLD THE CONTRACTOR GROUP HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS ARISING OUT OF BODILY INJURY (INCLUDING SICKNESS TO OR DEATH OF PERSONS AND LOSSES THEREFROM TO RELATIVES OR DEPENDENTS) TO THE CAERUS GROUP, OR LOSS OR DESTRUCTION OF PROPERTY OR INTERESTS IN PROPERTY OF THE CAERUS GROUP, IN ANY MANNER CAUSED BY, DIRECTLY OR INDIRECTLY RESULTING FROM, INCIDENT TO, CONNECTED WITH, OR ARISING OUT OF THE PERFORMANCE OF THE WORK, WHETHER OR NOT RESULTING IN WHOLE OR IN PART FROM THE SOLE, CONCURRENT, OR COMPARATIVE NEGLIGENCE, OR STRICT LIABILITY OF THE CONTRACTOR GROUP, OR ANY DEFECT IN THE PREMISES, EQUIPMENT OR TOOLS OWNED, OPERATED OR CONTROLLED BY THE CONTRACTOR GROUP, EXCEPT TO THE EXTENT SUCH CLAIMS ARE CAUSED BY THE GROSS NEGLIGENCE, FRAUDULENT CONDUCT OR WILLFUL MISCONDUCT OF ANY MEMBER OF THE CONTRACTOR GROUP. Caerus agrees that this voluntary and mutual indemnity agreement will be supported by insurance of the types and with at least the minimum amounts required of Contractor by Section 14.
- 13.3. Contractor hereby agrees to release, defend, indemnify and hold the Caerus Group harmless from and against any and all Indemnifiable Claims by third parties (i.e., parties not included in the Caerus Group or Contractor Group) arising out of bodily injury (including sickness to or death of persons and losses therefrom to relatives or dependents) or loss or destruction of property or interests in property in any manner caused by, directly or indirectly resulting from, incident to, connected with or arising out of the performance of the Work, unless such injury or loss of property is due to the sole negligence of the Caerus Group.
- 13.4. Each party shall be responsible for, and hereby agrees to defend, indemnify and hold the other party harmless from and against, any and all Indemnifiable Claims arising out of or with respect to, the emission, discharge or release by such indemnifying party or by a subcontractor of such indemnifying party, in connection with the Work, or transportation to and from the Site, of chemical pollutants, contaminants, waste, petroleum waste, used oil, toxic substances, hazardous substances or any other substances that are regulated under environmental Laws.
- 13.5. Notwithstanding any provisions of this Section 13 to the contrary, the following provisions shall apply to operations involved in the drilling of an oil or gas well:
- 13.5.1. Except as otherwise provided in Sections 13.1, 13.2, and 13.4, Caerus hereby releases and agrees to defend, indemnify and hold the Contractor Group harmless from and against any and all Claims arising from pollution or contamination below the surface of the land, seabed or water, resulting from blowout, well-fire, cratering, seepage or any other uncontrolled flow of oil, gas or mineral substance during the performance of the Work, except to the extent such loss or damage is caused by the Contractor Group's negligence or willful misconduct.
- 13.5.2. Except as otherwise provided in Sections 13.1, 13.2, and 13.4, Caerus hereby releases and agrees to defend, indemnify and hold the Contractor Group harmless from and against the loss or damage (1) to any geological formation, strata or oil or gas reservoir or minerals resource beneath the surface of the land or water, (2) for the loss of or damage to any hole(s) or well(s), and (3) for

any impairment of any property rights or other interests in or to any oil, gas or mineral resources resulting from blowout, fire, cratering or any other cause, which may result during the performance of the Work, except to the extent such loss or damage is caused by the Contractor Group's negligence or willful misconduct.

- 13.5.3. If equipment or instruments of the Contractor Group become lost in the well, Caerus shall either recover them without cost to the Contractor Group or pay the Contractor Group for the equipment or instruments (depreciated to date of loss); **PROVIDED, HOWEVER, IF THE LOSS IS CAUSED BY THE NEGLIGENCE OF THE CONTRACTOR GROUP, CAERUS SHALL NOT BE LIABLE FOR THE LOSS AND THE CONTRACTOR GROUP SHALL RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS THE CAERUS GROUP FROM AND AGAINST ANY LOSS, COSTS OR EXPENSE, INCLUDING COURT COSTS AND REASONABLE ATTORNEYS' FEES, SUFFERED OR INCURRED BY THE CAERUS GROUP THAT ARISES OR RESULTS THEREFROM.**
- 13.6. EACH PARTY (AS THE RELEASING PARTY) HEREBY RELEASES THE OTHER PARTY (AND THE OTHER PARTY'S GROUP) FROM AND AGAINST ANY AND ALL CLAIMS BY THE RELEASING PARTY FOR PUNITIVE OR EXEMPLARY DAMAGES, AND ANY AND ALL CLAIMS BY THE RELEASING PARTY FOR ITS OWN INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PRODUCTION, LOSS OF REVENUE AND PROFITS, LOSS OF BUSINESS OR BUSINESS INTERRUPTIONS, LOSS OF USE OF ASSETS OR FACILITIES, RELATED TO THE PERFORMANCE UNDER THIS AGREEMENT (COLLECTIVELY, "CONSEQUENTIAL DAMAGES"), **WHETHER OR NOT SUCH CONSEQUENTIAL DAMAGES ARE THE RESULT IN WHOLE OR IN PART OF THE SOLE, CONCURRENT, OR COMPARATIVE NEGLIGENCE OF ANY PERSON OR PARTY, INCLUDING THE INDEMNIFIED PARTY OR PARTIES, OR ANY DEFECT IN THE PREMISES, PRE-EXISTING CONDITIONS, PATENT OR LATENT, BREACH OF STATUTORY DUTY, STRICT LIABILITY OR ANY OTHER THEORY OF LEGAL LIABILITY, UNLESS SUCH LOSSES ARE CAUSED BY THE GROSS NEGLIGENCE, FRAUDULENT CONDUCT OR WILLFUL MISCONDUCT OF THE PARTY OR OTHER PERSON OR ENTITY SEEKING DEFENSE, RELEASE, OR INDEMNITY.**
- 13.7. **REDRESS UNDER THE INDEMNITY PROVISIONS SET FORTH IN THIS SECTION 13 SHALL BE THE EXCLUSIVE REMEDIES AVAILABLE TO THE PARTIES FOR THE MATTERS, CLAIMS, AND DAMAGES COVERED BY SUCH PROVISIONS.**
14. INSURANCE.
- 14.1. Contractor shall, without limiting any of its obligations or liabilities hereunder, obtain and carry and cause its Subcontractors to maintain and carry at all times to obtain and carry Comprehensive General Liability Insurance, including contractual liability and products liability coverage, including without limitation insurance for the indemnity agreements set forth in this Service Order, with limits of not less than \$1,000,000 per occurrence; worker's compensation insurance in accordance with the statutory requirements of State law or employer's liability insurance with limits of not less than \$1,000,000 per occurrence; automobile liability insurance with minimum limits of \$1,000,000 per occurrence; and Excess or Umbrella Liability on a following form basis or at least as broad as underlying coverage with minimum limits not less than \$4,000,000 per occurrence or aggregate, except Automobile Liability which shall not be subject to an aggregate, to apply excess of all underlying coverages referenced above, except Workers' Compensation. Upon request, Contractor shall provide Caerus with satisfactory evidence that such insurance is in full force and effect. The policies shall include a provision requiring insurer to give Caerus not less than 30 days' prior written notice of cancellation or material change.
- 14.2. a. ALL OF CONTRACTOR'S INSURANCE POLICIES IN ANY WAY PROVIDING COVERAGE RELATED TO THE WORK, WHETHER OR NOT REQUIRED BY THIS AGREEMENT, SHALL CONTAIN A WAIVER ON THE PART OF THE INSURER, BY SUBROGATION OR OTHERWISE, OF ALL RIGHTS AGAINST THE CAERUS GROUP. ALL LIABILITY COVERAGE (INCLUDING EMPLOYER'S LEGAL LIABILITY) CARRIED BY CONTRACTOR, WHETHER OR NOT REQUIRED BY THIS AGREEMENT, SHALL EXTEND TO AND PROTECT THE CAERUS GROUP AS ADDITIONAL INSURED TO THE FULL EXTENT AND LIMITS OF SUCH COVERAGE, INCLUDING EXCESS OR UMBRELLA INSURANCES, ON A BROAD FORM BASIS WITH SUCH ADDITIONAL INSURED COVERAGE BEING JUST AS BROAD AS THE COVERAGE PROVIDED TO THE NAMED INSURED, INCLUDING COVERAGE FOR THE SOLE OR CONCURRENT NEGLIGENCE OF EACH ADDITIONAL INSURED AND NOT BEING RESTRICTED TO (A) "ONGOING OPERATIONS," (B) COVERAGE FOR VICARIOUS LIABILITY, OR (C) CIRCUMSTANCES IN WHICH THE NAMED INSURED IS PARTIALLY NEGLIGENT, AND SUCH

- COVERAGE SHALL BE PRIMARY AND NON-CONTRIBUTORY TO, AND RECEIVE NO CONTRIBUTION FROM, ANY OTHER INSURANCE OR SELF-INSURANCE PROGRAMS MAINTAINED BY OR ON BEHALF OF OR BENEFITING ANY MEMBER OF THE CAERUS GROUP. THE LIMITS AND COVERAGES OF THE INSURANCE OBTAINED BY CONTRACTOR, EXCEPT TO THE EXTENT PROHIBITED OR REQUIRED BY LAW OR STATUTE, SHALL IN NO WAY LIMIT THE LIABILITIES OR OBLIGATIONS ASSUMED BY CONTRACTOR. This provision shall be independent of any obligations Contractor has under Section 13 hereof. Contractor's insurance carrier(s) will provide Caerus, as evidence that the required insurance coverage has been obtained, with a certificate of insurance reflecting the amount of any deductibles. Contractor will provide Caerus immediate notice of cancellation, material alteration or lapse of Contractor's insurance policies. All deductibles and self-insured retentions in Contractor's insurance policies are the sole responsibility of the Contractor.
- 14.3. Contractor shall ensure that all members of Contractor Group performing any of the Work obtain and maintain insurance coverage comparable to or better than the insurance coverage Contractor is required to maintain pursuant to this Agreement and indemnify and hold harmless Caerus Group in respect thereof. Caerus may request proof of such coverage from time to time.
15. **INDEPENDENT CONTRACTOR.** Contractor shall be an independent contractor with respect to the Work, and neither Contractor nor any Subcontractor, or their respective officers, employees or agents, shall be deemed the agent, representative, employee or servant of Caerus. Contractor and any Subcontractor shall have complete and sole control over their respective employees and the details of the Work performed and the methods by which the Work is accomplished, it being understood that Caerus is interested only in the results that Contractor obtains.
16. **COMPLIANCE WITH CAERUS RULES, PRACTICES AND POLICIES; APPLICABLE LAWS.**
- 16.1. Contractor shall be familiar with and comply with and shall cause its Subcontractors and their respective employees to be familiar with and comply with all Caerus Policies and any of Caerus' other rules and guidelines as are provided to Contractor from time to time and any amendments to such Caerus Policies upon notice of the applicable amendments to Contractor. Caerus Policies relating to the safety and security of persons and property, or protection of the environment, are also set forth in the Contractor Expectations document provided to Contractor along with this Service Order, and in the documentation provided to Contractor on the terms and conditions of Contractor's Substance Abuse program as modified by Caerus requirements. Contractor shall comply with all Laws (including safety codes and precautions) and orders which are now, or in the future may be, applicable to its business, operations, equipment, and employees engaged in, or in any manner connected with, the Work. Contractor shall comply with, and shall cause its Subcontractors and their respective employees to comply with, all Laws, applicable to the Work, including, but not limited to, the Fair Labor Standards Act, OSHA, UTERO, and all Laws relating to disclosure and transportation of hazardous and toxic substances.
- 16.2. Contractor shall indemnify, defend and hold harmless the Caerus Group from and against any and all Claims resulting from, incident to, connected with, or arising out of Contractor's violation of any Law, including but not limited to Claims resulting from, incident to, connected with, or arising out of violations or alleged violations of UTERO.
17. **DEFAULT AND TERMINATION.**
- 17.1. The provisions of Section 17.2 shall apply if any of the following events occur: (i) Contractor becomes insolvent, or insolvency, receivership or bankruptcy proceedings are commenced by or against Contractor; (ii) Contractor materially violates Laws applying to the Work or disregards instructions of Caerus; (iii) except as provided in Section 19, Contractor fails, neglects, refuses, or is unable to provide ample supervision, labor, materials or equipment to perform the Work at a rate and in a manner deemed sufficient by Caerus; (iv) Contractor allows any third party liens to be placed against the Work or the Site; or (v) Contractor defaults in its performance of any other material provision of this Service Order.
- 17.2. If an event described in Section 17.1 occurs, the following shall apply:
- 17.2.1. Caerus, without prejudice to any other right or remedy, may terminate this Service Order by giving notice of termination to Contractor, except that in the case of a default that may be corrected, Contractor shall be given a reasonable time to correct same.
- 17.2.2. Contractor shall, if requested, withdraw from the Site and assign to Caerus such of Contractor's subcontracts as Caerus may request and shall remove the materials, equipment, tools, and instruments used by Contractor in the performance of the Work.
- 17.2.3. Caerus shall have the right to finish the Work itself or with the assistance of third parties.
- 17.2.4. Caerus shall be entitled to withhold the payment of any further sums due to Contractor until such Work is completed. Upon completion of the Work, Contractor shall be entitled to reasonable compensation for its performance of the Work up to the date of such termination less any excess cost incurred by Caerus to complete the Work.
- 17.3. Caerus may, in its absolute discretion, terminate all or part of the Work under this Service Order without cause at any time by giving written notice of termination to Contractor. If this Service Order or portion thereof is terminated by Caerus without cause, Caerus and Contractor shall have the following rights, obligations and duties:
- 17.3.1. Caerus shall assume and become liable for all reasonable obligations and commitments that Contractor may have previously in good faith undertaken or incurred in connection with the Work, and shall be entitled to all rights, setoffs, and benefits held by Contractor in connection with such commitments, including any cancellation rights. Contractor agrees to execute all instruments and take all steps required to vest such rights, setoffs and benefits in Caerus.
- 17.3.2. Caerus shall pay Contractor for all Work properly performed prior to said termination.
18. **TITLE.** Title to all Work completed or in the course of construction at the Site and to all materials, equipment and supplies which become a part of the Work or are used in the construction thereof, except Contractor's tools, equipment and supplies, shall pass to Caerus at such time as they are installed in their permanent positions and Caerus accepts care, custody and control of the Work pursuant to Section 6.2. Transfer of title shall not otherwise affect the parties' rights under this Service Order.
19. **FORCE MAJEURE.** Any delay in or failure to perform by a party, other than the payment of money, shall not constitute a default that exposes it to liability for breach if and to the extent the delay or failure to perform is caused by an occurrence beyond the reasonable control of the party, including, but not limited to, an act of God or the public enemy; expropriation or confiscation of facilities; compliance with any order or requirement or any governmental authority; act of war, rebellion or sabotage or damage resulting therefrom; fire, flood, explosion or accident; riots or strikes or other concerted acts of workmen; inability after diligent effort to obtain necessary licenses or permits; or any other cause, whether or not of the same class or kind as those specifically above named, which is not within the control of the party and which, by the exercise of reasonable diligence, the party is unable to prevent or remedy. In the event of force majeure, the party claiming force majeure shall furnish the other party with written notice or by telephone immediately confirmed in writing, setting forth the full particulars of the force majeure claimed, as soon as possible after the occurrence of the force majeure, and the obligations of that party, so far as they are affected by such force majeure, shall be suspended during the continuance of any inability so caused, but for no longer. The party relying upon such force majeure shall use due diligence and all reasonable efforts (including reasonable expenditure of money) to overcome the cause of force majeure. If a force majeure event exceeds thirty (30) days, either party may cancel the Work under this Service Order.
20. **MAINTENANCE AND AUDIT OF RECORDS.** Contractor shall maintain for not less than three (3) years after the Work is completed, complete and accurate records (including invoices, payroll sheets and supporting documentation), of all costs which have been charged or are chargeable to Caerus. Caerus shall have the right at any reasonable time to inspect and audit Contractor's records related to the Work. If errors are found in billings or payments, the parties shall promptly adjust and correct the errors.
21. **REBATES.** Neither Contractor nor any of its Subcontractors shall pay any commission, rebate, fee or other remuneration to any employee, representative or agent of Caerus, or each other, in connection with the Work.
22. **ASSIGNMENTS AND SUBCONTRACTORS.** Contractor may not assign or subcontract its rights or duties under this Service Order, except to an Affiliate, without the prior consent of the other party, which consent shall not be unreasonably withheld, except that subcontracts by Contractor for services valued at less than five hundred dollars shall not require Caerus approval. An assignment, delegation or subcontract in violation of this Section 22 shall be void. Consent to assign shall not relieve Contractor of responsibility for performance of its obligations under this Service Order. Contractor shall supply Caerus, upon Caerus' request, with a list of the names and contact information for all Subcontractors performing the Work, and if so requested Contractor shall update the list as additional Subcontractors are engaged by Contractor to perform the Work.
23. **GENERAL CONDITIONS.**
- 23.1. **Waiver.** The waiver by either party of a breach or default by the other party shall not be deemed a waiver of any different or later breach.
- 23.2. **Conflicts.** This Service Order is the entire agreement between Contractor and Caerus respecting the subject matter and supersedes and replaces all other prior written or oral agreements between the parties (or any of their predecessors) respecting the subject matter and shall only be amended by both parties in writing. In the event of any conflict between the terms and conditions of this Service Order

and any other document, the terms and conditions of this Service Order shall take precedence.

- 23.3. **Applicable law.** The provisions of this Service Order shall be governed by the laws of the State of Colorado, without giving effect to any conflict of law provisions.
- 23.4. **Waiver of Jury Trial.** EACH PARTY KNOWINGLY, VOLUNTARILY, IRREVOCABLY, AND UNCONDITIONALLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.
- 23.5. **Attorneys' Fees.** In the event any suit is brought by either Party against the other to enforce any term or provision of this Agreement, it is agreed that the prevailing Party in such suit shall be entitled to court costs, expert witness fees, and attorneys' fees, in a reasonable amount to be fixed by the court or other body to whom the matter is referred and included in any judgment or decision in such action or proceeding, as well as court costs and reasonable attorneys' fees in the event of appeal.
- 23.6. **Notices.** All notices and other communications required by this Service Order shall be in writing and deemed duly given four (4) business days after being sent by registered or certified mail, return receipt requested, to the address provided herein. Notice by

personal delivery, ordinary mail, facsimile, or electronic mail, shall be deemed given upon actual receipt by such other party. A party may change the address for notices by giving the other party notice of such change in the manner set forth herein.

- 23.7. **Severability.** If any clause or provision of this Service Order is void, illegal or unenforceable, the other clauses or provisions hereof shall remain in full force and effect, and the clauses or provisions that are determined to be void, illegal or unenforceable shall be limited so that they remain in effect to the extent permitted by law. The indemnity obligations in this Service Order shall be effective to the maximum extent permitted by applicable law. In particular, but without limiting the generality of the foregoing sentence, if it is judicially determined that the monetary limits of insurance required hereunder or the indemnities voluntarily assumed hereunder exceed the maximum permitted under applicable law, the Parties hereby agree that the indemnities or the insurance requirement shall be deemed amended to conform to the maximum permitted under applicable law.
- 23.8. **Rights and remedies cumulative.** The rights and remedies herein are cumulative and are not exclusive of any rights or remedies provided in law, equity or otherwise and shall extend to Caerus, its successors, and assigns.