

DENALI WATER SOLUTIONS LLC**TERMS AND CONDITIONS OF SERVICE**

Under these Terms and Conditions of Service (these “**T&Cs**”) and the purchase order, bill of lading or statement of work under which these T&Cs may be referenced (collectively “**Order**”), Denali Water Solutions LLC or its subsidiaries or affiliates as identified on the Order (collectively, “**Denali**”) offers to provide hauling services to Customer (as identified in this Order) in exchange for the compensation agreed upon or described in the Order (collectively “**Work**”). Customer may not change the Order terms, and Denali hereby rejects any terms Customer proposes whether verbally or in writing.

1. PRICES AND PAYMENT

- (a) Unless otherwise specified, prices for the Work shall be the price shown on the face of the Order.
- (b) Customer will pay Denali at 220 S. Commerce Ave, Russellville, AR 72801, Attn: Accounts Payable, within thirty (30) days of receipt of an invoice.
- (c) Customer shall comply with all applicable tax laws, including but not limited to laws relating to the collection and remittance of GST, PST, HST and QST. If applicable law or regulation requires the payment of any sales or use taxes on account of a transaction, then such amount of tax shall be paid directly by Customer to the state as required by statute. If Denali incurs any additional taxes or penalties from a taxing authority due to incorrect or incomplete information furnished by Customer, Customer will be responsible for all such additional taxes, penalties, and any legal expenses incurred by Denali.

2. TITLE AND OWNERSHIP OF HAULED MATERIALS

- (a) Customer represents and warrants that it will be the absolute owner of all materials associated with the Work, having good and marketable title thereto, free and clear of any lien, charge, encumbrance or right of others whatsoever and shall be exclusively entitled to possess and transport same.
- (b) Title to any materials hauled by Denali will stay or transfer to Customer during the period Denali is performing the Work.
- (c) Title to any Denali vehicles, bins or other equipment (“Denali Equipment”) shall remain at all times with Denali and/or its lessors. Customer acquires no right, title or interest in or to the Denali Equipment at any time.

3. ALTERATION AND CHANGES

- (a) Customer may request changes by providing Denali reasonable advance notice. If such change will increase the costs of the Work, Denali and Customer will negotiate adjustments to the price or schedule. Denali has no obligation to perform any Work, absent a mutual agreement as to any change.
- (b) All agreed to changes, Order specified and assumed, shall be agreed to in writing by an authorized Denali representative prior to commencement of Work on the change (“**Change Order**”). Change Orders shall identify and detail Order variations inclusive but not limited to pricing, quantity, delivery terms, schedule, shipment methods, specification adjustments, design deviations with reference to affected drawing & documentation.

4. ALLOCATION OF RISK / INDEMNIFICATION

- (a) As used herein: (i) “Denali Group” shall mean Denali, its parent, subsidiary or affiliated companies, and their respective officers, directors, employees, contractors, subcontractors, vendors, agents, representatives, invitees and licensees; and (ii) “Customer Group” shall include Customer, its parent, subsidiary or affiliated companies, and their respective officers, directors, employees, contractors, subcontractors, vendors, agents, representatives, invitees and licensees.
- (b) To the fullest extent permitted by law, Customer shall be liable to the Denali Group for and shall indemnify and save harmless Denali Group from and against any and all claims, suits, demands, awards, actions, proceedings, losses, costs, damages

or expenses (including attorney’s fees) suffered or incurred by Denali Group that arise out of, result from, are based upon or are in any way connected with the following: (i) the failure of Customer to comply with any applicable laws, regulations, by-laws, rules or orders of any government, authority or body having jurisdiction; and (ii) those arising as a result of the negligence or willful misconduct of Customer Group.

- (c) The foregoing indemnity and waiver given by Customer shall not apply to the extent of Denali’s gross negligence or willful misconduct. The onus of establishing that Denali was negligent shall be upon Customer. Denali shall not be deemed to have caused or contributed thereto merely by reason of its knowledge, approval or acceptance of the Work, specifications, or procedures of Customer.

5. WARRANTY

Denali warrants and represents that all Work shall comply with the terms and conditions of the Order. If no specifications are provided, then the Work must conform to generally accepted industry standards. All services constituting part of the Work shall be performed in a good and workmanlike manner.

6. INDEPENDENT CONTRACTOR

This Order does not create a partnership or joint venture between the parties. Each party is an independent contractor, has no authority to bind the other, and is solely responsible for its own employees and subcontractors.

7. TERMINATION

Customer may cancel the Work with advance written notice to Denali fifteen (15) days prior to the scheduled commencement of the Work.

8. VENUE AND GOVERNING LAW

Any and all lawsuits initiated by either party and arising out of or relating to the Order, its performance or its breach, or goods supplied pursuant to the Order, shall be brought in Dallas County, Texas and in no other city, state, country, or jurisdiction, and the parties hereby submit to the exclusive jurisdiction and venue of the State and Federal courts in Dallas County, Texas. The laws of the State of Texas shall govern the validity, interpretation, and enforcement of the Order without regard to choice of law rules that would apply the law of another state. EACH PARTY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY ACTION, CLAIM, SUIT OR PROCEEDING ARISING OUT OF OR RELATING TO THESE TERMS AND CONDITIONS.

9. DISPUTE RESOLUTION.

The parties agree to cooperate with each other in an attempt to resolve any dispute. If the parties are not able to resolve the dispute, then the parties agree to submit the dispute to mediation to be conducted before a mutually agreeable mediator pursuant to mutually agreeable rules within sixty (60) days of the request for mediation by either party. Each party shall pay its own costs plus an equal share of the cost of the mediator and mediation facilities. Mediation shall take place exclusively in Pope County, Arkansas.

10. ENTIRE AGREEMENT

These T&Cs and the Order constitutes the entire agreement between the parties and supersedes and replaces all other agreements between the parties with respect to the Work and may be amended only by written instrument signed by the parties. The terms of this Order shall supersede any terms attached to Customer’s invoice, proposals or other documents, which terms shall not be applicable to this Order and shall not be considered to be Customer’s exceptions to the provisions of this Order. If any provision is deemed illegal or invalid, such provision will be deemed conformed as needed to be enforceable while consistent with the parties’ intent as expressed in the Order.