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**CLEAR CREEK SYSTEMS, INC.**

**STANDARD TERMS OF SALE**

**1. OFFER OF SALE**

a. These Terms and Conditions of Sale (the “Terms”) constitute the entire and exclusive agreement between Clean Slurry Technology, Inc. (“CCS”) and the buyer identified in any acknowledgement or Order (as defined below) (“Buyer”) pertaining to the products and services to be sold to Buyer by CCS (collectively “Products”) identified in any Order between CCS and Buyer. Buyer’s Order is accepted only on the following terms and conditions, and CCS’s acceptance of any Order is expressly conditioned on Buyer’s agreement to the terms contained herein.

b. CCS objects to all additions, exceptions or changes to these Terms, whether contained in any printed form of Buyer or elsewhere, unless approved in writing by CCS. Electronic commerce transactions between CCS and Buyer will be solely governed by these Terms and any terms and conditions on Buyer’s internet site will be null and void and of no legal effect on CCS.

c. Buyer is deemed to have accepted the Terms hereof by signing and returning a copy hereof or by placing an Order, by other written indication of acceptance, by accepting any whole or partial shipment of goods from CCS or by making any whole or partial payment to CCS, or by any other means commonly signaling lawful agreement to be bound; *provided that*, the only effect thereof will be to agree to the Terms hereof.

**2. QUOTES**

If these Terms are attached to a quotation provided by CCS, the prices set forth in such quotation will expire thirty (30) days after the date of the quotation unless CCS provides otherwise in writing.

**3. PRICES AND ORDERS**

a. Buyer will submit a written purchase order specifying the Products, price, quantity, requested ship date, destination and any other information that CCS may request in order to fulfill such order (“Order”). The Order will reference the applicable quotation and/or Agreement, if any, between CCS and Buyer. CCS reserves the right to accept or reject all Orders. No Order will be valid and binding on CCS unless and until it has first been submitted to CCS at its home office in the United States or other designated office in the United States, and has been evaluated, reviewed, approved, and accepted in writing by an authorized officer of CCS.

b. Buyer will pay the prices identified in a written quotation from CCS provided Buyer’s Order is received while the quotation is still effective; otherwise, Buyer will pay the prices set forth in CCS’s most recent published price list at the time the Order is accepted by CCS. CCS reserves the right to change prices without notice. Prices may



be adjusted to CCS's then current list price at the time of delivery if the delivery for the order is more than six (6) months after the date CCS accepts the order.

c. All prices are in U.S. Dollars.

d. In addition to the prices quoted or invoiced, Buyer will pay (and indemnify CCS against) any manufacturer's tax, occupation tax, use tax, sales tax, excise tax, value added or consumption tax, customs duty, fee or charge of any nature whatsoever imposed by any governmental authority, on or measured by the transaction between the parties. In the event CCS is required to pay any such tax, fee or charge, Buyer will reimburse CCS therefore; or provide CCS, at the time the order is submitted, an exemption certificate or other document acceptable to the authority imposing the same.

e. Buyer will pay all freight and packing charges, including, but not limited to shipping, insurance, customs, duties, taxes, and broker fees. At the Buyer's request, CCS, in its discretion, will arrange for third party freight. CCS will add a handling charge equal to seven and one half percent (7.5%) of the cost of the freight in the particular shipment for this service plus the cost of the freight to Buyer's invoice for such shipment.

#### 4. PAYMENT

a. Buyer will pay invoices in U.S. Dollars (\$) within thirty (30) days from the date that CCS issues the invoice. In the event payment is not received in the account designated by CCS, within such thirty (30) day period, any unpaid balance will bear interest from the 31<sup>st</sup> day at the rate of twenty four percent (24%) per annum, or the maximum legal rate allowed by law, whichever is less, until fully paid. CCS reserves the right to collect non-refundable deposits, advance payments and establish, revoke or change credit and respective payment terms at any time. **No discounts are allowed.**

b. Should Buyer become delinquent in the payment of any sum due CCS, CCS will have the right to suspend or terminate further performance under any agreement or Order with Buyer. **Buyer will pay any collection fees, legal fees, or court costs incurred by CCS to collect past due amounts.** No offsets or setoffs of payments due to CCS hereunder are allowed with respect to any other agreement between the parties.

#### 5. SHIPMENTS, TITLE, RISK OF LOSS, ACCEPTANCE

a. All delivery dates are estimated and are dependent in part upon prompt receipt of all necessary information from Buyer to service an Order. CCS will use reasonable efforts to meet any delivery date(s) quoted or acknowledged by CCS in writing. Notwithstanding the foregoing, CCS will not be liable for its failure to meet such date(s) including without limitation any damages, costs or losses incurred by Buyer or others.

b. All deliveries of Products by CCS are Ex Works loaded by CCS at CCS's designated facility (Incoterms 2010). Risk of loss or damage, and beneficial ownership of the Products transfer to Buyer when the Products are loaded onto a common carrier.



c. Unless otherwise agreed to in writing by CCS, CCS will pack all Products for shipment and storage in accordance with CCS's then current practices. CCS will have the right to charge storage and handling costs to Buyer for any Order that is not claimed by Buyer on the delivery date for the Order at the rate of one tenth of one percent (0.1%) or the maximum rate permitted by law, whichever is less, of the invoice amount of such delayed Order per day for each day past the originally scheduled delivery date that the Buyer fails to take delivery of the Products.

d. CCS reserves the right to make deliveries in installments. CCS will invoice Buyer for partial shipments when delivered or shipped and Buyer will pay for such shipments in compliance with the terms of payment set forth above. CCS reserves the right to deliver or ship in advance of the scheduled delivery date, unless Buyer specifically requests in writing that shipments not be made prior to the scheduled date.

e. All Products will be deemed accepted by Buyer upon delivery, and Buyer may not thereafter revoke its acceptance. Subject to Section 6, Buyer will not return any Product to CCS for any reason unless it obtains prior authorization from CCS and all Products or containers so returned have been marked with a return authorization number supplied by CCS. Buyer will maintain all returned Products in their original packaging and in resalable condition and will pay for return shipping charges and any other expenses associated with the return.

## **6. CHANGES AND CANCELLATIONS**

Buyer will not alter or cancel any Orders accepted by CCS without CCS's written consent. In the event CCS, in its sole discretion, permits cancellation or modification of an Order, at CCS's request, Buyer will reimburse CCS for CCS's costs plus a reasonable profit.

## **7. WARRANTIES**

a. The sole warranties made by CCS for the Products manufactured by CCS are set forth in CCS's Standard Warranty Terms document. CCS's sole obligation, and Buyer's sole remedy, with respect to any Products that do not conform to such express warranties are set forth in CCS's Standard Warranty Terms document. CCS reserves the right to change warranty terms in the Standard Warranty Terms document in its sole discretion; provided, however, that any such change will not affect CCS's obligations with respect to Products sold to Buyer under a previous warranty. For Products supplied by CCS and manufactured by a third party, CCS (without recourse) assigns warranties on such third party Products, if any, to Buyer at time of delivery ("Pass Through Warranties").

b. EXCEPT FOR THE EXPRESS WARRANTIES PROVIDED IN CCS'S STANDARD WARRANTY TERMS DOCUMENT AND ANY PASS THROUGH WARRANTIES THE PRODUCTS ARE PROVIDED "AS IS" AND CCS HEREBY EXPRESSLY DISCLAIMS AND EXCLUDES ALL OTHER WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY INCLUDING, WITHOUT LIMITATION, THE IMPLIED



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WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, USE AND IMPLIED FROM A COURSE OF DEALING OR COURSE OF PERFORMANCE. NO PERSON (INCLUDING ANY EMPLOYEE, AGENT, DEALER OR REPRESENTATIVE OF CCS) IS AUTHORIZED TO MAKE ANY REPRESENTATION OR WARRANTY CONCERNING PRODUCTS EXCEPT TO REFER PURCHASERS TO THE WARRANTY IN CCS'S STANDARD WARRANTY TERMS DOCUMENT. BUYER REPRESENTS, WARRANTS AND COVENANTS THAT IT HAS NOT RELIED ON ANY WARRANTIES OR REPRESENTATIONS OTHER THAN THOSE SET FORTH IN CCS'S STANDARD WARRANTY TERMS.

## **8. PROPRIETARY RIGHTS**

a. "CCS Intellectual Property" means CCS's technologies used in the CCS Products and any other proprietary or confidential information provided to Buyer hereunder, including but not limited to, reports, customized configurations, evaluation data, test data, software, documentation, compatibility and interface information, any other confidential information relating to CCS Products, any modifications, improvements or derivatives of any of the foregoing, and all intellectual property rights relating to any of the foregoing.

b. As between Buyer and CCS, CCS retains all right, title and interest to the CCS Intellectual Property. Except as expressly granted in these Terms, Buyer will obtain no rights or licenses to the CCS Intellectual Property. CCS will have the right to utilize all ideas, suggestions, feedback, improvements, data, reports or the like that Buyer provides to CCS or otherwise makes with respect to the Products without any obligation to Buyer. To the extent that Buyer has or later obtains any intellectual property rights in and to the CCS Intellectual Property or any future enhancement or modification thereto or any part thereof, Buyer hereby assigns and transfers such rights exclusively to CCS, and will provide reasonable assistance, at CCS's expense, to protect, enforce and maintain such rights. Buyer will not remove or obscure any of CCS's or its licensor's patent, copyright, trademark and other proprietary notices or markings contained on or in the Products or any other materials delivered to Buyer, and Buyer will reproduce all such notices on all copies permitted to be made by Buyer under these Terms.

c. Buyer will keep strictly confidential, and will cause its officers, directors, employees, agents and representatives to keep strictly confidential, the CCS Intellectual Property and all CCS confidential information.

## **9. INDEMNITY**

Buyer will indemnify, defend and hold harmless CCS and its directors, officers, employees and agents from any loss, liability, damage, cost or expense (including, without limitation, attorneys' fees) and pay any finally awarded damages or settlement amount to the extent arising out of any claim arising from or related to (i) any willful or



negligent conduct of Buyer or any of its employees, contractors or representatives; (ii) Buyer's use, sale, lease or other distribution of Products, including, without limitation, in a manner not authorized by these Terms; (iii) injury or death of persons or damage to property to the extent caused by or arising out of any acts or omissions of Buyer, its agents, employees, and contractors, or in connection with Products handled, stored, sold, applied or otherwise utilized by Buyer.

#### **10. LIMITATION OF LIABILITY**

**IN NO EVENT WILL CCS BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL (INCLUDING LOSS OF PROFITS, LOSS OF USE, COST OF COVER), OR PUNITIVE DAMAGES. TO THE EXTENT CCS IS HELD LEGALLY LIABLE TO BUYER, WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, TO THE MAXIMUM EXTENT PERMITTED BY LAW, CCS'S TOTAL LIABILITY IS LIMITED TO THE PRICE OF THE PRODUCTS OR SERVICES AT ISSUE OR THE COST OF REPAIR OR REPLACEMENT OF THE PRODUCTS AT ISSUE, WHICHEVER IS LESS.** The prices and limitations of liability set forth in these Terms reflect the allocation of risk agreed to by the parties. Buyer acknowledges that CCS would not sell Products without these limitations on its liability and that these limitations will apply notwithstanding any failure of essential purpose of any limited remedy.

#### **11. SURVIVAL**

Sections 8 through 15 of these Terms will continue following delivery of the Products and any termination or expiration of these Terms.

#### **12. GOVERNING LAW**

These Terms will be governed by, and construed in accordance with, the laws of the State of California United States of America without giving effect to the conflict of law provisions thereof. The parties hereby disclaim the applicability of the 1980 U.N. Convention on the International Sale of Goods. These Terms constitute the complete agreement between the parties with respect to the subject matter hereof and supersede all prior negotiations or offers, written or oral. These Terms may be amended only in writing, signed by an authorized representative of each party.

#### **13. EXPORT CONTROLS**

The Products may include technology that is subject to the customs and export control laws and regulations of the United States and may also be subject to the customs and export control laws, orders and regulations of the country in which the Products are manufactured and/or used. Buyer is solely responsible for and will fully comply with such laws, orders and regulations. Not limiting the foregoing, Buyer will not use for the benefit of, or sell, lease, export, re-export or otherwise transfer Products to restricted end-users (including those on the U.S. Department of Commerce, Bureau of Industry and Security "Entity List" and other lists of denied parties) or to



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restricted or boycott countries identified by the U.S. Department of State or the U.S. Treasury Department. Buyer will obtain all necessary licenses and other governmental approvals prior to exporting or re-exporting the Products.

#### **14. FORCE MAJEURE**

All Orders accepted by CCS are subject to postponement or cancellation as determined solely by CCS for any cause beyond the reasonable control of CCS, including without limitation: inability to obtain or transport safely any Products or necessary materials and components; labor disputes; fire, flood, and other acts of God; war, domestic or international terrorism, riot, civil insurrection, and other disturbances; production or engineering difficulties; and governmental regulation, orders, directives, and restrictions.

#### **15. MISCELLANEOUS**

a. Except as may be prohibited by U.S.A. bankruptcy laws, in the event of any insolvency or any inability to pay debts as they become due by a party hereto, or voluntary or involuntary bankruptcy proceeding by or against a party hereto, or appointment of a receiver or assignee for the benefit of creditors, the other party may elect to cancel any unfulfilled obligations hereunder, except for payments due.

b. Any required notices will be provided in writing at the address of each party set forth on the acknowledgement of Order, or to such other address as either party may substitute by written notice to the other, or delivered by email or fax.

c. Buyer will not assign or transfer any of the rights, duties, or obligations herein without the prior written consent of CCS, and any purported attempt to do so will be null and void.

d. CCS's failure to exercise any of its rights hereunder will not constitute or be deemed a waiver or forfeiture of such rights.

e. Typographical and clerical errors are subject to correction.

f. The English language version of these Terms will control in the interpretation or application of the terms of these Terms.

g. If any provision of these Terms is, for any reason, held invalid or illegal in any respect, such invalidity or illegality will not affect the validity of this Agreement itself and the parties will promptly substitute for the affected provision, a valid and enforceable provision which most closely approximates the intent and economic effect of the invalid provision.

h. **LATE PAYMENT AND COLLECTION:** The Buyer agrees to pay in full any and all late charges as outlined below and in any manner reasonably requested by the Seller or the Seller's agents:



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- a. Accounts will accrue late charges in the amount of 1 1/2 percent per month (or portion thereof) that the complete sale price (including freight) has not been executed
  - b. All delinquent accounts shall be forwarded to **Dun and Bradstreet Receivables Management Service** for collection
  - c. The Purchaser shall be solely responsible for any and all outstanding invoice amount plus any and all reasonable collection charges as stated herein.
  - d. Collection charges shall be determined by the following fee schedule:

<u>Collection Rate</u>	<u>Age (Days) of Oldest Invoice</u>
14%	120-179
22%	180-269
30%	270-359
33 1/3%	360 plus

- e. The minimum charge is \$100.00.
- f. In the event that attorney intervention is required in the collection of the account, additional charges set by Dun and Bradstreet will apply.