

# SILVER BULLET WATER TREATMENT COMPANY, LLC (“SILVER BULLET”)

## Equipment Lease & Purchase Agreement (Domestic)



### General Terms and Conditions

1. *General.* These General Terms and Conditions (the “Terms”) are by and between the customer listed in the Order to which these Terms are attached (“Customer”) and Silver Bullet Water Treatment Company, LLC or its designated third party agent (collectively “Silver Bullet”). These Terms govern Customer’s lease, purchase, or procurement of equipment, supplies, services, or other offerings (collectively “Offerings”) as set forth in one or more orders accepted by Silver Bullet (“Orders”) as well as all subsequent use of such Offerings. Together, these Terms, the Annexes attached hereto, and the terms of each Order constitute Customer’s agreement with Silver Bullet regarding Customer’s lease, purchase, procurement and use of any Offerings made available by Silver Bullet (“Agreement”). Silver Bullet’s provision of any Offering is expressly conditioned upon Customer’s acceptance of these Terms, which acceptance may be express or implied. Customer’s full or partial payment or receipt and acceptance of any Offering shall constitute acceptance of these Terms. SILVER BULLET EXPRESSLY OBJECTS TO, AND IS NOT BOUND BY, ANY TERMS OR CONDITIONS ON CUSTOMER’S ORDER, CONFIRMATION FORMS OR OTHER DOCUMENTS, WHICH ATTEMPT TO IMPOSE UPON SILVER BULLET OR ANY OFFERING ANY TERMS AND CONDITIONS WHICH DIFFER FROM THE TERMS SET FORTH HEREIN; AND SILVER BULLET’S PERFORMANCE OR FAILURE TO OBJECT TO PROVISIONS CONTAINED IN ANY CUSTOMER COMMUNICATION SHALL NOT BE DEEMED TO WAIVE ANY PROVISION HEREIN, OR CONSTITUTE ASSENT TO ANY SUCH ADDITIONAL, DIFFERENT AND/OR INCONSISTENT TERMS. These Terms apply in lieu of any course of dealing between the parties or usage of trade in the industry.

2. *Offering Specific Terms.* Because the Agreement applies to any and all of Silver Bullet’s Offerings, certain terms and conditions are not applicable to certain Offerings. Terms and conditions that apply only with respect to a specific Offering are set forth in the following Annexes to these Terms: (a) Silver Bullet’s lease of water treatment systems (collectively, the “Leased Water Treatment System” or “LWTS”) is covered by *Annex A - Leased Equipment*; (b) Silver Bullet’s sale of water treatment equipment (collectively, the “Purchased Water Treatment Equipment” or “PWTE”) is covered by *Annex B - Purchased Equipment*; (c) Silver Bullet’s sale of water treatment supplies and chemicals (“Supplies”) is covered by *Annex C - Water Treatment Supplies*; and (d) Silver Bullet’s provision of water testing and analytical services (“Analytical Services”) is covered by *Annex D - Analytical Services*. Each of the foregoing Annexes, together with the terms of the applicable Order and the other terms and conditions of the Agreement, governs Customer’s lease, purchase, procurement and use of the Offering covered by such Annex. In the event of a conflict or inconsistency that relates to the subject matter of the Agreement, the following order of precedence shall control, in descending order of precedence: (i) the Order, with respect to the rights and obligations of the parties under that Order, (ii) the Annex, with respect to the Offerings covered by that Annex, and (iii) the other terms and conditions of the Agreement.

3. *Orders.* Silver Bullet will provide the Offerings under the Agreement strictly as set forth in Orders under the Agreement. These Terms are attached to the initial Order under the Agreement. Client may place additional orders for Offerings under the Agreement with Silver Bullet by telephone, email, or in written form. Upon Silver Bullet’s acceptance, each Order is non-cancellable, will bind the parties, and will be incorporated into and form a part of the Agreement.

4. *Payment.* All fees payable by Customer under the Agreement (“Fees”) are as set forth in each Order under the Agreement. Unless otherwise indicated in an Order, all Fees are due and payable by Customer as indicated in the Annex applicable to the Offering. If neither the Order nor the applicable Annex include applicable payment terms, the Fees under the Order will be due and payable by Customer as invoiced by Silver Bullet. All payments by Customer shall be in U.S. Dollars, without prior demand and without deduction or set off. Outstanding balances not paid when due are subject to late charges accruing from the invoice date at the rate of 1.5% per month (or, if less, the maximum amount permitted by applicable law). Silver Bullet’s receipt of any payment less than the full amount due shall not waive any rights of Silver Bullet. Silver Bullet may set off any amount due from Customer, whether or not under the Agreement, against any amount due Customer hereunder. All costs and expenses, including but not limited to collection fees and reasonable attorney’s

fees for the collection of any overdue amount due Silver Bullet, shall be paid by Customer. All discounts and new customer referral credits available to Customer, if any, are subject to: (a) Silver Bullet’s prior written approval; and (b) such terms and conditions as may be acceptable to Silver Bullet, in its sole discretion.

5. *Delivery.* The LWTS, PWTE, and Supplies (as applicable) will be delivered within a reasonable time after Silver Bullet’s acceptance of an Order. Silver Bullet shall not be liable for any delays, loss or damage in transit. Unless otherwise agreed in writing by the parties, Silver Bullet shall deliver the LWTS, PWTE, and Supplies to the location specified in the applicable Order (the “Delivery Point”) using Silver Bullet’s standard packaging and shipping methods. Delivery terms are specified on the Order. Unless otherwise agreed in writing by the parties, Customer shall take receipt of the LWTS, PWTE, and Supplies upon and shall be responsible for all loading costs and provide equipment and labor reasonably suited for receipt of the LWTS, PWTE, and Supplies at the Delivery Point.

6. *Loss and Damage.* Upon delivery or installation, whichever occurs first, Customer shall bear the entire risk of loss, theft, damage or destruction of the Offerings from any cause whatsoever, and no loss, theft, damage or destruction of the Offerings shall relieve Customer of any obligation hereunder.

7. *Nonconforming Goods.* Customer shall inspect the LWTS, PWTE, and Supplies within 5 calendar days of receipt (the “Inspection Period”). Customer will be deemed to have accepted the LWTS, PWTE, and Supplies unless it notifies Silver Bullet in writing of any Nonconforming Goods (as defined below) during the Inspection Period and furnishes such written evidence or other documentation reasonably required by Silver Bullet. “Nonconforming Goods” means only the following: (a) the product shipped is different than identified in the Order; or (b) the product’s label or packaging incorrectly identifies its contents. If Customer timely notifies Silver Bullet of any Nonconforming Goods, Silver Bullet shall, in its sole discretion: (1) replace the Nonconforming Goods with conforming LWTS, PWTE, or Supplies (as applicable); or (2) credit or refund the price of such LWTS, PWTE, or Supplies (as applicable), together with any reasonable shipping and handling expenses incurred by Customer in connection therewith. Customer acknowledges that the remedies set forth in this Section are Customer’s exclusive remedies for the delivery of Nonconforming Goods.

8. *Installation, Site Safety, and Cooperation.* If Customer Orders an LWTS or PWTE, Silver Bullet shall install the LWTS or PWTE at the Customer location (the “Site”) on or around the date set forth in the Order, which date is an estimate only. Prior to installation, Customer shall, at its expense, prepare the Site in a manner suitable for installation. Customer acknowledges that a safe work environment is necessary for the performance of many of Silver Bullet’s obligations, including installation, and that Silver Bullet may, at Silver Bullet’s sole discretion, refuse to perform its obligations in a work environment that it determines to be unsafe or unsuitable. Customer further acknowledges that certain aspects of Silver Bullet’s obligations may require cooperation and coordination with Customer personnel. As such, Customer agrees to make available, as reasonably necessary, the resources and personnel required to complete Silver Bullet’s obligations. Silver Bullet shall not be liable for any delay in the completion of its obligations resulting from Customer’s failure to provide a suitable work environment or inability to provide the resources and/or personnel necessary to complete the obligations in a timely manner.

9. *Use.* Customer shall at all times use the Offerings in a careful and proper manner, and shall comply with all laws, ordinances and regulations (along with all rules, policies and operating instructions of Silver Bullet and its manufacturers) in any manner relating to the possession, use or operation thereof. Customer shall not, without the prior written consent of Silver Bullet, make any alterations or modifications to the Offerings.

10. *Intellectual Property.* Customer acknowledges and agrees that: (i) Silver Bullet (or its licensors) will retain all intellectual property rights comprising or relating to patents, trademarks, internet domain names, web addresses, web pages, works of authorship, designs, copyrights, software, firmware, systems, processes, upgrades, enhancements and modifications (collectively, “Intellectual Property Rights”) used to create, embodied in, used in and otherwise relating to the Offerings and any component thereof; (ii) any and all



of Silver Bullet's Intellectual Property Rights are the sole and exclusive property of Silver Bullet or its licensors; and (iii) Customer shall not acquire any ownership interest in any of Silver Bullet's Intellectual Property Rights under the Agreement.

11. *Confidential Information.* All non-public, confidential, or proprietary information of Silver Bullet (including without limitation specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates) disclosed to Customer, whether orally or in written, electronic, or other form or media, and whether or not marked, designated, or otherwise identified as "confidential", is confidential, solely for the use of performing the Agreement, and may not be disclosed or copied unless authorized in writing by Silver Bullet. Silver Bullet shall be entitled to seek injunctive relief for any violation of this Section. Customer's obligations pursuant to this Section shall not apply to information that Customer demonstrates is: (a) in the public domain; (b) already known to Customer at the time of disclosure; or (c) rightfully obtained by Customer on a non-confidential basis from a third party having the right to disclose. Customer's obligations set forth in this Section shall survive the expiration or earlier termination of the Agreement.

12. *Limited Warranty.* Silver Bullet may provide certain limited warranties with respect to the Offerings, as and to the extent set forth in the Annexes hereto ("Limited Warranties"). THE WARRANTIES AND REMEDIES SET FORTH IN SUCH ANNEXES ARE EXCLUSIVE, AND IN LIEU OF ALL OTHER WARRANTIES AND REMEDIES WHATSOEVER, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT OF THIRD-PARTY RIGHTS AND WARRANTIES AGAINST LATENT DEFECTS, WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE. SILVER BULLET MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING COMPLIANCE WITH THE FEDERAL FOOD, DRUG, AND COSMETIC ACT, THE CONSUMER PRODUCT SAFETY ACT, THE HAZARDOUS SUBSTANCES LABELING ACT, OR ANY OTHER FEDERAL, STATE OR LOCAL LAW. Silver Bullet shall not be liable for a breach of any Limited Warranty unless: (a) Customer gives written notice of the defect, reasonably described, within seven (7) calendar days of the time when Customer discovers or ought to have discovered the defect; (b) Silver Bullet is given a reasonable opportunity after receiving the notice to examine the Offering and Customer (if requested to do so by Silver Bullet) returns such Offering to Silver Bullet's place of business, at Silver Bullet's cost; and (c) Silver Bullet reasonably verifies Customer's claim that the Offering is defective. Silver Bullet shall not be liable for a breach of any Limited Warranty if the defect arises because: (i) Customer failed to follow Silver Bullet's instructions with respect to the Offering, or because Customer otherwise breached the Agreement (including without limitation by altering or modifying the Offering without Silver Bullet's prior written consent); (ii) the power supplied to the Offering exceeds its operating parameters; or (iii) any external device attached by Customer creates conditions exceeding the Offering's operating parameters. Silver Bullet shall further not be liable for a breach of any Limited Warranty if the Offering's serial number is covered, removed or defaced. Subject to the terms of the Agreement, Silver Bullet's sole obligation for an Offering that does not comply with a Limited Warranty shall be, at Silver Bullet's sole discretion, to: (A) repair or replace the Offering (or the defective part); or (B) credit or refund amounts actually paid for such Offering, depreciated on a straight line basis, provided that, if Silver Bullet so requests, Customer shall, at Silver Bullet's expense, return such Offering to Silver Bullet.

13. *Limitation of Liability.* IN NO EVENT SHALL SILVER BULLET BE LIABLE TO CUSTOMER OR ANYONE CLAIMING THROUGH OR UNDER CUSTOMER FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES OF ANY NATURE, WHETHER ARISING IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), OR STRICT LIABILITY, INCLUDING, WITHOUT LIMITATION, DELAY, LOST REVENUE, LOST PROFITS OR LOSS OF GOODWILL, EVEN IF SILVER BULLET HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CUSTOMER'S AGGREGATE RECOVERY FROM SILVER BULLET FOR ANY CLAIM OTHER THAN THOSE EXCLUDED HEREIN SHALL NOT EXCEED THE FEES PAID BY CUSTOMER FOR THE OFFERING GIVING RISE TO SUCH CLAIM IRRESPECTIVE OF THE NATURE OF THE CLAIM, WHETHER IN CONTRACT, TORT, WARRANTY OR OTHERWISE. CUSTOMER MAY NOT BRING ANY ACTION, REGARDLESS OF FORM, ARISING FROM OR PERTAINING TO THE AGREEMENT OR ANY OFFERING MORE

THAN 1 YEAR AFTER SUCH ACTION HAS ACCRUED. IF FOR ANY REASON, THE FOREGOING LIMITATIONS ARE FOUND BY A COURT OR ARBITRATION PANEL TO BE INVALID OR INAPPLICABLE UNDER ANY APPLICABLE STATE OR FEDERAL LAW, CUSTOMER AGREES THAT SILVER BULLET'S TOTAL LIABILITY FOR ALL LOSSES (AS DEFINED BELOW) OF ANY KIND OR NATURE SHALL BE LIMITED TO ACTUAL DAMAGES WITHOUT REGARD TO ANY PUNITIVE OR EXEMPLARY DAMAGES (OR LOST BUSINESS OR LOST PROFITS) PROVIDED BY ANY APPLICABLE LAW.

14. *Certain Obligations.* To the maximum extent allowed by law, Customer shall defend and indemnify Silver Bullet and its officers, directors, employees, agents, representatives, successors and assigns from and against any claim, loss, liability, damage, deficiency, suit, action, demand, judgment, cost or expense (including, but not limited to, attorney's fees), penalty, or fine (collectively, "Losses"), that Silver Bullet may incur or be obligated to pay as a result of: (a) Customer's negligence or intentional misconduct; (b) Customer's alteration or misuse of the Offerings; and/or (c) Customer's breach of any term, covenant, representation or warranty contained in the Agreement. Silver Bullet's remedies under the Agreement are cumulative and in addition to any other remedies available at law, in equity, by contract or otherwise. No purported limitation on Silver Bullet's remedies contained in any other Customer form or document shall operate to reduce this indemnification obligation. If any claim is asserted or action commenced against Silver Bullet for which Silver Bullet is entitled to indemnification hereunder, Customer shall, upon Silver Bullet's demand, promptly undertake the defense thereof, employing counsel satisfactory to Silver Bullet (or Silver Bullet may elect to defend the same on its own behalf). In either case, Customer will, upon demand, pay all reasonable attorneys' fees and other costs or expenses incurred by Silver Bullet in connection with such defense, including, but not limited to, any judgment or award resulting from any such claim or action and any settlement paid by Silver Bullet with Customer's consent

15. *Default.* Each of the following shall constitute a "Default" hereunder: (a) failure by Customer to pay any amounts under the Agreement when the same are due and payable; (b) failure by Customer to perform any other provision hereunder within 10 days after written notice thereof from Silver Bullet; and (c) the adjudication of Customer as bankrupt, the insolvency of Customer, an assignment by Customer for the benefit of creditors or the appointment of a receiver for any of Customer's property. Upon Default, Silver Bullet shall have the right to exercise any one or more of the following remedies, in addition to all other rights and remedies available to Silver Bullet at law or in equity: (i) sue for and recover all amounts then due or thereafter accruing hereunder; (ii) require Customer to make the LWTS available to Silver Bullet; (C) take possession of the LWTS by entering the premises on which it is located without court order or other process of law; and (D) terminate the Agreement. Customer shall pay all costs and expenses (including reasonable attorneys' fees) incurred by Silver Bullet in exercising its rights or remedies hereunder or enforcing any of the provisions hereof.

16. *Force Majeure.* Silver Bullet shall not be liable to Customer or third parties for any delay in, or failure of, performance caused by acts or circumstances beyond its direct control, including but not limited to acts of God, fire, flood, explosion, war, epidemic, governmental action, terrorist threats or acts, civil unrest, major LWTS or PWTE failure, accident, labor disputes, strikes, non-performance by a third party, shortage or inability to obtain materials, equipment, power or transportation. If delay is caused by any such circumstances, Silver Bullet shall have the option to terminate the Agreement and/or extend any date upon which performance hereunder is due, without liability to Customer.

17. *Dispute Resolution.*

(a) *Agreement to Arbitrate.* Except as otherwise provided in Section 17(b), the parties will attempt to resolve all disputes, controversies, or claims arising under, out of, or relating to this Agreement, including the formation, validity, binding effect, interpretation, performance, breach or termination, of this Agreement and the arbitrability of the issues submitted to arbitration hereunder and non-contractual claims relating to this Agreement (each, a "Dispute") through discussion between the parties. Except as otherwise provided in Section 17(b), if any Dispute cannot be resolved through negotiations between the parties within 30 days of notice from one party to the other of the Dispute, either party may submit such Dispute for final settlement through binding arbitration under the JAMS Streamlined Arbitration Rules and Procedures then in effect ("Rules"). Either party may commence the arbitration by delivering a request for arbitration as specified in the Rules. The arbitration

will be conducted before a sole neutral arbitrator, selected as provided in the Rules. The arbitration will be conducted in the English language at a site specified by Silver Bullet in Denver, Colorado. The arbitrator will apply the law set forth in Section 17(c) to any such arbitration and shall have the power to award any remedy available at law or in equity; provided, however, that the arbitrator shall have no jurisdiction to amend this Agreement or grant any relief not permitted herein or beyond the relief permitted herein. The award of the arbitrator will be the exclusive remedy of the parties for all claims, counterclaims, issues or accountings presented or plead to the arbitrator. The award of the arbitrator will require the non-prevailing party to pay the prevailing party's costs, fees and expenses (including attorneys' fees). Judgment upon the award may be entered in any court or governmental body having jurisdiction thereof. Any additional costs, fees or expenses incurred in enforcing the award may be charged against the party that resists its enforcement.

(b) *Exception to Arbitration.* Customer agrees that if Silver Bullet reasonably believes Customer has, in any manner, breached its confidentiality obligations hereunder or misappropriated, infringed Silver Bullet's Intellectual Property Rights, then Silver Bullet may seek emergency, preliminary or other appropriate interim relief in the state or federal courts located in Denver Colorado.

(c) *Governing Law and Venue.* All transactions between Silver Bullet and Customer shall be governed by and construed in accordance with the laws of the State of Colorado, without regard to any conflicts of law principles. Subject to Section 17(a) above, any action or proceeding involving any dispute relating to or arising from the Agreement shall be commenced exclusively in the federal or state courts located within Denver, Colorado, and Customer consents to the exclusive jurisdiction of such courts and waives any objection to such jurisdiction.

18. *Micellaenous.* The Agreement is the complete and exclusive understanding and agreement between the parties regarding the subject matter covered by the Agreement, including all access to and use of any Offerings provided under the Agreement, and supersedes any oral or written proposal, agreement, or other communication between the parties regarding Customer's lease, purchase, procurement and use of any Offerings. All notices shall be in writing and shall be deemed sufficiently given and received in all respects when hand delivered, when sent by facsimile or email, when sent by a reputable overnight courier service, or 3 calendar days after being deposited in the United States mail, return receipt requested, addressed to Silver Bullet or Customer, as the case may be, at the address set forth in the Agreement (or to such other address as may be designated in a writing by notice duly given). Customer may not assign any of its rights, duties or obligations under the Agreement, nor sublet the LWTS, without Silver Bullet's prior written consent. Any attempted assignment or sublet without such consent, even if by operation of law, shall be void. Silver Bullet may subcontract the performance of any of its obligations under the Agreement to any third party. In interpreting and construing the Agreement, "including," "include," "includes" and variations thereof will be construed as if followed by the phrase "without limitation." The relationship between the parties is that of independent contractors and no agency, partnership, franchise, joint venture or employment relationship is intended or created by the Agreement. The failure of Silver Bullet, at any time, to assert any right or require performance of any obligation contained in the Agreement will not affect Silver Bullet's right to assert such right or to require such performance at any time thereafter; nor shall the waiver be construed in any way as a waiver of any future breach of the provision so waived or waiver of the provision itself. In the event that any provision of the Agreement is found invalid or unenforceable, whether in whole or in part, for any reason, such provision shall be changed and interpreted so as to best accomplish the objectives of such provisions within the limits of applicable law. The Agreement may only be amended by a written agreement executed by Silver Bullet and Customer. Any terms of the Agreement agreement that by their nature extend beyond its expiration or termination remain in effect until fulfilled.

#### ANNEX A - LEASED EQUIPMENT

1. *Rent.* If Customer leases any LWTS from Silver Bullet, then, unless otherwise agreed to by Silver Bullet in writing, Customer will pay Silver Bullet rent ("**Rent**") for the LWTS at the monthly rate specified in the Order during the Term (as defined below), received no later than the 15<sup>th</sup> day of the month. Rent for all partial months of the Term shall be pro-rated, with Rent commencing and due in all events on the first day of the Term. The installation fee and shipping fee, if any, set forth in the Order, shall be paid in full by Customer within 15 calendar days of Silver Bullet's invoice. Customer shall pay before delinquency all taxes (other than taxes on Silver Bullet's income) which may be imposed

upon the ownership, leasing or use of the LWTS and which are applicable to the Term or any portion thereof.

2. *Security Deposit.* Customer shall pay to Silver Bullet a security deposit in the amount set forth in the Order (the "**Security Deposit**"), which may be applied by Silver Bullet if Customer defaults in the performance of any of its covenants under the Agreement. The Security Deposit may be commingled with Silver Bullet's other funds, unless otherwise required by applicable law. Customer is not entitled to interest on the Security Deposit. Should all or any portion of the Security Deposit be applied by Silver Bullet in accordance with this Section, then Customer shall, within 10 calendar days after written demand by Silver Bullet, remit to Silver Bullet a sufficient sum to restore the Security Deposit to its original amount. If Customer fully complies with the terms and covenants of the Agreement, the Security Deposit shall be returned to Customer after the expiration of the Term and surrender of the LWTS to Silver Bullet in good working condition, subject to normal wear and tear, and in its entirety. The Security Deposit is not intended to serve as, and shall not be deemed to be, liquidated damages nor a measure of Silver Bullet's damages arising out of any default by Customer.

3. *Term.* The lease of the LWTS shall commence on the date of delivery and terminate on the date set forth in the Order (or, if not date is set forth, on the date 1 year from installation), unless sooner terminated as set forth herein (the "**Initial Term**"). Upon the expiration of the Initial Term, the lease of the LWTS shall automatically renew for additional successive 1 year terms unless either party provides written notice of nonrenewal at least 60 calendar days prior to the end of the then-current term (each, a "**Renewal Term**"), and together with the Initial Term, the "**Term**"). Customer may, in its discretion, terminate the lease of the LWTS by written notice delivered to Silver Bullet no later than sixty 60 calendar days following installation (in which event Silver Bullet shall, subject to these the Agreement, reimburse Customer all rent paid hereunder).

4. *Return.* Upon the expiration or earlier termination of the Term, Customer shall, at Customer's expense unless otherwise agreed in writing by Silver Bullet, return the LWTS to Silver Bullet in the same condition provided to Customer, reasonable wear and tear excepted, at such location as Silver Bullet may designate in writing.

5. *Inspection and Maintenance.* Customer shall reasonably grant timely access to the Site to allow Silver Bullet to inspect and maintain the LWTS. Subject to Customer's compliance with the Agreement, Silver Bullet shall, at its expense, provide maintenance and repairs to the LWTS in accordance with Silver Bullet's then-current policies. For the avoidance of doubt, Customer shall be solely responsible, at its cost, for any maintenance, repair or replacement of the LWTS to the extent arising from Customer's: (i) failure to comply with the Agreement; or (ii) improper use of the LWTS.

6. *Water Testing and Periodic Inspection.* Unless otherwise directed by Silver Bullet, Silver Bullet shall, on a periodic basis and at Silver Bullet's expense: (a) conduct water sampling at the Site which will be sent to a laboratory of Silver Bullet's choosing for analysis; (b) inspect the LWTS to determine it is in proper operating condition, and whether it has been altered or misused; (c) conduct repairs or replacements to the LWTS. Customer shall notify Silver Bullet in writing of any conditions of which Customer has knowledge that might affect any warranty applicable to the LWTS. **CUSTOMER ACKNOWLEDGES THAT WATER TREATED BY THE LWTS MAY NOT BE POTABLE FOR HUMAN CONSUMPTION.**

7. *Insurance.* Customer, at its expense, shall provide and maintain throughout the Term adequate insurance for the LWTS against loss, theft, and damage in an amount equal to the replacement value of the LWTS, with financially sound and reputable insurers.

8. *Use of LWTS.* In addition to the use restrictions set forth in the Terms, only employees of Customer who have received training and who are fully-knowledgeable of the LWTS may operate the LWTS. Third parties approved and authorized by Silver Bullet, may use, operate, maintain, and service the LWTS. Customer may not move or relocate the LWTS without Silver Bullet's prior written consent.

9. *Title.* The parties agree that any Order for a LWTS shall be treated as an operating lease. Title to the LWTS is and shall remain in Silver Bullet, and Customer shall have no right or interest therein except as the lessee hereunder during the Term. The parties intend that the LWTS remains at all times personal property and not a fixture under applicable law, even if the LWTS, or any part thereof, may be or becomes affixed or attached to real property or any improvements. Upon Silver Bullet's request, Customer shall obtain and provide



to Silver Bullet, from each real property landlord, mortgagee, or lienholder for the location of the LWTS, a waiver of any interest that it may have in the LWTS arising from its interest in the real property. Customer shall keep the LWTS free and clear of all liens and encumbrances arising through Customer, and shall not pledge or encumber the LWTS in any way. Customer authorizes Silver Bullet to file precautionary Uniform Commercial Code financing statements and other similar filings and recording with respect to the LWTS.

10. *Limited Warranty.* Silver Bullet represents and warrants to Customer that during the Term, the LWTS will materially conform to its specifications in effect as of the date of installation.

#### **ANNEX B - PURCHASED EQUIPMENT**

1. *Payment.* If Customer purchases any PWTE from Silver Bullet, then, unless otherwise agreed to by Silver Bullet in writing, Customer agrees to pay Silver Bullet all amounts specified in the applicable Order within 15 calendar days of Silver Bullet's invoice. All Fees set forth in the applicable Order are exclusive of all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any governmental authority on any amounts payable by Customer. Customer shall be responsible for all such charges, costs and taxes (other than taxes on Silver Bullet's income).

2. *Title.* Title to the PWTE shall transfer to Customer upon payment in full of all amounts owed Silver Bullet hereunder. Prior to such payment, Customer shall keep the PWTE free and clear of all liens and encumbrances arising through Customer, and shall not pledge or encumber the PWTE in any way. As collateral security for the payment of the purchase price of the PWTE, Customer hereby grants to Silver Bullet a lien on and security interest in and to all of the right, title and interest of Customer in, to and under the PWTE, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a purchase money security interest under the Uniform Commercial Code.

3. *Inspection and Maintenance.* Silver Bullet shall at all times during Customer's regular business hours have the right to enter upon the Site for the purpose of inspecting the PWTE or observing its use to ensure compliance with the Agreement. Except as otherwise specifically set forth in the Agreement, Customer shall, at its expense, be solely responsible for all maintenance, repair and replacement to the PWTE.

4. *Limited Warranty.* Silver Bullet represents and warrants to Customer that for a period of 1 year from the date of commissioning, the PWTE will materially conform to its specifications in effect as of the date of installation. CUSTOMER ACKNOWLEDGES THAT WATER TREATED BY THE PWTE MAY NOT BE POTABLE FOR HUMAN CONSUMPTION.

#### **ANNEX C - WATER TREATMENT SUPPLIES AND CHEMICALS**

1. *Payment.* Unless otherwise indicated in the Order, all Customer agrees to pay Silver Bullet all amounts specified in the Order within 15 calendar days of Silver Bullet's invoice. All prices are exclusive of all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any governmental authority on any amounts payable by Customer. Customer shall be responsible for all such charges, costs and taxes (other than taxes on Silver Bullet's income).

2. *Inspection and Maintenance.* Silver Bullet shall at all times during Customer's regular business hours have the right to enter upon the Site for the purpose of inspecting Customer's use of the Supplies or observing its use to ensure compliance with the Agreement.

3. *Use of Supplies.* In addition to the use restrictions set forth above, Customer will only permit employees and contractors with the requisite skill,

experience and qualifications to use and handle the Supplies. Customer acknowledges that the Supplies may include hazardous chemicals or other materials and represents and warrants to Silver Bullet that Customer and its employees and contractors are (a) well versed in the use, handling, and storage of such chemicals or materials, (b) aware of the dangers inherent thereto, and (c) will at all times use, store, and handle such Supplies in accordance with any material safety data sheet, label, or other instructions provided with such Supplies. If no safety instructions are provided on delivery, Customer will promptly request such instructions from Silver Bullet. Customer agrees to assume all risk from its use, storage, and handling of the Supplies and hereby releases Silver Bullet from any liability or loss incurred in relation thereto.

#### **ANNEX D - ANALYTICAL SERVICES**

1. *Analytical Services and Results.* Silver Bullet will use commercially reasonable efforts to provide the Analytical Services using samples taken by Silver Bullet or provided by Customer and will provide the results of such testing ("**Results**") to Customer, all as set forth in each Order issued under the Agreement. Any changes to any Analytical Services or Results under any Order will be set forth in a written change order describing the changes (and any resultant changes to the Fees applicable to the Analytical Services and Results) agreed to by both parties. Unless otherwise agreed to by the parties in a written change order, any services not set forth in an Order requested by Customer and performed by Silver Bullet will be provided on a time and materials basis at Silver Bullet's then-current rates.

2. *Payment.* Customer will pay the Fees set forth in each Order when due. If an Order does not state any Fees, Customer agrees to pay Silver Bullet for the Analytical Services and Results under that Order on a time and materials basis at Silver Bullet's then-current rates. Unless otherwise stated in an applicable Order, Silver Bullet will invoice Customer for all Fees incurred during each month upon the completion of that month. Customer will pay all such invoiced amounts within 15 days of the invoice.

3. *License.* Subject to payment of all applicable Fees when due, Silver Bullet grants to Customer a limited, personal, non-transferable, non-sublicensable, and non-exclusive license to access and use the Results provided to Customer by Silver Bullet under the Agreement solely for its own internal business purposes in accordance with the terms of the Agreement. Customer agrees not to: (a) sublicense, lease, sell, rent, loan or otherwise transfer the Results to any third party; (b) reverse engineer, decompile, disassemble or otherwise attempt to derive the source code or method of operation of the Results; or (c) otherwise use or copy the Results except as expressly permitted in this Section.

4. *Limited Warranty.* Silver Bullet will use commercially reasonable efforts to perform all Analytical Services under the Agreement. If Silver Bullet fails to comply with the previous sentence, Silver Bullet will, at its sole discretion and as Customer's sole remedy and Silver Bullet's sole obligation for any such failure: (a) re-perform the Analytical Services in a manner that resolves the alleged failure; or (b) refund any Fees paid by Customer attributable to the Analytical Services that are the subject of the failure.

5. *Use of Results.* Customer acknowledges that Results only relate to the samples taken and are intended for monitoring and information purposes only. Results are not suitable for regulatory or compliance reporting. Silver Bullet accepts no liability for sample traceability, sample quality, or sample representation fitness. Silver Bullet's testing methods have been optimized to detect the specific targets requested by the Customer and accurately describe those targets in the large majority of cases. Relevant quality assurance and quality control standards are followed to ensure process repeatability and functionality. However, Silver Bullet accepts no liability or responsibility and makes no warranties, expressed or implied, as to the accuracy or completeness of any Results. Customer is solely responsible for and assumes all risk associated with its use of the Results.