

STANDARD TERMS AND CONDITIONS

1. Definitions

Unless the context otherwise requires, the terms set out below have the following meanings:

- (a) **"Agreement"** shall mean these standard terms and conditions together with all documents incorporated into these standard terms and conditions by reference, which shall govern the supply of Goods and/or Services to the Company (as detailed in the Purchase Order) by the Supplier under the Purchase Order;
- (b) **"Company"** shall mean the company, as indicated in the Purchase Order, who is entering into the Purchase Order with the Supplier;
- (c) **"Delivery"** shall mean the physical delivery of the Goods and/or Services to the designated delivery point and if installation and/or commissioning is included in the Purchase Order, the completion of such work shall include the passing of all tests and inspection required at the designated delivery point;
- (d) **"Delivery Date"** shall mean the date specified in the Purchase Order by which Goods and/or Services are to be supplied at the specified site. If Goods and/or Services are to be installed and/or commissioned by the Supplier, then "Delivery Date" shall mean the date specified in the Purchase Order by which such installation and/or commissioning, inclusive of any tests or inspections required, shall have been completed to the written satisfaction of the Company;
- (e) **"Goods"** shall mean any and/or all the items to be provided by the Supplier to the Company as detailed in the Purchase Order;
- (f) **"Principal Contract"** shall mean the main agreement concluded in writing between the Company and the Supplier in respect of the Goods and/or Services;
- (g) **"Purchase Order"** shall mean the request or order from the Company to the Supplier to supply Goods and/or Services;
- (h) **"Services"** shall mean any and/or all services to be provided by the Supplier to the Company as detailed in the Purchase Order;
- (i) **"Supplier"** shall mean the supplier, as indicated in the Purchase Order, who is entering into the Purchase Order with the Company.

2. Term

This Agreement will be effective as from the date of signature of the Purchase Order by the Company and will continue, unless terminated earlier pursuant to the provisions of this Agreement, until the date determined in the Purchase Order.

3. Acceptance; Applicable Terms and Conditions

- (a) The Company shall not be bound by any provisions in Supplier's Purchase Order acknowledgement or acceptance forms or its standard terms and conditions or any other documents (including any counter-offers) which propose any terms or conditions in addition to or differing with the terms of this Agreement and/or the Purchase Order. Any such terms and conditions of Supplier and any other modification to this Agreement and/or Purchase Order shall have no force or effect and shall not constitute any part of this Agreement and/or Purchase Order. Under no circumstances whatsoever shall the Company's failure to object to provisions contained in any of the Supplier's documents be deemed a waiver of the terms and conditions set forth herein.
- (b) No amendment, deletion, modification, supplement or change in the terms and conditions contained in this Agreement and/or the Purchase Order shall be binding on the Company unless approved in writing by the Company.
- (c) In the absence of a Principal Contract, this Agreement shall take precedence over all terms and conditions submitted by, or included with any quotations from the Supplier, excepting that any terms and conditions appearing on the face of the Company's Purchase Order shall take precedence over this Agreement. Where there is a Principal Contract, the terms and conditions contained therein shall take precedence over this Agreement.

4. Fees

- (a) Subject to the below, fees shall be firm and not subject to adjustment or variation unless specifically approved in writing by the Company.
- (b) Unless specifically stated in the Purchase Order, fluctuations in foreign exchange rates which effect the Purchase Order value will not be for the Company's account.
- (c) Supplier warrants and represents that the fees specified in the

Purchase Order are as low as any net prices now given by Supplier to any other customer for goods and services of like grade, quality and quantities. Supplier agrees that any fee reductions made in the Goods and/or Services covered by this Agreement subsequent to its acceptance but prior to payment thereof will be applicable to the Purchase Order.

- (d) Except as otherwise provided by the Purchase Order, the fees include all costs and charges to be incurred by Supplier in fulfilling the Purchase Order, including, without limitation, installation and other service charges, all applicable local taxes and duties, all wages and fees for Goods and/or Services and materials, all charges for transportation, packing, packaging and returnable containers, all costs of design, engineering and development and all costs for tooling, gauges, jigs, fixtures, dies, molds, patterns and similar property that may be obtained or required by Supplier for use in the provision of the Goods and/or performance of the Services called for by the Purchase Order.

5. Payment

- (a) Invoices will be paid as indicated in the Purchase Order.
- (b) No Goods shall be provided nor shall any Services commence without a valid Purchase Order from the Company and under no circumstances whatsoever will any payment be made without a valid Purchase Order.
- (c) No payment will be made until all Goods are received and/or Services are completed to the written satisfaction of the Company. Payment of any invoice shall not be construed to limit the Company's right of inspection, acceptance, set-off or any other right.
- (d) If invoices are subject to discount for prepayment, Supplier shall state the applicable terms clearly on such invoices. The Company's opportunity for prepayment shall not be prejudiced by delays beyond the Company's control.

6. Taxes

Unless otherwise required by law, Supplier will pay all taxes, excise charges, fees or other charges, other than applicable sales tax, which may be required or levied by any local, provincial or national government body because of the Goods and/or Services provided to the Company and Supplier hereby indemnifies the Company in respect of any such taxes, charges, penalties or fees in this regard.

7. Right of Set Off

Supplier agrees that the Company, in its sole discretion, shall have the right to offset amounts which may become payable by the Company to Supplier under the Purchase Order or otherwise, against any present or future indebtedness of Supplier to the Company, money, prepaid inventory or otherwise, whether arising under the Purchase Order and/or this Agreement or otherwise.

8. Specifications

Unless otherwise authorized in writing by the Company and where applicable, Supplier shall supply the Goods and/or render the Services per all requirements, specifications, designs, drawings and performance criteria, if any, furnished by the Company or furnished to the Company by Supplier, without variation.

9. Assurance of Performance

In the event Supplier fails to perform in terms of this Agreement and/or the Purchase Order, or the Company in good faith has any other reason to question Supplier's intent or ability to perform, the Company may, in its sole discretion, demand adequate assurance of performance, including that Supplier furnish a performance bond or letter of credit, conditioned to indemnify the Company for any loss the Company may sustain by failure of Supplier to perform its obligations. In the event Supplier fails to comply with such demand within ten (10) business days thereafter, the Company may treat this failure as a material default.

10. Warranty

Supplier represents and warrants that: (i) the Services supplied hereunder will be performed in a professional and workmanlike manner and in accordance with good industry practice; (ii) Supplier will provide all equipment, materials and personnel necessary to provide the Goods and/or to perform the Services (as applicable); (iii) the Goods and/or Services will be fit for the Company's particular purposes, to the extent made known to Supplier, and will

whose performance has not been so prevented will have the option to terminate the Purchase Order with immediate effect on written notice to the other, subject to all rights, remedies and obligations under law and equity.

17. Intellectual Property

- (a) Supplier warrants and represents that the Goods and/or Services supplied, and the subsequent use of the Goods and/or Services by the Company, do not infringe any patent, copyright or other intellectual property rights of any third party. Upon becoming aware of any claim or suit in which any such infringement is alleged, the party that is aware will promptly notify the other party. Supplier will be permitted to control the defense or settlement of any such allegation of infringement, and the Company will provide Supplier with such reasonable assistance in the response and prosecution of any defense as Supplier may reasonably request, at Supplier's sole expense. If a Good and/or Service is the subject of any such claim, Supplier will, at its own expense, (i) procure for the Company the right to continue using such Good and/or Service; (ii) modify the Good and/or Service as necessary to avoid such claim, provided that the Good and/or Service (as amended) functions in substantially the same way as the Good and/or Service before modification; or (iii) replace all or part of the Good and/or Service with functionally equivalent goods and/or services without any charge to the Company. If Supplier enters into any settlement or compromise of an allegation of infringement that would materially impair the rights or increase the costs of the Company to use the Good and/or Service as contemplated hereunder, the Company will have the right to terminate the Purchase Order without any liability or obligation to Supplier. Notwithstanding any other right of the Company in law or in terms of this Agreement, Supplier shall indemnify the Company against all liabilities, costs, expenses, damages and losses (including any professional costs and expenses) suffered or incurred by the Company arising out of or in connection with any claim made against the Company for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the receipt of the benefit of any of the Goods and/or Services.
- (b) The Company and Supplier will each maintain ownership of their own pre-existing intellectual property. All intellectual property (including, but not limited to, patents, trade secrets, copyrights, trademarks, and/or know how) developed by Supplier in connection with this Agreement will be owned solely by the Company, including, but not limited to, all intellectual property associated with work papers, reports, documentation, drawings, programming, source code, object code, flow charts, schematics, screen layouts, prototypes, marketing and development plans and other material, including Supplier's final report, or services developed, their composition, the process for their manufacture and any applications for such products, materials or processes. Supplier assigns (by way of present and, where appropriate, future assignment) all such intellectual property rights with full title guarantee to the Company. Supplier shall do and execute, or arrange for the doing and executing of, each act, document and thing that the Company may consider necessary or desirable to perfect the right, title and interest of the Company in and to the intellectual property rights in the intellectual property developed by Supplier in connection with this Agreement and/or the Purchase Order. Supplier shall: (i) procure the irrevocable waiver of all moral rights in the intellectual property developed by Supplier in connection with the Purchase Order and/or this Agreement, to the extent permitted by law; and (ii) be responsible for ensuring that written agreements are entered into with, and adhered to by, employees and subcontractors engaged in the performance of this Agreement and that, unless otherwise agreed with the Company in writing in advance, the terms of engagement of such employees and subcontractors are consistent with, and enable Supplier fully to comply with, the provisions as to the intellectual property set out in this Agreement. Supplier will not issue any press release, public notification or otherwise, that uses, names, depicts or references the Company or any the Company affiliated brands or trademarks without the prior written consent of the Company. Supplier will not use any of trademarks of the Company or of an Affiliate in any way without the prior written consent of the Company.

18. Confidentiality

- (a) Supplier acknowledges that this Agreement and the Purchase Order creates a confidential relationship between Supplier and the Company. Each party acknowledges that during the term of the Purchase Order it shall be entrusted with certain Confidential Information of the other party that should reasonably have been understood by the receiving party due to legends or other markings, the circumstances of disclosure or the nature of the information itself to be proprietary and confidential to the disclosing party and agrees that it shall use reasonable care to protect the confidentiality thereof, using at least the same measures it would use to protect its own similar information. During the term of the Purchase Order and indefinitely after the termination of the Purchase Order for any reason whatsoever, the parties shall not (a) use such Confidential Information for any purpose except the performance of the Purchase Order and/or this Agreement, or disclose any such Confidential Information to any person (except employees or agents on a need-to-know basis where such persons are advised of these obligations of confidentiality), unless such disclosure is authorized by the other party in writing, or (c) disclose any such Confidential Information required by a court of competent jurisdiction or judicial or governmental order without first informing the other party in writing and cooperating with such other party if such other party shall reasonably contest such disclosure.
- (b) For purposes of this Agreement, "**Confidential Information**" shall mean all data and information submitted to either party by the other party including but not limited to data and information processed, developed, amended, modified or enhanced by Supplier on the Company's behalf in connection with the Goods and/or Services.
- (c) The obligations of each party under this clause shall not apply to information that (i) was in possession without confidentiality restriction prior to disclosure; (ii) was generally known in the trade or business in which it is practiced by the receiving party at the time of disclosure, or becomes so generally known after such disclosure, through no act of the receiving party; (iii) has come into the possession of the receiving party rightfully from a third party without obligation of confidentiality; or (iv) was developed by the receiving party independently of and without reference to Confidential Information. Furthermore, the Company may share this Agreement in its entirety with any Affiliate or controlling entity without breaching its confidentiality obligations. For purposes of this clause and the remainder of the Agreement, "**Affiliate**" will mean a present or future company that, directly or indirectly, controls, or is controlled by, or is under common control with the Company. For purposes of this definition, "**control**" means (i) the legal or beneficial ownership of fifty percent (50%) or more of the applicable ownership structure of the entity, or (ii) the power to exercise a controlling influence over the management or policies of a legal entity.
- (d) The Confidential Information shall remain the property of the disclosing party.
- (e) On cancellation or termination of the Purchase Order for any reason whatsoever, the receiving party shall immediately return all Confidential Information to the disclosing party, or in accordance with the disclosing party's reasonable instructions, destroy or permanently erase all Confidential Information and confirm in writing to the disclosing party that it has complied with this clause.

19. Data Protection

- (a) The defined terms used in this clause shall have the following meanings:
- "**Operator**" means a person who Processes Personal Data for a Responsible Party in terms of a contract or mandate, without coming under the direct authority of that Responsible Party, and includes a "**Processor**" or "**Data Processor**" as such term(s) may be defined in applicable Privacy Laws;
 - "**Personal Data**" shall include any information used to identify a person to whom the Personal Data relates and includes information related to: (i) race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth; (ii) education or medical, financial, criminal or employment history; (iii) any identifying number, symbol, e-mail address, physical address, telephone, number, location information, online identifier

- or other particular assignment; (iv) biometric information of the person; (v) the personal opinions, views or preferences of the person; (vi) correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence; (vii) views or opinions of another individual about the person; (viii) name of the person if it appears with other Personal Data relating to the person or if the disclosure of the name itself would reveal information about the person; and (ix) any information categorised as sensitive or special information under applicable Privacy Laws.
- **"Privacy Laws"** means all national, state or local laws, regulations, ordinances, or other government standard relating to the privacy, confidentiality or security of Personal Data, including any imposing of minimum security requirements, secure disposal of Personal Data, prohibition of unauthorized access, acquisition or use of Personal Data, or any laws governing general data privacy, data protection or data retention;
 - **"Processing"** means any operation or activity, whether automatic or not, concerning Personal Data, which constitutes a processing activity in terms of applicable Privacy Laws, and the terms **"Process"** and **"Processed"** shall have corresponding meanings; and
 - **"Responsible Party"** means a public or private body or any other person which, alone or in conjunction with others, determines the purpose of and means for Processing Personal Data and includes a **"Controller"** as such term may be defined in applicable Privacy Laws.
- (b) Each party acknowledges that the other party or its Operator, who may in some instances reside outside national borders, may collect and process Personal Data about the other party and/or the other party's employees, affiliates, customers, consultants, agents or representatives in order to carry out actions for the conclusion or performance of this Agreement. Each party hereby consents to such Processing of Personal Data and shall procure the consent of their employees, affiliates, customers, consultants, agents or representatives.
- (c) Each party will take all appropriate steps to ensure that any Processing of Personal Data complies with applicable Privacy Laws. At a minimum, the parties shall take all reasonable steps to ensure that all Personal Data that is collected is complete, accurate, not misleading and updated. In addition, any Processing of Personal Data shall be for a specific, lawful purpose for a limited time and strictly in accordance with express written instructions. Neither party may carry out any related or further Processing activities for any other reason whatsoever without the express written consent of the other party, unless such further Processing is strictly conducted to comply with an obligation imposed by applicable law.
- (d) The parties shall take appropriate technical and organisational security and other measures to ensure that the integrity of the Personal Data in its possession or under its control is secure and protected against unauthorised or unlawful use, access, acquisition, disclosure, accidental loss, destruction or damage (which measures may include, encryption, resilience testing of systems and regular assessment of the effectiveness of implemented technical and organisational security and other measures and other generally accepted measures as may be prescribed by Privacy Laws or best practice).
- (e) The parties undertake to report any infringement relating to the manner in which Personal Data or other data is Processed to the affected party without delay and in any event within the timeframes specified by applicable law (if any).
- (f) In the event that a party is required to disclose any Personal Data by law, regulation or court order, the party concerned must promptly notify the affected party in writing (unless prohibited by law) of: (i) any requests from an individual with respect to Personal Data and shall not respond to any such requests unless expressly authorised to do so by the affected party; or (ii) any complaint relating to the Processing of Personal Data including, but not limited to, allegations that the Processing infringes an individual's rights under local Privacy Laws.
- (g) Upon expiry or termination of this Purchase Order for any reason whatsoever, each party shall immediately cease handling Personal Data and return the Personal Data in a manner and format reasonably requested, or if specifically instructed to do so, immediately destroy or permanently delete all forms of Personal Data in its possession, power and/or

control and provide the other party with a permanent destruction certificate.

- (h) Notwithstanding this clause, no Personal Data Processed under this Purchase Order shall be transferred by a party to any third party or across international borders unless in accordance with Privacy Laws.

20. Responsibility for Property

- (a) Any materials, items, software, hardware or equipment (including, but not limited to, for purposes of this clause, all tools, dies, mechanicals, negatives, plates, drawings, sketches and artwork) furnished, funded or paid for by the Company, provided or made available to Supplier in connection with the Purchase Order, shall be deemed as held by Supplier upon consignment. All such materials, items, software, hardware and equipment not used in the provision of Goods and/or the performance of the Services shall, as directed, be returned to the Company, at the Company's expense, and, if not accounted for or so returned, shall be paid for by Supplier. In no event shall Supplier transfer or move such materials, items or equipment to the premises of any third party without the prior written permission of the Company. Supplier shall not use such materials, items or equipment for any purposes or for any party not authorized in writing by the Company. Supplier shall be fully responsible and indemnify the Company for any loss or destruction of or damage to such materials, items or equipment until the same are returned to the possession of the Company, whether or not such loss, destruction or damage is attributable to acts or omissions of Supplier or its representatives, officers, agents or employees (normal wear and tear for authorized purposes and parties excepted).
- (b) Supplier shall obtain and maintain property insurance upon all such materials, items or equipment to the full replacement value thereof. This insurance shall be specifically so endorsed, and the Company shall be named as a loss payee.

21. Insurance

- (a) Supplier will acquire and maintain, at its own cost and expense, and cause any subcontractor to acquire and maintain, during the term of the Purchase Order, with carriers having an A.M. Best Rating of A-VII or better, sufficient insurance to adequately protect the respective interests of the parties to the Purchase Order.
- (b) Supplier's insurance shall be primary and non-contributory coverage.
- (c) Supplier and its subcontractors will cause their insurance companies to waive their right of recovery against the Company.
- (d) The Company shall be included as an "Additional Insured" on Supplier's policies, and, if applicable, shall be included as a "Loss Payee" and shall be evidenced on a Certificate of Insurance.
- (e) Upon request, Supplier will furnish the Company with a Certificate of Insurance evidencing appropriate insurance coverages are in place. A failure to request evidence of insurance shall not be construed as a waiver of Supplier's obligation to provide appropriate insurance.
- (f) Supplier will be solely responsible for any deductible or self-insured retention.
- (g) Supplier shall immediately advise the Company of any claim made against Supplier that pertains to the Purchase Order and/or this Agreement. Both Supplier and the Company shall cooperate in any claim investigation.

22. Audit

Upon request by the Company, any duly authorized representative of the Company shall, until three (3) years after final payment under the Purchase Order, have access to and right to examine pertinent books, papers, documents, accounts and records of Supplier involving transactions related to the Purchase Order and to examine Supplier's place of business as necessary to determine whether the Purchase Order and/or the terms of this Agreement are being carried out.

23. Permits and Responsibilities

Without additional expense to the Company, the Supplier will be responsible for obtaining any necessary licenses, permits and approvals, and for complying with all applicable codes, laws and regulations applicable to the Goods and/or Services to be provided pursuant hereto. The Supplier will furnish to the Company, upon request, copies of all such licenses, permits, approvals or other

