

PURCHASE ORDER TERMS AND CONDITIONS
FOR GOODS AND ASSOCIATED SERVICES

Unless otherwise provided in the Purchase Order to which these terms and conditions are appended, the terms and conditions set out below are to apply (i) to the supply of equipment, machinery, materials, goods, and products (“**Goods**”) set out in the Purchase Order, and related items addressed herein, that Vendor is to supply to Purchaser, and work incidental to the supply of the Goods; and (ii) together with those terms and conditions set out in Exhibit A attached hereto, to any services related to the Goods (“**Services**”) that Vendor is also to perform, as applicable and set out accordingly in the Purchase Order:

1. **ACCEPTANCE:** If any of the terms of the Purchase Order (including any of (i) these Terms and Conditions; or (ii) the Onsite Terms and Conditions set out in Exhibit A) are unacceptable to Vendor, Vendor shall not commence work under the Purchase Order and shall promptly communicate Vendor’s issues with the Purchase Order to Purchaser for resolution. If Vendor, however, commences such work or communicates such issues to Purchaser but still commences such work prior to reaching a written resolution of those issues with Purchaser, then Vendor is deemed to have accepted the Purchase Order with all its terms and conditions and without any different terms or conditions proposed by Vendor.
2. **TIME OF SHIPMENT/ DELIVERY/ SERVICES:** Vendor acknowledges that (i) the Goods and Services are critical to Purchaser’s operations and (ii) failure to receive the Goods or Services in a timely manner would have a negative impact on such operations as well as Purchaser’s obligations to third parties. Time is of the essence of the Purchase Order. Vendor shall continuously monitor the performance of all activities under the Purchase Order so as to know at all times the planned and actual progress, and to have the earliest practicable awareness of matters that could affect the timing of the shipment or delivery of the Goods or performance of the Services.

Vendor shall immediately (i) report to Purchaser any actual, anticipated, or foreseeable delay in shipment or delivery of the Goods or performance of the Services and its cause; and (ii) advise Purchaser in writing if it anticipates being unable to meet any of the specified shipping, delivery, or performance dates. Vendor shall implement in good time, at its cost, all reasonable measures to avoid or limit delays, and take all reasonable steps to mitigate the effect of delays on shipping or delivery of the Goods or performance of the Services. Such steps are to include advanced and contingency planning. Vendor shall not give priority to work for its other clients to the detriment of the timely (a) shipment or delivery of the Goods or (b) performance of the Services. Purchaser reserves the right to cancel the Purchase Order at any time for Vendor’s default if the specified shipping, delivery, or performance dates are not met or will not be met.

Purchaser is entitled to rescind its acceptance of delivery of Goods and to reject them in the event any material defect or nonconformity in such Goods is notified to Vendor within twenty-one (21) days after such delivery. In such event, Purchaser will make the Goods in question available for collection by Vendor, at Vendor’s cost, at the delivery location of such Goods as designated in the Purchase Order.

3. **SHIPMENT:** Unless otherwise set forth in the Purchase Order, all Goods will be furnished by Vendor to Purchaser on an FCA (Vendor’s facility) basis, per Incoterms® 2010. Vendor shall ensure that each shipment contains an itemized packing slip listing contents and Purchase Order number. Purchaser’s count will be accepted as final and conclusive on all shipments not accompanied by an itemized packing slip.

Vendor shall follow the shipping instructions specified in the Purchase Order. Vendor shall include the Purchase Order number or other tracking number provided by Purchaser and other specified numbers on the bill of lading and shall advise the carrier that such numbers must be shown on freight bills. Vendor’s freight charges for Purchaser’s account, if any, must be supported by a copy of the bill of lading and the carrier’s freight bill. Partial shipments must be accompanied by identifying documents; partial shipments are not to be construed, however, to make the obligations

of Vendor several. Vendor is responsible and liable for any damage to the Goods arising out of improper packing or labeling.

4. PRICING, INVOICING, AND PAYMENT:

- a. Each Proper Invoice shall comply with the requirements of the Prompt Payment Legislation relating to "proper invoice" and shall be submitted in such form, and accompanied by such supporting certification and documentation, as Purchaser may require for verification that amounts invoiced are in conformance with the Purchase Order. Each Proper Invoice shall, to the extent applicable:
 - (i) include the following information:
 1. Vendor's name, telephone number and business address;
 2. the date and number of the application for payment and the period during which the Goods and Services were furnished;
 3. the number of the Purchase Order;
 4. a description of the Services performed during the payment period and a specific itemization of the Goods with quantities (and supporting documents to substantiate such quantities) for Goods furnished;
 5. the amount requested for payment and the corresponding payment terms broken down for the Goods furnished and Services performed;
 6. remittance payment information including the name, title and contact information of the person to whom the payment is to be sent;
 7. a statement indicating that the invoice provided is intended to constitute a "proper invoice" under the Prompt Payment Legislation; and
 8. the value of the Goods and Services and changes in the Goods furnished and the Services performed to date;
 - (ii) include a detailed description of expenditures under any cash allowances, if any;
 - (iii) include copies of clearance certificates issued under the provincial workers' compensation laws for Purchaser and each subcontractor who will be paid out of such invoice;
 - (iv) include a notarized or commissioned statutory declaration in the CCDC 9A form;
 - (v) for Goods delivered to the site but not yet incorporated into the work, if advance payment for such Goods have been approved by Purchaser, list such Goods (and the advance payment calculations in respect thereof) as a separate line item and be supported by invoices and such other evidence as Purchaser may reasonably request to establish the value and delivery of such Goods;
 - (vi) list the holdbacks provided for under the Purchase Order each as a separate line item;
 - (vii) include Vendor's registration number for taxes and list the total amount of taxes separate from the total amount payable during the payment period;
 - (viii) if Vendor procures any items at Purchaser's request on a reimbursable basis, copies of the third-party invoices covering such items as well as an accounting of any discounts, rebates, and allowances related thereto;
 - (ix) include applicable cash discount terms and any applicable discount shall be computed from the date the invoice is received in Purchaser's office; and

- (x) include such other information and documents: (1) identified elsewhere in the Purchase Order; or (2) as required under the Prompt Payment Legislation.
- b. No minimum order charges, or charges for packing or handling, cartage, or insurance or value charges by any mode of transportation are payable by Purchaser unless so specified in the Purchase Order.
- c. Unless stated otherwise in the Purchase Order, Vendor shall submit its invoice, in the currency specified in the Purchase Order.
- d. Proper Invoices shall be submitted by Vendor to Purchaser for amounts other than lien holdback, at least every thirty-one (31) days as the delivery of Goods and Services progresses. If Vendor provides a Proper Invoice more than ninety (90) days, or such longer period as mandatory applicable laws may require, after the time of delivery of Goods and Services to which such invoice relates, Purchaser is not liable, to the extent permitted by applicable laws, to pay Vendor or any other member of its group for the delivery of such Goods and Services covered by such Proper Invoice. Vendor hereby fully releases and discharges Purchaser from any liability related to such late-presented invoices. Provided, however, that this provision does not apply to Proper Invoices that Vendor presents after such ninety (90) day period, or such longer period as mandatory applicable laws may require, in regard to final settlement of disputes in relation to amounts originally invoiced before the end of such ninety (90) day period.
- e. If Purchaser disputes all or any portion of the amount applied for in such Proper Invoice, Purchaser shall promptly, but no later than fourteen (14) days after the receipt of the Proper Invoice from Vendor, provide Vendor a Notice of Dispute specifying the amount of Proper Invoice that is not being paid and detailing all of the reasons for such non-payment. All Notice of Dispute shall be delivered by Purchaser in the manner of service specified in the Purchase Order, at Vendor's regular place of business specified in the Purchase Order.
- f. Purchaser shall, no later than twenty-eight (28) days after the receipt of the Proper Invoice, make payment to Vendor of the amount set out in the Proper Invoice less the amount disputed by Purchaser that is set out in the Notice of Dispute issued pursuant to paragraph (e) above. Purchaser shall retain from such payment the lien holdback and any other holdbacks provided for under the Purchase Order.
- g. For clarity, if Vendor fails to submit a Proper Invoice to Purchaser which is in compliance with the requirements of Article 4, Purchaser shall not be required to make payment to Vendor within the twenty-eight (28) day period set out in paragraph (f) above. Such twenty-eight (28) day period shall not commence until such time as Purchaser has received from Vendor a Proper Invoice in compliance with the requirements of Article 4.
- h. Payment will be in the currency identified in the Purchase Order.
- i. Purchaser will also have right to deduct from or to set off against payments otherwise due to Vendor under the Purchase Order any sums due and owing to Purchaser from Vendor for any reason, under the Purchase Order or otherwise.
- j. Any payment made by Purchaser does not constitute a waiver by Purchaser of any breach by Vendor of any of Vendor's obligations under the Agreement nor prejudice the rights of Purchaser to question or dispute any portion of any invoice. Any payment withheld by Purchaser will be without prejudice to any other rights or remedies of Purchaser under contract or pursuant to applicable laws.
- k. Purchaser has implemented automated electronic requisition-to-pay (R2P) processes for the submission and payment of invoices. These processes require submission of invoices electronically through Purchaser's designated eCommerce web portal or EDI/ XML direct connection. Several methods are permitted and technical specifications are available from

Purchaser upon request. Vendor is to elect a permitted method of electronic invoice submission and submit all invoices accordingly. Paper invoices are to be submitted to Purchaser to the BILL TO location set out in the Purchase Order.

- I. Without limiting the type or nature of such claims, Purchaser may recover any sums paid to Vendor by mistake of law or fact. Payments are not to be construed as acceptance or evidence of approval of any Goods or, if applicable, Services.
 - m. Definitions: The following capitalized terms shall have the meanings provided in this Article 4(m):
 - (i) **Prompt Payment Legislation** means Alberta's *Prompt Payment and Construction Lien Act*, RSA 2000, c. P-26.4, as amended and its corresponding regulations.
 - (ii) **Proper Invoice** means an application for payment from Vendor to Purchaser on account as provided in the Purchase Order, which is in compliance with the requirements of Article 4(a).
 - (iii) **Notice of Dispute** means a written notice of dispute given by Purchaser to Vendor, which complies with section 32.2(2) of the Prompt Payment Legislation and is in the form prescribed by the Prompt Payment and Construction Lien Forms Regulation.
- 5. COMPLIANCE WITH LAWS, RULES AND REGULATIONS:** Vendor shall comply, and shall cause its subcontractors to comply, with all Commonwealth, state, and local laws, rules, and regulations applicable to the manufacture or supply of the Goods or the performance of any Services. **VENDOR SHALL INDEMNIFY, RELEASE, DEFEND, AND HOLD HARMLESS PURCHASER AND PURCHASER'S AFFILIATES AND COVENTURERS FROM AND AGAINST ANY CAUSES OF ACTION, CLAIMS, SUITS, LOSSES, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, JUDGMENTS, AWARDS, AND EXPENSES, INCLUDING COURT COSTS AND ATTORNEYS' FEES (COLLECTIVELY "CLAIMS"), ARISING OUT OF FAILURE BY VENDOR OR ITS SUBCONTRACTORS OR THEIR RESPECTIVE AGENTS, REPRESENTATIVES, OR EMPLOYEES TO COMPLY WITH ANY APPLICABLE LAW, RULE, OR REGULATION.**
- 6. ANTI-BRIBERY:** In relation to the Purchase Order, Vendor shall not, and shall ensure that its officers, directors, and personnel, and its subcontractors and their respective officers, directors, and personnel do not, offer, pay, arrange for another person to pay, or agree to pay any payment, gift, or other thing of value of any nature to: (i) any officials, employees, or agents of any governmental authority or government instrumentality; (ii) any political party; (iii) any candidate for political office; or (iv) any other person, including a legislative, administrative, or judicial office (including any person exercising a public function for a public agency, a public enterprise, or a public international organization); when such payment, gift, or other consideration would violate applicable laws or the principles set forth in the Convention for Combating Bribery of Foreign Public Officials in International Business Transactions, signed in Paris on December 17, 1997 (and without limitation, shall not perform any act which would constitute "bribery of a foreign official" as defined in Article 1(3) of such Convention), the United States Foreign Corrupt Practices Act ("**FCPA**"), the United Kingdom Bribery Act, or other anti-bribery or anti-corruption legislation applicable to either Purchaser or Vendor. Even though the FCPA and certain other applicable anti-bribery or anti-corruption legislation may permit, in limited circumstances, "facilitating payments" (i.e., small payments made in order to expedite or secure the performance by a Governmental Authority of routine actions of a non-discretionary nature, which a person is otherwise entitled by law to receive), Vendor shall not make any "facilitating payments" in connection with the Purchase Order, and shall ensure that its officers, directors, and personnel, and its subcontractors and their respective officers, directors, and personnel do not do so.

If Purchaser reasonably believes that Vendor or any of Vendor's subcontractors or any of their respective officers, directors, or personnel, has engaged or will engage in improper conduct in breach of this Article 6, Purchaser may, at its sole discretion, suspend any further performance by Vendor, withhold further payment to Vendor, and terminate the Purchase Order for cause with immediate effect.

VENDOR SHALL INDEMNIFY PURCHASER FROM ANY CLAIMS ARISING AS A RESULT OF ACTS OR OMISSIONS OF ANY OF VENDOR OR VENDOR'S SUBCONTRACTORS OR OF ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, OR PERSONNEL NOT CONFORMING TO THE REQUIREMENTS OF THIS ARTICLE 6.

7. **EXPORT CONTROL COMPLIANCE:** Vendor shall comply, and shall ensure that its subcontractors comply, with all applicable laws and regulations relating to export and re-export control, including those of Canada and the Export Administration Regulations maintained by the U.S. Department of Commerce, trade and economic sanctions regulations maintained by the U.S. Treasury Department's Office of Foreign Assets Control, and the International Traffic in Arms Regulations maintained by the U.S. Department of State. Vendor is responsible for obtaining any authorizations or licenses required under applicable export control regimes, including Canadian and United States export and re-export control laws and regulations, for the transfer of any regulated technology to nationals of certain countries.

Vendor shall timely (i) identify in writing to Purchaser those items, technology, software, or services for which an export authorization is required and (ii) provide in writing to Purchaser export control classification and licensing information necessary for export documents (e.g., Export Control Classification Numbers (ECCNs)). Vendor shall keep records of its export- and re-export-related activities in respect of the Purchase Order for a minimum of five years or such period as required by relevant laws, whichever is greater, and shall make those records available to Purchaser upon request. Vendor shall not (i) hire or charter, or contract or subcontract with, any person or entity that is listed on any Canada or U.S. government or other applicable government list of prohibited or denied parties or organized under the laws of, operating under the flag of, performing services in, or resident in any country against which Canada or the United States has imposed comprehensive economic sanctions; or (ii) obtain any items, technology, software, or services originating from any country against which Canada, the United States, or other applicable government has imposed comprehensive import sanctions or restrictions.

VENDOR SHALL INDEMNIFY, RELEASE, DEFEND, AND HOLD HARMLESS PURCHASER AND PURCHASER'S AFFILIATES AND COVENANTORS FROM AND AGAINST ANY AND ALL CLAIMS (AS DEFINED IN ARTICLE 5) ARISING OUT OF VENDOR'S OR ITS SUBCONTRACTORS' BREACH OF THIS ARTICLE 7.

8. **AUDIT, ETHICS AND CONFLICTS OF INTEREST:** Vendor shall maintain, and shall ensure that its subcontractors maintain, a true and correct set of records pertaining to all activities relating to its performance of the Purchase Order and all transactions related thereto. Vendor shall retain, and shall ensure that its subcontractors retain, all such records for a period of not less than four (4) years after final payment under the Purchase Order. Any representatives authorized by Purchaser may audit any and all records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and other data related to the Purchase Order at any times during the term of the Purchase Order and during such four (4) year period. Vendor shall cooperate fully with Purchaser during such audits, including furnishing Purchaser with copies of all requested documents. Purchaser will have the right to obtain statements from Vendor's personnel in the course of such audits.

Vendor shall not, and shall ensure that its subcontractors do not, directly or indirectly, (i) pay salaries, commissions, or fees, or make payments or rebates to employees or officers of Purchaser or Purchaser's affiliates; (ii) favor employees or officers of Purchaser or Purchaser's affiliates, or designees of such employees or officers, with gifts or entertainment of significant cost or value, or with services or goods sold at less than full market value; nor (iii) enter into business arrangements with employees or officers of Purchaser or Purchaser's affiliates, except to the extent such

employees or officers are properly acting as representatives of Purchaser or one of Purchaser's affiliates. Vendor shall not engage in any behavior or encourage action by Purchaser's employees that is contrary to (a) Purchaser's policies regarding conflicts of interest; (b) public policy; or (c) any applicable local, provincial, state, federal, or international law or regulation. In the event that Vendor takes any action contrary to Purchaser's interests under the Purchase Order, or in furtherance of any Purchaser employee's prohibited behavior (including the examples above), Vendor shall promptly notify Purchaser, and Purchaser may, at its option, immediately terminate the Purchase Order for cause.

In performance under the Purchase Order, Vendor is to be, and shall ensure that its subcontractors are, guided by the standards set forth in the ConocoPhillips *Code of Business Ethics and Conduct*, as it may be amended and updated from time to time (the "**Code**"). The Code is available from Purchaser upon request or from its internet website at <http://static.conocophillips.com/files/resources/codeofethics.htm#1>. Vendor represents that it has familiarized itself with, and shall remain familiar with, the Code and shall immediately report to Purchaser any known or suspected breach of the Code. Any lack of compliance by Vendor with the principles and standards set forth or embodied in the Code or a violation by Vendor of its own code of business ethics or conduct constitutes a material breach of the Purchase Order by Vendor and grounds for termination under Article 13.

- 9. TITLE:** Title to all or any portion of the Goods and any tangible results of Services passes to Purchaser upon the earlier to occur of (i) identification of the Goods or components thereof to the Purchase Order; (ii) any payment by or on behalf of Purchaser therefor; (iii) tender of Goods to the applicable transportation provider for delivery in accordance with the terms of the Purchase Order; or (iv) incorporation of Goods into Purchaser's facility (or, in the case of work being performed at an off-site fabrication facility, upon incorporation into such fabricated portion). Transfer of title is without prejudice to Purchaser's right to reject defective Goods or Services or any other right or obligation in the Purchase Order. Vendor shall clearly identify all Goods and components thereof as the property of Purchaser by visibly marking or tagging in a manner reasonably acceptable to Purchaser. Vendor shall, to the extent possible, segregate such Goods and components from materials, work, goods, and equipment owned by Vendor or by third parties. Purchaser has the right, at Purchaser's option, to inspect and verify that said Goods and components have been properly identified as Purchaser's property and segregated as required by Purchaser. Notwithstanding any transfer of title to Purchaser, care, custody, and control of such Goods remains with Vendor until transferred to Purchaser per the terms of the Purchase Order.
- 10. PROPRIETARY RIGHTS:** Vendor shall indemnify, release, defend, and hold harmless Purchaser and Purchaser's affiliates and coventurers from and against any and all Claims (as defined in Article 5) asserted by or arising in favor of any person or entity for or as a result of actual or alleged violation or infringement of any patent, copyright, or other intellectual property rights, or for misappropriation or misuse of any trade secret or other confidential information, based on or related to Vendor's performance pursuant to the Purchase Order or Purchaser's use of any Goods or Services. Purchaser will have the right, at its discretion, to select or approve the counsel who is to defend Purchaser, and Purchaser retains the right to participate in any action in which Purchaser is named as a defendant. Should (i) Vendor be prevented from performing any of its obligations under the Purchase Order or (ii) Purchaser be prevented or estopped from use or application of any Goods supplied under the Purchase Order by reason of legal proceedings based upon Claims described in this Article 10, Purchaser will be relieved of any obligation to make payment for such Goods. Further, Vendor shall, at Purchaser's option, either (a) obtain the necessary license to allow Vendor to perform its obligations under the Purchase Order and Purchaser to utilize the Goods and Services in the manner contemplated, or (b) redesign the Goods or Services to enable complete performance in accordance with the Purchase Order without infringing any such rights and without decreasing, limiting, or otherwise affecting the utility or functionality of such Goods.
- 11. INSPECTIONS AND TESTS:** Purchaser and its representatives have the right, but not the obligation, to make inspections and perform tests, or to observe Vendor's conduct of tests, to

determine that all Goods are properly provided and Services, if applicable, are properly performed. Such inspections and/ or tests may be conducted at any reasonable time at any mutually convenient place, including the plant or yard of Vendor or any of its subcontractors used in providing Goods or Services under the Purchase Order, and Vendor shall provide assistance to Purchaser and its representatives in connection with carrying out such inspections or tests. Vendor shall supply, on Purchaser's request, test reports and material certificates. Any such inspections or testing, or the lack thereof, do not in any manner release or relieve Vendor from any of its obligations with respect to the Goods and Services and the Purchase Order.

- 12. WARRANTY:** Vendor hereby warrants: (i) full and unrestricted title to Purchaser for all Goods and Services furnished by Vendor under the Purchase Order, free and clear of any and all liens, restrictions, reservations, security interests, and encumbrances when title thereto passes to Purchaser; (ii) the Goods are to be designed and manufactured utilizing competent and skilled personnel in a good and workmanlike manner consistent with generally accepted industry standards, and are to be complete and free of defects in design, materials, and construction; (iii) the Goods and components thereof are to be in full compliance with all applicable laws, rules, and regulations; (iv) all materials incorporated into the Goods and the Goods themselves will be new (unless otherwise specifically agreed between Purchaser and Vendor), of merchantable quality, and fit for their intended purpose; and (v) all Goods are to be in conformance with the specifications and drawings approved by Purchaser and incorporated into the Purchase Order.

If any of the Goods are found to be defective or not in conformance with these warranties during the period beginning at the commencement of performance under the Purchase Order and ending twelve (12) months after initiation of sustained in-service usage of such Goods for their intended purpose or twenty-four (24) months after Purchaser's receipt and acceptance of the Goods in accordance with the terms of the Purchase Order, whichever period expires earlier, Vendor shall promptly repair or replace (at Purchaser's option) at its own cost any defective or nonconforming Goods, including any Goods suffering loss or damage due to such Goods or any part thereof being defective. Vendor shall also be responsible for the cost of the removal of and reinstallation of such Goods and for the removal from Purchaser's site and disposal of all scrap, trash, and debris generated by such repair or replacement. Further, Vendor shall be responsible for the re-performance, at its own cost, of any Services necessary for the repair or replacement of the defective or nonconforming Goods. Any Goods that are repaired or replaced in accordance with the provisions of this Article 12 will be subject to the warranties provided herein for the remainder of the warranty period provided above or for a period of twelve (12) months from Purchaser's acceptance of the repaired or replaced Goods, whichever period expires later.

Should Vendor refuse or fail to commence repair or replacement of any such defective or nonconforming Goods or re-performance of any such defective or nonconforming Services within seventy-two (72) hours after Purchaser has provided notification of such defective or nonconforming Goods or Services, or if Vendor fails to diligently carry out such repair, replacement, or re-performance, Purchaser will have the right to perform the repair or replacement of the Goods and re-perform the Services or to have the repair, replacement, or re-performance performed by a third party on an expedited basis. Vendor shall be liable for all costs of such repair, replacement, or re-performance, including any amounts payable to third parties, any third-party certifications and testing, and Purchaser's internal costs, and Purchaser may collect such amounts directly from Vendor or by offset against performance security, if any, or by deduction from other amounts due to Vendor.

- 13. TERMINATION FOR CAUSE:** Purchaser may terminate the Purchase Order for cause if Vendor fails to make any payments when due to subcontractors for any goods, materials, or supplies provided to Vendor or for work performed in connection with the Purchase Order; fails to diligently perform the work under the Purchase Order; or otherwise fails to perform or fulfill any material obligation under the Purchase Order; and does not correct any such failure within ten (10) days of notice from Purchaser. Notwithstanding the foregoing, Purchaser may immediately terminate the Purchase Order for cause if (i) Vendor commits any material safety violation in the performance of

the Services; (ii) Vendor is in default under Article 2 or violates any of the obligations contained in Article 7 or Article 8 of these Terms and Conditions; or (iii) Vendor becomes insolvent, has a receiver appointed, makes a general assignment or filing for the benefit of creditors, or files for bankruptcy protection.

In the event of termination under this Article 13, Purchaser will make no further payments until Purchaser has obtained replacement Goods; for either all the Goods if it is not practicable for Purchaser to have others take over completion thereof (in which case Vendor shall promptly refund any amounts Purchaser has already paid); or otherwise for the portion of Goods undelivered at the time of termination. Once the replacement Goods are obtained and all charges therefor are settled, Purchaser shall pay Vendor, as applicable: any amounts due to Vendor but not yet paid by Purchaser for Goods satisfactorily delivered by Vendor and retained by Purchaser, less (a) any costs of obtaining replacement Goods, as aforementioned, in excess of the amount that would have been paid to Vendor for delivery of all the Goods had Vendor not been in breach or default and (b) any administrative, legal, and other expenses incurred by Purchaser in connection with Vendor's default and Purchaser's termination of the Purchase Order. Vendor or Purchaser, as applicable, shall promptly pay any amount due to the other pursuant to the foregoing. The termination and deduction of costs and expenses will be without prejudice to any other legal or equitable remedies available to Purchaser.

14. TERMINATION FOR CONVENIENCE: Purchaser may terminate for its convenience further performance of all or any separable part of the Purchase Order at any time by written notice to Vendor. With respect to any portions of the work terminated in accordance with this Article 14, subject to delivery of such partially completed work to Purchaser at Purchaser's sole option, Purchaser will pay Vendor for Goods delivered to Purchaser and for other work actually performed in full compliance with the requirements of the Purchase Order prior to the effective date of such termination, plus: (a) costs to terminate subcontracts and purchase orders as directed by Purchaser (provided that Vendor has promptly sought and obtained in advance Purchaser's approval for such termination costs); (b) the reasonable costs of protecting and securing the Goods and components thereof; and (c) reasonable demobilization costs actually incurred by Vendor as a direct result of such termination; less the value of any Goods or components thereof returned to Vendor's or its subcontractors' inventory. Vendor shall include provisions equivalent to this Article 14, *mutatis mutandis*, in its subcontracts and purchase orders with its subcontractors. Vendor shall continue to prosecute any portions of the work under the Purchase Order that are not terminated by Purchaser, and the provisions of the Purchase Order are to continue in full force and effect with respect to such work. Vendor recognizes that the provision of the Goods is a competitive business and that Purchaser may exercise its right under this Article 14: (i) for any reason, or no reason at all; and (ii) without considering the impact of such termination upon Vendor.

15. ACTIONS UPON TERMINATION: In the event of a termination of the Purchase Order pursuant to Article 13 or Article 14, Vendor shall cease performance under the Purchase Order to the extent directed by Purchaser and shall cooperate with Purchaser to assign to Purchaser subcontracts and purchase orders required by Purchaser; to terminate, on terms favorable to Purchaser, subcontracts and purchase orders not assigned to Purchaser; and to transfer portions of the Goods and components thereof as directed by Purchaser. Additionally, Vendor shall take reasonable steps to secure and protect any Goods and components thereof to be delivered to Purchaser until Purchaser or its designee has taken possession. In no event is Purchaser to be liable for, nor is Vendor to be entitled to make, any claim for lost or anticipated profits, contribution to overhead, unearned bonuses, or any similar damages for the portion of Goods or Services terminated or not performed by Vendor. In the event Purchaser terminates the Purchase Order either for cause or for its convenience, Purchaser has the unrestricted right to contract with any person for the supply of the same or similar Goods and Services. Purchaser will have no liability whatsoever to Vendor arising out of such contracting and Vendor will not be entitled to any compensation or recompense arising out of Purchaser's decision to contract for supply of such Goods and Services by another person.

- 16. SUSPENSION:** Purchaser may by written notice to Vendor suspend performance under the Purchase Order. During such suspension Vendor shall properly secure and protect the Goods. Vendor shall resume performance only upon written notice from Purchaser. Purchaser will reimburse Vendor for the actual and documented additional cost associated with such suspension, provided such suspension is not required owing to a failure on the part of Vendor or its subcontractors.
- 17. FORCE MAJEURE:** When delay in Vendor meeting any shipping or delivery date is (i) one that is beyond the reasonable control of Vendor and not due to its fault or negligence, and which Vendor could not have reasonably foreseen or, if foreseeable, could not have prevented or avoided through the exercise of due diligence; and (ii) is in the nature of acts of God; terrorist acts; acts of civil or military authority that were not requested, promoted, caused by, or imposed as a result of actions or failures to act of Vendor; sabotage; epidemics; war; riot; fires; catastrophic storms or floods, hurricanes, typhoons, tsunamis, earthquakes, or unusually severe weather; explosions; or national or industry-wide strikes; Vendor will be entitled to a schedule extension to the extent the critical path for the work is impacted by such force majeure event, but Vendor will not be entitled to any extra remuneration or compensation for such delay. For the avoidance of doubt, the following are not to be considered excusable force majeure events: economic hardship; changes in market conditions; failure of Vendor's equipment; shortage of materials, consumables, equipment, or utilities; or climatic conditions, regardless of magnitude, severity, duration, or frequency (other than catastrophic weather events specifically described above).
- 18. TAXES:** Vendor is responsible for the reporting, filing, and payment of any income, profits, capital gains, business, gross receipts, excise, payroll, unemployment, medical, social, and other taxes imposed directly or indirectly on Vendor or its subcontractors or their respective employees or agents as a result of the performance under the Purchase Order. Except as set forth below, all applicable taxes and social charges, including withholding taxes, for which Vendor is liable under this Article 18 are included in the rates, prices, and mark-ups set out in the Purchase Order and Purchaser has no responsibility to reimburse Vendor separately for any such taxes or social charges.

Purchaser, without any liability on its part, has the right to withhold from sums otherwise due to Vendor any taxes or amounts required by applicable law to be withheld, and to pay the same when due to the appropriate taxing authorities. Purchaser will provide Vendor with available governmental receipts evidencing payment of taxes withheld. Should Vendor claim exemption from withholding, Vendor shall provide Purchaser with all evidence as may be required by applicable law or reasonably required by Purchaser to substantiate that Purchaser is not required to withhold the applicable amounts from payments to Vendor. Taxes withheld pursuant to this Article 18 are for Vendor's account only, and Purchaser has no obligation to reimburse Vendor for any such taxes withheld.

Unless otherwise required by applicable law or stated otherwise in the Purchase Order, invoiced remuneration payable to Vendor is exclusive of value added, sales and use, goods and services, excise, and other similar taxes, when applicable. Any such taxes are to be shown separately on Vendor's invoice, and Purchaser will pay such amounts to Vendor in addition to the remuneration payable. Vendor shall make all reasonable efforts to minimize its liability to pay and to recover from Purchaser any value added taxes or sales and use taxes which may be assessed on payments under the Purchase Order. Vendor shall cooperate fully with Purchaser in any reasonable and lawful effort by Purchaser to reduce or eliminate any such taxes for which Purchaser may be liable under the Purchase Order. If Purchaser has provided Vendor with a self-pay or exemption certificate with the Purchase Order, Vendor shall accept it in good faith and Vendor shall not invoice Purchaser for such value added, sales and use, or other excise taxes.

VENDOR SHALL INDEMNIFY, RELEASE, DEFEND, AND HOLD HARMLESS PURCHASER AND PURCHASER'S AFFILIATES AND COVENTURERS FROM AND AGAINST ANY AND ALL CLAIMS (AS DEFINED IN ARTICLE 5) WITH RESPECT TO ALL TAXES SPECIFIED HEREIN WHICH MAY BE ASSESSED OR LEVIED DIRECTLY OR

INDIRECTLY AGAINST PURCHASER, PURCHASER'S AFFILIATES OR COVENTURERS, VENDOR, OR VENDOR'S SUBCONTRACTORS BY ANY TAXING AUTHORITIES CLAIMING JURISDICTION OVER THE PURCHASE ORDER.

19. LIENS: Vendor agrees to indemnify, release, defend, and hold harmless Purchaser and Purchaser's affiliates and coventurers from and against all laborers', materialman's, mechanics', or other liens arising from the performance of Vendor's obligations under the Purchase Order and shall keep the Goods and all premises of Purchaser and Purchaser's affiliates and coventurers free from such claims, liens, and encumbrances. To the fullest extent permitted by applicable law, Vendor waives, for itself and all of its suppliers of any tier, all rights of lien against the property and premises of Purchaser and Purchaser's affiliates and coventurers for labor performed or for items furnished for the work. If such a lien or encumbrance is filed on or with respect to any such property or premises, Vendor shall remove and discharge, by payment or bond or otherwise, such lien or encumbrance within seven (7) days of the filing of such lien or encumbrance. Should Vendor fail to remove any lien or encumbrance within such period, Purchaser may, in its sole discretion, retain funds due to Vendor to pay such liens and their associated costs and to remove or discharge such lien or encumbrance using whatever means Purchaser deems appropriate. In such circumstances, Vendor shall be liable to Purchaser for all damages, costs, losses, and expenses (including attorneys' and consultants' fees) incurred by Purchaser. Upon completion of the obligations of the Purchase Order, Vendor shall provide documentation to Purchaser guaranteeing by affidavit that there are no outstanding liens or claims which would result in liens. Such documentation is to be in a form suitable to Purchaser. If any lien or claim remains unsatisfied after final acceptance or termination of the Purchase Order, Vendor shall promptly reimburse Purchaser for all costs incurred by Purchaser in extinguishing such liens or claims, including any costs of filing and attorney's fees.

20. GOVERNING LAW AND DISPUTES:

- a. The interpretation and performance of the Purchase Order are governed by and to be construed in accordance with the laws of the Province of Alberta. The parties irrevocably consent to the exclusive jurisdiction of the courts of the Province of Alberta in the judicial district of Calgary in respect of all matters relating hereto and irrevocably waive, to the fullest extent permitted by applicable laws, any assertion of inconvenient or inappropriate forum or other objection respecting conflict of laws.
- b. Adjudication
 - (i) Definitions: The following capitalized terms shall have the meanings provided in this Article 20(b)(i):
 1. **Adjudication** means a construction dispute adjudication under Part 5 of the Prompt Payment Legislation with respect to a matter referred to in section 19 of Alberta Regulation 23/2022 under the Prompt Payment Legislation.
 2. **Adjudicator** means a person who is qualified by the Nominating Authority as an adjudicator.
 3. **Nominating Authority** means a Nominating Authority designated under the Prompt Payment Legislation.
 4. **Notice of Adjudication** means a written notice of Adjudication, which complies with section 20 of the Alberta Regulation 23/2022 under the Prompt Payment Legislation and is substantially in the form as agreed upon between the parties.

- (ii) At any time prior to the completion of the Purchase Order either party may, by providing a Notice of Adjudication to the other party, refer a dispute to Adjudication by an Adjudicator, provided such dispute is in respect of the subject matter prescribed in section 19 of the Alberta Regulation 23/2022 under the Prompt Payment Legislation.
- (iii) All Adjudications shall proceed in accordance with the provisions of the Prompt Payment Legislation and the additional procedures set out in this Article 20(b), subject to the exercise of the powers provided to the Adjudicator under the Prompt Payment Legislation.
- (iv) The seat of the Adjudication shall be in Calgary, Alberta.
- (v) The Parties designate [●] as the Nominating Authority if either party wishes to refer a dispute under to the Purchase Order to Adjudication. **[NTD: Name of the Nominating Authority to be updated when the Nominating Authority information is released by the Government.]**
- (vi) The specific Adjudicator to be agreed to by the parties pursuant to section 22 of Alberta Regulation 23/2022 under the Prompt Payment Legislation shall:
 1. have relevant qualifications and experience with respect to the Goods and Services or projects of a similar nature and magnitude, to the supply of Goods and Services;
 2. be independent of and at arm's length to Vendor, Purchaser and any other person having an interest in the supply of Goods and Services; and
 3. have no conflict of interest relating to the parties or the dispute.
- (vii) Vendor and Purchaser hereby acknowledge and agree that:
 1. if the documents delivered pursuant to section 23(b) of the Alberta Regulation 23/2022 under the Prompt Payment Legislation:
 - a. exceed 20 documents or 200 single sided pages in the aggregate; or
 - b. seek monetary relief in excess of \$250,000 exclusive of taxes,

the responding party may request from the Adjudicator additional time to respond and the parties may, if requested by the Adjudicator, extend the time for the Adjudicator to make its determination; and
 2. if the documents delivered pursuant to section 23(b) of the Alberta Regulation 23/2022 under the Prompt Payment Legislation are delivered at any time between the period of December 24th to January 2nd they shall, immediately after the receipt of such documents, deliver to the Adjudicator a written agreement requesting that the Adjudicator exclude the period between the date of delivery of such documents and January 2nd from the counting of days for the purposes of the Adjudication and, as necessary to give effect to such exclusion, extend the deadline for the party that received the Notice of Adjudication to respond and the deadline for the Adjudicator to make its determination.

- (viii) The Adjudicator shall be entitled to grant any remedy or relief which is consistent with the intentions of the parties expressed under the Purchase Order but shall not be entitled to exercise the power of prerogative writs/injunctive relief.
- (ix) Any Adjudicator determinations shall not be relied upon by the parties or any third parties in any other Adjudications arising in respect of any work, including the Goods and Services that was the subject of the Adjudication.
- (x) If a dispute is referred to Adjudication and such dispute is already the subject of another form of dispute resolution process (except court proceeding) agreed by the parties pursuant to the Purchase Order, but which has not been finally determined, the parties shall suspend any mediation or arbitration, as applicable.
- (xi) Subject to the Prompt Payment Legislation, a party shall not refer a dispute to Adjudication if a party has commenced an action in court with respect to such dispute. If a party commences an action in court with respect to a dispute on the same date that the dispute is referred to Adjudication, the action shall proceed.
- (xii) Unless the parties agree, the Adjudicator shall not be appointed mediator or arbitrator in any subsequent dispute resolution proceedings in respect of the dispute.
- (xiii) The parties shall keep confidential all Adjudication materials including those created for the purpose of the Adjudication and all documents produced by the other party in the Adjudication not otherwise in the public domain. The parties will not disclose or use any information or materials received or prepared for the Adjudication for any purpose other than in connection with the Adjudication, except and to the extent that disclosure may be required: (a) of a party pursuant to applicable laws or any governmental authority; or (b) by the parties' legal, financial and other advisors in connection with the supply of Goods and Services.
- (xiv) Subject to the Prompt Payment Legislation, any Adjudication between the parties may not be consolidated with other Adjudications involving other parties without the consent of both Parties.

21. ONSITE SERVICE TERMS AND CONDITIONS: In addition to the terms and conditions set forth in the body of the Purchase Order and these Terms and Conditions, the provisions of Exhibit A attached hereto and incorporated into the Purchase Order are to apply whenever Vendor or its subcontractors or agents or any of their respective employees are on a site owned or controlled by Purchaser or any of Purchaser's contractors to perform Services associated with the Goods, including: consultation, training, inspection, start-up, warranty, testing, and technical services.

22. ASSIGNMENT: Vendor shall not assign the Purchase Order in whole or in part without prior written consent of Purchaser. Purchaser may assign the Purchase Order in whole or in part by providing Vendor with written notice of such assignment. Any assignment by Vendor without the prior written consent of Purchaser will be void and of no force and effect.

23. MATERIAL MANAGEMENT: Vendor is responsible for material management activities required for performance under the Purchase Order, including: materials receipt, warehousing, inventory management, logistics, preservation, storage, and handling of all materials. Vendor shall use an agreed material management system and shall submit to Purchaser a material management procedure no later than forty-five (45) days from the effective date of the Purchase Order for Purchaser's review and approval. Vendor shall perform and manage all required activities to

ensure timely delivery of all materials in line with the schedule for performance. Following the above-referenced procedure, Vendor shall implement dedicated software and tools to code and track all materials for the work, including non-conforming materials, quarantined materials, surplus, scrap, overages, and shortages and any damage to materials up to completion and acceptance of the Goods and Services.

24. SOFTWARE; FIRMWARE: When the functionality of any Goods is reliant upon licensed software or firmware incorporated therein or associated therewith, Vendor shall ensure that Purchaser is provided, together with the Goods, with perpetual, irrevocable, and royalty-free licenses for all such software and firmware. Each such license is to entitle Purchaser to receive all updates and revisions (i) indefinitely, without charge, when Vendor or an affiliate of Vendor is the licensor; and (ii) when Vendor or an affiliate of Vendor is not the licensor, for at least two (2) years from delivery of the applicable Goods without charge, and thereafter at a reasonable charge that is no greater than applicable to other licensees.

25. MISCELLANEOUS:

- a. Consequential Damages. Unless such loss or damages result from or arise out of the wilful misconduct of the party who would otherwise be relieved of liability pursuant to the following, neither party shall be liable to the other for loss of anticipated profits or for any special, indirect, or consequential damages resulting from or arising out of or occurring in connection with the Purchase Order or performance under the Purchase Order, however same may be caused. Provided, however that the foregoing does not apply to any amounts payable as liquidated damages as set forth in the Purchase Order, or to a party's obligation to indemnify as provided in the Purchase Order.
- b. Headings. All headings and numbering in the Purchase Order are for convenience of reference only and are in no way to be used in interpretation of any provision in the Purchase Order.
- c. Subcontractors. Any provisions in the Purchase Order that expressly apply to Vendor's subcontractors are to be interpreted, unless otherwise expressly stated, to mean that they apply to subcontractors (including suppliers) of any tier.
- d. Conflicts in Documents. If there is a conflict between these Terms and Conditions and any other document forming a part of the Purchase Order, first the terms and conditions set forth in the body of the Purchase Order and then this document controls. However, notwithstanding anything to the contrary set forth herein, including Article 20 above, in the event that the Purchase Order is issued with a service or work order that references a Master Service Agreement, Master Purchase Agreement, or a similar master agreement (each a "Master") between Purchaser and Vendor then, with respect to any conflict between terms of the Purchase Order and the referenced Master, the terms on the face of the Purchase Order and then the terms of that referenced Master are to control. Should any requirement or provision of the Purchase Order or its attachments conflict with any other requirement or provision, it is Vendor's responsibility to give Purchaser prompt written notice of such conflict for Purchaser's resolution.
- e. Continuing Obligations. Notwithstanding anything to the contrary set forth in the Purchase Order, the delivery of Goods or completion of Services by Vendor or termination of the Purchase Order does not relieve the parties of any obligations that, by their nature, survive such completion or termination, including any claims arising out of performance under the Purchase Order, warranties, indemnities, insurance requirements, audit rights, and obligations with respect to confidential information.
- f. Confidentiality. At all times hereafter, termination of the Purchase Order notwithstanding, Vendor shall treat as confidential and shall not, without Purchaser's prior written consent, divulge to any third party or, except to the extent necessary for performance hereunder, make any use of any business or technical information owned or supplied by Purchaser or representatives of Purchaser which is disclosed or made available to Vendor by or on behalf of Purchaser, including: (i) specifications and other technical data provided by Purchaser to

- Vendor in relation to the Purchase Order; and (ii) such information to which Vendor may be exposed as a result of entering a site owned or controlled by Purchaser to deliver Goods or perform Services. Vendor shall inform each of its officers, employees, agents, and subcontractors who receives any of the above-described information of the provisions of this Article, and, if they have not previously entered into a separate agreement with Vendor dealing with the confidentiality of such information, Vendor shall require them to agree in writing to be bound by the provisions of this Article in the same manner as Vendor is bound hereunder. Information which was legitimately in Vendor's possession prior to its disclosure by or on behalf of Purchaser to Vendor, or which is or becomes part of the public knowledge or literature from a source other than Vendor, either directly or indirectly, is not subject to the provisions of this Article. Information which becomes available to Vendor legitimately from a source other than Purchaser is released from the provision to the extent necessary to permit such use and disclosure as is authorized by such other source. Vendor shall not take advantage of any information which it is obliged to treat as confidential hereunder for the purpose of buying, selling, or otherwise dealing in the shares or securities of Purchaser or Purchaser's affiliates or coventurers or for purposes of securing financial gain otherwise than by means of the remuneration set out in the Purchase Order.
- g. News Releases and Publicity. Vendor shall not release or allow the release of any information to the press or any news disseminating agency or communications media, except as required by law, concerning the details or the terms of the Purchase Order, without in each instance securing the prior written consent of Purchaser. Vendor shall obtain the prior written approval of Purchaser to the text of any publicity Vendor proposes to issue in connection with the Purchase Order, and shall obtain the prior written approval of Purchaser to the text of any publicity Vendor proposes to issue in connection with the Purchase Order. Vendor does not have an absolute right to issue any such publicity, and Purchaser has an unrestricted right to object to the text of any such publicity and/ or the issuance of the publicity at all.
- h. Waiver. No waiver by either party of any one or more defaults by the other party in the performance of the Purchase Order is to operate or to be construed as a waiver of any future default or defaults by the same party, whether of a like or different character.
- i. Severability. It is intended that if any provision of the Purchase Order is determined to be unenforceable or void for any reason, such provision is to be adjusted, if possible, in order to achieve the intent of the parties. In any event, all other provisions of the Purchase Order are to be deemed valid, binding, and enforceable.
- j. Language. All communication between the parties and all documentation provided by Vendor in connection with the Purchase Order are to be in the English language.
- k. Notices. Unless otherwise specifically provided, all notices provided for in the Purchase Order are to be in writing and to be effective upon delivery. Such notices are to be given: (i) by hand delivery to an authorized representative of the party to whom directed; or (ii) by registered mail, postage prepaid; or (iii) by courier service guaranteeing delivery within two days or less, charges prepaid; or (iv) by facsimile; all to the address of the other party set forth in the body of the Purchase Order. Any notice delivered after normal business hours at the receiving party's place of business will not be deemed delivered until the receiving party's following business day. Either party may at any time change its address, facsimile number, or attention recipient upon written notice to the other party.
- l. Safety. Vendor shall take all necessary precautions to maintain the Goods and Services free from hazards likely to cause injury, illness, or death to persons or damage to property or the environment. Purchaser reserves the right to suspend work under the Purchase Order if, in Purchaser's opinion, it is not safe for the work under the Purchase Order to continue. Vendor shall immediately report any safety or environmental incident to Purchaser.
- m. Quality. Vendor is responsible for the performance of all activities affecting quality management, control, and assurance, including those of its subcontractors (including suppliers). Purchaser reserves the right to review and approve Vendor's quality control and

quality assurance procedures. Vendor shall make any modifications to such procedures reasonably required by Purchaser for it to give such approval.

- n. Changes. Purchaser reserves the right, at any time, to make changes in quantity, drawings and specifications, methods of shipment and packaging, schedules, and the place of shipment as to the Goods and Services covered by the Purchase Order. In such event, an equitable adjustment in price and time of performance mutually satisfactory to Purchaser and to Vendor will be negotiated. Vendor shall not suspend performance while Purchaser and Vendor are in the process of making such changes and any related adjustments and, if released in writing by Purchaser, Vendor shall comply with and perform such change in accordance with the terms in the Purchase Order during such time. No substitutions are to be made in the Purchase Order without the prior written authorization of Purchaser. Additional remuneration will be payable to Vendor only if agreed to in writing by Purchaser, and no agreement or understanding modifying the terms or conditions of the Purchase Order is to be binding upon Purchaser unless made and agreed to in writing by a duly authorized representative of Purchaser.
- o. Entire Agreement. The Purchase Order reflects the entire agreement between the parties with respect to its subject matter. All other oral or written agreements, contracts, understandings, conditions, warranties, or representations with respect to the subject matter of the Purchase Order are superseded hereby, without prejudice to Article 25(d). No subsequent alteration, amendment, change, modification, or addition to the Purchase Order is to be binding upon the parties unless reduced to writing and signed by authorized representatives of Vendor and Purchaser. Notwithstanding anything to the contrary set forth herein, any reference to Vendor's quotation, bid, or proposal in the Purchase Order does not imply acceptance of any terms, conditions, or instruction contained in such document and no such terms, conditions, or instruction constitute part of the Purchase Order unless and to the extent it is expressly stated in the Purchase Order that any such terms, conditions, or instruction are incorporated into the Purchase Order and made a part hereof. Any invoice, acknowledgment, or other communication issued by Vendor in connection with the Purchase Order is to be construed to be for record and accounting purposes only. Any terms and conditions stated in any such communication are not applicable to the Purchase Order and are not to be considered to be Vendor's exceptions to the provisions of the Purchase Order. Trade custom and trade usage are superseded by the Purchase Order and are not applicable in the interpretation of the Purchase Order.
- p. Insurance. If required by Purchaser, Vendor shall arrange and maintain, at its expense, insurance of Goods prior to delivery thereof. Such insurance is to be in an amount not less than the aggregate amount of any advance payments made by Purchaser before delivery of the Goods.
- q. The terms "including", "include", "such as", and the like in these Terms and Conditions and Exhibit A are to be deemed to be completed by the expression "but not limited to" and are to be construed without limitation.

EXHIBIT A**TO TERMS AND CONDITIONS
FOR GOODS AND ASSOCIATED SERVICES****ONSITE SERVICE TERMS AND CONDITIONS**

- 1. INDEPENDENT CONTRACTOR:** Vendor shall perform all Services as an independent contractor and not as an agent or employee of Purchaser. **VENDOR SHALL INDEMNIFY, RELEASE, DEFEND, AND HOLD HARMLESS PURCHASER AND PURCHASER'S AFFILIATES AND COVENTURERS AND THEIR RESPECTIVE BENEFIT PLANS AND FIDUCIARIES FROM AND AGAINST ANY CLAIMS (AS DEFINED IN ARTICLE 5 OF THE PURCHASE ORDER) BY OR ON BEHALF OF EMPLOYEES OF VENDOR OR ITS SUBCONTRACTORS REGARDING OR RELATED TO THE BENEFIT PROGRAMS OF PURCHASER OR PURCHASER'S AFFILIATES OR COVENTURERS, INCLUDING CLAIMS INVOLVING PENSIONS, MEDICAL, UNEMPLOYMENT, AND OTHER BENEFITS, AND/OR THE EMPLOYMENT OF SUCH EMPLOYEES, INCLUDING CLAIMS UNDER FEDERAL AND STATE ANTI-DISCRIMINATION LAWS AND CLAIMS OF RETALIATION, BREACH OF EXPRESS OR IMPLIED CONTRACTS FOR CONTINUED EMPLOYMENT, NEGLIGENCE HIRING, SUPERVISION OR RETENTION, AND OF JOINT EMPLOYMENT BY PURCHASER OR PURCHASER'S AFFILIATES OR COVENTURERS.**
- 2. LICENSES AND PERMITS:** Vendor shall obtain all licenses and permits required to be taken in Vendor's name in connection with Services to be performed prior to beginning Services at any Purchaser-designated site and shall, upon request, furnish copies to Purchaser of any license, permit, bond, report, certificate, or other document maintained, compiled, or required by governmental authority for performance of Services hereunder.
- 3. SUBCONTRACTING:** Vendor shall not subcontract any portion of the Services without the written consent of Purchaser.
- 4. INSURANCE:**
 - 4.1. Insurance Requirements: Vendor shall maintain insurance of the types and with limits of liability not less than those set out below at its expense from sound and reputable insurers (generally those with an A.M. Best rating of A- or better or the equivalent from another internationally recognized agency) covering items, risks and operations required to fulfill the Purchase Order:
 - 4.1.1. Insurance that Vendor is obliged by law to carry that covers all of Vendor's employees performing work under the Purchase Order, including coverage under applicable maritime law.
 - 4.1.2. Employer's Liability Insurance, including coverage for marine operations if applicable, with a limit not less than CAD\$2,000,000 any one occurrence or the statutory requirement, whichever is greater.
 - 4.1.3. Commercial General Liability Insurance, including contractual liability coverage, with a limit not less than CAD\$5,000,000 any one occurrence. Such insurance is to include sudden and accidental pollution liability coverage.
 - 4.1.4. Automobile Liability Insurance with a combined bodily injury and property damage limit not less than CAD\$2,000,000 any one occurrence or the statutory requirement, whichever is greater, for all owned, non-owned and leased vehicles.
 - 4.1.5. Such other insurance in the types and amounts (i) required by applicable law; and (ii) to cover the risks retained by Vendor that are associated with its performance of any Services.

- 4.2. Primary Insurance. All insurance required by Section 4.1 above is to be primary to any insurance coverage available to Purchaser and each of Purchaser's affiliates and coventurers. The above-stated minimum requirements are not intended to indicate the amounts and types of insurance that Vendor needs or may ultimately need.
- 4.3. Waiver of Subrogation and Additional Insured. The policies under Sections 4.1.3 and 4.1.5 (and Section 4.1.4 where legally permitted) above are to be endorsed to show Purchaser and each of its affiliates and coventurers as additional insureds (coverage inclusive of defense costs) to the extent of the liabilities and indemnification obligations assumed by Vendor (including those with regard to its subcontractors) under the Purchase Order, irrespective of minimum limits and amounts stated for insurance required of Vendor under Sections 4.1.3 through 4.1.5 above. The policies are to contain a provision that any breach by Vendor or any of its subcontractors of any warranty, covenant, or representation in any of the policies is not to prejudice any claim by the additional insureds. All insurance policies procured by Vendor are to contain a waiver of subrogation in favor of Purchaser to the extent of the liabilities and indemnification obligations assumed by Vendor under the Purchase Order.
- 4.4. Certificates of Insurance and Policies. None of the insurance required by this Article 4 is to be materially changed or cancelled without at least thirty (30) days' prior written notice to Purchaser. Upon Purchaser's request, Vendor shall furnish to Purchaser certificates of insurance demonstrating that Vendor has obtained the insurance coverage set out in Section 4.1 and containing a statement that timely notice of any material change or cancellation will be provided to Vendor to enable Vendor to fulfill its notice obligation to Purchaser. All coverages are to be written on forms reasonably acceptable to Purchaser. Neither review nor failure to review such certificates constitutes approval thereto or is to be deemed to waive or diminish Purchaser's rights under the Purchase Order. In the event of an accident or loss potentially resulting in an insurance claim, Vendor, at Purchaser's request, shall make the policy information available as reasonably required by Purchaser. This obligation is to survive the termination of the Purchase Order.
- 4.5. Failure to Comply. Neither failure to comply nor full compliance with the insurance provisions of the Purchase Order limits or relieves Vendor from Vendor's liability or indemnity obligations in the Purchase Order. If Vendor fails or refuses to comply with the obligations prescribed in this Section 4, Purchaser may, without prejudice to any other rights or remedies available to it under the Purchase Order or at law, (a) treat the Purchase Order as having been repudiated by Vendor or (b) procure the required insurances and deduct the cost thereof from any amounts due hereunder or otherwise recover such amounts from Vendor.
- 4.6. Subcontractors. Vendor shall ensure that each of its subcontractors (including suppliers) maintains all insurance required under any applicable laws or regulations, together with such other insurance of types and amounts necessary to cover risks inherent in the work of that subcontractor, as well as any other insurance that Vendor may deem necessary.
- 5. SAFETY AND HEALTH REGULATIONS:** Vendor shall comply, and shall ensure that its employees, representatives, and agents and its suppliers and subcontractors and their respective employees, representatives, and agents comply, with the following as current at the time Services are performed (a) all applicable safety and health laws, regulations, and ordinances; and (b) the safety, health, and plant regulations of Purchaser, including those set out in the document entitled "[Exhibit – Contractor HSE Requirements](#)", which is accessible at Purchaser's website and also available from Purchaser on request. Vendor shall ensure that all of its employees and the employees of its subcontractors, representatives, and agents have a safe place of work on Purchaser's premises. Vendor shall keep said premises and the vicinity thereof clean of debris and rubbish caused by its work and, upon completion of its work, shall leave the premises clean and ready for use. Vendor agrees to abide by and consents, and shall cause its agents and employees and the agents and employees of its subcontractors to agree to abide by and consent, to Purchaser's conditions and procedures regarding alcohol, drugs and other prohibited items as stated in Purchaser's policy titled "Contractor Substance

Abuse Policy Requirements” (a copy of which is available upon request). **VENDOR SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS PURCHASER FROM AND AGAINST ANY AND ALL CLAIMS (AS DEFINED IN ARTICLE 5 OF THE PURCHASE ORDER) ARISING OUT OF OR RELATED TO THE STRICT ENFORCEMENT OF SUCH POLICY WITH RESPECT TO THE AGENTS AND EMPLOYEES OF VENDOR OR ITS SUBCONTRACTORS.** Upon request of Purchaser, and at no cost or expense to Purchaser, Vendor shall promptly remove from said premises any person under the control of Vendor who violates any of the aforesaid safety, health or plant laws, regulations, ordinances or rules or who may cause or threaten to cause a breach of the peace, or who is otherwise objectionable to Purchaser.

6. INDEMNITY FOR PERSONAL INJURY AND PROPERTY DAMAGE:

- 6.1. Personnel and Property. **VENDOR SHALL DEFEND, INDEMNIFY, RELEASE, AND HOLD HARMLESS PURCHASER AND PURCHASER’S OTHER CONTRACTORS AND SUBCONTRACTORS FROM AND AGAINST ANY AND ALL CLAIMS (AS DEFINED IN ARTICLE 5 OF THE PURCHASE ORDER) ARISING OUT OF OR RELATED TO (I) LOSS OF OR DAMAGE TO THE PROPERTY AND EQUIPMENT OF VENDOR, VENDOR’S SUBCONTRACTORS, AND THEIR RESPECTIVE EMPLOYEES; AND (II) INJURY TO OR DEATH OF EMPLOYEES OF VENDOR OR VENDOR’S SUBCONTRACTORS. SUBJECT TO ARTICLE 12 (WARRANTY) OF THE PURCHASE ORDER, PURCHASER SHALL DEFEND, INDEMNIFY, RELEASE, AND HOLD HARMLESS VENDOR AND VENDOR’S SUBCONTRACTORS FROM AND AGAINST ANY AND ALL CLAIMS (AS DEFINED IN ARTICLE 5 OF THE PURCHASE ORDER) ARISING OUT OF OR RELATED TO (A) LOSS OF OR DAMAGE TO THE PROPERTY AND EQUIPMENT OF PURCHASER, PURCHASER’S OTHER CONTRACTORS AND SUBCONTRACTORS, AND THEIR RESPECTIVE EMPLOYEES; AND (B) INJURY TO OR DEATH OF THE EMPLOYEES OF PURCHASER OR PURCHASER’S OTHER CONTRACTORS OR SUBCONTRACTORS. NOTWITHSTANDING THE FOREGOING, VENDOR SHALL BE LIABLE FOR AND SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS PURCHASER AND PURCHASER’S AFFILIATES AND COVENTURERS FROM AND AGAINST ANY LOSS OF OR DAMAGE TO PROPERTY OF PURCHASER OR PURCHASER’S AFFILIATES OR COVENTURERS OCCURRING IN CONNECTION WITH PERFORMANCE OF THE PURCHASE ORDER UP TO ONE MILLION UNITED STATES DOLLARS (US\$ 1,000,000) TO THE EXTENT THAT SUCH LOSS OR DAMAGE RESULTS FROM OR ARISES OUT OF THE SOLE, JOINT OR CONCURRENT NEGLIGENCE OR OTHER LEGAL FAULT OF VENDOR OR ITS SUBCONTRACTORS OR THEIR RESPECTIVE EMPLOYEES.**
- 6.2. Application. Except and to the extent expressly provided otherwise in this Section 6 and Article 12 (Warranty) of the Terms and Conditions, **ANY INDEMNIFICATION, DEFENSE, OR RELEASE GRANTED TO A PARTY OR OTHER PERSON IN THIS SECTION 6 IS TO APPLY EVEN IF THE INJURY, DEATH, DAMAGE, LOSS, OR LIABILITY COVERED THEREBY IS CAUSED BY OR RESULTS FROM CONDITION OF ANY PREMISES OR TRANSPORT TO OR FROM SUCH PREMISES, STRICT LIABILITY, UNSEAWORTHINESS, OR THE SOLE, JOINT, OR CONCURRENT NEGLIGENCE, WHETHER ACTIVE OR PASSIVE, OF THE PARTY OR OTHER PERSON INDEMNIFIED OR RELEASED HEREUNDER, AND WHETHER THE CLAIM THEREFOR IS BASED UPON COMMON LAW, CIVIL LAW, MARITIME LAW, STATUTE, OR CONTRACTUAL OBLIGATION BETWEEN THE PARTY OR OTHER PERSON INDEMNIFIED OR RELEASED AND A THIRD PARTY, PROVIDED, HOWEVER, A PARTY’S OBLIGATION TO INDEMNIFY A PERSON PURSUANT TO SECTION 6.1 SHALL NOT APPLY TO THE EXTENT A CLAIM IS ATTRIBUTABLE TO THE WILFUL MISCONDUCT OF THE PERSON REQUESTING INDEMNIFICATION.**
- 6.3. Extension of Indemnities. For the purposes of indemnification provided herein, the indemnified party, whether Purchaser or Vendor, is defined to include the party’s respective parents, subsidiaries, affiliates, coventurers, and co-lessees, together with all of its and their directors, officers, employees, and agents.
- 6.4. No Effect on Other Obligations. Vendor’s obligations under this Section 6 are not intended to and are not to be deemed to reduce, terminate, supersede, or otherwise affect Vendor’s obligations pursuant to other provisions of the Purchase Order, including Vendor’s warranty obligations under Article 12 of the Purchase Order.
- 6.5. No Limitation. Any indemnities set forth in the Purchase Order are not to be prejudiced, reduced, or limited by any insurance coverage that Vendor is required to maintain pursuant to

the Purchase Order or by operation of law or otherwise, or by any insurance that Vendor actually maintains. Additionally, any enforcement or failure to enforce any obligations related to insurance do not prejudice, reduce, or limit any such indemnification obligations.