

STANDARD CONDITIONS OF PURCHASE

ARTICLE 1 DEFINITIONS

“Goods” means the equipment to be purchased as specified in the Purchase Order.

“Purchase Order” means the documents issued for the purchase of the Goods including but not limited to scope of supply, bill of materials, specifications and Supplier’s quotation, referencing these terms and conditions.

“Purchaser” means the company identified on the Purchase Order as the purchaser of the Goods.

“Supplier” means the company identified on the Purchase Order as the seller of the Goods.

ARTICLE 2 APPLICABILITY

The Purchase Order shall be solely governed by the terms and conditions of the Purchase Order. Notwithstanding any exchange of documents containing other actual or perceived Purchaser terms and conditions, the terms and conditions of this Purchase Order shall prevail and such other Purchaser terms and conditions shall not apply to this Purchase Order.

ARTICLE 3 DELIVERY, RISK AND TITLE

Risk of loss shall pass to the Purchaser upon delivery of the Goods.

Title in the Goods shall pass to the Purchaser upon full and final payment to the Supplier of the Purchase Order Price.

ARTICLE 4 PAYMENT

Purchaser shall pay Supplier for the Goods as invoiced by Supplier within thirty (30) calendar days from the invoice date.

The Supplier shall submit an invoice to Purchaser in the amounts specified in the Purchase Order. Supplier has the right to require progress payments that shall be invoiced as set out in the Purchase Order and starting at a minimum of twenty percent (20%) of the Purchase Order Price upon the earlier of Purchase Order signature or issuance of Supplier’s order confirmation.

For each calendar month or thirty (30) calendar day period or fraction thereof, as the case may be, that payment is late, Purchaser shall pay a late payment charge computed at the rate of one point five percent (1.5%) on the overdue balance.

ARTICLE 5 CURRENCY

Unless otherwise stated, all compensation to be earned and paid under this Purchase Order shall be Canadian Dollars.

ARTICLE 6 WARRANTY

Supplier warrants that the Goods shall be delivered free from defects in material, workmanship and title.

Unless otherwise stated in the Purchase Order, warranty commences upon shipment and ends upon the earlier of:

- (a) One (1) year from first use; or
- (b) Eighteen (18) months from shipment.

If Goods do not meet the above warranties, Purchaser shall promptly notify Supplier in writing, prior to expiration of the warranty period. Purchaser shall obtain Supplier’s agreement on the specifications of any tests it plans to conduct to determine whether a non-conformance exists.

Supplier shall at its sole option repair or replace defective Goods. If despite Supplier’s reasonable efforts, non-conforming Goods cannot be repaired or replaced, Supplier shall refund or credit monies paid by Purchaser for such non-conforming Goods.

Neither warranty repair nor replacement shall extend or renew the applicable warranty period.

Purchaser shall bear the costs of access for Supplier’s remedial warranty efforts (including removal and replacement of systems, structures or other parts of Purchaser’s facility), de-installation, decontamination and re-installation.

Supplier shall bear the costs of transportation of defective Goods to Supplier and back to Purchaser.

The warranties and remedies are conditioned upon:

Proper storage, installation, use, operation and maintenance of the Goods; Purchaser keeping accurate and complete records of operation and maintenance during the warranty period and providing Supplier access to those records; and

Modification or repair of Goods only as performed by Supplier or when authorized by Supplier in writing.

Failure to meet any such conditions above renders the warranty null and void. Supplier is not responsible for normal wear and tear.

This Article provides the exclusive remedies for all claims based on failure of or defect in the Goods, regardless of when the failure or defect arises, and whether a claim, however described, is based on contract, warranty, indemnity, tort/extra-contractual liability (including negligence), strict liability or otherwise. The warranties in this Article are exclusive and are in lieu of all other warranties, conditions and guarantees whether written, oral, implied or statutory. NO IMPLIED OR STATUTORY WARRANTY, OR WARRANTY OR CONDITION OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE APPLIES.

ARTICLE 7 TAXES

The Supplier shall be responsible for and pay all taxes in relation to the performance of the Purchase Order, including the costs of all contributions, assessments and deductions including workers’ compensation insurance contributions, employment insurance contributions, employees’ income tax deductions, Canada Pension Plan, disability benefits and all other similar benefits, together with all taxes in relation to same as may be required by Law.

Goods and services tax as defined by the Excise Tax Act (Canada) will be added to amounts due to the Supplier, the payment of which shall remain the responsibility of Purchaser.

ARTICLE 8 CUMULATIVE LIABILITY

The Supplier’s total cumulative liability to the Purchaser arising out of or relating to the performance of the Purchase Order shall be limited to the estimated Purchase Order Price at the Effective Date.

ARTICLE 9 PURCHASER’S INDEMNIFICATION

Purchaser agrees to indemnify, defend and hold harmless Supplier, its contractors, subcontractors and suppliers and the officers, directors, employees and invitees of all of the foregoing (collectively “Purchaser Group”) from and against any and all claims, losses and expenses (including all costs, demands, damages, suits, judgements, fines, penalties, liabilities, legal fees and cause of action of whatever nature or character, whether arising in tort or in contract, including contractual liabilities assumed by Purchaser Group, whether known or unknown, and including claims, losses and expenses for Property Damage, Personal Injury or death, in any way arising out of or related to the performance or non-performance by Purchaser Group of the subject matter of the Purchase Order, except to the extent caused by or resulting from the Gross Negligence or Wilful Misconduct of Purchaser Group.

ARTICLE 10 SUPPLIER’S INDEMNIFICATION

Supplier agrees to indemnify, defend and hold harmless Purchaser, its contractors, subcontractors and suppliers and the officers, directors, employees and invitees of all of the foregoing (collectively “Supplier Group”) from and against any and all claims, losses and expenses (including all costs, demands, damages, suits, judgements, fines, penalties, liabilities, legal fees and cause of action of whatever nature or character, whether arising in tort or in contract, including contractual liabilities assumed by Supplier Group, whether known or unknown, and including claims, losses and expenses for Property Damage, Personal Injury or death, in any way arising out of or related to the performance or non-performance by Supplier Group of the subject matter of the Purchase Order, except to the extent caused by or resulting from the Gross Negligence or Wilful Misconduct of Supplier Group.

ARTICLE 11 CONSEQUENTIAL LOSSES

For the purposes of this Article, the expression “Consequential Loss” shall mean indirect losses such as, but not limited to, loss of production, loss of product, loss of use, loss of revenue, loss of profit or anticipated profit, loss of business opportunity and reputation, whether arising in contract or tort or otherwise at law.

Except to the extent of any agreed liquidated damages or any termination fees provided for in the Purchase Order, Purchaser shall indemnify, save, defend and hold harmless Supplier Group from Purchaser Group’s own Consequential Loss; and Supplier Group shall indemnify, save, defend and hold harmless Purchaser Group from Supplier Group’s own Consequential Loss.

Notwithstanding the others terms of the Purchase Order, no release nor indemnity will apply in favour of a Party in the event of “Gross Negligence” (meaning a negligent act or omission that constitutes a marked and flagrant departure from the conduct a reasonable person would adopt, acting in circumstances known at the time of the act or omission) or “Wilful

Misconduct” (meaning an intentional act or omission that a reasonable person knew, or ought to have known, would likely have serious and harmful consequences) of any indemnified Party.

ARTICLE 12 TERMINATION FOR CONVENIENCE

Purchase Order may be terminated by Purchaser for its convenience without cause. Purchaser shall provide written Notice to this effect, stipulating in the Notice, the effective date of termination. Supplier shall cease performance of the Purchase Order upon the specified effective date of termination. Supplier shall be entitled to the value of work performed in accordance with the Purchase Order to the effective date of termination, together with such other payments and fees as are set out in the Purchase Order and such other costs the Supplier incurs putting the termination for convenience in to effect for example cancellation costs of other suppliers to Supplier.

ARTICLE 13 TERMINATION FOR CAUSE

Either Party may immediately terminate the Purchase Order by Notice to the other Party (the “Defaulter”), if (a) Defaulter breaches a material term; (b) Defaulter becomes insolvent; (c) a bankruptcy, receiving order or winding up resolution is filed or made against Defaulter; (d) Defaulter ceases to carry on business in the ordinary course; or (e) a creditor takes possession of any of Defaulter’s property. Defaulter shall provide Notice to the non-defaulting Party as soon as possible after any of the above noted events occurs. The rights and remedies provided in this Article are in addition to the rights and remedies provided by Governing Law or under any other provision of the Purchase Order.

Upon termination for cause, the Parties shall meet within fourteen (14) calendar days of the termination for cause Notice and agree what amounts are due and owing to each other. Such amounts shall be paid within sixty (60) calendar days of the termination for cause Notice.

ARTICLE 14 FORCE MAJEURE

A Party shall be excused from its obligations under this Purchase Order to the extent performance is delayed or prevented by an “Event of Force Majeure”. An Event of Force Majeure means an event beyond the control of the Parties, which prevents a Party from complying with any of its obligations under the Purchase Order, including but not limited to: Act of God (such as, but not limited to, fires, explosions, earthquakes, drought, tidal waves and floods; War, hostilities (whether war is declared or not), invasion, act of foreign enemies or embargo; Rebellion, revolution, insurrection or military or usurped power, or civil war; Contamination by radio-activity from any nuclear fuel or nuclear waste; Riot, commotion, go slows, lock-outs or disorder, unless solely restricted to employees of Supplier; and Acts or threats of terrorism.

A Party wishing to invoke this Article shall notify the other Party promptly in writing. A Party invoking this Article shall employ all reasonable means to minimize the consequences to the other Party and to rectify or terminate the Event of Force Majeure or its consequences. The Parties agree that compliance with the requirements of Governing Law, the financial difficulties of a Party, and mechanical or electronic failures shall not be considered an Event of Force Majeure.

ARTICLE 15 DISPUTE RESOLUTION

Any and all controversies, disputes or claims arising out of or in any way relating to this Purchase Order (the “Dispute”) shall be resolved pursuant to this Article. The Parties shall make all reasonable efforts to resolve all Disputes by negotiation and agree to provide, without prejudice, open and timely disclosure of relevant facts, information and documents to facilitate such negotiations.

Prior to the initiation of any legal proceedings to resolve a Dispute, the aggrieved Party shall give written Notice of the Dispute to the other Party (the “Notice of Dispute”) and thereafter the Parties shall promptly meet to resolve the Dispute.

If the Dispute is not resolved within thirty (30) calendar days of such Notice of Dispute, then the Dispute may be submitted to binding arbitration conducted on a confidential basis pursuant to the Arbitration Act – Alberta (the “Arbitration”). The place of arbitration shall be Calgary, Alberta. The selection of an arbitrator for the Arbitration shall occur by mutual agreement of the Parties at a meeting no later than fourteen (14) calendar days following receipt of the Notice of Dispute. Should the Parties be unable to agree on the selection of the arbitrator following this meeting, an arbitrator shall be selected by a justice of the Court of Queen’s Bench of

Alberta upon application of one of the Parties. The arbitrator shall be experienced in the subject matter of the Dispute.

The language to be used in the arbitral proceedings shall be English and the arbitral award shall be in writing and provide an explanation for all conclusions of law and fact. The arbitral award shall provide an assessment of costs, expenses and reasonable attorneys’ fees. The arbitral award may be confirmed in a court of competent jurisdiction.

ARTICLE 16 MISCELLANEOUS

Governing Law and Jurisdiction: The Purchase Order is made under and shall be governed and construed in all respects in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein, without regard to any choice of law or conflict of law provision, which would direct the application of the laws of another jurisdiction. The Parties hereto agree that the Courts of the Province of Alberta and the Federal Courts of Canada shall have exclusive jurisdiction in reference to any matters herein.

Anti-corruption Undertakings: At all times the Parties shall observe and comply with all anti-bribery legislation, such as Canada’s Corruption of Foreign Public Officials Act or the Criminal Code of Canada; USA’s Foreign Corrupt Practices Act or the UK’s Anti-bribery Act. Any breach of this obligation shall constitute a material breach of the Purchase Order.

Ruling Language: The ruling language of the Purchase Order shall be English and all communications and notices in writing or otherwise between the Parties shall be in English.

Time of the Essence: Time is of the essence with respect to all the provisions of the Purchase Order. If a Party fails to meet its obligations in a timely manner, such failure will constitute a material breach.

Changes: The Parties may from time to time change the Goods to be provided under the Purchase Order. No such change shall be binding on either Party unless set out in a Change Order, executed by both Parties. Supplier’s compensation and time for delivery/performance shall only be modified or adjusted as set out in the executed Change Order.

Amendments: This Purchase Order may be supplemented, amended or modified only by the mutual agreement of the Parties. No supplement, amendment or modification of the Purchase Order shall be binding unless it is in writing and executed by each Party hereto.

Assignment: Neither Party shall assign all or any part of the Purchase Order, or any of its rights or obligations hereunder without the prior written consent of the other Party, which consent may be unreasonably withheld.

No implied waiver: The failure of either Party to insist on performance of any term, condition or instruction or failure to exercise any right or privilege, or its waiver of any breach or default shall not thereafter waive any such term, condition, instruction, right or privilege.

Severability: If any provision of the Purchase Order is or becomes illegal, invalid or unenforceable, such provision shall be deemed to be separate and severable from the Purchase Order and all other provisions shall remain in full force and effect.

Binding Agreement: This Purchase Order is binding upon and shall enure to the benefit of the Parties hereto and their successors and permitted assigns.

Entire Agreement: This Purchase Order constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes any prior agreements, understandings or representations, whether oral or in writing, between the Parties.

Execution in counterparts: This Purchase Order may be executed in two (2) counterparts, both of which together shall constitute one and the same instrument and may be delivered by electronic means.