

## STANDARD TERMS & CONDITIONS—PURCHASE OF GOODS (CANADA)

- 1. Acceptance of Order; Complete Agreement; Changes:** You may accept the Order, which will also constitute acceptance of all of the terms and conditions herein, by signing and returning the Order or a copy of it to us, or by delivering the Goods, or by otherwise indicating your acceptance. The Order, when accepted, constitutes the complete and exclusive agreement and understanding between us relating to the subject matter hereof and supersedes all prior agreements, understandings or statements, oral or written, for the same goods, including the terms or conditions contained in your proposal or quotation, unless those terms and conditions are expressly identified by topic or paragraph number and expressly accepted by us on the face side of the Order. The Order expressly limits acceptance to the terms and conditions stated herein. We object to and reject all past or future additional or inconsistent terms or conditions proposed by you, in documents, by writings accompanying or printed on the Goods, or in any document tendered as responsive to the Order, unless we expressly indicate our consent in writing. You may not assume that our silence in response to any of your past or future documents or writings, even if coupled with our acceptance of your Goods, indicates our acceptance of such terms or conditions. **IT IS YOUR RESPONSIBILITY TO OBTAIN EXPRESS WRITTEN CONSENT IF YOU WISH TO MODIFY ANY OF THE TERMS AND CONDITIONS OF THE ORDER.** We reserve our right to withdraw the Order at any time without obligation until we receive a written acceptance of the Order or delivery of the Goods. We shall have the right at any time to make changes in drawings, designs, specifications, materials, packaging, time and place of delivery and method of transportation. If any such changes cause an increase or decrease in the cost or time required for performance, you must notify us within fifteen (15) days of your receipt of the requested change. We will not be responsible for any additional costs unless we have specifically approved those costs in writing. Any claim by you for additional costs shall be waived unless asserted in writing within fifteen (15) days of your receipt of the requested change. In the event of any inconsistencies between the terms and conditions herein and the face side of the Order, the face side of the Order controls.
- 2. Non-Exclusivity:** You acknowledge and agree that we are free at any and all times to purchase the same or similar Goods from such other suppliers as we may determine in our sole discretion and/or to manufacture the Goods or similar products ourselves.
- 3. Price:** Unless set forth in a separate line on the face of the Order, the Purchase Price includes all packaging; transportation costs; insurance; customs duties and fees; and sales, use or other applicable taxes. We will be responsible for paying any VAT, GST/HST and PST you are legally obligated to assess and collect from us that are not zero-rated for GST/HST purposes. Payment of all other taxes, including but not limited to taxes imposed upon your income and property of and stamp duties, and customs duties, shall be borne by you. We reserve the right to deduct or withhold from the Purchase Price any taxes, levies or other amounts required to be withheld or deducted by us in accordance with applicable law. You represent that any taxes charged on Goods will be promptly remitted to the designated jurisdiction and that you are authorized and properly registered with the jurisdiction taxing authorities to collect and remit said taxes. Any legally applicable VAT, GST/HST and PST must be listed separately on your invoice. We shall not be obligated to make any payment to which GST/HST applies unless and until you have provided an invoice containing the information prescribed by the Excise Tax Act or other applicable law or policy sufficient to entitle us to claim an input tax credit. You shall provide to us prices, terms, and warranties for the Goods no less favorable than the terms being offered by you to any of your present customers purchasing such goods.
- 4. Import Duties.** Notwithstanding anything herein to the contrary, you shall be solely liable and responsible for, and shall pay and indemnify us in respect of, all Canadian duties, tariffs and similar taxes, levies and charges including but not limited to GST/HST and PST, and all expenses, charges and fees relating to the importation into Canada of the Goods. You shall be the importer of record of all such goods and other materials imported into Canada and discharge and complete all administrative and legal duties and formalities related to being the importer of record.
- 5. Delivery:** All Goods shall be delivered duty paid (DDP) on or before the Delivery Date and packed for shipment in suitable containers and in accordance with good commercial practices. Title to and risk of loss of the Goods shall pass to us upon our acceptance of the Goods. If you fail to make a delivery of Goods in accordance with the terms of the Order, in addition to any other remedies we may have, we have the right to cancel the Order for any Goods not yet shipped without payment of any penalty, fee or other amounts of any kind, and you shall pay the cost of cover.
- 6. Terms:** We will pay the undisputed portions of each invoice within sixty (60) days of its receipt. All payments will be in Canadian dollars and made by wire transfer, automated clearing house or corporate check.
- 7. Setoff:** We reserve the right to withhold, deduct or set off amounts owed to us by you in respect of the Order or any other transaction from any amounts due from us to you in respect of the Order.
- 8. Inspection; Acceptance:** We have the right to inspect the Goods, irrespective of any prior payment. We may reject, refuse acceptance and/or request a replacement of Goods not in accordance with terms of the Order and elect, in addition to any other remedies we may have, a full refund, including, without limitation, handling and transportation charges incurred in connection with the return.

9. **Warranties:** You expressly warrant that the Goods shall be delivered to us free of any lien, claim or encumbrance; be of new and merchantable quality for a period of 12 months after acceptance; and conform to the specifications set forth on the face of the Order, any samples provided to us and applicable law. You further expressly warrant that any services provided in connection with the Goods shall be performed in a professional and workmanlike manner and that none of the Goods or services provided hereunder violates any patent, trademark, copyright, trade secret, or any other intellectual property right of any third party. No inspection, testing, acceptance or use of the Goods will affect your obligations under these warranties. Your warranties shall run to us, our successors, assigns and customers, and users of products sold by us.
10. **Compliance with Law:** You expressly represent that in connection with the delivery of the Goods and services hereunder, you have complied and shall comply with all laws, rules and regulations, including, without limitation, those relating to bribery; corruption; sanctions; and the importation, exportation, re-exportation or sale of any Goods.
11. **Grant of Licenses:** You hereby grant us a perpetual, worldwide, irrevocable, fully paid-up, royalty-free license to any intellectual property required to use or exploit the Goods.
12. **Indemnification:** You shall defend, indemnify and hold us harmless from any claim, liability, loss, damage, cost or expense (including reasonable attorneys' fees) arising out of or relating to your breach of any warranty, covenants or obligations under the Order; your wrongful or allegedly wrongful act, or failure to act, in connection with the Order, whether such commission or omission was intentional, negligent or otherwise; or any actual or alleged infringement, misappropriation or violation of any of our intellectual property rights. We will promptly notify you upon our receipt of notice of any such claim or proceeding, and you shall, at your expense, assume the defense of such claim. We may participate in such defense, at our option, and reserve the right to reject any settlement that imposes any liability on us or does not release us from liability unconditionally.
13. **Insurance:** You shall maintain a primary occurrence-based Commercial General Liability Insurance policy, including, but not limited to, products/completed operations, blanket contractual, and independent contractor coverages, with limits of liability of not less than C\$5,000,000 Combined Single Limit for Bodily Injury and Property Damage per occurrence and annual aggregate limit of C\$10,000,000. Such policy shall be subject to a deductible of no more than C\$50,000. Such policy shall cover, among other risks, the contractual liability assumed under the indemnification provision set forth above. All coverage shall be obtained from A.M. Best "A" VII, or better, rated carriers. We will be named in such policy as an additional insured with regard to any and all of our liability arising directly or indirectly out of your operations. Such policy will include a cross-liability clause and a waiver of any subrogation claim against us. You will furnish us with a certificate of insurance for such policy and will, upon request, provide a copy of such policy to us. You will not materially change, cancel or non-renew such policy without giving 30 days' prior written notice to us.
14. **Termination:** We may terminate the Order and seek damages allowed by law upon fourteen (14) days' written notice if you breach your obligations hereunder, and that breach remains uncured during the 14-day notice period. Upon termination of the Order, you shall return to us (or, at our option, certify to the destruction of) all materials and any other documents or materials belonging to or produced for us by you or by any third party, including all confidential information. Termination shall not affect any existing obligation under the Order.
15. **Confidentiality:** You shall consider all information we furnish to be confidential, and you agree not to disclose any such information to any other person or entity, or use such information for any purpose other than performing the Order, unless you obtain express written permission from us to do so. You shall not advertise or publish the fact that we have contracted to purchase goods from you, nor shall you disclose any information relating to the Order without our written permission.
16. **Our Policies:** At all times while on our premises, you shall observe and be subject to all of our security and safety policies and procedures, including, without limitation, our Outside Vendor Safety Requirements, which are expressly incorporated herein by reference. **YOU SHALL NOT BRING ONTO OR GENERATE ON OUR PROPERTY ANY HAZARDOUS MATERIAL WITHOUT OUR EXPRESS WRITTEN CONSENT.**
17. **Relationship of the Parties:** You serve as an independent contractor hereunder, and not as our employee, joint venture partner or other partner, and will not by reason of the Order, or performance hereunder, have or acquire any rights or claims with respect to medical or other insurance, workers' compensation, pension or retirement benefits, or other fringe benefits provided to our employees.
18. **Time Is of the Essence:** Time is of the essence with respect to all provisions of the Order. If delivery of items or rendering of services is not completed by the time set forth on the face of the Order, we reserve the right, without liability and in addition to our other rights and remedies, to terminate this Order by notice effective when you receive it as to items not yet shipped or services not yet rendered and to purchase substitute items elsewhere and charge you with any loss.
19. **Waiver:** No modification, amendment or waiver of any provision of the Order shall be effective unless approved in writing by us. Our failure to insist on performance of any of the terms or conditions herein or to exercise any right or privilege, or our waiver of any breach hereunder, shall not constitute a waiver of any other terms, conditions or privileges, whether of the same or similar type.

20. **Choice of Law; Arbitration:** The Order shall be construed in accordance with the laws of the Province of Ontario and any laws of Canada that are in force in Ontario. The provisions of the Ontario Sales of Goods Act, R.S.O. 1990, c. S.1 will apply to the Order. The International Sale of Goods Act, R.S.O. 1990, c. I.10 shall not apply to the Order. Any claim or controversy arising out of the Order shall be governed by the Arbitration Act, 1991, S.O. 1991, c. 17, or the International Commercial Arbitration Act, R.S.O. 1990, c. I-9 to the extent applicable, and shall be resolved through binding arbitration before a single arbitrator in Toronto, Ontario, in accordance with the Commercial Arbitration Rules and Mediation Procedures published by the American Arbitration Association. The law relating to the arbitration, including choice of law, will be Ontario law and the Ontario Superior Court of Justice will have jurisdiction over the arbitration.
21. **Severability; Survival; Assignment:** The invalidity, illegality or unenforceability of any provision of the Order shall not affect or impair the validity, legality or enforceability of the remainder of the Order, and the provisions of the Order are declared to be severable. Any provisions of the Order, the nature and intent of which is to survive termination or expiration of the Order, shall survive the expiration or termination of the Order. You shall not assign, transfer, delegate or subcontract any of your rights or obligations under the Order without our prior written consent.
22. **Choice of Language.** The parties hereto confirm their desire that the Order, along with all other documents, including all notices relating hereto, be written in English. Les parties aux présentes confirment leur volonté que cette convention de même que tous les documents, y compris tout avis, s'y rattachant, soient rédigés en anglais.
23. **Force Majeure:** No party shall be considered in default in the performance of their obligations under this Order if such performance is prevented or delayed because of Acts of God or causes which are beyond the reasonable control of the party affected. However, the party claiming force majeure shall make every reasonable effort to prevent, work around or compensate or otherwise minimize the effect of such delays. The party asserting force majeure shall, in each instance, give the other party written notice, within a reasonable time after knowledge thereof, of the beginning of each period of delay. Such notice shall include a brief description of the events or circumstances of force majeure and an estimate of the anticipated delay. Either party may terminate this Agreement upon written notice if the period of delay lasts for more than ten (10) calendar days.
24. **Notices:** Any notices hereunder shall be sent to the applicable party at the address listed on the Order.