

BASIC ORDERING AGREEMENT BETWEEN

Suez WTS USA, Inc., d/b/a Suez's Water Technologies & Solutions

AND

UT-BATTELLE, LLC

On Behalf of the Integrated Contractor Purchasing Team (ICPT) for the Department of Energy

BASIC ORDERING AGREEMENT

ORNL-2020-1002

This Basic Ordering Agreement (BOA) between Suez WTS USA, Inc., d/b/a Suez's Water Technologies & Solutions (hereinafter "Seller") and UT-Battelle, LLC (UTB) is entered into to provide products and services to DOE Contractors and authorized subcontractors in accordance with the following:

1. This Agreement includes products listed in Attachment C - Seller's Price List and the services described in Attachment A – Statement of Work.
2. This BOA is for the Department of Energy Contractors having a prime contract with the DOE. A current list is available at <https://icpt.llnl.gov/>, Contacts- ICPT Council Member & Constituent List and authorized subcontractors (providing supplies are in direct support of a prime contract) collectively herein after called "Contractors".
3. This Agreement may also be used by other DOE Prime Contractors (collectively herein after called "Contractor").
4. The pricing is in accordance with Attachment C - Seller's Price List.
5. General Terms and Conditions (04/2016) are included in Attachment B, and are made a part herein.

The parties agree that Contractors, may place orders under this BOA and receive the appropriate, discounted price. Each DOE Contractor shall place its own Orders under this Agreement and shall be direct billed accordingly.

ARTICLE 1 - SCOPE OF WORK

All Orders placed hereunder shall reference the number of this BOA (ORNL-2020-1002). The term of this BOA is five years from the effective date of this BOA. Effective term of Agreement 4/15/2020 through 4/14/2025.

The Seller agrees to furnish such quantities of water treatment services that the Contractor may order during the term of this Agreement. The Seller's obligation to each Contractor shall become effective upon acceptance of particular orders issued under the Agreement.

ARTICLE 2 - DELIVERY/PAYMENT

The work specified in Article 1 shall be completed and delivered as follows:

- F.O.B. Point (point of delivery): Destination
- Payment Terms: Net 30 days from receipt of a proper invoice
- Delivery location and schedule shall be negotiated for each order under this BOA.

ARTICLE 3 - FIXED PRICES

The Contractor shall be entitled to purchase water treatment services at the fixed prices identified in Attachment C - Seller's Price List. The prices identified in Attachment C - Seller's Price List are firm for the effective period of this Agreement, described in Article 1, Scope of Work, unless the Contractor is otherwise notified.

ARTICLE 4 - ADMINISTRATIVE

BOA Procurement Administrator's Address is as follows:

Angela Shillings, 865-576-1552, shillingsag@ornl.gov

BOA Sellers Administrator's Address is as follows:

Timothy Eldredge, 561-818-0368, timothy.eldredge@suez.com

ARTICLE 5 – RESERVED

ARTICLE 6 - SITE-SPECIFIC TERMS AND CONDITIONS

The Seller acknowledges that the Contractor may have requirements unique to its post, mission, and/or geographic location. Therefore, the Seller agrees that the Contractor placing an order under this BOA reserves the right to incorporate its own Site-Specific Terms & Conditions relative to Environmental Safety and Health considerations as well as FAR, DEAR, or other applicable regulations and laws.

Seller's site specific pricing shall be included under Attachment C - Seller's Price List.

ARTICLE 7 – ALTERATIONS AND ADDITIONS

The following alterations in, or additions to, the clauses and documents forming this Agreement was made before the Agreement was signed by the parties:

1. Section 5, Warranty, of Attachment B - General Terms and Conditions is deleted in its entirety and is replaced with the following:

Section 5. WARRANTY

Seller expressly warrants that items delivered under the Orders shall be in accordance with Seller's affirmation, description, sample or model, and compliant with all requirements of the BOA and Order.

Seller warrants for a period of six months from their date of delivery or provision of services, or the shelf-life of the product, whichever occurs earliest, that the goods shall conform to published specifications and shall be free from defects in material and workmanship when at all times operated in accordance with Seller's written instructions; and that the services will be performed in accordance with industry standards. For goods not manufactured by Seller, the warranty shall be the manufacturer's transferable warranty only. For products/services that do not meet the warranty, Seller will, at their option; replace the non-conforming goods, re-perform the Services at issue or refund the purchase price. No allowance will be made for repairs or alterations made by Company without Seller's written consent or approval. The foregoing warranties are in lieu of and exclude all other warranties, statutory, express or implied, including any warranty of merchantability or of fitness for a particular purpose.

If any nonconformity or latent defect with the item appears within the warranty period, Seller shall promptly repair or replace said items or re-perform services. Transportation of replacement items and return of nonconforming items and repeat performance of services shall be at Seller's expense. If repair or replacement or re-performance of services is not timely, Company may elect to return the nonconforming items or repair or replace said item or re-procure the services at Seller's expense. Notwithstanding the foregoing, Company may terminate this Basic Ordering Agreement for default (or any associated Orders) should Seller either refuse or fail to replace non-conforming goods or re-perform services.

2. The following clause is added to Attachment B - General Terms and Conditions:

Section 20. LIMITATION OF LIABILITY-

The total liability of Seller for all claims arising out of or relating to the performance or breach of this Agreement or use of any goods or services shall not exceed the Agreement price or the price paid for good or services at the date of a claim arising, whichever occurs first. In no event will either party be liable to the other for lost profits or revenues, cost of capital or replacement or increased operating costs, lost or decreased production or comparable damages, or for any incidental, special, consequential or indirect damages of any type or kind, irrespective of whether arising from actual or alleged breach of warranty, indemnification, product liability or strict liability, or any other legal theory. Notwithstanding the above, Section 12. COMPLIANCE WITH LAWS; Section 15. TAXES; and Section 19. INCORPORATION BY REFERENCE, FAR 52.227-3 Patent Indemnity (APR 1984) shall not be part of the liability cap mentioned above.

Provided always that, notwithstanding anything in the Agreement to the contrary, gross negligence or willful misconduct or illegal or unlawful acts shall not be subject to the limitation of liability, described in the paragraph above.

Any limitation or exclusion of liability under the Agreement shall exclude or limit such liability not only in contract but also in tort, including negligence, or otherwise at law.

IN WITNESS WHEREOF, the parties hereto have executed this document as of the day and year of UT-Battelle, LLC's signature date.

ACKNOWLEDGED AND CONFIRMED;

[SELLER] SUEZ WTS USA, INC.	[CONTRACTOR]
BY:	BY:
TITLE:	TITLE:
DATE:	DATE: