

# KSB US SUPREMESERV GENERAL TERMS AND CONDITIONS FOR SERVICES

## 1. Applicability.

(a) These terms and conditions for services (these “**Terms**”) are the only terms that govern the sale of services by GIW Industries, Inc., a KSB US SupremeServ service entity (“**Service Provider**”) to the customer (“**Customer**”). Each of Service Provider and Customer is a “Party” and collectively are the “Parties.”

(b) Any attached statement of work (the “**SOW**”), or any accompanying order confirmation (the “**Order Confirmation**”), and/or a purchase order (the “**Purchase Order**”), and these Terms (collectively, this “**Agreement**”) comprise the entire agreement between the Parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. In the event of any conflict between these Terms and the Purchase Order, SOW or Order Confirmation, the Purchase Order, SOW or Order Confirmation (as the case may be), shall govern, unless the Purchase Order, SOW or Order Confirmation expressly states otherwise.

(c) The Parties agree that any different or additional terms and conditions in Customer’s acknowledgement of this Agreement are not binding unless specifically accepted in writing by Service Provider. Notice is hereby given to Customer that Service Provider objects to any and all additional or differing terms that are not stated herein or separately agreed to in writing. Service Provider specifically objects to and rejects any pre-printed or boilerplate language included in headers or footers that reference any different terms and conditions or pre-printed or boilerplate language included on the face of Customer’s Purchase Order or acknowledgement that reference any different terms and conditions. These Terms prevail over any of Customer’s general terms and conditions regardless whether or when Customer has submitted its request for proposal, order, or such terms. Service Provider providing services to Customer does not constitute acceptance of any of Customer's terms and conditions and does not serve to modify or amend these Terms. Notwithstanding anything herein to the contrary, Customer agrees that the version of these Terms then in effect which accompany each Service Provider proposal or bid will govern such transaction

(d) These Terms are effective upon receipt by Customer (the “**Effective Date**”) and shall remain in effect until terminated by either Party with thirty (30) days’ written notice. Services that are performed under any in-force SOW or Purchase Order shall continue to be governed by these Terms notwithstanding termination as set forth herein, unless otherwise agreed by the Parties.

2. Services. In accordance with these Terms, Service Provider shall provide field service and technical supervision (hereinafter “**Technical Support**”), and/or in-shop repair services (hereinafter “**In-Shop Repairs**”) to Customer as described in the applicable Purchase Order, SOW or Order Confirmation. Technical Support and In-Shop Repairs shall be the “**Services**.”

3. Performance Dates. Service Provider shall use reasonable efforts to meet any performance dates specified in the Purchase Order, SOW or Order Confirmation, as applicable, and any such dates shall be estimates only.

4. Customer's Obligations. Customer shall:

(a) cooperate with Service Provider in all matters relating to the Services and provide such access to Customer's premises, and such office accommodation and other facilities as may reasonably be requested by Service Provider, for the purposes of performing the Services;

(b) deliver to Service Provider

(i) all relevant environmental, health and safety information before conducting the Services and at all relevant times thereafter;

(ii) warnings of any hazards and mitigate hazards to the maximum extent practicable; and

(iii) requirements for appropriate personal protective equipment to Service Provider, as required to establish and maintain safe working conditions

(c) respond promptly to any Service Provider request to provide direction, information, approvals, authorizations, or decisions that are reasonably necessary for Service Provider to perform Services in accordance with the requirements of this Agreement;

(d) provide such Customer materials or information as Service Provider may request to carry out the Services in a timely manner and ensure that such Customer materials or information are complete and accurate in all material respects; and

(e) obtain and maintain all necessary licenses and consents and comply with all applicable laws in relation to the Services before the date on which performance of the Services begins.

5. Customer's Acts or Omissions. Service Provider shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges, or losses sustained or incurred by either Party, in each case, to the extent arising directly or indirectly from any act or omission of Customer or its agents, subcontractors, consultants, or employees that prevented or delayed Service Provider's performance.

6. Change Orders.

(a) If either Party wishes to change the scope or performance of the Services, it shall submit details of the requested change to the other Party in writing. Service Provider shall, within a reasonable time after such request, provide a written estimate to Customer of:

(i) the likely time required to implement the change;

(ii) any necessary variations to the fees and other charges for the Services arising from the change;

(iii) the likely effect of the change on the Services; and

(iv) any other impact the change might have on the performance of each Parties' obligations under this Agreement.

(b) Promptly after receipt of the written estimate, the Parties shall negotiate and agree in writing on the terms of such change (a "**Change Order**"). Neither Party shall be bound by any Change Order unless mutually agreed upon in writing in accordance with Section 26.

(c) Notwithstanding Section 6(a) and Section 6(b), Service Provider may, from time to time change the Services without the consent of Customer provided that such changes do not materially affect the nature or scope of the Services, or the fees or any performance dates set forth in the Order Confirmation.

7. Fees and Expenses; Payment Terms; Interest on Late Payments.

(a) In consideration of Service Provider providing the Services and the rights granted to Customer under this Agreement, Customer shall pay the fees set forth in the Purchase Order, SOW, or Order Confirmation, as applicable, at the rates under the current KSB US SupremeServ Rate Sheet attached hereto as Exhibit A and incorporated by reference.

(b) Customer agrees to reimburse Service Provider for all reasonable travel and out-of-pocket expenses incurred by Service Provider in connection with the performance of the Services in accordance with rates established under the current Exhibit A in effect on the date of the Purchase Order, SOW or Order Confirmation, as applicable.

(c) Customer shall pay all invoiced amounts due to Service Provider within thirty (30) days from the date of Service Provider's invoice.

(d) In the event Service Provider does not receive payment within 30 days when due, Service Provider may:

(i) charge interest on any such unpaid amounts at a rate of 1.5% per month or, if lower, the maximum amount permitted under applicable law, from the date such payment was due until the date paid; and

(ii) suspend performance for all Services until payment has been made in full.

8. Taxes. Customer shall be responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by Customer hereunder.

9. Intellectual Property.

(a) All intellectual property rights, including copyrights, patents, patent disclosures and inventions (whether patentable or not), trademarks, service marks, trade secrets, know-how and other confidential information, trade dress, trade names, logos, corporate names, and domain names, together with all of the goodwill associated therewith, derivative works and all other rights (collectively, “**Intellectual Property Rights**”) in and to all documents, work product, and other materials that are delivered to Customer under this Agreement or prepared by or on behalf of Service Provider in the course of performing the Services, including any items identified as such in the Order Confirmation (collectively, the “**Deliverables**”), except for any Confidential Information of Customer or Customer materials, shall be owned by Service Provider.

(b) Any information, memoranda, writings, data, specifications, drawings, documents, blueprint, instructions, written materials, plans, calculations, books and records, computer files or other tangible manifestations submitted to Service Provider by Customer in connection with the Order Confirmation or any Services performed or to be performed hereunder (collectively, “Customer Information”), shall be regarded as secret and confidential. Service Provider’s subcontractors, officers, agents, affiliates, advisors, consultants, potential subcontractors, and employees, shall not reveal, except with Customer’s prior written consent, the contents of any Customer Information to any unauthorized person, firm or corporation, nor shall any unauthorized person, firm or corporation have access to them nor shall Service Provider utilize Customer Information except in the performance of the Services. All Customer Information shall remain the property of Customer whether executed by or for Service Provider for Customer, or otherwise by or for Service Provider, or by or for a subcontractor (previously approved by Customer) operating under Service Provider’s supervision or direction, and all such documents and copies thereof shall be returned or transmitted to Customer forthwith upon termination or completion of the Services, whichever may first occur, except that Service Provider shall retain such copies as needed for legal and audit purposes or as created by Service Provider’s automatic document backup system.

(c) Service Provider’s Intellectual Property and any Intellectual Property existing before or on the date hereof or arising in connection with this Agreement or licensed by Service Provider’s subcontractors (“Third-Party Intellectual Property”) relating to the Order Confirmation shall remain its respective owner’s property. Nothing in this Agreement or elsewhere shall be construed as conferring any right, title or license whatsoever with respect to Service Provider’s or Third-Party Intellectual Property forming part of the Services or Order Confirmation, regardless if such Intellectual Property was created before, during or after execution of this Agreement.

(d) Notwithstanding any proprietary legends or copyright notices to the contrary, Customer may copy or reproduce Deliverables furnished by Service Provider in connection with Service Provider’s performance of the Services, including from Service Provider’s Intellectual Property and any Third-Party Intellectual Property, and may distribute such copies or reproductions to others (subject to the confidentiality and limited-use provisions of Section 10, below) solely for the limited purposes of designing, installing, commissioning and operating, maintaining, repairing, altering or modifying any facilities receiving the Services or obtaining any licenses or permits for or in relation to the facilities receiving the Services. Customer shall obtain all necessary permission and releases from any third Parties placing proprietary legends or copyright notices on such documents or information.

(e) For avoidance of doubt, Customer's right to reproduce Deliverables does not include the right to (re)manufacture any parts of the equipment or goods supplied by Service Provider. Furthermore, neither Customer nor any of its assignees shall, directly or through others;

(i) observe, examine, test or reverse engineer any of the Services or equipment or goods supplied by Service Provider; nor

(ii) use or disclose any trade secrets unlawfully obtained through observation, examination, testing or reverse engineering of the Services or equipment or goods supplied by Service Provider.

#### 10. Confidential Information.

(a) All non-public, confidential or proprietary information of Service Provider, including, but not limited to, trade secrets, technology, information pertaining to business operations and strategies, and information pertaining to customers, pricing, and marketing (collectively, "**Confidential Information**"), disclosed by Service Provider to Customer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential," in connection with the provision of the Services and this Agreement is confidential, and shall not be disclosed or copied by Customer without the prior written consent of Service Provider. Confidential Information does not include information that is:

(i) in the public domain;

(ii) known to Customer at the time of disclosure; or

(iii) rightfully obtained by Customer on a non-confidential basis from a third party.

(b) Customer agrees to use the Confidential Information only to make use of the Services and Deliverables.

(c) Service Provider shall be entitled to injunctive relief for any violation of this Section.

#### 11. Representation and Warranty.

(a) Subject to Service Provider's limitation of liability described below, Service Provider provides the following warranties:

(i) Goods: Service Provider warrants that Goods, excluding consumables, manufactured or delivered and used in Services hereunder shall be (i) free from defects in material and workmanship and (ii) fit for Customer's purpose specified on the face of the Purchase Order ("Goods Warranty"), for a period of twelve (12) months from placing Goods in operation or eighteen (18) months from shipment, whichever shall occur first ("Goods Warranty Period"). Without cost to Customer and in Service Provider's sole discretion, Service Provider promptly shall repair or replace defective Goods, provided Customer has given written notice during the Goods Warranty Period. The warranty period for Goods repaired or replaced shall extend for a

period of six (6) months from the date of the repair or replacement or to the end of the original Goods Warranty Period, whichever occurs later.

(ii) In-Shop Goods Repair: Service Provider warrants that upon completion, goods repaired In-Shop shall be free from defects in material and workmanship, and fit for the Customer's purpose specified on the face of the Purchase Order ("In-Shop Goods Repair Warranty"), for a period of twelve (12) months from shipment ("In-Shop Goods Repair Warranty Period"). Without cost to Customer and in Service Provider's sole discretion, Service Provider shall promptly repair or replace defective In-Shop Repaired Goods, provided Customer has given written notice during the In-Shop Repair Warranty Period. The warranty period for In-Shop Repaired Goods subject to additional repair or replacement shall extend for a period of six (6) months from the date of the repair or replacement, or to the end of the original In-Shop Repaired Goods Warranty Period, whichever occurs later.

(iii) Technical Support: Service Provider warrants that field service or technical supervision services ("Technical Support") performed at Customer's premises shall be performed in a good and workmanlike manner ("Technical Support Warranty") for a period of thirty (30) days from completion of Technical Support ("Technical Support Warranty Period"). Without cost to Customer and in Service Provider's sole discretion, Service Provider shall promptly re-perform defective Technical Support or reimburse the applicable fees paid for such defective Technical Support, provided Customer has given written notice to Service Provider during the Technical Support Warranty Period. The warranty period for Technical Support re-performed shall extend for a period of thirty (30) days from the date of the completion of the re-performance of Technical Support or to the end of the original Technical Support Warranty Period, whichever occurs later.

(b) Service Provider shall not be responsible for any in and out costs, and Customer shall be responsible for free and clear access. The effects of corrosion, erosion and normal wear and tear are specifically excluded from all Service Provider's warranties.

(c) Service Provider shall not be liable for a breach of the warranty set forth in Section 11(a) if: (i) Customer makes any further use of any Goods or Services after giving such notice; (ii) the defect arises because Customer failed to follow Service Provider's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or Services; (iii) Customer alters or repairs such Goods or Services without the prior written consent of Service Provider. Customer must provide written notice of the defective Goods or Services, reasonably described, to Service Provider within three (3) days, as applicable, of Service Provider's Release Date or from date of delivery of the Services.

**(d) THE REMEDIES SET FORTH IN SECTION 11 SHALL BE THE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND SERVICE PROVIDER'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN SECTION 11(a).**

**12. Disclaimer of Warranties. EXCEPT FOR THE WARRANTY SET FORTH IN SECTION 11(a) ABOVE, SERVICE PROVIDER MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS OR SERVICES, INCLUDING ANY (A) WARRANTY OF MERCHANTABILITY; OR (B) WARRANTY OF FITNESS FOR A**

**PARTICULAR PURPOSE; OR (C) WARRANTY OF TITLE; OR (D) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS, STATUTORY, OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE.**

13. Limitation of Liability.

(a) **IN NO EVENT SHALL SERVICE PROVIDER BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT OR LOSS OF DATA OR DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SERVICE PROVIDER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OR ITS ESSENTIAL PURPOSE.**

(b) **IN NO EVENT SHALL SERVICE PROVIDER'S AGGREGATE LIABILITY FOR TECHNICAL ASSISTANCE, ON-SITE SERVICE OR IN-SHOP REPAIR, INCLUDING ANY GOODS USED IN PERFORMING SUCH SERVICE, ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE AMOUNT PAID OR AGREED TO BE PAID BY PURCHASER TO SERVICE PROVIDER FOR THE AFFECTED SERVICE OR SEGMENT OF SERVICE GIVING RISE TO THE CLAIM PURSUANT TO THE APPLICABLE ORDER CONFIRMATION.**

(c) The limitation of liability set forth in Section 13(b) above shall not apply to claims from third Parties for death or bodily injury caused by Service Provider's negligent acts while performing Services under this Agreement.

14. Termination. In addition to any remedies that may be provided under this Agreement, Service Provider may terminate this Agreement with immediate effect upon written notice to Customer, if Customer:

(a) fails to pay any amount when due under this Agreement and such failure continues for fifteen (15) days after Customer's receipt of written notice of nonpayment;

(b) has not otherwise performed or complied, in whole or in part, with any of the material terms of this Agreement; or

(c) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization, or assignment for the benefit of creditors.

15. Insurance. During the term of this Agreement, each Party shall, at its own expense, maintain and carry insurance in full force and effect which includes, but is not limited to,

commercial general liability with a limit of \$1,000,000, and workers compensation coverage at statutory limits in accordance with law with financially sound and reputable insurers. Upon request, Customer and Service Provider shall provide each other with a certificate of insurance from their respective insurer evidencing the insurance coverage specified in these Terms. Their certificates of insurance shall name each other as an additional insured. Each Party shall provide the other Party with thirty (30) days' advance written notice in the event of a cancellation or material change in their own insurance policy. Except where prohibited by law, each Party shall require its insurer to waive all rights of subrogation against the other Party's insurers and the other Party.

16. Waiver. No waiver by Service Provider of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Service Provider. No failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement operates or may be construed as a waiver thereof. No single or partial exercise of any right, remedy, power, or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

17. Force Majeure. The Parties understand that the full effects from the worldwide outbreak of the COVID-19 pandemic remain unknown at the time of preparing this bid or signing this order, and may directly or indirectly impact the supply of goods and performance of services and their respective delivery or performance dates. Accordingly, the Parties agree that any such consequences from COVID-19 or other such pandemics continue to be unpredictable, and such pandemic consequences generally constitute events of Force Majeure. Should such consequences be realized during the bid process or the life of the order which affect Service Provider's ability to deliver goods or perform services within the respective delivery or performance dates, Service Provider will issue a notice in accordance with the agreed provisions on Force Majeure and the respective consequences of Force Majeure shall apply. Neither Party shall be liable or responsible to the other Party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations of Customer to make payments to Service Provider hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the impacted Party's ("Impacted Party") reasonable control, including, without limitation, the following force majeure events ("Force Majeure Event(s)"): acts of God; flood, fire, earthquake, other potential disaster(s) or catastrophe(s), such as epidemics, or explosion; war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; government order, law, or action; embargoes or blockades in effect on or after the date of this Agreement; national or regional emergency; strikes, labor stoppages or slowdowns or other industrial disturbances not limited to either Party's employees; shortage of adequate power or transportation facilities; and other similar events beyond the reasonable control of the Impacted Party. The Impacted Party shall give notice to the other Party within five (5) days of its knowledge of the Force Majeure Event, stating the period of time the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event that the Impacted Party's failure or delay remains uncured for a period of one-hundred-twenty (120) consecutive days following written notice given by it under this Section 17, the other Party may thereafter terminate this Agreement upon thirty (30) days' written notice.

18. Assignment. Customer shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Service Provider. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Customer of any of its obligations under this Agreement.

19. Relationship of the Parties. The relationship between the Parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment, or fiduciary relationship between the Parties, and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever.

20. No Third-Party Beneficiaries. This Agreement is for the sole benefit of the Parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.

21. Governing Law. All matters arising out of or relating to this Agreement are governed by and construed in accordance with the internal laws of the State of Georgia , without giving effect to any choice or conflict of law provision or rule (whether of the State of Georgia or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Georgia .

22. Submission to Jurisdiction. Any legal suit, action, or proceeding arising out of or relating to this Agreement shall be instituted in the federal courts of the United States of America or the courts of the State of Georgia , in each case located in the City of Grovetown and County of Augusta, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.

23. Notices. All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a “**Notice**”) shall be in writing and addressed to the Parties at the addresses set forth in the Purchase Order, SOW or Order Confirmation, as applicable, or to such other address that may be designated by the receiving Party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), email (with delivery receipt) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt by the receiving Party, and (b) if the Party giving the Notice has complied with the requirements of this Section.

24. Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

25. Survival. Provisions of these Terms, which by their nature should apply beyond their terms, will remain in force after any termination or expiration of this Agreement including, but not limited to, the following provisions: Confidentiality, Governing Law, Insurance, Limitation of Liability, Submission to Jurisdiction, and Survival.

26. Amendment and Modification. This Agreement may only be amended or modified in a writing which specifically states that it amends this Agreement and is signed by an authorized representative of each Party.