

Purchaser agrees to purchase and Vendor agrees to supply the "Goods" (including all related materials, equipment and supplies) and the "Services" described in the Purchase Order to which these terms and conditions are attached, subject to the following:

- 1. Governing Terms and Conditions** The Purchase Order, which for greater certainty is deemed to include the terms and conditions set out below, incorporated by reference in the Purchase Order (collectively, the "Terms and Conditions"), constitutes the exclusive and entire agreement between Purchaser and Vendor. Acceptance of the Purchase Order is expressly limited to acceptance of these Terms and Conditions. Purchaser hereby gives notice that it expressly rejects any terms or conditions contained in any document which has been, or may in the future be, supplied to it by Vendor which are inconsistent with, or attempt to vary, any of these Terms and Conditions, whether such terms or conditions are set forth in Vendor's bid, proposal, order acknowledgement, invoice, or are otherwise disclosed to Purchaser. Purchaser's acceptance of Goods and/or Services will not be construed as an acceptance of any terms or conditions contained in any document provided by Vendor. If the Purchase Order is deemed to be an acceptance of a prior offer by Vendor, such acceptance is conditional on Vendor's assent to these Terms and Conditions.
- 2. Acceptance & Payment Terms** The Purchase Order, including these Terms and Conditions, will be deemed accepted by, and will be a binding contract on, Vendor, upon Vendor: (a) executing and delivering the acknowledgement copy of the Purchase Order to Purchaser; (b) delivering any part of the Goods to Purchaser; (c) commencing performance of any Services for Purchaser; or (d) accepting any payment made by Purchaser related to the Goods or Services; whichever occurs first. Invoices shall not be submitted by Vendor until after delivery of the Goods and/or Services. Payment will be due and owing in accordance with terms of the Purchase Order. If cash discounts are applicable, the cash discount period will be calculated from the later of the following dates: (1) the date that the invoice is received by Purchaser and (2) the date of actual delivery and acceptance of the Goods and/or Services by Purchaser.
- 3. Purchase Order Supercedes** The Purchase Order supercedes all prior agreements, representations, correspondence, undertakings or commitments, whether oral or written, between Vendor and Purchaser with respect to the Goods or Services. The terms and conditions on the face of the Purchase Order, or attached as "Special Conditions" thereto, shall prevail if the same are inconsistent with these Terms and Conditions.
- 4. Full Compensation** Except as otherwise expressly provided in the Purchase Order, the stated purchase price shall be the only compensation payable by Purchaser to Vendor for the supply of the Goods and/or Services and the performance of Vendor's obligations under the Purchase Order.
- 5. Title** Vendor warrants full and unrestricted title to Purchaser for all Goods, clear of any and all liens, restrictions, reservations, security interests and encumbrances whatsoever. Goods shall become the property of Purchaser upon any payment therefor, or upon delivery and acceptance, whichever occurs first. Notwithstanding the foregoing, Vendor shall be responsible for and bear any and all risk of loss or damage to the Goods until the date of actual delivery and acceptance thereof by Purchaser.
- 6. Inspection & Rejection** All Goods are subject to Purchaser's inspection and acceptance on delivery. If rejected, the Goods will be held for disposal at Vendor's risk and expense. No payment, inspection or acceptance of all or any part of the Goods will relieve Vendor from full responsibility for furnishing Goods conforming to the requirements of the Purchase Order.
- 7. Warranty** In addition to any other express or implied warranties, Vendor warrants that: (a) all Goods and/or Services supplied will be in accordance with all applicable specifications, drawings, descriptions and other requirements of the Purchase Order; (b) all Goods supplied will be new; (c) all Goods will be of good industry standard material and workmanship, will be fit and suited for the purpose or use contemplated by Purchaser, and will be of merchantable quality; (d) all Services (including inputs and workmanship) will be in accordance with good contemporary standards for such Services in Purchaser's industry; and (e) unless a longer warranty period is specified elsewhere in the Purchase Order or pursuant to the Vendor's standard warranty, all Goods supplied will be free from defects in material, design and workmanship for a period of 18 months from the date of Purchaser's receipt of such Goods, or for a period of 12 months from the date the Goods are placed in regular service by Purchaser, whichever occurs first. If at any time during such warranty period Goods become defective or deficient or fail due to defect in design, material or workmanship, or do not meet the foregoing standards or the requirements of the Purchase Order, then Vendor, forthwith upon receipt of notification from Purchaser, shall make good every such defect, deficiency or failure, without any cost to Purchaser. If Vendor delays in correcting any defect, deficiency or failure, Purchaser may correct same and Vendor shall be liable for all costs incurred by Purchaser without prejudice to Purchaser's rights for breach of contract or for damages. Vendor shall pay all transportation charges for Goods both ways between Vendor's designated repair facility and Purchaser's point of use. Goods made good under this clause shall be subject to all the warranty provisions hereof for a period of one year from the date the same have been made good.
- 8. Compliance with Laws & Industry Standards** Vendor will perform the Services with that degree of care, skill and diligence normally provided by a qualified and experienced professional performing services similar to the Services. Vendor will provide fully trained, professional personnel who have the qualifications, experience and capabilities to perform the Services. Vendor warrants and agrees that all Goods and Services supplied under the Purchase Order will comply with all applicable federal, provincial and local laws, regulations, ordinances, rules, codes and permits (collectively, "Laws") in force at the time of supply and/or performance including, without limitation, all Laws affecting the price, production, use, classification, handling, transportation, storage, sale or delivery of any Goods and/or Services supplied, and all applicable occupational health and safety and environmental Laws. For greater certainty, Vendor shall supply any pertinent toxicity data in its possession relative to human and environmental health effects, and offer recommendations for the safe handling and lawful waste disposal of all Goods supplied. Where Purchaser requires Goods to meet industry standards (including, for example, ASME, ASTM, or CSA standards), Vendor shall meet the requirements of the latest published edition of those standards in effect on the date of the Purchase Order.
- 9. ISO Certifications** Where Purchaser requires Vendor to be ISO 9001 certified, Vendor shall ensure that Purchaser has access to documentation to five (5) generations. Where Vendor is ISO certified, Vendor shall, with proper written notification from Purchaser, permit Purchaser and/or its representatives or customers access to Vendor's manufacturing facilities during normal business hours to witness and verify manufacturing processes.
- 10. Intellectual Property** Vendor warrants that neither the Goods or Services, nor Purchaser's use, maintenance or repair thereof, will infringe on any existing or pending patent, copyright, industrial design or other intellectual property right of any third party. Vendor shall fully indemnify and hold harmless Purchaser against all intellectual property claims, demands, damages, losses, expenses, and costs (including legal fees on a solicitor and his own client basis) as they relate to Goods and/or Services supplied, or the Purchase Order, of every nature or kind, including those relating to any actual or alleged infringement of copyright, trademark or letters patent of invention.
- 11. Confidentiality** Any specifications, designs, patterns, samples or other similar items or other technical, commercial or financial information relating to Purchaser's business (the "Information") which Vendor may obtain in connection with the Purchase Order will be deemed to be confidential. Vendor will not use the Information for its own purposes (other than for fulfilling its obligations under the Purchase Order), nor will Vendor disclose the Information to any third party except as specifically authorized by Purchaser in writing.
- 12. Use of Information** Purchaser will have the right to make copies of or otherwise use for its own purposes (including duplicating any components of any Goods) any drawing or other information provided by Vendor in the course of its performance under the Purchase Order.
- 13. Delay** Time is of the essence of the Purchase Order. Vendor agrees that it will complete delivery of the Goods and/or Services according to the time(s) specified in the Purchase Order. Vendor will not be liable for delays in delivery of the Goods or in performance of its Services due to causes not within the reasonable control of Vendor; provided that, Vendor immediately notifies Purchaser in writing of any such delay. If such delay is, or is expected to be, more than 15 days, however, Purchaser may, at its option, elect to cancel all or any portion of the Goods and/or the Services being supplied under the Purchase Order by giving written notice to Vendor, without any further liability on the part of Purchaser whatsoever.
- 14. Cancellation for Cause** Purchaser may cancel the supply of any Goods and/or the performance of any Services or any part thereof under the Purchase Order by giving written notice to Vendor, because of Vendor's failure to comply with the Purchase Order (including any of these Terms and Conditions) including, without limitation, for late delivery of Goods, late performance of Services, delivery of Goods which do not conform with the Purchase Order or failure to provide Purchaser, upon request, with reasonable assurances of future performance. In such an event, Purchaser may, at its option, elect to cancel all or any portion of the Goods and/or the Services being supplied under the Purchase Order by giving written notice to Vendor, without any further liability on the part of Purchaser whatsoever.
- 15. Cancellation Without Cause** Purchaser may cancel the supply of any Goods and/or the performance of any Services or any part thereof at any time without cause and at its sole option by giving written notice to Vendor. Upon such cancellation without cause, Purchaser will reimburse Vendor for its actual direct costs incurred in respect of the Purchase Order prior to the effective date of notice of cancellation together with any actual direct costs resulting from such cancellation, less the reasonable recoverable value of any Goods or partially completed Goods, if applicable. Reimbursement for such actual direct costs will be Vendor's sole and exclusive remedy, and will constitute satisfaction of any and all liabilities, damages or obligations of Purchaser with respect to any cancellation of the Purchase Order.
- 16. Set-off** Purchaser may withhold, set-off or deduct from any amount otherwise payable to Vendor under the Purchase Order such amount as may be reasonably necessary to reimburse, indemnify or protect Purchaser from any amount owing by Vendor to Purchaser pursuant to the Purchase Order, or for any loss or damage that may result from the default by Vendor in any obligation under the Purchase Order, or from claims by third parties against Purchaser in respect of the Goods and/or Services.
- 17. Waiver of Consequential & Other Damages** In no event will Vendor or Purchaser be liable for any consequential damages for loss of profits, loss of revenue or loss of anticipated business suffered or incurred as a result of any failure to comply with the provisions of the Purchase Order; provided that this limitation shall not apply in respect of any willful or intentional misconduct, fraud, or gross negligence on the part of Vendor, Purchaser or their respective agents, officers, employees or servants.
- 18. Cumulative Remedies** Except as otherwise expressly provided in the Purchase Order, any rights and remedies specified in the Purchase Order are cumulative and are in addition to any other rights or remedies available at Law.
- 19. Modification & Assignment** No revision, modification or waiver of the Purchase Order, including these Terms and Conditions, will be binding on Purchaser unless such revision, modification or waiver is expressly agreed to in writing and signed by the authorized signing officer of Purchaser. The Purchase Order shall not be assigned by Vendor without the prior written consent of Purchaser, which consent may be withheld at the sole discretion

of Purchaser.

**20. Governing Law** Trade terms used in the Purchase Order shall, if applicable, be interpreted in accordance with the ICC's Incoterms, latest version. The Laws of the Province in which the office of Purchaser issuing the Purchase Order is located (but excluding such Province's conflict of laws rules and the United Nations' Convention on Contracts for the International Sale of Goods) will apply to and govern the interpretation, validity and enforceability of the Purchase Order. Vendor hereby expressly attorns to the jurisdiction of the courts of such Province.

**21. Indemnity** Vendor shall indemnify and hold Purchaser harmless from and against any and all claims, demands, damages, losses, expenses, costs (including legal fees on a solicitor and his own client basis), fines and penalties sustained or incurred by, or asserted against, Purchaser based upon, related to or arising out of: (a) any breach by Vendor of any term, condition, covenant or warranty contained in the Purchase Order or these Terms and Conditions; (b) any defect in the Goods or Services furnished pursuant to the Purchase Order; (c) any act or omission of Vendor or Vendor's agents, officers, employees, servants or subcontractors in the course of furnishing any Goods and/or Services; or (d) any negligent act or omission of Vendor or Vendor's agents, officers, employees, servants or subcontractors.

**22. Sales Taxes and Duty** Any federal and/or provincial sales, use, or similar taxes billed must be separately stated and identified. The Vendor shall state its Provincial Sales Tax ("PST") number (if applicable), its Harmonized Sales Tax ("HST") number (if applicable) and its Goods and Services Tax ("GST") registration number (if applicable) on the invoice and shall identify whether the Goods and/or Services are taxable, exempt, zero-rated or not applicable for the purposes of PST, HST, and GST. Vendor shall, and shall cause its subcontractors to, cooperate with Purchaser in obtaining any available remission or refund of duty or taxes paid by Purchaser or Vendor, or their respective subcontractors on any portion of the Goods and/or Services. All amounts received in such remission shall be held in trust for the benefit of Purchaser and shall be forwarded to Purchaser forthwith.

**23. Audit Access Right** For the purposes of verifying that Goods and/or Services were delivered to Purchaser, and that charges were properly made in accordance with the terms of the Purchase Order, Vendor has complied with the Purchase Order and these Terms and Conditions, or for any other reasonable purpose, Purchaser shall have access at all reasonable times to all Vendor files, data, correspondence, books and accounting and computer records relating in any manner to the Purchase Order and/or the Goods and/or Services for a period of two years following the completion or delivery thereof.

**24. Packing and Marking** Goods shall be packaged and supported in a manner to ensure safety and protection against damage during shipment. Goods are to be sufficiently marked on the outside of the package, to avoid the need for opening the package for identification and determination of the Purchase Order reference. All correspondence from Vendor, including but not limited to packing slips, express receipts, bills of lading and invoices, regarding the Purchase Order shall include the Purchase Order number on the face thereof. Vendor shall ensure that the declared value of Goods is marked on all shipping documents.

**25. Controlled Products** Vendor shall provide written notice to Purchaser at least one (1) week in advance of delivery of any Goods that may contain any hazardous materials, controlled product, or designated material as defined by applicable Law. A Material Safety Data Sheet must be received by Purchaser prior to delivery of any such Goods and all of such Goods must meet all the labeling requirements of the applicable workplace safety and/or health and safety act having jurisdiction for the location of the office issuing the Purchase Order. Failure of the Vendor to comply with this condition may result in the immediate cancellation of the Purchase Order by Purchaser, without liability to Purchaser, provided that no such cancellation shall, of itself, relieve Vendor from any liability for damage resulting to Purchaser as a result of such breach.

**26. Services Provided at Purchaser's Facility** When any aspect of the Purchase Order involves any attendance of the Vendor (including any of its officers, employees, servants, agents or subcontractors) at any of Purchaser's facilities, the following additional provisions will apply:

(a) Vendor and its officers, employees, servants, agents and subcontractors will comply with all of the Purchaser's site rules and safety and security regulations.  
(b) Vendor will have complete control and responsibility for the safety and health of its officers, employees, servants, agents and subcontractors while engaged in the Services at Purchaser's facility, and will take all necessary precautions to prevent the occurrence of any injury to person or damage to property during the performance of the Services.  
(c) Vendor will obtain all necessary permits and/or licenses and give all notifications needed to perform the Services.  
(d) Vendor will notify Purchaser in advance of any hazardous materials, controlled product, or designated material that it intends to bring into Purchaser's facility or on its work site and shall provide Purchaser with the appropriate Material Safety Data Sheets therefore, as applicable.

(e) Where applicable, payment of Vendor's invoices will be subject to compliance with the holdback provisions of all Laws (including applicable builder's lien and similar legislation) and Vendor providing appropriate clearance certificates confirming payment of all applicable workers' compensation assessments, employment insurance premiums, income tax and other statutory source deductions, and all applicable PST, HST and GST.

(f) For greater certainty, Vendor shall inform itself of, meet and strictly comply with (and ensure that its officers, employees, servants, agents and subcontractors inform themselves of, meet and strictly comply with) all applicable rules, regulations and requirements of workers' compensation and occupational health & safety legislation, and with all applicable rules, regulations, standards, policies and requirements of Purchaser, including, but without limitation, the Environmental Policies and Procedures of Purchaser and Emergency Response Procedures.

(g) Vendor shall maintain workers' compensation coverage, to the full extent required in the jurisdiction where the Purchaser's facility is located and wherever the employment contracts of Vendor's personnel are expressed to be made. Where workers' compensation coverage is not available to Vendor or to anyone employed by or through Vendor, then Vendor shall provide Employer's Liability Insurance with limits not less than CAD \$3,000,000 per employee for each accidental injury to or death of any employee of Vendor and everyone employed by or through Vendor engaged in the work.

(h) Vendor agrees to carry and to pay at its own expense Commercial General Liability Insurance, subject to limits of not less than CAD \$5,000,000 per occurrence, for bodily injury, death and damage to property, including loss of use thereof, and further Vendor shall provide Liability Insurance in respect of its licensed and unlicensed vehicles and equipment each with a single limit of at least CAD \$3,000,000 for injury to one or more persons resulting from any one accident (or such larger amounts and such additional coverage as may from time to time be required by Purchaser).

(i) Vendor shall also ensure that insurance coverage provides for at least 30 days' advanced written notice to Purchaser prior to any cancellation or amendment taking effect in insurance coverage. Evidence of insurance coverage, with such 30 day cancellation or amendment notice clause, must be submitted to Purchaser's Purchasing Department prior to commencement of work pursuant to the Purchase Order, and the terms of such insurance must be satisfactory to Purchaser, acting reasonably. Vendor will also provide Purchaser with satisfactory proof of such insurance coverage from time to time upon request.

**27. No Partnership**

Vendor is an independent contractor and nothing in this Agreement will constitute Vendor as an agent, partner or employee of Purchaser for any purpose.