

**PURCHASE AGREEMENT
FOR
SUTPHEN FIRE APPARATUS**

THIS AGREEMENT is made and entered into this 10th day of February, 2020 by and between SUTPHEN CORPORATION of Dublin, Ohio, hereinafter called "SUTPHEN" and the County of Carroll, having an address of 605 Pine Street, Hillsville, VA 24432, hereinafter called "PURCHASER"

WITNESSETH:

1. PURCHASE: Purchaser hereby agrees to buy and Sutphen hereby agrees to sell and furnish to Purchaser the apparatus and equipment according to the Sutphen Proposals attached hereto and made a part hereof, and to deliver the same as hereinafter provided, to wit: One (1) Sutphen Monarch Fire Engine, as proposed for the Hillsville Fire Department, to be purchased through the HGAC base contract FS19IICO4, plus the options selected by Purchaser and documented in the attached Component Report. This Agreement shall constitute an "End User Agreement" as the term is used under the Agreement for cooperative purchasing entered into between Sutphen Corporation and Houston-Galveston Area Council "HGAC." All terms and conditions of the HGAC agreement shall be applicable to this Agreement, except as specifically altered or amended herein.

2. PAYMENT: Purchaser agrees to pay for said apparatus and equipment the total purchase price of FOUR HUNDRED FIFTY-SEVEN THOUSAND, THREE HUNDRED EIGHTY-NINE DOLLARS AND TWENTY-THREE CENTS (\$457,389.23) payable in full upon delivery.

3. DELIVERY: The apparatus and equipment being purchased hereunder shall be delivered to Purchaser at Hillsville Fire Department, Hillsville, VA within approximately 14-16 Months after the receipt and acceptance of this agreement at Sutphen's office, provided that such delivery date shall be automatically extended for delays due to strikes, failure to obtain materials or other causes beyond Sutphen's control. In the event that delivery is delayed by more than ninety (90) days for any reason, Purchaser shall have the right to cancel this Agreement by delivering notice to Sutphen in accordance with Article 15(B) of the General Provisions of the HGAC contract, attached hereto and incorporated herein by this reference.

4. SUTPHEN WARRANTIES: Sutphen warrants the apparatus purchased here under as set forth in the warranty included with bid proposal. Specifically, the following warranties shall be supplied for Sutphen Apparatus:

- A. The apparatus shall be warranted to be free from mechanical defects in workmanship for a period of one (1) year. The apparatus shall be covered for parts and labor costs associated with repairs for a period one (1) year.
- B. Life-time warranty on the frame.
- C. Seven (7) year warranty on paint.
- D. Ten (10) year body structural warranty

- E. Ten (10) year cab structural warranty
- F. Manufacturers Warranties for all major components, including the following:
 - 1. Cummins Engine 5 years
 - 2. Allison Transmission 5 years
 - 3. Meritor axles 2 years
 - 4. Water tank, life time
 - 5. Hale Pump 2 year
 - 6. Whelen Emergency products 5 years

5. TESTING SHORTAGES: The apparatus shall be tested per NFPA #1901 at Sutphen's manufacturing facility. Purchaser agrees that the apparatus and equipment being purchased hereunder will not be driven or used in any manner until it is paid for in full, provided, however, that if there are any minor shortages, Purchaser may withhold a sum equivalent to the retail purchase price of any equipment shortages at the time of delivery and may use the apparatus and equipment during this period.

6. DEFAULT: In the case of any default in payment hereunder or in the payment on any notes, negotiable paper, obligations or other instruments issued by Purchaser, Sutphen may take full possession of the apparatus and equipment or of the piece or pieces upon which default has been made, and any payments that have been made theretofore shall be applied as rent in full for the use of the apparatus and equipment up to the date of taking possession by Sutphen.

7. APPROVAL OF GOVERNING BODY: This purchase agreement was approved by the Carroll County Board of Supervisors by motion duly adopted December 9, 2019 in a public meeting.

8. ACCEPTANCE: This agreement shall not be binding until it is signed and approved by an officer of the Sutphen Corporation.

9. TAXES, ETC.: The purchase price provided for herein does not include any federal, state or local sales tax, duties, imposts, revenues, excise or other taxes which may hereafter be imposed by governmental authority or otherwise and which are made applicable to the apparatus or equipment covered by the agreement. The parties anticipate that the purchase will be tax exempt by virtue of Purchaser's status as a political subdivision of the Commonwealth of Virginia. Purchaser shall provide Sutphen with such documentation as may be necessary in order to verify Purchaser's tax-exempt status. In the event that any such taxes are subsequently imposed and become applicable, the purchase price herein shall be increased by the amount of such taxes and such sum shall be immediately paid by Purchaser to Sutphen. To the extent applicable, the prices and deliveries set forth herein are subject to the Defense Production Act.

10. INSURANCE: Article 22 of the HGAC General Provisions is deemed modified to provide that Sutphen's liability under this agreement, whether for breach of contract, warranty, negligence, strict liability, in tort or otherwise shall not exceed the limits of liability contained in Sutphen's Certificate of Insurance provided to Purchaser, (\$1,000,000 CGL and Automobile Liability, \$1,000,000 umbrella) Sutphen shall provide insurance insuring

the apparatus and equipment against loss by fire, theft or collision and insuring against property damage and personal injury through the Three (3) day delivery period.

11. GENERAL: This agreement and the Sutphen proposal provided herein take precedence over all previous negotiations, oral or written, and no representations or warranties are applicable except as specifically contained in this agreement, including the attachments, HGAC Contract and General Provisions incorporated herein, or in the Sutphen proposal and specifications attached hereto. Purchaser shall have all rights and remedies available to HGAC under the HGAC Contract and General Provisions. No alteration, modification, amendment or change of this Agreement shall be binding unless executed in writing by the parties. No waiver of any of the provisions of this Agreement shall be deemed a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. This Agreement shall be governed and controlled as to interpretation, enforcement, validity, construction, effect and in all other respects by the laws, statutes and decisions of the State of Virginia. Exclusive jurisdiction and venue for any litigation at all related to this Agreement, directly or indirectly, based upon contract, tort, or other theory of law, shall lie in the Circuit Court of Carroll County, Hillsville, Virginia, and the parties hereto consent and submit to the general jurisdiction of this court. All of the terms and provisions of this Agreement shall be binding upon and inure to the benefit of and be enforceable by Sutphen, Purchaser, their successors and assigns.

12. CLAIMS: Any contractual claims by Sutphen shall be governed by the claims procedure set forth in Va. Code Section 2.2-4363.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be duly executed and attested by its duly authorized representatives, effective as of the date below when accepted at Sutphen Corporations offices.

SUTPHEN CORPORATION
By Ron Garber
Sales Representative

Accepted at office
SUTPHEN CORPORATION
6450 Eiterman Road
Dublin, Ohio 43016
By: _____

Title: _____

Date: _____

PURCHASER
The County of Carroll

By: _____

Title: _____

Date: _____