



# **Tyson Zeeland Pallet Manifest Changes for TLS Conversion Proposal**

Presented To: Marv Bradford  
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Date: 08-MAY-2024

## 1.1 Revision History

Date	Rev.	Description	Author
08-MAY-2024	0	Initial Issue	Brian Hoffman

## 1.2 Referenced Documents

Document Number	Document Name	Rev.
N/A	N/A	N/A

## 1.3 Contact Information

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## 1.4 Proprietary Notice

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## 2 Introduction

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### 2.1 Executive Summary

Tyson Zeeland facility is in the process of adding their TLS to the facility. The Tyson team along with SelectTech has asked Grantek to provide a proposal to assist with changes to the Pallet Manifest Ignition system that are required for this upgrade. As Grantek has extensive experience with the Pallet Manifest systems within Tyson, Grantek is well suited to perform the requested work. This proposal outlines the engineering effort to complete the required modifications.

We thank you for the opportunity to provide you with this proposal and look forward to the successful completion of this project.

Respectfully Submitted,

Brian Hoffman

District Leader / Project Manager

Grantek Systems Integration

## 2.2 Grantek Systems Integration Overview

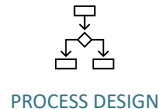
Grantek is a leading provider of integrated manufacturing automation services. Our innovative solutions are designed to increase our customers' return on investment and reduce time to market through improved manufacturing productivity, product quality, asset utilization and integrated technology.

Our customers are among the most respected manufacturers of global brands, as well as niche manufacturers seeking improved performance and competitive advantage. Since 1980, top manufacturers in Food & Beverage, CPG and Life Sciences/Pharmaceuticals have called upon Grantek to solve their most complex business and manufacturing challenges. Grantek helps enable greater profits to customers by creating better processes for them in:

- New Plant Installations
- Continuous Improvement Initiatives
- Business Intelligence and Enterprise Manufacturing Intelligence
- Conversion of Non-Automated Facilities
- Support, Maintenance and Troubleshooting

Grantek is a system integrator and business solution partner with over 40 years of experience, we have 200 employees and deliver solutions to manufacturers in the United States and Canada. Through our total system solution approach and the dedication of our professional staff, the Grantek team guarantees a manufacturing facility, line, or process that has been skillfully designed, professionally engineered, and executed for a vertical start-up.

Grantek provides services to the manufacturing community in the areas of:



Grantek has offices located in California, Illinois, Ontario, Pennsylvania, Quebec, Ohio, British Columbia, Florida, and Bangalore, India.

### 3 Scope of Work

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Tyson Zeeland facility is in the process of adding their TLS to the facility. The Tyson team along with SelectTech has asked Grantek to provide a proposal to assist with changes to the Pallet Manifest Ignition system that are required for this upgrade. As Grantek has extensive experience with the Pallet Manifest systems within Tyson, Grantek is well suited to perform the requested work. This proposal outlines the engineering effort to complete the required modifications.

Grantek will document, develop, and test the new communications method while keeping the existing communications method running. Both methods will stay in operation until after commissioning. At the end of the production start-up, the old method will be retired and no longer available.

## 4 Deliverables

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### 4.1 Grantek Deliverables

#### 4.1.1 Documentation

- All documentation shall be in English.
- Update existing PLC to Ignition communications documentation.
- One “review / revise” iterations for each released document are included in this proposal. Additional revisions of the documentation will be charged on a time and expense basis, at standard Grantek rates.
- Soft copies of all documentation will be provided.

#### 4.1.2 Ignition Programming

- All programming shall be in English.
- Update Ignition communications for new PLC communications.

#### 4.1.3 Remote Communication Services

- Grantek will provide remote resource required for the execution of this project as specified below:
  - One (1) Systems resource remote to preform commissioning and production start-up support for a total of three (3) 8-hour days.
- To meet the required project timeline and execute this project within the expected execution window, Grantek has included regular and (if applicable) premium time for commissioning services within the Pricing Section.
- Hours worked beyond 8-hours within a 24-hour period will be billed at Grantek premium overtime rates.
- Unless otherwise noted, all on-site services are to be completed within regular business hours.
- If the required remote effort increases due to a change in the scope of work the increase will be handled through the change order process.

#### 4.1.4 Meetings

- Grantek has provided for 8 hours of remote meetings in this proposal. Additional meetings will be charged on a time and expense basis, at standard Grantek rates.

## 4.2 Customer Deliverables

- Prompt response to all Grantek inquiries.
- Documentation reviews and feedback.
- Remote access to system (including Ignition VM)
- Any required on-site mechanical and electrical installations.
- Any wiring and Ethernet cable connections.
- Operator support for operating equipment during commissioning.
- Validation and qualification of the system.
- Formal training for operators and other personnel.



## 4.3 Summary of Deliverables

The following table summarizes the split of key responsibilities this proposal aligns with.

Deliverables	Grantek	Client/Others	Not In Scope
<b>Preliminary Engineering</b>			
Remove access to the customer facility		<input checked="" type="checkbox"/>	
Pallet Information required for printers		<input checked="" type="checkbox"/>	
<b>Documentation</b>			
Update Ignition to PLC documentation	<input checked="" type="checkbox"/>		
Document review and approvals		<input checked="" type="checkbox"/>	
<b>Hardware and Devices</b>			
Hardware Changes		<input checked="" type="checkbox"/>	
<b>Software</b>			
Updating Ignition to PLC communications	<input checked="" type="checkbox"/>		
<b>Remote Commissioning and Production Startup</b>			
Coordination of commissioning		<input checked="" type="checkbox"/>	
Commissioning new communications	<input checked="" type="checkbox"/>		
Informal ad-hoc training during commissioning (time permitting)	<input checked="" type="checkbox"/>		
Formal training		<input checked="" type="checkbox"/>	
Post commissioning support requests		<input checked="" type="checkbox"/>	
Production Start-Up Support	<input checked="" type="checkbox"/>		
24x7 on call support (will require further discussion)		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

*Table 1 – Division of Responsibilities Matrix*

## 5 Schedule

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Upon receipt of PO and review of the customer's schedule, a more detailed schedule can be prepared and provided. Grantek is currently booking out resourcing approximately 4-6 weeks after receipt of PO.

The current scheduling request is completion required by mid-June 2024. Grantek is currently allocating a resource for this project but will not be able to verify the schedule until after receipt of PO.

## 6 Pricing

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### 6.1 Fixed Price

#### 6.1.1 Fixed Price: Engineering and Commissioning

Description	Price
Engineering and Commissioning	\$ 24,135.00
<b>Total</b>	<b>\$ 24,135.00</b>

*Table 2 – Fixed Price: Engineering and Commissioning*

### 6.2 Travel

Grantek employees will travel home every weekend, unless otherwise agreed to in writing.

## 7 Commercial Terms

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### 7.1 Payment Schedule

- Fixed Price Services will be billed as follows:
  - 40% upon receipt of Purchase Order
  - 60% upon start of commissioning

### 7.2 Payment Terms

- All prices in this document are in USD Funds.
- All prices in this document are FOB Solon, OH, USA.
- This proposal is valid for thirty days.
- Taxes are not included in any prices listed in this document.
- Net 30 days, 1.5% per month on overdue accounts.

## 7.3 Assumptions, Clarifications, and Exclusions

### 7.3.1 Project Specific

Reference	Description
<b>Assumptions</b>	
PSA0	This proposal only includes engineering effort. This proposal does not include the purchasing of hardware.
PSA1	The handheld readers attached to the Ignition screens will continue to use a keyboard wedge to communicate. If another method is used, any additional effort required will be handled through the change order process.
<b>Clarifications</b>	
PSC0	No additional project specific clarifications have been listed.
<b>Exclusions</b>	
PSE0	No additional project specific exclusions have been listed.

Table 3 – Project Specific Assumptions, Clarifications, and Exclusions

### 7.3.2 Clarifications

Reference	Description
<b>Clarifications</b>	
General	
CG1	In the event that any of the assumptions, exclusions or limitations specified in this proposal are not satisfied, these situations will be re-evaluated on a case-by-case basis and Grantek is not responsible for affected related scope.
CG2	If Grantek is not supplying the hardware in question, the Customer is responsible for ensuring that all existing field devices that are in use, or that are to be reused, are in good working order, or will be repaired or replaced by the Customer when required. Grantek is not responsible for the repair and/or replacement of damaged existing field devices.
CG3	Any changes to the BOM may result in a Change Order.
CG4	This proposal does not include any “time and expense not to exceed” terms, either in direct terminology or in spirit.

Table 4 – Clarifications

### 7.3.3 Exclusions

Reference	Description
<b>Exclusions</b>	
General	
EG1	Grantek makes no performance guarantees concerning third-party equipment. Grantek will guarantee the performance specified in the proposal's acceptance criteria and agreed-upon deliverables.
EG2	Software licenses not specifically outlined in this proposal are not included.
EG3	Training not specifically outlined in this proposal is not included.
Safety and Machine Safeguarding	
ES1	Grantek is not tasked with ensuring the solutions and services outlined in this proposal provide an adequate level of personnel protection. Any protective measures, safeguarding devices or safety-related parts of control systems currently in place are assumed to be correct and appropriate for the level of risk. It is the Customer's responsibility to perform a proper risk assessment to evaluate the potential risks associated with the proposed modifications and to determine the appropriate risk reduction measures that may be required to lower the risk to an acceptable level.

Reference	Description
ES2	The scope of this proposal does not include any functional or performance modifications that can affect the motion of exposed, hazardous mechanical parts of equipment, storage/dissipation of hazardous energy, or any accessibility to hazardous areas.
ES3	The Customer shall provide a complete set of requirement specifications for all associated safety design and safety performance criteria. These specifications may include the application of guarding or safeguarding devices and/or the requirements for safety-related parts of control systems (SRP/CS). Only guards, safeguarding devices, or safety-related parts of control systems (SRP/CS) identified by The Customer will be included in the scope of work.
ES4	Where aspects of requirement specifications are not provided or unknown, Grantek's modification will be designed to meet or exceed the existing performance (e.g. circuit performance, holding force, response time, etc.) and maintain equivalent functionality (e.g. stop category, control of hazardous energy, etc.).
ES5	Any safety-related aspects discovered throughout the project lifecycle that appears to be insufficient, inappropriate or non-compliant with industry best practice standards will be brought to the attention of the Customer to determine appropriate actions.
ES6	All safety requirement specifications provided by the Customer as part of this project are assumed to be correct and appropriate. In the event there is any missing or conflicting information, it is the Customer's responsibility to determine the correct course of action.
ES7	Grantek will apply well established safety engineering principles to all design elements within this project. This includes careful selection, combination, arrangement, design, assembly and installation of components/systems related to the application.
ES8	All existing safeguarding devices, complementary devices, Safety-Related Parts of Control Systems included in the scope of work shall be identified by the Customer before any design or engineering is performed.
Industrial Information Technology	
EIIT1	Grantek is not tasked with developing system requirements related to technical infrastructure to support the system, including but not limited to project scope, network design, virtualization, storage, or computation. The Customer will provide a User Requirements Specification detailing the exact scope requirements and criteria for acceptance. Grantek cannot be held responsible for the network or computing performance including infrastructure availability, speed, connectivity, bandwidth, and overall performance of the system's infrastructure. If infrastructure upgrades are required, it is expected that the customer will perform the necessary upgrades to support the system or Grantek's Industrial IT services may be added to the project to troubleshoot, define requirements, or design and deploy infrastructure.
EIIT2	Grantek is not tasked with developing system requirements related to cybersecurity to the system, or deploying compensating controls beyond those which are explicitly mentioned in this proposal. The customer understands it is responsible for securing its own equipment, facilities, systems, and networks, and as such will provide a User Requirements Specification detailing the exact security criteria for system acceptance. If cybersecurity risk and business continuity are a concern, Grantek's Industrial IT services may be added to the project to assess cybersecurity risk to the system, understand the customer's risk tolerance, and define and implement the required security controls to reduce risk to a tolerable level.

Table 5 – Exclusions

## 8 Standard Terms and Conditions

### Agreement

The Customer issuance of a purchase order for this proposal indicates that they are in complete agreement with all the terms and conditions contained in this document and agree to be exclusively bound by these terms and conditions. The Customer agrees that they must contact Grantek for clarification if they do not agree with any term in this Agreement. The terms of this Agreement also cover any third-party goods and services procured through Grantek.

This Agreement is the entire Agreement between Grantek and the Customer and supersedes the terms of any purchase orders and any other communications, including electronic mail or oral agreements with respect to this project. If any provision of this Agreement is held invalid, the remainder of this Agreement shall continue in full force and effect. This Agreement may be modified only by written agreement signed by authorized representatives of the Customer and Grantek.

This Agreement covers all goods and services (including without limitation: engineering services, design services, software products [including firmware], hardware products and post-sales support including commissioning and training) associated with this project.

### Assumptions & Requirements

- Unless the Customer explicitly informs Grantek in writing that hardware will operate in hazardous conditions, all hardware and design time estimates provided by Grantek are presumed to be for non-hazardous environments. If hazardous environment needs are raised during project execution, Grantek will issue a Change Order for any different hardware and design time that is necessary. Grantek is not responsible for the removal of, or protection from, hazardous materials.
- In case of projects where Grantek is not responsible for overall project management, the customer's project manager will have overall responsibility and authority for driving all project decisions, ensuring deliverables are reviewed and approved as per the Project Management Plan, facilitating discussion and communication among all parties as needed, and securing any required Customer or third-party resources.
- Customer shall commit the necessary skilled resources and management time, as described above, to support Grantek services, complete the review and acceptance cycles on time, and meet the project objectives. Customer will promptly make any necessary decisions and communicate them via project manager. The project manager for the customer, as well as participating team leads and project resources, shall have all necessary authority to commit the customer with regard to the project's subject matter.
- Any Documents/Documentation that Grantek develops will have only one review cycle so that all edits and changes must be indicated in this review, and once made, the document will be finalized.
- The scope of the project as documented in the proposal shall remain unchanged, except as otherwise agreed by Grantek and the Customer in writing via a Change Order document.
- If specifications and/or acceptance criteria or procedures have not been agreed to, they will be promptly agreed to prior to Grantek's completion of the applicable deliverable.
- Customer will provide an acceptable working location (physical and virtual, as per the project requirements) for the team for the duration of the project.
- The Customer will attend scheduled meetings and respond to Grantek inquiries within two (2) business days.
- The Customer will review and comment on project documentation submitted for review within five (5) business days.
- The Customer will provide remote access to all systems (PLC, HMIs, databases, servers, etc.) affected by the scope of this project for remote code updates and troubleshooting.
- The Customer will provide all existing documentation relevant to Grantek's scope of work as required.
- The Customer will plan to have the necessary resources available to run production in order to provide support for commissioning, process modifications, programming changes, start-up, and post-installation activities, so that Grantek can monitor and test system updates for successful project completion. Any commissioning delays or extra trips required due to lack of production will be grounds for issuing a change order.
- Grantek strongly advises that Customer prepares Standards or Specification documentation for the current project. In the absence of such documentation, the customer will bear any additional costs incurred for system changes required at a later date to conform to Standards and/or Specifications.
- All aspects of mechanical, electrical and process safety are requirements of the Customer.
- Classification of Hazardous Areas will be provided by others.
- Electrical installation including all material to be provided by others.
- All field wiring, conduit, junction boxes, etc. to be provided by the electrical installer and will be treated as out of scope for Grantek, unless otherwise specified in the Scope of Work
- Depending on the scope of the project,
  - Mechanical installation including all materials to be provided by Customer.
  - Utility installation including all material to be provided by Customer.
  - Installation area has sufficient power capacity at all required voltages to support all additional equipment to be added as part of the scope of this project.
  - Installation area has sufficient pneumatic capacity to support all additional equipment to be added as part of the scope of this project.
- Resolution of any UL/CSA/NEC or equivalent issues found during the investigations of existing equipment is outside the scope of this estimate.
- All hardware additions/modifications are to pass regulatory inspection by other parties and are considered out of scope for Grantek.
- Any additional construction management not specified elsewhere in this proposal requires a Change Order document prior to commencing.
- Customer will provide required downtime for retrofitting of equipment, if required. The required time window will be agreed upon between the Customer teams and Grantek.
- Grantek Automation On-site Configuration Environment Requirements: (a) Customer Automation contact available each day or based on a preplanned schedule, (b) Customer IT contacts available as consultants as needed, (c) IT related tasks including security, networking, etc., to be setup by site IT group before Day 1 Commissioning.
- Unless otherwise stated, all hours for design, installation and commissioning are to occur during normal weekday business hours (i.e., 9 am to 5 pm Monday to Friday local time).
- For 21 CFR Part 11, audit trail will not include the users' screen navigation actions (screen display requests).
- Project timeline to be provided by Customer and mutually agreed to with Grantek. In case of delays from Grantek's side, or if changes are made to the scope or schedule, Grantek will recommend a change management process. Upon approval from the Customer, Grantek will implement changes.
- Grantek will not be held responsible for performance issues related to individual machines built by other equipment vendors.
- If third party suppliers are managed by the Customer, Grantek will not be held responsible for the late delivery of such third party supplied goods.
- Services and recommendations provided do not guarantee or warranty complete protection against all cyber security incidents.

- In the event that a data restore is required, there is no guarantee that the last restore point or backup will recover all information lost.
- Version (Software): (a) unless otherwise stated, the latest version of all software required for design and configuration will be used for all programming, (b) Microsoft Office will be used for all document and spreadsheet creation.

#### **Cybersecurity**

Grantek's scope of work does not include creating, modifying or ensuring compliance with The Customer's cybersecurity policies. Although Grantek will not intentionally violate the Customer's cybersecurity policies or intentionally cause a security breach of The Customer's systems, The Customer acknowledges that the Customer is responsible for the creation, implementation, enforcement and adequacy of its cybersecurity policies and that the Customer retains the risk of data theft or destruction and the impacts of malware and ransomware, whether arising from Grantek's work or access to the Customer's systems or otherwise. The Customer will have Grantek's work reviewed and approved at appropriate times by the Customer's information technology (IT) and operational technology (OT) personnel to ensure that any cybersecurity policies (such as connectivity availability and monitoring, multi-factor authentication, data import/export screening, network segmentation, and unescorted user screening, training and monitoring) implemented at the Customer's direction are sufficient to adequately protect the Customer's systems from improper access or use. In accordance with the foregoing, to the fullest extent permitted by law, the Customer shall defend, indemnify and hold harmless Grantek and its subcontractors, agents and employees from and against all claims, losses, and expenses of any nature, including but not limited to reasonable attorneys' fees, arising out of or related to any actual or alleged improper access to or use of the Customer's systems, except to the extent the relevant security breach was determined to be caused solely by Grantek's intentional improper access or use of The Customer's systems.

#### **Access to Information**

The Customer agrees to make available to Grantek all information relevant to the project. Errors and omissions beyond Grantek's control are not covered under the scope of this project and will be managed as cost-plus extras.

The Customer agrees that in the event they are unable to provide prompt and timely consideration to the review of items including, but not limited to, contract documents and engineering documents that this may result in cost-plus delay charges for engineering time.

The Customer agrees that in the event they are unable to meet scheduled dates for installation and delivery of hardware or allied components they will provide climate-controlled, secure storage for the goods in question. The Customer also agrees that this storage time encompasses part of the project warranty period.

The Customer agrees to arrange access to systems associated with this project for engineering services including, but not limited to, design, installation and commissioning. Furthermore, the Customer agrees that delays as the result of restricted access are not part of the scope of this project and will be managed as cost-plus extras.

#### **Project Delays, Cancellation of Order or Termination of Agreement**

Excluding Force Majeure events, Grantek reserves the right to charge its additional costs incurred due to project delays beyond its control. Grantek will communicate such delays to the Customer and additional costs will be managed as cost-plus extras.

If the project is canceled after receipt of the order, the Customer must pay a cancellation fee of 30% of the remaining project purchase order total. This fee is in addition to any time and materials already spent on the project. If the Customer no longer requires any hardware or associated goods (including software licenses) purchased for the project, any OEM fees or restocking or return fees will be passed on to the Customer. Furthermore, the Customer agrees that any hardware or associated goods (including software licenses) that cannot be returned to the OEM must be paid for in full and become the Customer's property. Because the goods cannot be used elsewhere, the Customer expressly acknowledges that cancellation

fees on some customized goods may be equal to 100 percent of the purchase price.

If a petition is filed by or against a party under any provision of the appropriate bankruptcy laws, the other party may terminate this Agreement and allied agreements immediately upon written notice.

If this Agreement is terminated, the Customer agrees to cease using any Grantek-supplied equipment and return to Grantek all drawings, design documents, discs, DVDs or other memory devices associated with the Agreement. The Customer will not retain copies, notes or excerpts thereof including copies on any storage media.

#### **Contract Resolution**

The Customer agrees to reimburse Grantek for any costs incurred in enforcing this Agreement including but not limited to those of an attorney.

When a dispute arises as the result of this Agreement that cannot be resolved in the normal course of business, Grantek or the Customer must provide written notice outlining the nature of the dispute. Grantek and the Customer will attempt in good faith to resolve the dispute promptly by negotiation between executives who have sufficient authority to settle the dispute. Grantek and the Customer agree to seek the services of a mutually agreeable non-binding conciliator or mediator to resolve the dispute if sixty (60) days have passed without a resolution agreed to by both parties.

The Customer agrees that disputes involving third-party services requiring Grantek's expertise to resolve but beyond Grantek's scope of supply will be treated on a cost-plus basis.

#### **Equal Opportunity**

Grantek is an equal opportunity employer and has instituted an affirmative action program.

#### **Safety, Health and Environment**

Grantek provides its employees, sub-contractors and therefore its Customers with an industry-leading health, safety and environment program. The Customer agrees to provide Grantek's employees and its agents with a safe working environment. Furthermore, the Customer agrees, at their cost, to provide adequate safety, health and environmental training (including, but not limited to: site orientation, WHMIS, GMP/cGMP, HACCP and clean room access training). The Customer will also supply all specialized clean room or Personal Protective Equipment (PPE) in good working order and also provide adequate training on the use of the aforementioned equipment.

The Customer agrees to notify Grantek in advance of any confined space entry requirements or working at height requirements associated with this project. Grantek personnel require access to adequate fall safety equipment when working at heights as covered by US law. The Customer also agrees to notify Grantek in advance of any environmental situations such as the requirement for self-contained breathing apparatus, extreme cold, extreme heat, work in pressurized areas, work in de-pressurized areas, oxygen levels below 19.5% or above 22.0% or the presence of noxious gases. In particular, the Customer also agrees that electronic equipment normally used by Grantek personnel is not rated for hazardous environments or clean rooms or other GMP/cGMP areas and any specialized equipment must be furnished by the Customer or hired by Grantek as part of the scope of the project.

The Customer agrees to take reasonable precautions in protecting Grantek and its agents from unusual conditions that may result from working in a construction or other project zone such as debris, paint or other contaminants. For summer work when HVAC systems are not yet commissioned, reasonable efforts will be made to provide for re-circulation of air and adequate access to drinking water. Similarly, for winter work similar provisions will be made to provide access to portable heaters.

The Customer agrees to take a reasonable and rational approach with regards to enforcing their Safety, Health and Environmental policies at their facility in regards to Grantek and its agents. This includes, but is not limited to, extra verbal advice on the use of PPE or other safety procedures unique to its site.

The Customer agrees to protect Grantek work zones from incursion by other persons not familiar with site safety including but not limited to machine safety and electrical safety (particularly during commissioning when machine guarding and panel doors are not in



place or are by-passed). The Customer also agrees that normal safety rules applying to its facility may not necessarily apply including, but not limited to, by-passing of machine guarding, open panel doors, disabled safety circuits and disabled fusing.

The Customer agrees that circumvention of Safety, Health and Environmental safeguards in equipment supplied by Grantek as the result of negligence, misuse, unauthorized modification, inadequate maintenance or other factors nullify any liability or warranty claims made against Grantek.

The Customer agrees that after the review and approval of the Functional Specification associated with this project that any design or associated Safety, Health and Environment items are cost-plus extras. As such, at time of contract quotation, the Customer will explicitly list all federal, state, municipal or other regulations that govern the use of equipment associated with this project. The Customer agrees to furnish Grantek copies of the aforementioned regulations for use during the project design. Grantek does not assume any responsibility for compliance with regulations outside of its direct scope of supply.

Conformance with regulatory changes initiated after the approval of the Functional Specification or as the result of the re-location of equipment is the responsibility of the Customer.

The Customer agrees to provide Grantek staff with adequate facilities while on site including but not limited to access to first aid facilities, potable water, toilet facilities, shower facilities (if required), a break/lunchroom and safe storage for tools, laptops and allied equipment. If the Customer is unable to undertake such an agreement, then they agree to compensate Grantek for the hire of a project trailer, lockers or equivalent including any fees for electricity, Internet access and waste disposal.

#### **Force Majeure**

"Force Majeure" means an event or circumstance, the cause of which is beyond the reasonable control of the party affected thereby and which could not reasonably have been foreseen and provided against by the party affected thereby, including, without limitation, acts of god, strikes, lock outs or other labor or industrial disturbances, accidents, fires, explosions, weather conditions materially preventing or impairing work, inability to secure fuel, power, materials, contractors or labor, mechanical breakdown, failure of equipment or machinery, delays in transportation, wars, civil commotion, riot, sabotage, medical epidemics, quarantines or other public health risks or responses thereto, applicable legislation and regulations thereunder, interruption by government or court orders and future orders of any regulatory body of competent jurisdiction. Notwithstanding any other provision of the Agreement, if by reason of Force Majeure, either party is wholly or partly unable to perform certain elements of its obligations hereunder, or is materially hindered or interfered with in its performance of such obligations, it shall be relieved of those obligations (excluding the payment of money due to the other party under this Agreement) to the extent, and for the period, that it is affected by Force Majeure, provided that the affected party gives the other party prompt notice of such inability, hindrance or interference. In addition, if the costs to Grantek to perform the Services and/or provide the Deliverables are materially and adversely impacted by Force Majeure, an equitable adjustment to the Total Price shall be made and mutually agreed upon by the parties. The party affected by Force Majeure shall use all reasonable efforts to remedy the situation and remove, so far as possible and with reasonable speed, the cause of its inability to perform, or the hindrance or interference in its performance, provided that there shall be no obligation on a party so affected to settle labor disputes or to test or to refrain from testing the validity of any order, regulation or law in any court having jurisdiction.

#### **Governing Law, Jurisdiction and Venue**

The Agreement created by the Customer's issuance of a purchase order for this proposal shall be deemed to have been made in, and shall be construed pursuant to the laws of the State of New York, USA OR the Province of Ontario, Canada (based on the project location) and any action or proceeding arising out of or related to this Agreement shall be brought only in the courts of such jurisdiction. The parties hereby consent to such jurisdiction and venue.

#### **Licenses and Approvals**

Except where specifically outlined in the contract documents or this Agreement, nothing contained herein this Agreement shall be construed as imposing responsibility of liability upon Grantek to obtain any permits, licenses (including export or import licenses) or approvals from any agency required in connection with the supply, erection or operation of the equipment.

#### **Warranty**

Grantek warrants that the services provided hereunder shall conform to the specifications provided in this quotation and shall be free from any material defects. At its own expense, Grantek shall repair or replace such non-conforming or defective services that arise within six months of installation of the services. However, any additions or modifications to the services by anyone other than Grantek personnel or any misuse of the services shall void this warranty. The exclusive warranty coverage for any third-party materials incorporated into this project shall be the warranty provided by such third parties. At its sole discretion, Grantek reserves the right to determine if a warranty claim qualifies as warranty work. Any Customer requested warranty work that is performed and found to be outside the warranty terms will be billed at the unscheduled work rates.

#### **Limitation of Liability**

This clause is overruled as applicable by contract items such as a Performance Bond.

Grantek shall not be liable, whether in contract, warranty, failure of a remedy to achieve its intended or essential purposes, tort (including negligence), strict liability, indemnity or any other legal theory, for loss of use, revenue or profit, or for costs of capital or of substitute use or performance, or for indirect, special, liquidated, penal, incidental or consequential damages, or for any other loss or cost of a similar type, or for claims by the Customer for damages of the Customer's customers. Grantek's maximum liability under this contract shall be the contract price. The Customer and Grantek agree that the exclusions and limitations set forth in this Agreement are separate and independent from any remedies which the Customer may have hereunder and shall be given full force and effect whether or not any or all such remedies shall be deemed to have failed of their essential purpose.

After the conclusion of Grantek's warranty, all claims for liability are terminated except as to title.

When others use the works associated with this project outside of Grantek's control, the Customer undertakes to provide Grantek with the protection provided in this Agreement.

#### **Non-solicitation**

Both Grantek and the Customer agree that during the Term of this Agreement and for a period of (12) months following the expiration or termination hereof, neither party shall, directly or indirectly, hire or offer to hire or entice away or in any other manner persuade or attempt to persuade any officer, employee, agent, or customer of the other party to discontinue his or her or its relationship with the other party.

#### **Ownership**

The Customer will be given copies of all source code and all other developments produced by Grantek for this system, after Grantek has received full payment for all services related to this project. All developments produced by Grantek under this order shall remain the property of Grantek. Grantek retains the right to use any source code and other developments produced herein on any future projects.

Title of any goods delivered with this project remains with Grantek until final payment is received.

Only for the original project where deployed, the Customer has the right to ongoing use of all developments produced by Grantek for this project, along with any other Grantek intellectual property incorporated therein. As such, the Customer may not use any developments produced by this project or other Grantek intellectual property incorporated therein for any other purposes or projects, without the written consent of Grantek. The Customer agrees that provision of Grantek's intellectual property to firms in competition with Grantek will cause Grantek irreparable injury and as such, the Customer agrees to protect Grantek's intellectual property with reasonable steps to ensure that unauthorized persons are not able to

obtain access to Grantek's intellectual property. The protection of Grantek's intellectual property shall survive the termination of this Agreement for ten (10) years.

Grantek also notes that goods such as firmware, software and hardware supplied as part of this project may be subject to third-party license agreements. The Customer agrees to abide by these agreements including, but not limited to: transfer of license, exclusive use, prohibition of reverse engineering and disclosure to others.

The Customer and Grantek agree to notify each other within thirty (30) days of any breach of computer security affecting machine-readable data stored on any network or allied equipment. The Customer and Grantek undertake to put in place a reasonable security program to protect each other's intellectual property stored on system networks or allied equipment. However, the Customer and Grantek also agree that no liability applies for a breach of security unless gross negligence is involved.

#### **Nuclear or Hazardous Material**

To the fullest extent permitted by law, the Customer acknowledges and agrees that it shall be solely responsible and liable for, and shall defend, indemnify and hold harmless Grantek and its employees, agents, officers, directors, managers, insurers, affiliates, subsidiaries, subcontractors, consultants and vendors (collectively "Grantek Indemnitees") from and against any and all claims, action, suits, damages, obligations, liabilities, expenses, and losses (including but not limited to court costs, reasonable attorneys' fees, awards and settlements) arising out of, related to, or in connection with: (a) bodily injury or death or damage to property, psychological trauma that is suffered by a person resulting from bodily injury to that person or others, economic loss incurred by any person or entity as a result of bodily injury or damage to their property, costs incurred by a person or entity who loses the use of their property, and resulting wage losses related to the foregoing, caused by the hazardous, explosive, or toxic properties of Radioactive Material (as defined in this paragraph), or any other hazardous material including but not limited to ionizing radiation released from the Customer's premises, facility, equipment, fixtures, or the Customer's practices and procedures; (b) the Customer's use, storage, transportation, or transfer of Radioactive Material (as defined in this paragraph), and (c) preventative measures related to, or remediation or mitigation measures taken as the result of, the hazardous, explosive, or toxic properties of Radioactive Material (as defined in this paragraph) or any other hazardous material, including but not limited to, ionizing radiation released from the Customer's premises, facility, equipment, fixtures, or the Customer's practices and procedure. As used in this paragraph, Radioactive Material means (i) nuclear fuel, other than natural uranium or depleted uranium, that can produce energy by a self-sustaining nuclear fission chain reaction outside a nuclear reactor, either alone or in combination with another material; (ii) radioactive material produced in the production or use of nuclear fuel other than natural uranium or depleted uranium; (iii) material that is made radioactive by exposure to radiation consequential on or incidental to the production or use of nuclear fuel other than natural

uranium or depleted uranium; (iv) radioisotopes that have reached the final stage of fabrication so as to be usable for any scientific, medical, agricultural, commercial or industrial purpose.

To the fullest extent permitted by law, the Customer agrees to include the Grantek Indemnitees as insured (on a primary and non-contributory basis) on the Customer's insurance policies providing coverage, in whole or in part, for such damages, obligations, liabilities, expenses, and losses, and the Customer shall provide Grantek with evidence of such coverage and such insured status of the Grantek Indemnitees prior to commencement of the work hereunder and thereafter upon written request submitted to the Customer from time to time by Grantek until all potential liability for or exposure to such damages, obligations, liabilities, expenses, and losses has expired and all such claims, action, suits are barred by operation of law.

#### **General**

- Unless indicated otherwise, all project work and installations are expected to be completed within one (1) year after receipt of PO. Work extending beyond one (1) year may be subject to a Change Order.
- This proposal does not include any additional review meetings or meeting time beyond those explicitly described in this proposal. Additional review meetings and associated changes will be handled through a Change Order document.
- This proposal does not cover other factors including, but not limited to, actions such as strikes, lockouts, labor disputes of any kind, delay of transport, delay of other contractors, war, local emergency, regional emergency, national emergency and compliance to government emergency order of any kind.
- Interaction with third party equipment or devices that is not specifically outlined in this proposal is not included.

#### **Service and Support**

Unless explicitly stated within this document, no additional support services will be included, excluding warranty work if applicable. Support services work will be considered unscheduled if a PO has not been received referencing a Grantek proposal four (4) weeks prior to the support work being commenced. Charges for unscheduled work includes:

- Four (4) hour minimum charge.
- Travel Time at Unscheduled Work Hourly Rate.
- 1.5x hourly rate for Monday – Friday 9am to 5pm.
- 2x hourly rate outside of Monday – Friday 9am to 5pm.

When a completed resolution is not possible within the resolution time (i.e. lead time of a replacement part), a resolution plan and timeline will be delivered to the Customer within an agreed upon timeline. Unused support hours cannot be transferred from plant to plant.

#### **End of Document.**