

## **Master Purchase Agreement Terms and Conditions Goods and Services**

**THESE MASTER PURCHASE AGREEMENT TERMS AND CONDITIONS FOR Goods and Services** and Exhibits incorporated herein (collectively, these “Master Terms”) shall apply to the attached Order. As used herein, Optimized Process Designs, LLC shall be referred to as “Buyer” and the supplier indicated on the Order shall be the “Seller.” Seller and Buyer may individually be referred to herein as a “Party” or collectively as the “Parties.”

Seller and Buyer state and agree as follows:

1. **CERTAIN DEFINITIONS.** Certain terms used in these Master Terms are defined in Exhibit A attached hereto.
2. **SCOPE AND PARTIES.**
  - a. These Master Terms will apply to each Order issued, and accepted, during the Term, regardless of whether these Master Terms are referenced therein, unless the Parties expressly and affirmatively agree otherwise with respect to certain Goods and Services. The scope of Goods and Services to be provided by Seller will be as mutually agreed to by Seller and Buyer. Buyer does not guarantee an offer to purchase any Goods and Services from Seller and/or Seller Affiliates during the Term. If "Buyer" as defined above includes more than one entity, Seller agrees each such entity will be separately, not jointly, responsible for the obligations hereunder as relating to Goods and Services provided to such entity.
  - b. Affiliates of Buyer may purchase Goods and Services from Seller and Seller Affiliates under these Master Terms by issuing Orders directly to Seller or such Seller Affiliate. The terms of these Master Terms will be incorporated by reference in any such Order as if these Master Terms were separately executed by such Buyer Affiliate and Seller or such Seller Affiliate (and solely by such Parties) and the terms “Buyer”, “Seller”, “Party” and “Parties” used herein will be deemed as applying to such Affiliates for the purposes of the Order, provided, however, that (i) each Order may contain such additional or different provisions as Buyer Affiliate and Seller or such Seller Affiliate may agree upon and (ii) if there is conflict between the terms of an Order and the terms of these Master Terms, the terms of the Order will control. As of the effective date of any such Order, a new and completely separate agreement will be in place between Seller (or Seller Affiliate) and such Buyer Affiliate that contains the same terms and conditions as this Agreement except as expressly modified in such Order. The applicable rights, obligations and liabilities of Seller and Buyer under each Order will be solely those of Seller and Buyer, and none of their respective Affiliates will be responsible for any obligations or liabilities of Seller or Buyer under such Orders. The applicable rights, obligations and liabilities of an Affiliate issuing or receiving an Order will be solely those of such Affiliate, and neither Seller and Buyer nor any of their other Affiliates will be responsible for any obligations or liabilities of the Affiliate under the Order. Under no circumstances will Seller or Buyer and any of their respective Affiliates be jointly or severally liable for the obligations of the others.
3. **TIME OF COMPLETION.**
  - a. Seller will commence and complete Goods and Services and Deliverables, in accordance with the schedules and deadlines set forth in the applicable Order or as mutually agreed to by the Parties. Time of completion of Services and delivery of Goods and Deliverables is of the essence of the Agreement.
  - b. If Seller is delayed at any time in the progress of its obligations hereunder or any Order by more than 10 days (or such other time period as may be mutually agreed in writing), or Buyer is unable to use or receive the subject of any Order, in either case, due to any Force Majeure Event, then Buyer may, at its option, either extend the date of Seller’s delivery and/or performance obligations for a reasonable period of time or terminate any Order impacted by such Force Majeure Event. If Buyer elects to terminate any Order, Buyer will pay Seller for any completed portion of such Order in accordance with the Agreement up to the effective date of termination, not to exceed the Contract Price. With respect to Goods, Buyer will have the right to require, as a condition precedent to Buyer’s payment obligation in the immediately preceding sentence, that Seller make reasonable efforts to sell such Goods to another purchaser (which efforts will include, but not be limited to, making modifications appropriate under the circumstances to facilitate such sale), and Buyer will not be obligated to pay any amounts corresponding to that portion of the Goods sold by Seller thereby. Upon any payment by Buyer for any portion of Goods in accordance with this Section, Buyer may elect to take possession thereof and title thereto. Extensions of time will be Seller's sole remedy for any and all delays caused by a Force Majeure Event, and no delay or extension of time will be construed as cause or justification for payment of additional compensation to Seller unless mutually agreed in writing.
  - c. No extensions pursuant to this Section will be granted unless the requesting Party gives written notice of delay to the other Party within 5 days after the requesting Party first has knowledge of the Force Majeure Event and anticipates, or reasonably should have anticipated, that a delay is likely to result.
4. **PAYMENTS/LIENS.**
  - a. Unless otherwise agreed to by the Parties, Seller will invoice the Contract Price to Buyer (at the address specified in the Order, or as agreed to by the Parties) in a lump sum promptly upon completion of the Order, or as otherwise specified in the Order. The invoice will be payable by Buyer (subject to the resolution of any disputed amounts) net 30 days: (i) after Buyer’s receipt of an accurate invoice or (ii) if applicable, after Buyer’s receipt of an affidavit of payment and evidence of the waiver and release of

all Liens arising out of the work performed under the Order through the date of payment, in a form satisfactory to Buyer. Seller will promptly cause the removal of any Liens arising out of the work performed under the Order filed against the Site. If Seller fails or refuses to promptly and satisfactorily settle any Liens, Buyer will, after notifying Seller in writing, have the right to settle such Liens and deduct the amount thereof from amounts payable to Seller.

- b. To the extent that any Taxes for which Buyer is responsible are required to be collected by Seller pursuant to Applicable Laws, Seller will set forth same as separate items on each applicable Seller invoice and will not include same in Seller's unit pricing or fixed rates; provided, however, that Seller will not invoice Buyer for (i) any sales, use, consumption, value-added, ad valorem or similar Taxes for which Buyer furnishes an exemption certificate or direct-pay permit; or (ii) any Taxes of any kind that are recoverable by Seller.
  - c. Buyer may withhold payment of the Contract Price (a) to the extent required pursuant to Applicable Laws, including but not limited to those concerning taxation; and/or (b) to the extent Buyer deems necessary to protect Buyer from loss due to: (i) Seller's failure to meet its obligations hereunder in accordance with the Agreement; (ii) Liens filed against the Site or reasonable evidence indicating probable filing thereof; (iii) Seller's failure to properly make payments to subcontractors, vendors or suppliers; or (iv) Seller's failure to comply with its obligations hereunder related to import and export activities. In addition, Buyer may set off any amount payable by Buyer to Seller under the Agreement or otherwise against any amounts payable by Seller to Buyer under the Agreement or otherwise.
  - d. Seller represents and warrants that the Contract Price is the lowest price for the Goods and Services charged by Seller for other similarly situated customers (based on purchasing volume and types of Goods and Services). Seller will use reasonable efforts to reduce the cost of Goods and Services and will immediately pass through such cost-savings to Buyer on any existing and new Orders. However, Seller will not make any changes to the Goods and Services without first receiving Buyer's written approval.
  - e. Buyer and Seller agree that if Services are provided, or deemed to be provided, in Canada, and if Seller is not a resident of Canada, withholding tax may be required to be deducted from any payments paid to Seller. Any Services rendered outside of Canada will not be subject to withholding. Buyer is responsible for remitting the withheld amount and providing necessary reports to the appropriate governmental agency as required by Applicable Law. To assist the Buyer in this regard, Seller will specify in its invoices the portion of the fee for Services rendered in Canada or confirm no such Services were rendered in Canada. If, prior to payment being made by Buyer, Seller provides Buyer with satisfactory written evidence that the Canada Revenue Agency waived or reduced the withholding that would otherwise be required, Buyer will reduce the amount of the withholding accordingly.
5. **ACCEPTANCE.** Upon receipt of written notice from Seller that the Goods and Services hereunder are ready for final inspection and acceptance, Buyer will have the right to inspect such Goods and Services and, if acceptable to Buyer, Buyer will promptly accept same. The aforementioned inspection and acceptance process may include testing (including, without limitation, factory acceptance tests or site acceptance tests) of the Goods and Services if so specified in the applicable Order or otherwise agreed to by the Parties. Unless an alternative procedure is agreed to by the Parties, the following procedure will apply if Buyer determines that Goods and Services are not acceptable: Buyer will advise Seller as to in what respect such Goods and Services are not acceptable and Seller will have a commercially reasonable period of time in which to correct such deficiencies at Seller's sole expense. Seller will begin any such corrective action no later than 10 days following Seller's receipt of Buyer's notice of such deficiencies. If upon resubmission of Goods and Services, such deficiencies have not been corrected to Buyer's satisfaction, then Buyer may, in its sole discretion, (i) exercise its right of termination pursuant to this Agreement, (ii) have an entity other than Seller work to cure such deficiencies, at Seller's sole cost and expense and without affecting the warranty, or (iii) allow Seller another opportunity to undertake corrective action and resubmit. Additional remedies, if any, may also be included in the applicable Order. Unless otherwise expressly set forth in the applicable Order, no payment made to Seller, nor partial or entire use of Goods and Services by Buyer, will serve as an acceptance of any Goods and Services or portion thereof that is not in accordance with the Agreement.
6. **DELIVERY TERMS.**
- a. Seller will furnish and pay for all labor, work, supervision, materials, tools, apparatuses, utilities and other items necessary to provide the Goods and Services, except as otherwise specified in writing by Buyer. If Seller Group uses any materials, equipment, tool, apparatus or utility owned or leased by Buyer (or Buyer's other contractors) to provide Goods and Services, whether authorized by Buyer (or Buyer's other contractors, as applicable) or not, such use will be entirely at Seller's risk. All Goods and Services provided to Buyer under this Agreement will meet the applicable Specifications, if any. It is understood that, notwithstanding any Specifications or other expressed descriptions of Goods and Services to be provided hereunder, Buyer is relying on Seller's skill and judgment to provide such Goods and Services.
  - b. All Services will be performed so as to minimize interference with the operations at the Site. In the course of performing Services, Seller will keep the Site free from accumulation of waste materials and rubbish. Upon completion of Services, Seller will remove all waste materials, rubbish, tools, scaffolding, equipment, surplus materials and all other items belonging to Seller Group from the Site and leave the Site "broom clean." As between the Parties, Seller will bear the full risk of, and will make good, damages or losses to Goods and Services being provided prior to completion of the applicable project (except to the extent damage is caused by the fault of Buyer) and will deliver Services complete and in accordance with the Agreement.

- c. No Change Order will be made unless pursuant to a written order issued in advance by Buyer and accepted by Seller, and no claim for an addition to or reduction of the Contract Price or for an extension or reduction of any time(s) of performance caused thereby will be valid unless pursuant to a Change Order. Upon Seller's acceptance of a Change Order, Seller will promptly commence performance of such Change Order in accordance with the applicable provisions of the Agreement. As to Goods and Services required because of such Change Order, for which no unit prices are set forth in the Agreement, Seller will proceed on a fixed price or cost reimbursable basis, as agreed to by both Parties; provided however, to the extent performance of the Change Order does not result in net additional cost or require net additional effort or resources, the Change Order will not result in any increase in the Contract Price.
- d. To the extent particular Goods and Services require the preparation and delivery of new or modified plans, drawings, designs, or other documents by Seller Group, and at the time(s) agreed to by the Parties (or, if no such time is so agreed to, at the time of delivery of the Goods and Services), Seller will deliver to Buyer the following: (i) Seller's detailed operational and maintenance manual(s) applicable to the Goods and Services; (ii) a full final set of "as-built" drawings and all other drawings, designs, diagrams or plans necessary for the installation, operation, maintenance, modification, repair, and or training relating to the applicable equipment; (iii) a writing of all critical instructions and recommendations with respect to the installation, operation, maintenance, modification and/or repair of the applicable equipment that are given by Seller to Buyer verbally or in other intangible format; (iv) a list of recommended consumable parts typically replaced within the first 90 days of such equipment's first use; (v) a complete list of recommended spare parts suitable for the overhaul and preventative maintenance of such equipment; and (vi) all other documents, photographs, reports, presentations, analyses, electronic recordings or other Deliverables to be provided by Seller relating to the particular equipment. Any list provided pursuant to (iv) and (v) will be consistent with Specifications and will show unit price and original manufacturer's name and part number. Buyer has the right to copy and distribute such documentation as needed for its and its Affiliates internal purposes.
- e. Unless otherwise agreed to by the Parties, (i) any Goods will be delivered by Seller to Buyer DDP the Site (Incoterms 2020), (ii) with respect to Goods (except as stated in clause [iii] below), title will transfer to Buyer upon arrival of the Goods at the Site, and (iii) with respect to Goods that consist of items to be supplied incidental to Services, title and risk of loss will pass to Buyer upon acceptance of the related Services by Buyer, notwithstanding anything to the contrary indicated by the delivery term that governs pursuant to clause (i) above. Insofar as possible, shipments of Goods will be complete and partial shipments will be avoided. Shipping lists, tags, invoices and related documents will be itemized using the numbers, phrases or other descriptive devices used to describe Goods in the applicable Order. To the extent that any Goods (or portion thereof) are delivered from outside of the country in which the Site is located, (i) Seller will comply with all Applicable Laws regarding import and export; and (ii) Seller agrees that, unless otherwise specified in the applicable Order, Buyer is purchasing on a duty-paid basis after entry (and acknowledges that Buyer expressly declines to serve as importer of record) and Seller assumes responsibility for the importation of such Goods in accordance with Applicable Laws. Seller represents and warrants that Seller is able to comply with its obligations under this Section.
- f. If modifications or repairs are to be performed on any equipment or any other goods of Buyer at Seller's facility or other off-site location (whether as part of the Services, in fulfillment of Seller's warranty obligations under the Agreement, or otherwise), or if Buyer rejects delivery of or returns to Seller any Goods (or any portion thereof) hereunder, then (i) the responsibility to perform or arrange loading, carriage, and unloading of such items (and, if Seller's facility or other off-site location is located outside of the country in which the Site is located, to serve as importer of record) between the Site and Seller's facility or other off-site location (and vice versa) will be allocated as set forth in the applicable Order or as otherwise mutually agreed by the Parties; (ii) the costs and expenses of such loading, carriage, unloading and import will be borne by Seller, unless otherwise set forth in the applicable Order; (iii) risk of loss or damage to such items will transfer to Seller upon physical removal of such items from the Site, and, in the case of modifications or repairs, will transfer back to Buyer upon physical return of such items to the Site following the completion of such modifications or repairs (except where Seller is to provide installation services, in which case risk of loss will transfer back to Buyer upon the installation of such items); and (iv) title to such items will (a) remain at all times with Buyer in the case of modifications or repairs, and (b) in the case of delivery rejection or return, remain with Buyer until the later of (1) Seller's receipt of such items in accordance with the foregoing terms, or (2) Buyer's receipt of all refunds or other amounts owed to Buyer by Seller pursuant to the Agreement on account of such rejection or return.

## 7. WARRANTIES.

- a. Seller represents and warrants that it is not restricted or prohibited from providing the Goods and Services for Buyer by any contract, promise or representation with or to any other person or entity. Seller represents and warrants that:
  - i. Services will be performed and completed (and Deliverables will be prepared) in a good and workmanlike or professional manner, as applicable, in accordance with Applicable Laws and applicable industry or professional standards;
  - ii. Goods will be new and unused (unless otherwise agreed by Buyer), free from faults and defects in design, workmanship and materials, and contain only authentic materials and no counterfeit parts;
  - iii. Goods will be manufactured to appropriate safety standards and in compliance with all Applicable Laws;

- iv. Goods will be fit and sufficient for the general purposes for which they are sold, and, to the extent Seller knows or has reason to know, any particular purposes for which they will be put to use;
  - v. Goods and Services will meet the descriptions, Specifications, requirements and any performance guarantees set forth in the Agreement, and no substitutions of materials from those specified in the applicable plans and Specifications will be made unless prior approval is given by Buyer in writing;
  - vi. Buyer will receive free and clear title to all Goods and/or Deliverables for which final payment has been made by Buyer;
  - vii. Goods and Services and/or Deliverables (including but not limited to the manufacture, packaging, labeling and transportation of same) will conform to and comply with all Applicable Laws; and
  - viii. Goods and Services will not infringe any third party intellectual property rights.
- b. The warranties set forth above will not apply to claims to the extent arising out of Warranty Exclusions; in each case, to the extent that the Warranty Exclusions are the cause of a warranty claim. For the purpose of clarity and avoidance of doubt, such warranties will continue to apply to any and all portions of Goods and Services that are unaffected by the Warranty Exclusions.
  - c. Seller will, at Buyer's option and Seller's sole expense, correct or re-perform any Services or portions thereof, and/or repair or replace any Goods or portions thereof, that fail during the Warranty Period to meet the warranties set forth herein. Seller, at its sole cost, will promptly remedy all defects to the satisfaction of Buyer, in Buyer's reasonable discretion or Buyer may have the Goods and Services corrected by others, at Seller's sole cost. After completion of any corrective work, Buyer will issue a Back Charge invoice for all such costs incurred by Buyer. Seller will pay said invoice within 45 days after receipt of same. Any repair and/or replacement of Goods, and/or re-performance or correction of Services, will be additionally and automatically subject to the same warranties and remedies for a period of (a) in the case of Goods, 24 months after completion of such repair or replacement; and (b) in the case of Services, 12 months after completion of such re-performance or correction. Additional remedies, if any, may also be included in the applicable Order.
  - d. If any warranties of third-party vendors, subcontractors or suppliers with respect to portions of Goods and Services furnished by them are more favorable to the recipient than Seller's warranties are to Buyer, then Seller's obligations hereunder are automatically modified to the extent necessary to bring Seller's obligations into conformity with the provisions of such third-party warranty.
  - e. Notice of breach of warranty will be in writing or by any other means reasonably calculated to give Seller actual notice of breach. This Section will survive the termination or expiration of this Agreement.

## 8. INDEMNIFICATION.

- a. **To the fullest extent permitted by Applicable Laws, Seller will defend, indemnify and hold harmless Indemnitees from and against all Claims/Liabilities arising out of or in any way incident to any act or omission in the performance or non-performance of the Agreement by Seller Group, including, without limitation, Claims/Liabilities relating to personal injuries, damage to property or the environment, or infringement of any patent, trademark, copyright, or other property right, regardless of whether such harm is to Seller Group, Indemnitees or any other person or entity, and regardless of how such Claims/Liabilities are caused, except Seller will not be liable under this Section for Claims/Liabilities to the extent caused by the negligence of Indemnitees.**
- b. **The foregoing notwithstanding, and to the fullest extent permitted by law, Seller further agrees to indemnify, defend, and hold harmless Indemnitees from and against any Claims/Liabilities arising out of or in any way incident to personal injuries to or death of any person that is included within the term "Seller Group" suffered or incurred in the course of, or incident to, activities hereunder, regardless of how such Claims/Liabilities are caused (by Indemnitees' negligence, the negligence of third-parties, or otherwise), but excluding Claims/Liabilities to the extent caused by the sole negligence of Indemnitees.**
- c. **Seller shall consult with Buyer on any material aspects of any litigation pertaining to Seller's indemnity obligations herein. Seller's duties under this Section will survive the termination or expiration of this Agreement.**

## 9. INSURANCE.

- a. During the term of this Agreement, Seller will maintain at its expense, and ensure its subcontractors carry, all insurance required by applicable law and in accordance with standard industry practices, including the coverages in conformance with the requirements set forth in Exhibit B. All liability policies maintained by Seller will name Buyer and owner of the Site as additional insured with respect to liability arising out of the Goods and Services, with such insurance being primary to and not in excess of any other insurance available to Buyer. Such insurance policies will acknowledge that in no event will Buyer's insurance (including but not limited to any SIR or deductible) be considered "other insurance" under the terms of Seller's policies. Upon Buyer's written request, Seller will provide Buyer a certificate of insurance evidencing its insurance policies and limits.
- b. At certain designated locations (the "OCIP Locations"), Buyer has elected to implement an Owner Controlled Insurance Program ("OCIP") that will, subject to Buyer's termination/modification rights and the other conditions and limitations contained or referred to herein, provide certain insurance coverages to Buyer's eligible enrolled contractors and their eligible enrolled

subcontractors as relating to work performed at specified OCIP Locations. Seller will be specifically notified by Buyer in the event that Seller and any of its subcontractors are enrolled in the OCIP as a participant, and such notice will state the specific OCIP Locations at which Seller and its subcontractors are so enrolled. Further details relating to the OCIP coverages, conditions, limitations, and procedures are as stated in the then-current OCIP manual provided to Seller upon request (the "Manual") and in the insurance policies referred to in the Manual. If Seller is enrolled in an OCIP, the applicable Manual is hereby made a part of these Master Terms only as related to the specific OCIP Locations and specific Orders for which the Parties agree to implement an OCIP.

#### 10. TERM; DEFAULT AND TERMINATION.

- a. The Term will begin on the Effective Date and will continue until terminated herein. Either Party may terminate these Master Terms or an Order if the other Party breaches any material term hereof and such breach is not cured within 30 days of the breaching Party receiving written notice of such breach. Buyer may terminate these Master Terms or an Order for any or no reason by providing Seller with at least 30 days prior written notice.
- b. The following will apply upon Buyer's termination of any Order under this Section:
  - i. For Orders terminated following a breach by Seller of a material term thereof –Buyer will have the right to finish Services by any method Buyer deems expedient and/or obtain replacement Goods, and Seller will not be entitled to receive any further payment until such Services are completed and/or replacement Goods are obtained. If the reasonable expense to Buyer of finishing Services or obtaining replacement Goods exceeds the unpaid balance of the Contract Price, Seller will pay the difference to Buyer. In the event Buyer terminates these Master Terms or any Order, in whole or in part, Buyer may take possession and control of any or all materials, supplies, subcontracts, tools and appliances.
  - ii. For Orders for Custom Goods terminated within Lead Time – Buyer will reimburse Seller for Seller's actual expenses incurred which can be supported with documentation reasonably satisfactory to Buyer, but in any event no greater than the Contract Price. Upon receipt of Buyer's notice of termination, Seller will make all commercially reasonable efforts to cease production of Custom Goods and minimize additional costs related thereto.
  - iii. For Orders for (a) Custom Goods terminated outside of Lead Time, and (b) Goods that are not Custom Goods the rights and obligations of the Parties will be the same as those arising in the event of a termination by Buyer upon the occurrence of a Force Majeure Event in accordance with Paragraph 3(b).
- c. In the event of termination of an Order for any reason, upon receipt of Buyer's notice of termination, Seller will cease all work under such Order and take appropriate steps to limit disbursements and minimize costs; and Seller will remove itself, any subcontractors, and their respective equipment, supplies, tools, materials and personnel from the Site within 10 days after the effective date of termination. Seller will immediately deliver to Buyer all copies of documents, records or other materials, whether in electronic or written form, relating to the Services performed and/or containing Confidential Information or Deliverables, along with a written list of all uncompleted Services pertaining to this Agreement, specifically identifying the status of the Services. For a period of three (3) months after termination of an Order or this Agreement, Seller will cooperate reasonably on a time and materials basis with the efforts by Buyer, or any other party on Buyer's behalf, to complete any Services and to provide for an orderly transition.
- d. Notwithstanding any expiration or termination of these Master Terms, the terms and conditions set forth in these Master Terms will continue to govern any Orders, invoices, claims and disputes that are, in each case, outstanding at the time of such expiration or termination or attributable to events occurring prior to such expiration or termination, until such time as each such Order, invoice, claim, or dispute has been fully completed, paid, satisfied, settled or finally adjudicated, as the case may be.
- e. Termination of these Master Terms will not affect the rights and obligations under any previously issued Order unless specifically stated otherwise in writing.

11. **BUYER DATA.** Buyer is owner of and has the sole right to use Buyer Data in any way that it sees fit. Seller will not share or store Buyer Data except to fulfill the applicable Order. If requested, Seller will assist Buyer with extracting Buyer Data from the Goods and Services. Buyer Data will be available to Buyer in a machine-readable method and format acceptable to Buyer. Buyer Data must be compatible with the systems provided by Buyer, if any, including, but not limited to operational technology and information technology. All Buyer Data stored by Seller, whether on or off Site, must be readily accessible to and by Buyer. Buyer grants to Seller a limited, non-exclusive license to access and use Buyer Data for the sole purpose of performing under the applicable Agreement or related contracts between Buyer and Seller such as support or service contracts. Seller's duties under this Section will survive the termination or expiration of this Agreement. Seller will provide to Buyer transition services following the termination or expiration of the applicable Services, in whole or in part, to the extent reasonably necessary to minimize any impact on Buyer as Buyer either moves the Services inhouse or transitions to another service provider. Such transition services will be provided on a time and materials basis and may include: (a) developing a plan for the orderly transition of the Buyer Data and the Services; (b) using commercially reasonable efforts to assist Buyer in acquiring any necessary rights to legally and physically access and use any third-party services, technologies and documentation then being used by Seller in connection with the Services; and (c) such other activities upon which the Parties may agree.

#### 12. INTELLECTUAL PROPERTY/USE OF DELIVERABLES.

- a. Seller Intellectual Property. Buyer will acquire no right or interest in the Seller Intellectual Property, except for any license expressly granted herein or by separate agreement between the Parties. Seller agrees the term Seller Intellectual Property, as used in these Master Terms, will not include any of Buyer's Confidential Information, the Deliverables (defined below), or Buyer's tangible or intangible property and Seller will have no ownership rights in such property.
- b. Ownership of Deliverables.
  - i. All Deliverables, subject to the exceptions stated above, will be Buyer's exclusive property. As and when any Deliverable is delivered to Buyer, the ownership of such Deliverable will immediately vest in Buyer. Further any Buyer Intellectual Property will be Buyer's exclusive property. Seller hereby assigns, and/or will cause the other members of Seller Group to assign, to Buyer all right, title, and interest Seller Group has in such Deliverable, including any Buyer Intellectual Property. To the fullest extent possible, each Deliverable is intended to be a work for hire under all applicable copyright laws. Seller will execute and deliver, at Buyer's request, all documents necessary for Buyer to establish and maintain its rights in and to the Deliverables and Buyer Intellectual Property.
  - ii. If any Seller Intellectual Property is contained in any of the Deliverables, Seller hereby grants, and will cause the other members of Seller Group to grant, Buyer a worldwide, royalty-free, non-exclusive, transferable, irrevocable, and perpetual license to make or have made, use, offer for sale, sell, copy, distribute and create derivative works under the Seller Intellectual Property in connection with the use of the Deliverables or Goods (which license will extend, for clarity, to products made using such Deliverables or Goods) and with respect to Goods only, if and for so long as such Goods or parts thereof are Unavailable from Seller, to make such Goods or parts thereof (or have them made by third-parties) for Buyer's own use in connection with the Goods Purpose. By agreeing to allow Buyer to purchase Goods and/or parts from third-parties, or to make or have made such Goods and/or parts, under the circumstances set forth herein, Seller does not in any way void any warranties or modify the Warranty Exclusions to the extent applicable.
  - iii. Deliverables will not be marked "confidential", "proprietary", "copyright", or contain any other legends, notations or markings inconsistent with Buyer's rights (or the rights of any Affiliate of Buyer) set forth in these Master Terms, unless such items are also marked, "Authorized for use/disclosure by [add applicable Buyer entity] and its Affiliates and their assigns." If such Deliverables are marked with restrictive legends, Buyer may nevertheless make, use, offer for sale, sell, copy, distribute and create derivative works from them as provided in this subsection.
- c. Seller's duties under this Section will survive the termination or expiration of this Agreement.

### 13. SOFTWARE; SECURITY.

- a. To the extent Goods and Services consist of or include the installation, sale, delivery, modification or creation of any Software proprietary to Seller or any third-party subcontractor or sub-supplier of Seller:
  - i. Seller hereby grants to Buyer an irrevocable, nonexclusive, worldwide, fully paid up, royalty-free license and/or sublicense to use, execute, maintain, reproduce, modify, display, and make copies of such Software. Notwithstanding anything to the contrary herein, the license(s) and/or sublicense(s) set forth in this Section will remain in effect perpetually for the full useful life of the portion of the Goods and Services to which the Software corresponds, and will be freely assignable, at Buyer's discretion, to any bona fide purchaser of the Goods and Services to which the Software corresponds.
  - ii. Buyer may copy such Software as necessary to efficiently utilize same. Without limiting the foregoing, such rights will include the same rights as are granted to "owners of copies" under the Applicable Laws of the United States pertaining to copyright (irrespective of whether such laws would otherwise govern), plus the right to copy: (i) for backup, archive or emergency restart purposes; (ii) for disaster recovery and disaster recovery testing purposes; (iii) to migrate such Software for use on other hardware; and (iv) to store such Software at any location that Buyer uses for storage purposes. Buyer may also permit third-party access to, or use of, such Software in order to allow such third-parties to assist in the aforementioned activities or to the extent necessary for the Goods Purpose.
  - iii. Except as expressly permitted by these Master Terms or the applicable Order, Buyer agrees it will not: (i) lease, loan, resell, sublicense, or otherwise distribute such Software to any party who is not an Affiliate of Buyer; (ii) permit third-party access to, or use of, such Software; (iii) create derivative works based on such Software; (iv) reverse-engineer, disassemble, or decompile such Software; or (v) remove any identification or notices contained on such Software. Buyer will notify Seller if Buyer becomes aware of unauthorized third-party access to, or use of, such Software.
  - iv. If such Software is owned by a third-party, Seller (i) represents and warrants that Seller has all rights and licenses necessary to provide Buyer the right to use such Software in accordance with the Agreement, including, but not limited to, the right for Buyer to transfer such Software without fees or consents, as part of a sale of Goods and Services to which the Software corresponds; and (ii) will pass through to Buyer the applicable third-party licenses for such Software, provide to Buyer all applicable terms and conditions of such licenses, and assist and cooperate with Buyer in negotiating any modifications to such licenses that Buyer may require.

- b. Seller represents and warrants that, except as otherwise specified in the Agreement, the Goods, Services, and Software provided by Seller will be, and will remain, free from (and neither Seller nor any of the aforementioned will introduce, insert, activate, or operate) any lock, clock, timer, counter, copy protection feature, replication device or defect ("virus" or "worm" as such terms are commonly used in the computer industry), CPU serial number reference, or any other functionality or device that might: (i) lock, disable, erase, infect, or impact any Goods, Services, or Software or any other equipment, services, parts and materials, or software owned by, or leased or licensed to, Buyer or its Affiliates; or (ii) require action or intervention by Seller or any third-party to allow Buyer (or its Affiliate, as applicable) to fully use any of the aforementioned.
- c. Seller represents and warrants that, except as specified in the Agreement, the Software (including as incorporated into or utilized by any Goods or Services) will (i) run on supported operating systems; (ii) operate without error with anti-virus software; and (iii) be able to be patched with either operating systems patches or equipment security patches. Seller shall apply security patches to such Software when security vulnerabilities arise or when notified by Buyer of a security vulnerability.

**14. INDEPENDENT CONTRACTOR; SUBCONTRACTORS.**

- a. Seller agrees and acknowledges that no member of Seller Group is: (i) an agent or employee of Buyer or has the authority to obligate or bind Buyer in any way without the express written permission of an appropriate officer of Buyer; and (ii) eligible for Buyer's employee benefit, equity or profit-sharing programs. Seller further agrees and acknowledges that (as between Seller Group and Buyer) Seller Group is fully and solely responsible for all taxes, assessments, penalties, fines, and interest relating to wages and benefits paid to its (or its subcontractors') employees under this Agreement, pursuant to Applicable Law, including required withholding from wages of employees, regardless of the characterization of those employees by the parties, administrative agencies, or the courts.
- b. Seller will not subcontract any of its obligations, or permit any third-party to perform its duties, under the Agreement without Buyer's prior written consent. Seller agrees that it will remain primarily liable and obligated to Buyer for the acts and omissions of its subcontractors and for the timely and proper performance of all obligations under the Agreement.

**15. DRUG SCREENING AND BACKGROUND CHECKS.** To the extent requested by Buyer, required by Applicable Law, or otherwise indicated by applicable good industry standards, Seller will ensure that all individuals within the Seller Group are drug tested and subject to a background investigation prior to first reporting to any Site. Seller will not allow any individual within the Seller Group to perform work related to Goods and Services where the results of any drug test are above the generally accepted Substance Abuse & Mental Health Services Administration limits as allowed by state law, or a background investigation uncovers results that are of reasonable concern. The drug screen and background check are to be performed at the direction of the Seller and at its expense. When on Site, Seller warrants that Seller Group will maintain a drug-free workplace, and will comply with Site-specific rules regarding safety and health matters. As such, all individuals within the Seller group may be removed from the Site for possession and/or suspected use of a prohibited substance. The Buyer reserves the right to audit Seller Group practices to ensure compliance with the requirements described above.

**16. COMPLIANCE WITH LAWS AND BUYER POLICIES.**

- a. In the performance of its obligations under the Agreement, Seller warrants that Seller Group will comply with all Applicable Laws, including, but not limited to, the following:
  - i. equal employment opportunity, affirmative action compliance, and employment eligibility;
  - ii. environmental protection and the generation, release, management, storage and disposal of solid or hazardous waste;
  - iii. the requirements of 41 C.F.R. §§ 60-1.4(a), 60-300.5(a), and 60-741.5(a), as applicable (these regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability);
  - iv. the Applicable Laws concerning Seller's employees and subcontractors, including, to the extent applicable, but not limited to: (i) the employee notice requirements set forth in 29 C.F.R. Part 471, Appendix to Subpart A; (ii) OSHA; (iii) the Fair Labor Standards Act of 1938, as amended; (iv) Title VII of the Civil Rights Act of 1964, as amended; (v) the Age Discrimination in Employment Act of 1973; (vi) Section 503 of the Rehabilitation Act of 1973; (vii) Executive Order 11246, as amended by, inter alia, Executive Order 13672; (viii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974; (ix) The Civil Rights Act of 1991; (x) The Americans with Disabilities Act; and (xi) the rules, regulations and orders pertaining to the above; and
  - v. anti-bribery and anti-corruption laws including, but not limited to, the FCPA, the Canadian Corruption of Foreign Public Officials Act and the United Kingdom's Bribery Act of 2010.
- b. Unless otherwise instructed by Buyer in writing, Seller will obtain and maintain all licenses, approvals and permits required by Applicable Laws with respect to Goods and Services and pay all Taxes in connection therewith or otherwise that are or may be lawfully demanded or required by any governmental authority, including, but not limited to, all license fees, franchise or business

privilege taxes, occupation taxes or other like charges required to be paid by any person or firm engaged in Services. Seller will assure the identity and employment eligibility of any individual within the Seller Group who performs the Goods and Services and hereby certifies it will comply with all record keeping requirements under any Applicable Law.

- c. Seller will analyze and evaluate all potentially hazardous waste Seller Group generates, causes, contributes to, releases, or otherwise needs to manage while working at the Site. Seller will prepare and submit a written plan to Buyer identifying potentially hazardous waste and the methods by which Seller intends to store, treat and/or dispose of such waste; make necessary changes to such plan as required by Buyer; and perform Services in accordance with the approved plan.
  - d. Seller will comply, and will ensure that Seller Group complies with all rules and policies of Buyer applicable to any Services or other activities conducted on Site, including, but not limited to, Buyer's CSM (Seller Safety Responsibilities) and Buyer's policies with respect to the injury and illness history and other workplace health and safety qualifications of on-Site service providers. In addition, Seller will provide Seller Group personnel with all training (including, without limitation, hazard communication training) and personal protective equipment necessary for them to perform the Services in a safe and efficient manner and will familiarize its employees with all applicable workplace health and safety (including as applicable, but not limited to, OSHA) regulations and such applicable Buyer safety rules and policies. Seller will notify Buyer immediately of any unsafe working condition at the Site observed by Seller Group and will not require Seller Group personnel to continue to work in any unsafe area until such condition is corrected or otherwise ceases to exist. Seller agrees that Buyer may require Seller Group personnel entering onto the Site to first execute a facility sign-in sheet or similar document addressing security as to such individual. Seller will ensure that Seller Group personnel understand and specifically agree to comply with the requirements of this Section. Notwithstanding anything to the contrary contained in the Agreement, the Parties agree that Buyer does not assume supervisory control over the safety programs or performance of Seller Group.
  - e. Without limiting the generality of the foregoing, when the Buyer is a Georgia-Pacific company, Seller acknowledges that it has reviewed Buyer's "Supplier Sustainability Guidelines" available on Buyer's website at: [www.gp.com/supplier-sustainability-guidelines](http://www.gp.com/supplier-sustainability-guidelines) (as may be modified or updated by Buyer from time to time, the "Buyer Supplier Guidelines"). Seller is and will remain in full compliance with the Buyer Supplier Guidelines during the Term. Buyer reserves the right to modify the Buyer Supplier Guidelines at any time without prior notice and the current version will, upon posting to Buyer's website, supersede all prior versions with respect to all activities conducted after such posting.
  - f. Seller's duties under this Section will survive the termination or expiration of this Agreement.
17. **CONTROLLING LAW; VENUE.** These Master Terms, all Orders, and the rights and duties of the Parties arising therefrom, and all claims or causes of action (whether in contract or tort) that may be based upon, arise out of or in any way relate to this Agreement, will be governed by, interpreted and construed in accordance with the laws of the State of Delaware (including its laws regarding statutes of limitations), without regard to conflicts of law principles. With respect to any Proceedings, each Party irrevocably submits to the exclusive jurisdiction and service of process of the federal and state courts located in the City of Wilmington, State of Delaware, waives any objection which it may have to the laying of venue of any Proceedings brought in any such court, waives any objection that it may have to personal jurisdiction in such court, and waives any claim that any such Proceedings have been brought in an inconvenient forum. The United Nations Convention on Contracts for the International Sale of Goods or any subsequently enacted treaty or convention will not apply to or govern this Agreement or the performance under this Agreement or any aspect of any dispute arising from this Agreement. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THE AGREEMENT AND ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO THE OTHER PARTY'S ENTERING INTO THE AGREEMENT. This section will survive any termination or expiration of this Agreement.
18. **REMEDIES AND NON-WAIVER.** The remedies specified herein will be cumulative, nonexclusive and in addition to any other remedies available at law or in equity. Waiver of a breach of any provision of the Agreement will not constitute a waiver of any other breach of the same provision or of any other provision hereof.
19. **ASSIGNMENT.** Seller will not assign these Master Terms or any Agreement, in whole or in part, voluntarily or involuntarily, whether by operation of law, contract or otherwise, without the prior written consent of Buyer, and any attempted or purported assignment without prior written consent will be void. For purposes of this Paragraph, a change in control of more than 50% of Seller's direct or indirect legal, beneficial or equitable ownership will be deemed an assignment. Except as otherwise provided herein, these Master Terms and each Agreement will inure to and be binding upon the successors in interest of the Parties.
20. **SEVERABILITY; INTERPRETATION; LANGUAGE.** All provisions of the Agreement are completely severable, and the invalidity or unenforceability of any of the provisions will not affect the validity or enforceability of the remaining provisions. If an ambiguity or question of intent or interpretation arises, the Agreement will be construed in such a manner as to carry out the full intentions of the Parties, and no presumption or burden of proof will arise favoring or disfavoring any Party by virtue of the authorship of any provision of the Agreement. Captions are inserted for convenience of reference only and will not be considered as being of any significance in the construction and interpretation of the Agreement. The Parties expressly wish that the Agreement and any related documents be drawn up and executed solely in English. Les Parties aux présentes ont expressément demandé que ce document et tous les documents s'y rattachant soient rédigés et signés en anglais.

21. **AUDIT.** During the Term and for a period of 3 years thereafter, Buyer and its auditors and other authorized representatives, at all reasonable times, will have access to and the right to inspect, audit and copy any and all records, books, correspondence, receipts, vouchers, memoranda, documents and other data of Seller Group (in each case, whether in electronic format or otherwise) to the extent pertaining to the Agreement, including, but not limited to, as may be necessary for Buyer to audit invoices or audit, verify and assure Buyer of Seller Group's compliance with the terms of this Agreement. Upon request, Seller will cooperate in furnishing to Buyer all such records, documents, and other data (including providing such information and materials in electronic format when requested).
22. **INSPECTION.** Buyer and its auditors and other representatives will have the right, upon reasonable notice and during regular business hours, to access Seller's premises and other operational sites where Services are being performed or Goods are manufactured, stored, handled, installed or repaired to the extent pertaining to the Agreement, including, but not limited to, as may be necessary to allow Buyer to audit, verify and assure Seller's compliance with the terms of the Agreement. In addition, if Buyer believes in good faith that there might have been a breach of any representation, warranty or covenant set forth in the Agreement, then Seller will cooperate in good faith with Buyer to determine whether such a breach has occurred. No audit or inspection or failure to audit or inspect by Buyer will relieve Seller from any of its obligations under the Agreement.
23. **COUNTERPARTS.** These Master Terms may be executed in multiple counterparts, each of which will be deemed an original and all of which together will constitute one and the same instrument. Copies of the Agreement and signature pages thereto in "portable document format" (".pdf") or in any other electronic format preserving the original graphic and pictorial appearance thereof will be deemed the equivalent of an original for all purposes. Electronically executed versions of a signature page through the DocuSign, Inc. electronic signing system implemented by either Party will also be deemed the same as an original executed signature page. At the request of either Party, the other Party will promptly confirm all electronic or facsimile copies, and all electronically executed versions, of any signature page by manually executing and delivering a duplicate original signature page.
24. **SURVIVAL.** The terms set forth in the Sections titled "Indemnification", "Insurance", "Buyer Data", "Intellectual Property", and "Compliance with Laws and Buyer Policies" will be applicable to Seller at all times during the Term, whether or not any active Orders exist between the Parties. With respect to any claim or cause of action arising out of the aforementioned terms, but not related specifically to any particular Order, the term "Agreement" means these Master Terms standing alone.
25. **ENTIRE AGREEMENT.** Each Agreement constitutes the entire agreement and understanding (and supersedes all previous or contemporaneous agreements, communications, negotiations, proposals, quotes, representations, conditions, warranties or understandings, either oral or written) between the Parties thereto with respect to the subject matter thereof. In addition, each Agreement supersedes any "click-through" or other electronic terms and conditions between the Parties thereto with respect to the subject matter thereof (including, but not limited to, any such terms and conditions presented by the Software to the user of same), whether existing before, on or after the date of such Agreement. Any proposal by Seller referred to in an Agreement is referenced solely for convenience, and any terms and conditions of such proposal are prohibited from becoming part of such Agreement unless such terms and conditions are expressly and specifically incorporated therein. The Parties acknowledge that in some cases, a provision in an Order will expressly and intentionally modify or supersede a provision in these Master Terms, and such express, intentional modification/superseding does not create an "inconsistency" for purposes of this provision. The Agreement may not be modified or altered except in writing, signed by duly authorized representatives of each Party. Neither the course of dealings between the Parties nor trade usage will act to modify the Agreement.
26. **THIRD-PARTY BENEFICIARIES.** To the extent Goods and Services benefit and/or relate to Buyer Affiliates, such Affiliates shall be third-party beneficiaries of this Agreement for all purposes, including, without limitation, enforcing the provisions hereof.
27. **USE OF BUYER NAME.** Seller shall not use any name, trade name, logo, trademark or service mark owned or used by Buyer or any of its Affiliates, unless otherwise agreed to by Buyer or any such Affiliate in writing.

**[End of Master Purchase Agreement Terms and Conditions;  
Exhibit A ("Definitions,") and Exhibit B ("Insurance Requirements") attached hereto.]**

## EXHIBIT A CERTAIN DEFINITIONS

“*Action*” means all actions, suits or other Proceedings, brought by a third-party against Indemnitees, with respect to which Seller might have an indemnification obligation under the Agreement.

“*Affiliate(s)*” means any entity that now or in the future directly or indirectly controls, is controlled by, or is under common control or ownership with a party for as long as such control exists, where “control” (including the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct, cause or influence the direction of the management policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

“*Agreement*” means these Master Terms, together with an Order, each as pertaining to the engagement by Buyer of Seller to provide Goods and Services (subject to the Section titled “*Survival*”).

“*Applicable Laws*” means all applicable statutes, rules, regulations, ordinances, writs, judgments, decrees, orders, directives, treaties, conventions, priorities, injunctions and restrictions, now or hereafter in force, of any governmental authority having jurisdiction.

“*Back Charge*” means a billing from Buyer to Seller for costs incurred (as, and under the circumstances, permitted under these Master Terms, giving effect to any applicable right to cure) by Buyer to perform (either itself or through engagement of third-parties of Buyer’s choosing) corrective action with respect to Goods and Services or any portion of the foregoing that malfunctions or otherwise fails to conform to the Specifications or other requirements of the Agreement.

“*Buyer*” has the meaning stated in the Preamble hereto and as further defined in Section 2(b).

“*Buyer Data*” means any information in any format that is produced by or inputted into the Goods and Services that are the subject of the applicable Order between Buyer and Seller that can be transmitted or processed, including, without limitation, process and operating data, equipment status data, alarm data and Personal Data.

“*Buyer Intellectual Property*” means any invention, improvement, development (whether patentable or unpatentable) or work of authorship, including any right in patents, trade secrets, know-how or copyright, incorporated in the Deliverables (except for Seller Intellectual Property) or derived from Confidential Information.

“*Change Order*” means a change in scope or material change to any Goods and Services.

“*Claims/Liabilities*” means claims, liabilities, damages, demands, lawsuits, causes of action, strict liability claims, penalties, fines, administrative law actions and orders, expenses (including, but not limited to, reasonable attorneys’ fees) and costs of every kind and character.

“*Contract Price*” means all amounts to be paid by Buyer to Seller in connection with specific Goods and Services provided under this Agreement. The Contract Price will reflect the delivery terms set forth in this Agreement, and includes any Taxes invoiced as separate line items in accordance with the Payments Section.

“*Custom Goods*” means any Goods that are manufactured pursuant to Specifications provided by Buyer or agreed to by the Parties.

“*Deliverables*” means work product produced for Buyer under the Agreement.

“*Effective Date*” has the meaning stated in the Preamble hereto.

“*FCPA*” means the United States Foreign Corrupt Practices Act.

“*Force Majeure Event*” means any unusual act, circumstance or occurrence that the affected Party could not reasonably control, avoid or overcome and that occurs through no fault of such Party, which may include: unusual weather conditions, acts of governmental authority, war, terrorism, sabotage, and labor disputes or strikes.

“*Goods*” means any machinery, apparatus, appliance, hardware, product, merchandise, materials, parts, supplies, or other goods to be provided to Buyer. Unless the context indicates otherwise, each reference to “Goods” contained herein will be deemed to include any Deliverables and/or Software related thereto, incorporated therein, or otherwise delivered or sold therewith.

“*Goods Purpose*” means, when read in reference to any Deliverables, Software, or spare parts, Buyer’s installation, operation, maintenance, monitoring, modification and repair of the Goods of which the applicable items are a component or to which such items relate, as well as training with respect to such Goods.

“*Goods and Services*” means all Goods and Services purchased by Buyer or a Buyer Affiliate and sold or performed by Seller or a Seller Affiliate, pursuant to an Order.

“*Government Official*” means any appointed, elected, or honorary official or any career or other employee of any national, regional or local governmental any agency, department, embassy or other government entity or instrumentality, as well as any Buyer or other entity owned or controlled by the government, in whole or in part or of a public international organization, any political party or party official, or any candidate for political office, in any country.

“*Indemnitees*” means Buyer, its Affiliates, and any other related entities and their respective officers, directors, and employees.

“*Lead Time*” means the manufacturing time for Custom Goods expressly agreed by the Parties or, if not so agreed, as quoted or otherwise published by Seller from time to time.

“*Liens*” means liens, security interests, encumbrances, and claims of such nature, individually and collectively.

“*Master Terms*” has the meaning stated in the Preamble hereto.

“*Order*” means all purchases of Goods and Services that the Parties agree, during the Term, will be provided by Seller.

“*OSHA*” means the Occupational Safety and Health Act.

“*Party*” and “*Parties*” have the meaning stated in the Preamble hereto.

“*Personal Data*” means any data, information or record that directly or indirectly identifies a natural person or relates to an identifiable natural person, including but not limited to, first name, last name, address, telephone number, e-mail address, payment card data, government issued identification number, date of birth, driver’s license number, age, consumer preferences, medical and health-related information and any other personally identifiable information that Seller Group processes in connection with the Goods and Services.

“*Proceedings*” means any Action or proceedings relating to any claims or causes of action (whether in contract or tort) that may be based upon, arise out of or in any way relate to this Agreement.

“*Seller*” has the meaning stated in the Preamble hereto.

“*Seller Group*” means Seller, its Affiliates and subcontractors, and each of their respective employees, subcontractors, agents, representatives, and invitees.

“*Seller Intellectual Property*” means Seller Group’s created or acquired rights in certain intellectual property, including various concepts, methodologies and techniques, models, templates, software, user interfaces and screen designs, general purpose consulting and software tools, and methods of operation of systems; provided, however, that Seller Intellectual Property will not include any of the foregoing created by or on behalf of Seller Group for Buyer.

“*Services*” means all services as agreed by the Parties to be performed and furnished by Seller. Unless the context indicates otherwise, each reference to “*Services*” contained herein will be deemed to include any Deliverables related thereto and any Software that is the product thereof or is otherwise supplied thereby.

“*Site*” means the facility(ies), site(s), and/or other property where the Goods will be provided or the Services will be performed other than a site controlled by Seller.

“*Software*” means any operating program (and the data and instructions which compose same) installed on and/or used by a computing device or other equipment, together with any and all changes, corrections, releases, improvements, general enhancements, updates, upgrades, patches and/or bug fixes made to such program at any time.

“*Specifications*” means any specifications incorporated in an Order and/or Seller’s published specifications (regardless of format, including paper publications, websites, or other electronic format). In the event of any conflict or inconsistency between the specifications incorporated in an Order or Seller’s published specifications, the specifications incorporated in an Order will have precedence.

“*Taxes*” means, collectively, any and all federal, provincial, state and local taxes, assessments, tariffs, duties and fees charged or assessed by any governmental authority for public purposes in accordance with Applicable Laws.

“*Term*” means the term of these Master Terms.

“*Unavailable from Seller*” means that Seller has (a) gone out of business, (b) discontinued the sale of such Goods and/or part(s), (c) refused to set a commercially reasonable price/terms for such Goods and/or part(s), or (d) elected not to (or conceded that it cannot) furnish such Goods and/or part(s) in accordance with Buyer’s reasonably requested delivery schedule.

“*Warranty Exclusions*” means (i) ordinary wear and tear by Buyer; (ii) Buyer’s non-observance of installation, operating, and/or maintenance instructions or Specifications provided by Seller in writing; (iii) Buyer’s abuse, improper use, or neglect of Goods and Services; (iv) unauthorized modifications made to Goods and Services by Buyer; or (v) any equipment or materials furnished by Buyer or any third-party (other than Seller or any subcontractor or sub-supplier of Seller).

“*Warranty Period*” means (a) with respect to Goods, the period commencing date on which such Goods arrive at the Site or the date of final acceptance by Buyer and ending upon the earlier of (i) the date that is 24 months after Buyer’s first commercial use (following performance testing, if any) of the Goods, and (ii) the date that is 30 months after the delivery of the Goods; and (b) with respect to Services, the date on which such Services are accepted by Buyer and ending on the date that is 12 months after Buyer’s final acceptance (following performance testing, if any) of the Services; or such longer period as is specified in the applicable Order with respect to such Goods and Services.

## EXHIBIT B

### INSURANCE REQUIREMENTS

1. During the Term (or for such longer duration as is set forth below), Seller will maintain, at its own expense, the following insurance coverages (unless otherwise specified below, each dollar amount set forth in this Exhibit is denominated in United States Dollars):
  - a. **Worker's Compensation and Employers Liability Insurance**, as prescribed by Applicable Law. Coverage will include an Alternate Employer Endorsement (WC 00 03 01) naming Buyer as an Alternate Employer. Seller will require its insurer or insurance agent to provide, as requested by Buyer, Seller's Experience Modification Rating.
  - b. **Commercial General Liability Insurance**, with minimum limits of \$3,000,000 per occurrence and in the aggregate and having coverage at least as broad as that provided by a standard form Commercial General Liability ISO form *CG 00 01*. Notwithstanding anything to the contrary in the foregoing, this insurance must include Contractual Liability coverage and Products and Completed Operations continuing in full force and effect for 3 years following completion, expiration or termination of the Agreement.
  - c. **Automobile Liability Insurance**, covering all owned, non-owned, hired and leased vehicles with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident. This insurance must include Contractual Liability Coverage and, if applicable, Pollution Liability Endorsement MCS-90. For services performed in Canada, non-owned Auto coverage may be satisfied under the Commercial General Liability Insurance policy.
2. **Additional Coverages:** Seller will maintain the coverages set forth below, at its own expense, if applicable as determined by the nature of the Services. Unless otherwise set forth below or in the applicable Order, such coverages will have minimum limits of the greatest of: (i) \$1,000,000 (or such amount identified herein), (ii) as required by Applicable Law, or (iii) such amount that is commercially reasonable given the nature of such Services and general good industry standards:
  - a. **Professional Liability Insurance**, if the Services might be ineligible for coverage under Seller's Commercial General Liability Policy by operation of a "professional services" (or comparable) exclusion or exemption, having coverage sufficiently broad to cover such potentially ineligible services with minimum limits of \$3,000,000 per occurrence and in the aggregate, which coverage will continue in full force and effect for 3 years following completion, expiration or termination of the Agreement.
  - b. **If the Services require the use of aircraft**, including, but not limited to, helicopters, Seller will maintain or require owners of such aircraft to maintain Aircraft Liability Insurance.
  - c. **If the Services require the use of vessels or barges owned or bareboat chartered by Seller**, Seller or its vessel owner will maintain Hull and Machinery Insurance, insuring such vessels and/or barges for no less than the fair market value of same. Coverage will include Collision Liability Insurance.
  - d. **If the Services include marine services**, Seller or its vessel owner will maintain Protection and Indemnity Insurance, including coverage for injuries to or death of masters, mates and crews of vessels used in the performance of the Agreement. Seller may cover its obligation for loss of life or bodily injury by extension of the Workers Compensation Insurance 1(A) above, if permitted under Applicable Law. Coverage will also include pollution liability for loss as specified in the requirements of Applicable Law. All certificates of such insurance will be current and carried on board of the applicable vessels.
  - e. **If the Services include demolition services**, coverage for demolition of any building or structure, collapse, explosion, blasting, excavation and damage to property below the surface of the ground (XCU coverage).
  - f. **If the Services might result in the loss of any Buyer electronic data**, Seller will maintain Electronic Data Liability Coverage providing coverage for damages arising out of loss of electronic data caused by an electronic data incident.
  - g. **If the Services are to be performed on or near a railroad right-of-way**, Seller will maintain Railroad Protective Liability Insurance naming the railroad as the insured with coverage for bodily injury and property damage in satisfaction of the applicable railroad's minimum coverage requirements for such insurance. The original of said policy will be furnished to the railroad prior to any construction or entry upon the railroad easement premises by Seller.
  - h. **If the Services involve hazardous materials or potential risk to the environment caused by pollution conditions**, Seller will maintain Seller's Pollution Liability Insurance with coverage for (a) bodily injury, sickness, disease, mental anguish or shock sustained by any person, including, but not limited to, death; (b) property damage, including, but not limited to, physical injury to or destruction of tangible property, the resulting loss of use thereof, cleanup costs, and the loss of use of tangible property that has not been physically injured or destroyed; and (c) defense, including, but not limited to, costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages. *Note: Coverage for Seller's Pollution Liability Insurance can be satisfied by the addition of a time element buyback endorsement on the Commercial General Liability Policy. The coverage provided thereby must be at least as broad as the coverage described above, with a minimum requirement for discovery of 7 days and a minimum reporting period of 60 days.*

3. **Umbrella/Excess Insurance.** The limits for the insurance specified in 1(b), 1(c), 2(a), 2(b), 2(c), and 2(g) above may be satisfied with a combination of primary and Umbrella/Excess Insurance, such policies naming Buyer as an additional insured.
4. **Policy Endorsements.** All insurance policies required by the Agreement, with the exception of Workers' Compensation, Employers Liability and/or Professional Liability coverage, as applicable, will:
  - a. designate Buyer and owner of the Site as additional insureds with respect to liability arising out of Seller's performance under the Agreement or activities related thereto (including, but not limited to, liability caused or contributed to by the negligence of Seller Group, Buyer, its Affiliates, third parties, or the agents, employees, directors, or officers of any of them), pursuant to an endorsement satisfactory to Buyer;
  - b. be primary and not in excess over or contributory to any other insurance available to Buyer; and
  - c. acknowledge that in no event will Buyer's insurance (including but not limited to any SIR or deductible) be considered "other insurance" under the terms of Seller's policies.
5. **Waiver of Subrogation.** To the fullest extent permitted by Applicable Law, (a) the insurance specified in 1(A) will contain a waiver of right of subrogation against Buyer and, if applicable, an assignment of statutory lien, and (b) any physical damage insurance carried by Seller on construction equipment, tools, temporary structures and supplies owned or used by Seller will provide the same waiver of the right of subrogation.
6. **Self-Insured Retentions.** The insurance policies required by the Agreement may be subject to commercially reasonable self-insured retentions ("SIRs") or deductibles if approved in advance by Buyer. Seller will be responsible for payment of any and all deductibles or SIRs from insured claims under its policies.
7. The obligation to carry insurance in conformance with the requirements of this Exhibit will not limit or modify in any way any other liabilities or obligations assumed by Seller under the Agreement and is independent of the indemnity obligations of the Agreement. No cancellation, modification or change with respect to any insurance policies of Seller will affect Seller's obligation to maintain the insurance coverages required by the Agreement. Seller will be held accountable for all insurance coverages, including those of its sub-contractors. Buyer will not be under any duty to advise Seller if Seller's insurance is not in compliance with the Agreement. BUYER'S ACCEPTANCE OF ANY PROOF OF INSURANCE WILL NOT CONSTITUTE ACKNOWLEDGEMENT OF THE ADEQUACY OF COVERAGE AND/OR COMPLIANCE WITH THE REQUIREMENTS OF THE AGREEMENT, OR AN AMENDMENT TO THE AGREEMENT.
8. If requested by Buyer, Seller will provide Buyer with one or more certificates of insurance and additional insured endorsements, in each case satisfactory to Buyer, evidencing the insurance coverages set forth above and renewals thereof.