

IMI REMOSA

Field Service Terms & Conditions

FIELD SERVICE TERMS & CONDITIONS

1 DEFINITIONS

1.1 Where the context permits, the following words shall have the meanings indicated.

1.1.1 "FIELD SERVICE" means installation, inspection, servicing, alteration, replacement, or correction of Equipment, or a part thereof, or assistance with respect thereto, as better defined in the Field Service Report to be filled in and signed every day after service has been performed by Seller and Time Sheet to be filled in and signed weekly.(Attachment 1.1; Attachment 1.2).

1.1.2 "FIELD SERVICE REPRESENTATIVE" means the person(s) authorized by REMOSA ("Seller") to furnish Field Service hereunder.

1.1.3 "EQUIPMENT" means the severe service valve or control unit or associated equipment that is the subject of the Field Service rendered hereunder.

1.1.4 "BUYER" means the person, partnership, company, or corporation purchasing Field Service hereunder.

1.1.5 SCOPE OF PROVISION: The Field Service rendered pursuant hereto shall be governed by these Seller's Field Service Terms and Conditions. These Field Service Terms and Conditions are valid for work undertaken in connection with "on-site" maintenance, repair, modifications and commissioning, as well as for similar services of the Seller (hereafter referred to as "Work").

1.1.6 PERFORMANCE: Seller offers to provide the Field Service(s) upon the terms and conditions specified herein. Buyer shall indicate its acceptance of this offer by verbal acceptance, by executing and returning the attached acknowledgment of the Seller Service Order or any other written acceptance or confirmation, by directing Seller to commence Field Service in any manner, by accepting Field Service, or by making payment for all or any part thereof.

1.2 These Field Service Terms and Conditions, together with the any additional Work documents, as defined below, shall constitute the entire agreement of the parties and shall not be modified except by written change order issued and signed by Seller. No prior representations, inducements, promises, or agreements between the parties, oral or written, not embodied herein shall be of any force to effect and any said prior representations, inducements, promises, or agreements are hereby revoked and superseded. Buyer's acceptance of these Field Service Terms and Conditions is expressly limited to acceptance upon the terms and conditions contained herein and signing this form in the space contained at the end of this agreement No additional or differing terms stated by Buyer in accepting or acknowledging these terms and conditions shall be binding on Seller. Buyer

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is hereby notified of Seller's objection to and rejection of additional or different terms in Buyer's purchase order, acknowledgement or other forms.

2 RATES AND PAYMENT

2.1 Applicable Rates:

2.1.1 Field service rates are the rates in effect as of the date of acceptance of this Field Service Terms and Conditions Agreement by Buyer. Seller reserves the right to update its Field Service Rates to those rates in effect at the time service is rendered.

2.2 Calculation of Rates:

2.2.1 Unless otherwise agreed, invoicing is based on the rate sheet in effect at the time service is rendered. Days and hours are calculated from the day of departure of the Seller's serviceman (leaving his base) until his return to his base.

2.2.2 If the Seller's personnel are hindered in carrying out the Work due to reasons beyond the control of the Seller, or if the Seller's personnel are retained on site after completion of the Work for any reason whatsoever, the Seller is entitled to invoice the standby time as working time. All other costs associated with the above are also to be paid by the Buyer (i.e. allowance)

2.3 Payment terms:

2.3.1 Seller shall invoice Buyer on a monthly basis, and Buyer shall within thirty (30) days of receipt of invoice make payment on due and undisputed amounts due. Buyer shall promptly review each invoice and notify Seller of any errors or disputes within thirty (30) days after the date of invoice, after which the invoice shall be considered approved by Buyer. If all undisputed payments due are not received by Seller in a timely manner, Seller may upon ten (10) days advance written notice (i) suspend Buyer's account until such time as payment is received, and/or (ii) charge Buyer interest on the outstanding balance at a rate which is the lesser of 1 ½ % per month or the highest rate permitted by applicable Laws.

3 EXPENSES

This paragraph applies if no different agreement exists between the Parties.

3.1 Traveling cost:

3.1.1 The costs for the journey to and from the country concerned, as well as for traveling within the said country using a means of transport as chosen by the Seller, are invoiced to the Buyer. Flight, rental car are invoiced at cost plus a 10% handling fee. All other items will be invoice "at cost base" with receipts provided. Invoicing is also to include such associated costs as insurance, freight, customs duties, charges for luggage, passports and visas, provision of the entry, residence and work

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permits, medical examination on arrival and departure, as well as "home leave" of the Seller's personnel.

3.2 Daily traveling to working site – hotel:

3.2.1 If due to the circumstances a suitable accommodation can't be found nearby (i.e. all hotels fully booked) and the traveling required to site exceeds 60 minutes per day, this "surplus" time will be invoiced as traveling time.

3.3 Lodging:

3.3.1 Lodging will be invoiced at cost plus 10% (Including receipt).

3.3.2 If the customer provides the accommodation on his expense no charge for accommodation will be invoiced. The accommodation must have heatable / air conditioned rooms and have good sanitary facilities.

3.4 Other expenses:

3.4.1 Other expenses linked to the job, as for example misc. parts, road tolls, business fax and telephone etc. will be charged at cost (receipt will be provided).

4 EXTENDED LEAVE FROM HOME

4.1.1 If the Sellers personnel are required to spend an extended period away from home, they shall be entitled to Extended Home Leave. The period of absence for such an entitlement is six (6) weeks and the entitlement is one (1) week. The cost of the return journey, i.e. from the Work location to the Contractor's Registered Office and back, shall be split (50/50) by the buyer & seller under the condition listed under "Travel Cost".

5 TAXES

5.1 All pricing mentioned in this Field Service Terms and Conditions Agreement are exclusive of any tax applicable to the Work. All international pricing mentioned in this Field Services Terms and Conditions Agreement is exclusive of any sales taxes and any value added taxes or similar indirect taxes ("VAT") applicable to the Services, all of which shall be the sole responsibility of Buyer. In jurisdictions where Seller is authorized, Seller will be responsible for remitting any tax as appropriate and Buyer will reimburse Seller for such in accordance with the provisions of this Section 5.

6 METHOD OF PERFORMING SERVICES, RESPONSABILITIES

6.1 Unless agreed to under separate agreement, Seller shall have the right to determine the method, details, and means of performing the Field Services for Buyer. Buyer shall have no

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right to, and shall not, control the manner or determine the method of accomplishing the Field Services. Buyer may, however, require Seller's personnel, when on site at Buyer's facility, to observe the security and safety policies of Buyer that are provided to Seller in advance. In addition, Buyer shall have the right to inspect the Work upon reasonable notice, and the right to propose modifications to the work in accordance with Section 10 below. The Work performed shall be recorded daily in the Field Service Report which shall be signed and acknowledged by the Parties.

7 BUYERS' RESPONSIBILITIES

- 7.1 The Buyer shall notify Seller, prior to commencement of the Work, of any known defects, dangers or deficiencies in the severe service valve, control unit, or associated equipment, or known defects or dangers on Buyer's premises in which Field Services shall be performed which may influence or impact the Work and Seller's ability to perform the Field Services hereunder.
- 7.2 Buyer shall clearly identify all known dangers on the site and generally provide a safe working environment for Seller's personnel (i.e. work/safety procedures, accident reporting and prevention).
- 7.3 Unless otherwise agreed the Buyer is responsible for obtaining the necessary spare parts in due time and to place them at the disposal of the Seller's personnel. Delay in carrying out the work due to missing spare parts (which were not caused by Seller) are charged as standby time according to the regional field service rates in effect at acceptance of this Field Service Terms and Conditions Agreement by Buyer.

8 SELLER'S RESPONSIBILITIES

- 8.1 Seller warrants that it will provide personnel to carry out the Work in a professional and workmanlike manner and such Field Service will be provided in accordance with industry standards for performing such Work. The Seller's personnel shall follow and Buyer provided Security and/or Health and Safety procedures relevant to site. The Seller's personnel are entitled to refuse/stop work if the good-faith judgment of the Seller personnel a dangerous condition exists which would make it unsafe for Seller's personnel to continue.
- 8.2 In case the Field Service Report of the Work performed every day are not signed by Buyer, Seller has the right to suspend performance of this Agreement until Buyer signs the Field Service Reports. Parties agree that signature and acknowledgment of each Field Service Report is an essential part of this Agreement.

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9 TOOLS AND EQUIPMENT

9.1 General

9.1.1 Seller's personnel are not authorized to operate the customer's equipment, nor is he authorized to supervise its installation or operation. Seller's personnel shall advise and consult in the operation and installation of Equipment furnished by seller and to perform such repair and adjustment to Seller's Equipment as Seller deems necessary.

9.1.2 The Buyer shall provide all service and installation equipment and hand tools and the necessary qualified labor required for the performance of the assignment, unless quoted otherwise. Special tools and equipment the serviceman elects to bring to the site shall remain his property at all times.

9.1.3 Medical and first aid facilities shall be provided by the Buyer. Protective clothing and equipment shall be furnished by the Buyer for all hazardous environments.

9.2 Special Tooling and Equipment

9.2.1 Special tools (i.e. seat cutting device etc.) or equipment, measurement and testing devices shall be provided on a rental basis. The duration of the rental shall be calculated from the day the items are dispatched from Seller premises until their return.

9.2.2 Transport and insurance costs, as well as further expenses, dues and charges in connection with the delivery to and return of special tools and equipment from the Work location will be invoiced "at cost" bases

9.3 Scaffolding, Lifting Equipment and Site Supplies

9.3.1 Unless otherwise agreed the Buyer is responsible for: a) Access to the valves (i.e. appropriate Scaffolding), b) suitable crane and other lifting devices, in good working order, with attendant personnel c) Electrical energy and suitable lighting, d) Compressed air supply, water and other supplies as necessary for the work.

9.4 Civil Work

9.4.1 Unless otherwise agreed the Seller is not responsible for any kind of civil work (i.e. concrete base for placing equipment, protection cabinet delivery/assembly etc.)

9.5 Consumables (Standard)

9.5.1 Necessary consumable and installation materials, cleaning materials, lubricants and miscellaneous small items are to be provided by the Buyer.

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10 ACCEPTANCE OF WORK

- 10.1 As soon as the Buyer is notified that the Work is ready for inspection/completed, he has to inspect same in the presence of the Seller's serviceman. Any deficiencies are to be reported immediately and if possible solved on site prior to the departure of the serviceman. If the customer fails to do this, the Work shall be deemed to have been accepted.
- 10.2 On presentation of the time sheets, the Buyer shall verify the Work performed by the SELLER serviceman with his signature. If this verification is not undertaken by the customer in due time, the entries of the SELLER serviceman shall serve as a basis for calculation.

11 LIMITED WARRANTY

- 11.1 Seller warrants that for a period of ninety (90) days from the date of completion of the Field Service rendered pursuant hereto that said Field Service shall conform to warranty set forth herein.
- 11.2 Upon written notice from Buyer during the Warranty period of any nonconforming Work provided under this Agreement, Seller shall at Seller's sole discretion, repair or re-perform the Work within a reasonable period of time after notice of such non-conforming Work, any parts thereof or spare parts delivered and fitted within the terms of this Agreement, provided they have become defective or unserviceable during the period of warranty. If after Seller's inspection this is proved to be the result of poor workmanship or faulty material supplied by the Seller and provided that these deficiencies are notified to the Seller in writing immediately upon their discovery.
- 11.3 The validity of the foregoing Limited Warranty does not extend to Buyer's failure to adhere to Seller's installation, start up and maintenance guidelines or use of the Equipment outside specified operating conditions.
- 11.4 Seller provides no Warranty that information provided by Seller's personnel are accurate, complete, correct or meets Buyer's intended use. Except as expressly set forth in this Agreement, Seller disclaims all Warranty of merchantability, any implied Warranty arising from the course of dealing, fitness for a particular purpose, and non interruption of facility use.
- 11.5 The limitation of warranties and remedies for breach thereof are exclusive and conditioned upon timely notification of Buyer. There are given by Seller and accepted by Buyer in lieu of any and all other remedies, warranties, and guarantees, express or implied.

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12 LIMITATION OF LIABILITY

- 12.1 Limitation of liability Buyer's exclusive remedy shall be for damages, and Seller's total liability for any all losses and damages arising out of any cause whatsoever (whether such cause be based in contract, negligence, strict liability, tort or otherwise) related hereto shall in no event exceed the purchase price of the services in respect of which such cause arises, even if advised of the possibility of those damages and even if a term of the contract fails of its essential purpose. In no event shall Seller be liable for incidental indirect, consequential or punitive damages resulting from any such cause.
- 12.2 To the extent permitted by law, except for Seller's intentional misconduct, Seller shall not be liable for, and Buyer assumes liability for, all actual or alleged personal injury and property damage connected with the handling, transportation, possession, processing, further manufacture, other use or resale of the goods, whether the goods are used alone or in combination with any other material.

13 TERM, TERMINATION

13.1 Term:

13.1.1 The term of this Agreement shall commence on the Effective Date and continue in force until Acceptance by Buyer.

13.2 Termination:

13.2.1 If either party (a) defaults in the performance of its material obligations hereunder and fails to substantially cure such default within thirty (30) days after receipt of a written notice of breach, or (b) becomes the subject of any proceeding commenced under any provision of the United States Bankruptcy Code, or executes any assignment for the benefit of creditors or the filing for relief under any applicable reorganization, moratorium or similar debtor relief laws, then in any such event the other party may terminate this Agreement upon delivery of written notice.

14 INSURANCE

- 14.1 Seller maintains Comprehensive General Liability Insurance, Worker's Compensation Insurance as required by law, together with Employer's Liability Insurance coverage and Professional Indemnity Insurance coverage. In the following limits:
- 14.2 Worker's Compensation Insurance or other similar social insurance in accordance with the laws of the country, state or territory exercising jurisdiction over the employee with the minimum limits required by law.

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- 14.3 Commercial General Liability in an amount not less than \$1,000,000 combined single limit per occurrence and in the aggregate Bodily Injury and Property Damage. Policy is to include:
- 14.4 Personal Injury with a limit not less than \$1,000,000. Premises/Operations, Products/Completed Operations, Blanket Contractual Liability, Independent Contractors, and Broad Form Property Damage
- 14.5 Seller will provide a certificate of insurance evidencing insurance and applicable limits upon written request from Buyer.

15 RELATIONSHIP OF THE PARTIES

- 15.1 Independent Contractor. Seller's relationship with Buyer will be that of an independent contractor and nothing in this Agreement should be construed to create a partnership, joint venture, or employer-employee relationship. Seller is not an agent of Buyer and is not authorized to make any representation, contract, or commitment on behalf of Buyer. Seller will not be entitled to any of the benefits that Buyer may make available to its employees, such as group insurance, profit-sharing or retirement benefits. Seller will be solely responsible for all tax returns and payments required to be filed with or made to any federal, state or local tax authority with respect to Seller's performance of Services and receipt of payments under this Agreement. Buyer will regularly report amounts paid to Seller by filing Form 1099-MISC with the Internal Revenue Service as required by law.
- 15.2 Because Seller is an independent contractor, Buyer will not withhold or make payments for social security, make unemployment insurance or disability insurance contributions or obtain worker's compensation insurance on Seller's behalf. Seller agrees to accept exclusive liability for complying with all applicable state and federal laws governing independent contractors, including obligations such as payment of taxes, social security, disability and other contributions based on fees paid to Seller or Seller's agents or employees under this Agreement. Seller hereby agrees to indemnify and defend Buyer against any and all such taxes or contributions, including penalties and interest.
- 15.3 Non-Exclusive Relationship. Subject to Seller's strict, continuing compliance with the terms and conditions of this Agreement, including, without limitation, the confidentiality provisions stated herein, nothing in this Agreement shall restrict or limit Seller from rendering services to any other entity in any industry, including the semiconductor and electronics industries.
- 15.4 Gratuities. Seller represents and warrants that neither it nor any of its employees or representatives has offered or shall offer any gratuity to Buyer's employees, agents or representatives with a view toward obtaining this Agreement or securing favorable treatment with respect thereto.

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- 15.5 Conflict of Interest. Seller further represents that it currently has no relationship with an employee of Buyer that would constitute a conflict of interest and that Seller will not engage in any activity during the term of this Agreement that may present a conflict of interest in light of its relationship with Buyer.
- 15.6 Citizenship or Immigrant Status. Seller represents and warrants that its employees have the proper immigrant status or is otherwise authorized to perform the Work in the country where Buyer's site is located. Seller agrees to furnish information about Seller's employees regarding their citizenship or immigrant status before Seller commences work and at any time thereafter before Seller substitutes or adds new personnel to work under this Agreement. All information submitted by Seller shall be certified by an authorized representative of Seller as being true and correct.
- 15.7 Solicitation of Employment. Both parties agree not to directly or actively recruit, divert or solicit the employment of either party's employees during the Term of this Agreement and any renewals thereof and for a period of twelve months thereafter.

16 SEVERABILITY, INTERPRETATION

- 16.1 If any provision of this Agreement is determined to be illegal, unenforceable, or invalid, in whole or in part, for any reason, such provision(s) shall be stricken from this Agreement and shall not affect the legality, enforceability or validity of the remainder of this Agreement. The words "include" or "including" herein shall mean "include(ing) without limitation". This Agreement shall be considered drafted mutually by the parties.

17 ASSIGNMENT

- 17.1 Neither Buyer nor Seller shall assign or transfer this Agreement or any of its rights or obligations hereunder without the prior written consent of the other, which consent shall not be unreasonably withheld. Any attempted assignment or delegation without such consent shall be void. Notwithstanding the foregoing, Buyer must promptly notify Seller of any such permitted assignment or divestiture. Subject to the foregoing, this Agreement shall inure to the benefit of and bind successors and permitted assigns of Buyer and Seller.

18 FORCE MAJEURE

- 18.1 Neither party shall be liable to the other for delays or failures to perform under any Contract if the delay or failure is caused by shortage of labor, labor disputes, war, act of enemies, riots, insurrection, civil commotion, federal, state or municipal action, statute ordinance, or regulation, fire, flood, earthquake, accident, storm, explosions, acts of God, the inability to obtain essential materials or other resources, or other causes beyond the party's reasonable

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control. In the event of an excusable delay as defined above, the affected party shall notify the other party in writing of such delay and an equitable adjustment shall be made in the completion schedules and any other affected terms of this Agreement.

19 BUSINESS ETHICS

- 19.1 Buyer represents and warrants to Seller and Seller represents and warrants to Buyer, that neither Party nor any person or entity associated in any manner with such party will:
- 19.2 Request, offer or provide any compensation or benefit of any type, including any gift or gratuity, other than marketing materials or collateral of nominal value or reasonable business meals and business entertainment, by or to any employee of either Party;
- 19.3 To the best of each Party's knowledge, maintain or establish any undisclosed business affiliation that could constitute or give the appearance of a conflict with the interests of the Buyer, the Seller or their respective representatives and agents; or
- 19.4 Except to the extent expressly provided for in this Agreement, attempt to act on behalf of or, in any manner, or seek to represent either Party pursuant to any agreement covered by these terms and conditions.
- 19.5 If, during the term of this Agreement, either Party knows or becomes aware of any facts or circumstances contrary to the representations and the warranties above, said Party will immediately notify the other Party and provide sufficient information for the affected Party to take appropriate protective or corrective actions. The notifying Party further agrees to cooperate fully in any investigation undertaken by the affected Party.
- 19.6 If requested, both Parties agree to show evidence of an ethics or code of conduct program or otherwise acknowledge in writing that their respective employees are aware of their obligations under this section.

20 EXPORT COMPLIANCE

- 20.1 Buyer agrees to comply fully with all applicable export control laws and regulations at its own expense, including the Export Administration Regulations administered by the U.S. Department of Commerce, the International Traffic in Arms Regulations administered by the U.S. Department of State, the U.S. Nuclear Regulatory Commission regulations and the U.S. Foreign Corrupt Practices Act, and all import and export laws, restrictions, national security controls and regulations of the United States and any other applicable local law or regulation. In particular, Buyer agrees that it will not import, export, re-export, or transfer any export-controlled commodity, technology, or software, to include transfer to foreign persons employed by or associated with, or under contract to Buyer, without the authority of an export license,

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agreement, or applicable exemption or exception. Buyer agrees to indemnify and hold harmless Seller from any and all fines, claims, damages, losses, costs and expenses (including reasonable attorney's fees) incurred by Seller as a result of any breach of this Section 16 by Buyer.

- 20.2 Without limiting the foregoing, any Seller commodity, technology, or software is prohibited for export, re-export, or transfer to embargoed countries of Cuba, Iran, North Korea, Sudan, and Syria, as well as to persons or entities listed on U.S. government restricted parties lists published by the U.S. Departments of Commerce, Treasury, or State. Buyer shall immediately notify the Seller Sales Representative if Buyer is, or becomes, listed in any restricted parties list or if Buyer's export privileges are otherwise denied, suspended or revoked in whole or in part by any U.S. Government entity or agency. Additionally, any Seller commodity, technology, or software is prohibited for export, re-export, or transfer to any person or entity which will use it for end-uses proscribed by U.S. export control regulations, including chemical and biological weapon, missile, nuclear, maritime nuclear propulsion, and terrorism related activities.
- 20.3 Performance of this contract is contingent upon Seller obtaining any necessary government approvals, including, but not limited to, any U.S. export licenses. Buyer acknowledges that failure to receive a required approval excuses Seller from performing the contract and delivering under the order.

21 MISCELLANEOUS

- 21.1 The validity, interpretation and performance of this contract and any dispute connected herewith shall be governed and construed in accordance with the laws of the State OR Country of Seller's location responsible for accepting Buyer's order and performance of the Field Services hereunder. This Agreement constitutes the complete and entire agreement between the parties concerning the subject matter hereof and supersedes any prior or contemporaneous agreements, written or oral, regarding the terms and conditions hereof. No conditions, usage of trade, course of dealing or performance, understanding or agreement purporting to modify, vary, explain or supplement the terms or conditions of this Agreement shall be binding unless hereafter made in writing and signed by the party to be bound, and no modification shall be affected by the acknowledgement or acceptance of purchase order or shipping instruction forms containing terms or conditions at variance with or in addition to those set forth herein. No waiver by either Seller or Buyer with respect to any breach or default or of any right or remedy and no course of dealing, shall be deemed to constitute a continuing waiver of any other breach or default or of any other right or remedy, unless such waiver is expressed in a writing signed by the party to be bound.

Attachment 1.1

FIELD SERVICE REPORT

Customer		Location	
REMOSA Job		Customer P.O.	
Equipment		Date	
Customer Contact (Mech)		Customer Contact (I&E)	

Mechanical Team Activities

I&E Team Activities

Mechanical Team			I&E Team		
Name	Hrs	Sby	Name	Hrs	Sby
Mechanical Supervisor			I&E Supervisor		
			Customer Approval		

