

AGREEMENT No.: [REDACTED] -
MASTER SUPPLY AND SERVICES AGREEMENT

BETWEEN

[INSERT APPLICABLE AGRIMUM/PCS ENTITY] (“Owner”)

And

[SUPPLIER NAME] (“Supplier”)

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**PRINCIPAL DOCUMENT - PART I
SIGNATURE PAGE**

AGREEMENT NUMBER: _____

AGREEMENT TITLE: Master Supply and Services Agreement

EFFECTIVE DATE: _____ **END DATE:** _____

PROVINCE, STATE OR TERRITORY OF GOVERNING LAW: As stated in Section 33.6 of Principal Document – Part II.

SUPPLIER

OWNER

NAME: _____

NAME: [INSERT APPLICABLE AGRIMUM/PCS ENTITY]

ADDRESS: _____

ADDRESS: As stated in the applicable Purchase Order

REPRESENTATIVE: _____

REPRESENTATIVE: _____

TITLE: _____

TITLE: _____

This master supply and services agreement (this “**Agreement**”) consists of this Principal Document Part I, Principal Document Part II: Agreement Terms and Conditions and the attachments referenced below:

- Exhibit A: Compensation
- Exhibit B: Scope of Work/ Form of Scope of Work and Specifications
- Exhibit C: Change Order Form
- Exhibit D: Agreement Revision Form
- Exhibit E: Diversity & Inclusion
- [Exhibit F:] [List others as required (for example, Supplier Code of Ethics)]**

Owner and Supplier hereby agree to the terms of the Agreement and have caused the Agreement to be executed by a duly authorized person below:

SUPPLIER: [INSERT NAME]

OWNER: [INSERT APPLICABLE AGRIMUM/PCS ENTITY]

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

PRINCIPAL DOCUMENT PART II – AGREEMENT TERMS AND CONDITIONS

ARTICLE 1 – DEFINITIONS

The following words or terms, where used in this Agreement, are defined as stated below:

- 1.1 “ACA” means the federal *Patient Protection and Affordable Care Act* (PPACA) (Pub L. No.111-148) Act, as amended by the *Health Care and Education Affordability Act* and any successor legislation;
- 1.2 “Acceptance” means Owner’s agreement that Supplier has furnished to Owner Material and Services, as applicable, in accordance with the requirements under the applicable Purchase Order and this Agreement.
- 1.3 “Acceptance Testing” has the meaning set out in Section 5.6.
- 1.4 “Affiliate” means, an entity shall control another entity if the first entity: (i) owns, beneficially or of record, more than fifty percent (50%) of the voting securities of the other entity; or (ii) has the ability to elect a majority of the directors of the other entity. For the purposes of this definition, with respect to any entity, any other entity directly or indirectly controlling or controlled by, or under direct or indirect common control with, such entity or one or more of the other Affiliates of that entity (or a combination thereof).
- 1.5 “Agreement” means the documents identified as the “Agreement” in Principal Document-Part I.
- 1.6 “Agreement Revision” means the document executed by both Parties to reflect their agreement as to a revision to the provisions of this Agreement and identified in Exhibit “D” (Agreement Revision Form).
- 1.7 “Applicable Laws” means any statute, ordinance, regulation, policy, rule, right, directive, decree, by-law, code, standard or published policies that are enacted, made, issued or granted by any government, regulatory agency, department, ministry, commission, certifying authority, board, court or other regulatory or rule-making entity having jurisdiction, to which the supply of Material and any Services, this Agreement, Owner or Supplier are subject.
- 1.8 “Canada Agreements” has the meaning set out in Section 33.6.
- 1.9 “CGL” has the meaning set out in Section 21.1
- 1.10 “Change” means a revision to a Purchase Order, and a revision to the nature, or amount or Prices of Material supplied or any Services provided or to be provided or to be supplied.
- 1.11 “Change Order” means an agreement change authorization document as defined in Article 15 (Changes) and identified in Exhibit “C” (Change Order Form), which is used to effect a Change.
- 1.12 “Claim” has the meaning set out in Section 20.2(a).
- 1.13 “Code” has the meaning set out in Section 31.1.

- 1.14 “Confidential Information” has the meaning set out in Section 17.1.
- 1.15 “Disclosing Party” has the meaning set out in Section 17.1.
- 1.16 “Effective Date” means the date set out in Principal Document - Part I when this Agreement becomes effective.
- 1.17 “Employees” means any employee, officer, agent or other Person whatsoever acting for Supplier or otherwise under the control and direction of Supplier, a Supplier Affiliate or a Subcontractor.
- 1.18 “Event of Force Majeure” has the meaning set out in Article 19.
- 1.19 “Extended Term” has the meaning set out in Section 4.2.
- 1.20 “Governing Law” means the laws of the place identified as “Governing Law” in the Purchase Order or in Section 33.6 of this Agreement.
- 1.21 “Incoterm” has the meaning set out in Section 11.1.
- 1.22 “Initial Term” has the meaning set out in Section 4.1.
- 1.23 “Intellectual Property” means any right or protection existing from time to time in a specific jurisdiction, whether registered or not, under any patent law or other invention or discovery law, copyright law, performance or moral rights law, trade-secret law, confidential information law, plant breeders law, integrated circuit topography law, semi-conductor chip protection law, trademark law or other similar laws and includes legislation by competent governmental authorities and judicial decisions under common law or equity.
- 1.24 “Key Personnel” has the meaning set out in Section 28.1.
- 1.25 “Know-how” has the meaning set out in Section 18.4.
- 1.26 “Losses” means all liabilities, costs, charges or expenses (including legal costs and disbursements on a full indemnity basis), losses and damages.
- 1.27 “Material” means the material identified in a Purchase Order, which is to be provided pursuant to such Purchase Order.
- 1.28 “New York Federal Courts” has the meaning set out in Section 33.6.
- 1.29 “New York State Courts” has the meaning set out in Section 33.6.
- 1.30 “Other Service Provider” has the meaning set out in Section 29.4.
- 1.31 “Owner” means the legal entity identified as “Owner” in Principal Document - Part I.
- 1.32 “Owner Group” means collectively Owner, Owner’s Affiliates, and their respective directors, shareholders, officers, agents, representatives and employees.
- 1.33 “Party” means Owner or Supplier and “Parties” means Owner and Supplier.

- 1.34 “Person” means an individual, a partnership, a joint venture, a corporation, a trust, an unincorporated organization, a government or any department or agency thereof and the heirs, executors, administrators, or other legal representatives of an individual and will include, if in the context requires, a “third party”.
- 1.35 “Personal Information” has the meaning ascribed thereto in Section 17.1.
- 1.36 “PO Term” has the meaning set out in Section 4.4.
- 1.37 “Prices” has the meaning set out in Section 7.1.
- 1.38 “Principal Document” means Part I and Part II of this Agreement but does not include any exhibits.
- 1.39 “Privacy Laws” means all federal, provincial, state, municipal or other applicable statutes, laws or regulations of any governmental authority in any jurisdiction governing the collection, use or disclosure of information about an identifiable individual, including the *Personal Information and Protection of Electronic Documents Act* (Canada) and equivalent provincial, federal, state and foreign legislation;
- 1.40 “Purchase Order” has the meaning set out in Section 9.1.
- 1.41 “Receiving Party” has the meaning set out in Section 17.1
- 1.42 “Records” means all documentation prepared or received by Supplier in connection with this Agreement and the supply of Material and provision of any Services, including all books, statements, records and accounts whether in copy or electronic form or otherwise.
- 1.43 “Representative” means the person(s) identified as such in Principal Document – Part I.
- 1.44 “Scheduled Completion Date” means the date by which Supplier must supply the Material and provide any Services, as identified in a Purchase Order.
- 1.45 “Scope of Work” has the meaning set out in Section 9.4.
- 1.46 “Service Level Default” has the meaning set out in Section 3.2.
- 1.47 “Service Levels” has the meaning set out in Section 3.1.
- 1.48 “Services” means the performance of all work and the provision of all services, supervision, equipment and materials necessary for the successful and safe completion of the tasks described in a Purchase Order.
- 1.49 “Specifications” means the specifications applicable to the Material and/or Services as set out or referenced in the Purchase Order.
- 1.50 “Subcontractor” means a third party engaged by Supplier to perform a part or parts of Supplier’s obligations pursuant to this Agreement or a Purchase Order or to supply Material manufactured to a special design or specification pursuant to a Purchase Order.
- 1.51 “Supplier” means the legal entity specified as “Supplier” in Principal Document - Part I.
- 1.52 “Term” means the time period set out in Section 4.3.

- 1.53 “Trinidad Agreements” has the meaning set out in Section 33.6.
- 1.54 “US Agreements” has the meaning set out in Section 33.6.
- 1.55 “Work Product” has the meaning ascribed thereto in Section 18.2.
- 1.56 “Work Site” means the location to which the Material is to be provided or the Services are to be performed as identified in the applicable Purchase Order.
- 1.57 Interpretation. In this Agreement, unless there is something in the subject matter or context inconsistent therewith:
- (a) all references to a designated “Article”, “Section” or other subdivision or to an Exhibit are to the designated Article, Section or other subdivision of, or Exhibit to, this Agreement;
 - (b) the provision of a Table of Contents, the division of this Agreement into Articles, Sections and other subdivisions and the insertion of headings are for convenient reference only and do not affect the construction or interpretation of this Agreement;
 - (c) any reference to gender includes all genders. Words importing the singular number only include the plural and vice versa;
 - (d) the word “or” is not exclusive;
 - (e) the words “including”, “includes” and “include” means “including without limitation”;
 - (f) references to “days” are to all days including, for the avoidance of doubt, Saturdays, Sundays and bank holidays;
 - (g) any capitalized term used in this Agreement or a Purchase Order that is not otherwise defined will have the generally accepted industry or technical meaning given to such term; and
 - (h) “Material and Services” means “Material and/or Services”.

ARTICLE 2 – SCOPE

- 2.1 **Requirements** Supplier agrees to sell or provide to Owner, and Owner agrees to purchase, Material and Services, as described in a duly issued Purchase Order, free from defects, in accordance with the terms and conditions of the Purchase Order. Such Material and Services shall conform to any and all plans, Specifications, standards, operating conditions and performance data referred to in this Agreement, and shall conform to Applicable Laws and industry standards applicable in the jurisdiction where same are delivered to or performed for Owner. Owner reserves the right to purchase additional Material and Services during the Term on the same terms and conditions stated herein.
- 2.2 **Non-Exclusive** Under no circumstances shall this Agreement or a Purchase Order be construed or interpreted as an exclusive dealing agreement. Owner is free to purchase, lease or otherwise acquire any Material and Services from any third party at any time, and from time to time, during and after the Term.

- 2.3 **Estimates** If Owner so requires, for any or all Purchase Orders, Supplier shall provide an estimate of how much time and resources will be expended to provide the Material and Services. Supplier shall work diligently to meet any such estimate(s) and will advise Owner promptly if it suspects that the estimate(s) are likely to be materially exceeded. In such event, Owner and Supplier shall jointly develop a mitigation plan and execute a Change Order.

ARTICLE 3 – SERVICE LEVELS AND KEY PERFORMANCE INDICATORS

- 3.1 Supplier must meet or exceed all service level any or key performance indicators identified in a Purchase Order (collectively, “**Service Levels**”).
- 3.2 If Supplier fails to achieve any Service Level (a “**Service Level Default**”), then:
- (a) where a service credit is specified in a Purchase Order, Owner shall be entitled to any such credit associated with the applicable Service Level Default; and
 - (b) Supplier shall promptly investigate the cause of such failure and take steps necessary to address and mitigate the impact of the missed Service Level and prevent such failure from recurring. Supplier shall, at no additional charge to Owner, provide all such additional resources as are necessary to perform the Services in accordance with the Service Levels promptly after the occurrence of any Service Level Default.
- 3.3 Where Service Levels are applicable, at Owner’s request, Supplier shall deliver to Owner detailed, well-organized and complete reports (including at Owner’s request, executive summaries) in respect of the achievement of Service Levels on a monthly basis.

ARTICLE 4 – TERM

- 4.1 This Agreement shall commence on the Effective Date and will continue for a period of [●] (●) years (the “**Initial Term**”) unless earlier terminated in accordance with the terms of this Agreement.
- 4.2 Owner may at its sole option, extend this Agreement for [consecutive] ● (●) [year] periods (the “**Extended Term**”) on the same terms and conditions by notifying Supplier at least thirty (30) days before the end of the Initial Term or the then current Extended Term, unless earlier terminated in accordance with the terms of this Agreement.
- 4.3 The Initial Term and any Extended Terms are collectively the “**Term**”.
- 4.4 Each Purchase Order will begin on the date specified in the Purchase Order and will continue for the period specified in that Purchase Order (the “**PO Term**”) unless terminated earlier in accordance with its terms or this Agreement. To the extent that a Purchase Order does not provide a PO Term, the PO Term shall be deemed to be the period commencing on the date the Purchase Order is entered into and will continue until the provision of the Material and Services provided thereunder have been fully provided unless terminated earlier in accordance with its terms or this Agreement. If a PO Term extends past the termination or expiry of the Term, then such Purchase Order including the terms and conditions of this Agreement deemed incorporated into such Purchase Order will survive the termination or expiry of the Term. No new Purchase Order under this Agreement may be entered into after the termination or expiry of the Term.

ARTICLE 5 – INSPECTION

- 5.1 Owner and any of its Affiliates (or their representatives) shall at all reasonable times have the right to:
- (a) access and inspect the Material;
 - (b) observe tests related to the Material; and
 - (c) examine at Supplier's place of business any of the inspection records related to the Material;
- all without interference or restriction by Supplier or Supplier's Subcontractors or agents. Supplier shall provide proper facilities for said access.
- 5.2 If the Purchase Order, Owner's instructions, legal requirements or any public authorities require any part of the Material to be inspected, tested or approved, Supplier shall:
- (a) ensure that these activities are carried out;
 - (b) give Owner timely notice of its readiness for inspection; and
 - (c) if the inspection is by an authority other than Owner, advise Owner in a timely manner of the date fixed for such inspection.
- 5.3 In the event Supplier does not notify Owner as to an inspection required pursuant to Section 5.2, Supplier shall be responsible for the cost of any disassembling and reassembling of the Material to effect such inspection and any other costs of Supplier in arranging for the inspection.
- 5.4 In the event that Owner wishes to inspect any part of the Material that has already been completed and such inspection is not one contemplated under Section 5.2, the cost of any disassembling and reassembling and any incremental costs of Supplier flowing directly therefrom shall:
- (a) be borne by Owner if that part of the Material being inspected complies with the terms of this Agreement; or
 - (b) be borne by Supplier if that part of the Material being inspected does not comply with the terms of this Agreement.
- 5.5 Supplier shall provide to Owner, promptly upon request, written descriptions of Supplier's acceptance and test procedures for the Material together with any standards employed in such procedures and any relevant test results.
- 5.6 Where applicable, as soon as practicable after the supply of any Material and Services, Owner may conduct reasonable testing (as may be more particularly described in the applicable Purchase Order) to confirm that the Material and Services meet applicable Specifications ("**Acceptance Testing**"). Owner shall advise Supplier within a reasonable time following the completion of such Acceptance Testing if the Material and Services passed or failed and, if the latter, reasonable details around the failure. Supplier shall promptly remedy the defects found and resubmit the Material and Services for Acceptance Testing.

ARTICLE 6 – RESPONSIBILITY FOR PROPERTY

- 6.1 To the extent that property of Owner is in the care, custody, and/or control of Supplier, Supplier shall be responsible for all loss and damages to said property from the time such property is received by Supplier or its Representative, and Supplier shall return said property to Owner in accordance with the terms of this Agreement or, upon Owner’s request, in a condition at least as good as it was when said property was received by Supplier. SUPPLIER ACKNOWLEDGES THAT OWNER HAS NOT MADE AND DOES NOT MAKE ANY REPRESENTATION, WARRANTY OR COVENANT, EXPRESS OR IMPLIED WITH RESPECT TO THE CONDITION, QUALITY, DURABILITY, OR SUITABILITY OF SUCH PROPERTY.

ARTICLE 7 – COMPENSATION

- 7.1 **Compensation** During the Term, Supplier will charge Owner the prices for the Material and the rates for the Services listed on Exhibit “A” together with any other fees set out in the Purchase Order (collectively, the “Prices”). Payment of the Prices shall not in itself constitute Acceptance of the Material and Services.
- 7.2 Notwithstanding the foregoing, if Supplier (or any of its Affiliates) offers or sells to a third party any materials or services of a grade, quantity and quality the same as or similar to the Material or Services at a price that is lower than the Prices determined in accordance with Exhibit “A” or the Purchase Order, Supplier (or any Supplier Affiliate) will promptly offer the lower price(s) to Owner retroactive to the point of the offering to the third party and the Parties will revise the Prices determined in accordance with Exhibit “A” or the Purchase Order accordingly. If Supplier (or any of its Affiliates) fails to do so, then Owner may terminate this Agreement at any reasonable time thereafter with immediate effect and without any penalty, liability or further obligation.
- 7.3 **Expenses** Owner will pay all expenses actually incurred by Supplier in connection with performing its obligations under a Purchase Order if: (i) Owner has given its prior written approval for, and received reasonable supporting documentation of, the expenses claimed; and (ii) such expenses are set out on Exhibit “A” and otherwise incurred and submitted to Owner in accordance with Exhibit “A”.
- 7.4 **Invoices** Supplier shall invoice Owner in accordance with the instructions provided in Exhibit “A” (Compensation). Supplier shall submit its invoices to the address specified in Exhibit “A” (Compensation), and shall not utilize any third party to submit invoices to or collect payment from Owner on Supplier’s behalf.
- 7.5 **Terms of Payment** Owner shall pay any undisputed amounts owing pursuant to this Agreement within sixty (60) days of Owner’s receipt of Supplier’s correct, conforming and undisputed invoice.
- 7.6 **Disputed Invoices** If Owner should dispute all or part of any invoice submitted by Supplier pursuant to the terms hereof, Owner shall provide written notice of the reason for the dispute, including any factual or contractual basis to Supplier within the aforementioned sixty (60) day period. In the event that Supplier provides an updated invoice for the undisputed amount, Owner shall remit payment of any undisputed portion of the invoice within sixty (60) days of receipt, but may withhold the disputed portion of the invoice until the dispute has been resolved.
- 7.7 **Currency** Unless otherwise indicated in writing, (i) in the case of Material and Services being supplied to a U.S. entity or U.S. Work Site or a Work Site in Trinidad and Tobago, all dollar amounts applicable to the Material and Services shall be in United States currency; and (ii) in the

case of Material and Services being supplied to a Canadian Work Site, all dollar amounts applicable to the Material and/or Services shall be in Canadian currency.

- 7.8 **Statutory Declaration** If required by Owner, Supplier shall also submit with an invoice a statutory declaration stating what amount it owes or will have to pay in respect of the Services for wages, Worker's Compensation assessments, materials or otherwise, and what claims exist in respect of which a lien could attach upon any property of Owner.
- 7.9 **Invoice for Final Payment** When submitting an invoice for final payment, Supplier shall submit with the invoice a statutory declaration stating that the Services and the Work Site are free and clear of liens and claims for wages, services, Worker's Compensation assessments, materials or otherwise, and that the time for filing of liens has expired. Supplier shall also obtain and submit with the invoice for final payment a statutory declaration from each of its Subcontractors stating that as far as its subcontract is concerned, the Services and the Work Site are free and clear of liens and claims for wages, services, Worker's Compensation assessments, materials, or otherwise.
- 7.10 **Deficiencies** At such time as the Services are substantially completed, Supplier or Owner may request that the Services be deemed to be complete, provided that the Price may be reduced to compensate for such deficiencies in the Services as may exist at that time. If such request is agreed to by Supplier and Owner, Owner shall prepare a list of such deficiencies, including any remaining clean-up operations, with an estimate of the value of each, for approval or negotiation by Owner and Supplier. Upon agreement between Owner and Supplier as to the list of deficiencies and the total value of such deficiencies, the Price shall be reduced by the agreed amount and Supplier shall invoice for final payment.
- 7.11 **Group Health Coverage** Throughout the Term, and where this Agreement or a Purchase Order, in whole or in part, is subject to the law of the United States of America, Supplier agrees that the base rates reflected in this Agreement shall apply to Supplier's employees who have accepted group health coverage with Supplier. For any Supplier employee who rejects the offer of coverage described above, the base rate as reflected in this Agreement shall be decreased by an appropriate amount as set forth in Exhibit "A". Notwithstanding anything in this Agreement to the contrary, in no event shall such supplemental wage payment for Supplier's employee enrolled in Supplier's health plan be construed as evidence of or an admission that such Supplier employee is a common law employee of Owner or a co-employee of Owner and Supplier.

ARTICLE 8 – TAXES

- 8.1 **Liability for Taxes** All taxes shall be disclosed as separate line items on Supplier's invoice. Supplier is exclusively liable for, and shall pay before delinquency, all taxes, levies, duties and assessments imposed or levied in respect of the provision of the Material and Services contracted for hereunder (other than GST, any applicable provincial or state (as applicable) sales tax or any other applicable value added tax payable by Owner as the purchaser of the Material and Services). SUPPLIER SHALL INDEMNIFY, DEFEND, SAVE AND HOLD HARMLESS OWNER GROUP FROM AND AGAINST ALL LOSSES THAT ARISE OUT OF, OR ARE ATTRIBUTABLE TO THE IMPOSITION BY A GOVERNMENT AGENCY OF (A) ANY TAXES APPLICABLE TO THE PURCHASE ORDERS, OR ANY TRANSFER OF TANGIBLE PERSONAL PROPERTY PURSUANT TO THIS AGREEMENT, (B) ANY OTHER TAXES ARISING OUT OF SUPPLIER'S OPERATIONS THAT MAY BE IMPOSED ON OR COLLECTED FROM OWNER GROUP OR BECOME AN ENCUMBRANCE AGAINST OWNER OR ITS ASSETS, AND (C) ANY COST FOR COMPLYING WITH APPLICABLE LAWS OF ANY GOVERNMENT AUTHORITY RELATING TO TAXES.

- 8.2 **Tax and Duty Exemptions** Where the Prices include taxes and duties and such taxes and duties are payable by Supplier, Supplier and Subcontractors may, on their own behalf and not as agents of Owner, take full advantage of tax and duty exemptions, remissions and drawbacks. When the Prices exclude taxes and duties and such taxes and duties are payable by Owner, Owner may, on its own behalf, take advantage of tax and duty exemptions, remissions and drawbacks or may require Supplier and, through it, Subcontractors to apply for tax and duty exemptions, remissions and drawbacks on behalf of Owner. Where applicable, Owner shall supply Supplier with suitable certification or documentation to authorize Supplier to obtain such tax and duty exemptions, remissions and drawbacks.
- 8.3 **Withholdings** If Supplier is or becomes a non-resident for the purposes of Applicable Laws, including tax or lien legislation, Supplier shall ensure each invoice issued to Owner identifies that portion of the Agreement performed as a non-resident and the value of that portion, and Owner shall be entitled to withhold that amount from payment of any invoice and remit same to the applicable taxing authority. Such amounts shall be deemed to have been paid to Supplier on their due dates, provided that Owner shall furnish to Supplier reasonable evidence of such.

ARTICLE 9 – PURCHASE ORDERS

- 9.1 Each purchase order issued in connection with this Agreement, together with any Scope of Work attached to the purchase order or agreed to in connection therewith, sets out the specific terms for the provision of Material and Services (each a “**Purchase Order**”). Each Purchase Order constitutes a separate contract. The provisions of this Agreement apply to, and will be incorporated into, each Purchase Order. If the Parties intend a Purchase Order to change or override the provisions of this Agreement, the Purchase Order must clearly indicate the Parties’ intention to establish a different priority, including a clear acknowledgement specifically referring to the provisions of this Agreement that are changed or overridden.
- 9.2 Supplier agrees to contract directly with an Owner Affiliate by entering into with such Owner Affiliate a Purchase Order that incorporates the provisions of this Agreement. In such case:
- (a) the rights and obligations of “Owner” in this Agreement will apply to the applicable Owner Affiliate together with any necessary conforming changes;
 - (b) Owner Affiliate will be solely responsible for its obligations under such Purchase Order, and neither Owner nor any other Owner Affiliate will have any liability in connection with such Purchase Order; and
 - (c) the provision and supply of the Material and Services under the Purchase Order executed with the Owner Affiliate will be for the benefit and use of Owner and other Owner Affiliates.
- 9.3 To the extent a Purchase Order relates to the provision of Material, such Purchase Order shall identify the Material by part number, quantities, delivery schedule, Price of each unit, and destination, and any other relevant matter which is necessary for the individual transaction to be adequately described. Any Purchase Order issued by Owner or an Owner Affiliate to Supplier shall be deemed issued under this Agreement whether or not this Agreement is referenced by the Purchase Order.
- 9.4 The Parties acknowledge and agree that any Services or Material contemplated by a Purchase Order shall be identified in a scope of work agreed to in writing by the Parties (a “**Scope of Work**”). A

Scope of Work shall be deemed to form part of such Purchase Order for the purposes of this Agreement and shall be (i) attached as Exhibit “B” to this Agreement, or (ii) attached to or issued in relation to the Purchase Order in the form attached as Exhibit “B”, or (iii) described in Exhibit “B” to this Agreement and in the Purchase Order.

ARTICLE 10 – RECORDS AND AUDIT RIGHTS

- 10.1 Supplier shall keep and preserve the Records during the Term and for a period of seven (7) years thereafter.
- 10.2 Supplier shall permit Owner, its representatives and auditors, and regulatory bodies having jurisdiction over Owner or any Affiliate, to review and copy the Records, at all reasonable times during the Term, and for a period of seven (7) years thereafter, for the purposes of:
- (a) determining Supplier’s compliance with all of the terms and conditions of this Agreement and each Purchase Order;
 - (b) evaluating and verifying of any invoices, Change Orders, payments or claims submitted by Supplier;
 - (c) ensuring compliance with requirements of Applicable Laws.
- 10.3 Supplier shall:
- (a) respond in writing to any inquiry, demand or other observation made as a result of any audit, including any audit undertaken by auditors appointed by Owner or its Affiliates, or Supplier’s internal or external auditors (to the extent related to the provision of the Material and Services) and, in any event, within thirty (30) days of receipt of such observations;
 - (b) correct any non-compliance with any provision of this Agreement, a Purchase Order, or any applicable accounting principles, and will complete and communicate in writing to Owner or its Affiliates, as applicable, a plan for resolution of the matters identified to be completed, at Supplier’s cost within a reasonable time; and
 - (c) reimburse Owner or its Affiliate as applicable for the undisputed amount of any overcharges, or reissue any unpaid invoice containing an error identified in an audit report provided to Supplier by Owner or its Affiliates.
- 10.4 Owner’s costs of any audit conducted in accordance with this Agreement (except where specifically provided otherwise) will be borne by Owner unless such audit reveals a discrepancy or overcharge by Supplier in respect of a fee charged of at least ●% in respect of the period examined or a material breach of the Agreement, in which case Owner’s costs of the audit will be borne by Supplier. Supplier’s costs associated with the audit, including the cost of providing all Records reasonably required by the audit, will be borne by the Supplier.
- 10.5 Supplier shall require all Subcontractors to comply with the provisions of this Article and shall provide copies of the documents set out above as such apply to the Subcontractor, upon the request of Owner.
- 10.6 Owner shall use reasonable efforts to ensure that audits conducted pursuant to subsection 10.2 do not interfere with the activities and business of Supplier or its Subcontractors. Owner shall provide

Supplier with reasonable notice of audits and audits shall be conducted during normal business hours.

10.7 The provisions of this Article shall survive the termination of this Agreement.

ARTICLE 11 – TITLE AND RISK

11.1 Except for property described in Article 6 (Responsibility for Property), title to and risk of any loss of or damage to the Material shall pass from Supplier to Owner when such Material is unloaded and Owner takes delivery thereof at the delivery point contemplated in the Purchase Order. For the avoidance of doubt, (i) passing of title upon such delivery shall not constitute Acceptance of the Material, and (ii) Supplier assumes all risk and liability for loss, damage or injury to Persons, to properties of Supplier or any other Person or in respect of any other liabilities including clean-up costs in respect of any spill or any other claims arising out of the transportation, storage or handling of the Material while the Material is in transit until Owner takes delivery of such Material at the delivery point contemplated in the Purchase Order. Except to the extent otherwise provided in the applicable Purchase Order in accordance with Section 9.1 of this Agreement, in the event a Purchase Order provides that a delivery of Material shall be made in accordance with any pre-defined commercial terms published by the International Chamber of Commerce (“**Incoterm**”), such Incoterm shall only apply to extent the terms associated therewith do not conflict with the terms of this Agreement.

11.2 Supplier warrants that upon delivery of Material, the Material shall be free and clear of liens, claims, security interests or encumbrances.

ARTICLE 12 – SUPPLIER’S WARRANTIES

12.1 For the Material provided hereunder, Supplier warrants that:

- (a) the Material conforms to the requirements described in Section 2.1 above and the Purchase Order;
- (b) the Material is new and of merchantable quality;
- (c) the Material is fit for the particular purpose contemplated by the applicable Purchase Order;
- (d) the Material does not infringe the Intellectual Property of any third party and does not contain any harmful software code (if applicable);
- (e) the Material is in full compliance with all Applicable Laws;
- (f) Supplier has provided Owner with any and all information which may be relevant as to the suitability of the Material for Owner’s purposes or which Owner requests of Supplier in relation to the Material, including the material safety data sheet or safety data sheet for the Material, the source of the Material, any applicable technical data or information sheets (or equivalent) and any Material product labels; and
- (g) Supplier has advised Owner of any changes to (i) the composition of Material, (ii) the source from which Material is procured from the source identified in Section 12.1(f), or

(iii) any change to any Applicable Law which that it is aware of, which causes a change in the Material's regulatory classification.

12.2 The warranties set out in Section 12.1 shall survive until the earlier of the date which is:

- (a) twelve (12) months from the commencement of operation of or use of the Material; or
- (b) twenty-four (24) months from date of shipment of Material, unless otherwise specified in this Agreement.

12.3 For any Services supplied hereunder, Supplier warrants that:

- (a) the Services shall conform to all the requirements described in Section 2.1 above and the applicable Purchase Order;
- (b) the Services shall be performed in a safe and environmentally sound manner and in performing the Services, Supplier shall exercise the level of skill, care, diligence and workmanship that would be expected of an experienced, skilled, competent and reputable contractor specializing in the provision of services comparable to the Services;
- (c) it is familiar with all conditions, risks, contingencies and other circumstances including weather, labour relations and the supply of materials that may affect performance of the Services and has taken them into account in agreeing to the sums, rates and Prices set forth in this Agreement;
- (d) the Services do not infringe the Intellectual Property of any third party;
- (e) the Services will be performed in accordance with the quality control standards of Owner; and
- (f) it has the skills, expertise, experience and resources to properly perform the Services in a timely and efficient manner, without undue interference with Owner and that it will deploy sufficient resources and personnel to so perform the Services.

12.4 The warranties for the Services set out in Section 12.3 shall survive until the date which is twenty-four (24) months from the completion of Services.

12.5 No payment for, review, Acceptance or approval of any Material or Service by Owner or any of its Affiliates shall operate as a waiver of the warranties and representations in this Article, any Supplier standard warranty, or any manufacturer or Subcontractor warranty and the rights of Owner thereunder.

12.6 Supplier warrants that this Agreement has been duly authorized, executed and delivered on its behalf and that this Agreement does not conflict with any other agreement which Supplier has entered.

ARTICLE 13 – BREACH OF SUPPLIER'S WARRANTIES

13.1 In the event that the Material, or any portion thereof, does not, in Owner's reasonable opinion, comply with any of the warranties set out in Section 12.1, Owner may, at Supplier's sole risk and expense, upon providing five (5) days written notice to Supplier, elect to:

- (a) reject or revoke Acceptance of the Material or any portion thereof and receive a full refund for all the Material so rejected or withhold payments for such Material if such payments have not been paid; provided that rejection or revocation of only a portion of the Material shall not impact the remaining shipment of Material, to which the terms of this Agreement shall apply;
 - (b) require Supplier to repair or replace the Material;
 - (c) repair or replace the Material and recover from Supplier all expenses reasonably incurred by Owner for such repair or replacement.
- 13.2 In the event that the Services, or any portion thereof, do not, in Owner's reasonable opinion, comply with any of the warranties set out in Section 12.3, Owner may, at Supplier's sole risk and expense, upon providing five (5) days written notice to Supplier, elect to:
- (a) require Supplier to re-perform the Services;
 - (b) perform the Services itself or hire a third party to perform such Services and recover from Supplier all expenses reasonably incurred by Owner to complete performance; or
 - (c) assert a right to compensation for breach of contract.
- 13.3 All Material repaired or replaced, and all Services re-performed, by Supplier pursuant to the terms of this Article shall conform to the terms of Article 12 for an additional twenty-four (24) months from the date of commercial use or operation of such Material, or from the date such Services are re-performed.
- 13.4 Notwithstanding any termination of this Agreement or a Purchase Order, all warranties, whether express or implied, shall survive in full force and effect for the entire term of such warranty. Supplier shall notify Owner of any manufacturer or Subcontractor warranty, and Supplier shall assign to Owner and, upon written notice from Owner, enforce for Owner's benefit, any such warranty obtained from such manufacturers or Subcontractors. Each such warranty shall be in addition to and not in substitution of the warranties set out herein.
- 13.5 Notwithstanding the expiration of any warranty period described herein, Supplier's warranty obligations shall extend to correcting any defects in Material or Services of which Owner has given Supplier notice prior to the expiration of such warranty period and to latent defects discovered at any time thereafter. The expiration of any particular warranty period shall not affect any other representation or warranty made hereunder, each of which shall survive, independently, in the manner provided herein.
- 13.6 Supplier's warranty obligations will benefit the Owner Group and its and their successors, assigns, customers and employees.

ARTICLE 14 – DELIVERY

- 14.1 TIME IS OF THE ESSENCE IN THE PERFORMANCE OF THE SUPPLIER'S OBLIGATIONS UNDER THIS AGREEMENT AND ANY PURCHASE ORDER UNLESS OTHERWISE SPECIFIED IN THE PURCHASE ORDER. Supplier shall strictly comply with any and all time deadlines set out in the applicable Purchase Order. No change in the scheduled delivery date or performance will be permitted without Owner's prior written consent. No Acceptance of Material

or Services after the scheduled delivery date will waive Owner's rights with respect to such late delivery, and it shall not be deemed a waiver of future compliance. If Supplier suspects that it cannot deliver the Material and Services within the time specified in the applicable Purchase Order for any reason, Supplier shall give Owner immediate notice and advise Owner of the earliest possible delivery date. Owner may then require Supplier to expedite delivery at Supplier's expense. Failure of Supplier to complete performance within this time, or to perform with due diligence, will entitle Owner to terminate the applicable Purchase Order without liability or, alternatively, to require performance by Supplier according to the terms and conditions of such Purchase Order.

ARTICLE 15 – CHANGES

- 15.1 **Owner Change Orders** At Owner's own initiative, Owner may at any time Change, add to, or delete from the extent and scope of a Purchase Order, by delivering to Supplier a draft of a Change Order describing in detail the modification required. Owner's draft Change Order shall set out a date by which a response is required by Supplier. Upon receipt of a Change Order, and within the time limit set by Owner, Supplier shall submit to Owner a written estimate of total impact of the Change, including increases or decreases in cost and total hours, as if the Change Order were approved.
- 15.2 **Supplier Change Orders** Supplier may at any time request a Change, addition, or deletion from the extent and scope of a Purchase Order, by delivering to Owner a draft of a Change Order describing in detail the modification requested. Accompanying such draft Change Order, Supplier shall provide Owner's Representative with appropriate documentation which would support such Change Order. Supplier shall use reasonable commercial efforts to avoid the negative effects caused by multiple Change Orders.
- 15.3 **Owner's Acceptance** Owner will either give notice to Supplier that the Change Order will not be accepted, or alternatively, will deliver to Supplier an executed Change Order.

ARTICLE 16 – COMPLIANCE

- 16.1 **Compliance with Laws** Supplier agrees that, in performing hereunder, Supplier shall conform to and ensure that its Subcontractors and Employees conform with all Applicable Laws, including current requirements contained in government statutes, rules, regulations, and orders including those governing equal and fair employment practices, environmental, safety, health, and vocational rehabilitation, privacy, affirmative action programs, and packing, labeling and carriage of Material. Without limiting the generality of the foregoing, Supplier agrees, in performance of its obligations hereunder, not to discriminate against any employee or applicant on the basis of race, gender, religion, sexual orientation, color, age, national origin, disability or veteran status. Supplier further agrees to acquire and maintain all required permits and certificates of approval and to comply with all dangerous goods legislation and codes governing its obligations as they relate to the Material including, as applicable, the safety, handling, packaging, labeling, and transport of the Material. In addition, Supplier hereby agrees to be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of its obligations hereunder. Supplier agrees to defend, indemnify and hold Owner Group harmless from any and all Losses which may arise out of Supplier's failure to comply with such requirements.
- 16.2 **Immigration Non-Compliance** The Parties acknowledge and agree that certain of the Services may be performed by nationals of a country other than Canada or the United States and as such the immigration laws of countries outside Canada and the United States may apply to the performance

of this Agreement or a Purchase Order. Specifically, but without limiting the foregoing, Supplier represents, warrants and covenants, at all times during and after the Term that Supplier is in compliance with all applicable immigration laws in the jurisdiction where Services are performed, that Supplier shall be solely responsible for ensuring compliance with all immigration laws in the jurisdiction where the Services are provided, and Supplier agrees to defend, indemnify and hold Owner harmless from any and all Losses which may arise out of Supplier's failure to comply with such requirements. The foregoing shall also apply to any after-sales services performed by Supplier or its Affiliates or Subcontractors at Owner's premises. After-sales services may include training, repairs, maintenance, supervision of installation, setting up and / or testing of the Material and related equipment or software as outlined in this Agreement or a Purchase Order.

16.3 **United States Equal Employment Opportunity** If any of Supplier's obligations hereunder are performed in the United States, the Equal Employment Opportunity Clause required under Executive Order 11246, the affirmative action commitment for disabled veterans and veterans of the Vietnam era, set forth in 41 C.F.R. §§ 60-250.5(a) and 60-300.5, the affirmative action clause for disabled workers, set forth in 41 C.F.R. § 60-741.5(a), and the related regulations of the Secretary of Labor, 41 C.F.R. Chapter 60, are incorporated by reference in this Agreement. By accepting this Agreement; Supplier certifies that it complies with the authorities cited above. If applicable, Supplier shall require all Subcontractors to comply with the provisions of this Article by insertion of the requirements hereof in a written agreement between the Supplier and Subcontractor.

16.4 **Hazardous Substances** Except to the extent that it is expressly required pursuant to the applicable Scope of Work, Supplier agrees it will not, and will cause any Subcontractor, agent or other Person acting on its behalf, not to use or incorporate at the Work Site or in connection with the Services, or cause or allow the release of, any substance which is defined as a pollutant, contaminant, dangerous substance, toxic substance, hazardous or toxic chemical, hazardous waste or hazardous substance under Applicable Law, including asbestos and any materials containing asbestos; or any substance which otherwise requires reporting, investigation removal or remediation under Applicable Law.

ARTICLE 17 – PROTECTION OF CONFIDENTIAL INFORMATION

17.1 Definitions:

- (a) **“Disclosing Party”** means the Party to whom Confidential Information relates.
- (b) With respect to each Party, **“Confidential Information”** means all information and data of the Party including information concerning the Disclosing Party's past, present or future business, operations, technology, customers or suppliers, other than information that is:
 - (i) or has become publicly available through no fault of the Receiving Party, its Affiliates or subcontractors;
 - (ii) lawfully received from an independent third party without any obligation of confidentiality;
 - (iii) independently developed by the Receiving Party without use of the Disclosing Party's Confidential Information; or
 - (iv) already in the Receiving Party's possession without obligation of confidentiality;

except that Personal Information is not subject to these exclusions and is in all cases Confidential Information; *provided however*, that in order for any information or data of Supplier (including Personal Information) to constitute “Confidential Information,” Supplier must provide advance written notice to Owner of any information or data subject to the confidentiality provisions of this Agreement and must expressly label any such information or data as “CONFIDENTIAL”.

- (c) “**Personal Information**” means any information about an identifiable individual, other than that individual’s business title or business contact information, when collected, used or disclosed for the purposes of enabling the individual to be contacted in relation to the individual’s business responsibilities.
- (d) “**Receiving Party**” means the Party receiving or otherwise coming into possession or obtaining knowledge of the other Party’s Confidential Information.

17.2 **Use of Confidential Information** Each Party will, in its capacity as a Receiving Party:

- (a) maintain the Confidential Information of the Disclosing Party in confidence using at least the same degree of care as it employs in maintaining in confidence its own Confidential Information, but in no event less than a reasonable degree of care;
- (b) not use or reproduce Confidential Information of the Disclosing Party for any purpose other than as and to the extent expressly permitted under this Agreement or as may be reasonably necessary for the exercise of its rights or the performance of its obligations under this Agreement; and
- (c) not disclose, provide access to, transfer or otherwise make available any Confidential Information of the Disclosing Party, except as expressly permitted in this Agreement.

17.3 **Owner Group Disclosure of Confidential Information** The Owner Group may, in its capacity as a Receiving Party, disclose Confidential Information of Supplier:

- (a) to:
 - (i) the Owner Group’s employees, agents and independent contract personnel, including those of Affiliates, any of its service providers, if and to the extent that such Persons need to know the Confidential Information to receive or otherwise benefit from the Materials and Services, and
 - (ii) the Owner Group’s accountants, internal and external auditors, legal counsel and other professional advisors if and to the extent that such Persons need to know the Confidential Information to provide applicable professional advisory services relating to Owner Group’s business,

on the condition that such Persons are made aware before such disclosure of the confidential nature of the Confidential Information and have agreed in writing to hold the Confidential Information of Supplier in confidence under terms that are at least as stringent as the terms of this Article 17 or, in the case of Persons described in Section 17.3(a)(ii) and Owner Group’s employees, a duty of confidence exists between Owner and such Person; and

- (b) if and to the extent required by a governmental authority, on condition that, to the extent permitted by Applicable Law, before disclosing such Confidential Information, Owner must use reasonable efforts to promptly notify Supplier of the required disclosure.

17.4 **Supplier Disclosure of Confidential Information** Supplier may, in its capacity as a Receiving Party, disclose Confidential Information of Owner:

- (a) to:
 - (i) its employees, if and to the extent that such Persons need to know the Confidential Information to perform their obligations under this Agreement;
 - (ii) its accountants, internal and external auditors, legal counsel and other professional advisors if and to the extent that such Persons need to know the Confidential Information to provide applicable professional advisory services relating to Supplier's business,

on condition that such Persons are made aware before such disclosure of the confidential nature of the Confidential Information of Owner and have agreed in writing to hold such Confidential Information in confidence under terms that are at least as stringent as the terms of this Article 17 or, in the case of Persons described in Section 17.4(a)(ii) and Supplier's employees, a duty of confidence exists between Supplier and such Person; and

- (b) if and to the extent required by a governmental authority, on condition that, to the extent permitted by Applicable Law, before disclosing such Confidential Information, Supplier must use reasonable efforts to promptly notify Owner of the required disclosure and, at Owner's cost and expense, cooperate with Owner to take such steps as it reasonably requests to challenge or contest such disclosure, obtain confidential treatment or seek a protective order.

For clarity, any breach of this Article 17 by any Person to whom Supplier has disclosed Confidential Information of Owner that would otherwise have been a breach if performed by Supplier, will be deemed to be a breach of this Article 17 by Supplier.

17.5 **Return of Owner Confidential Information** Supplier shall, upon the expiration or termination of this Agreement or upon Owner's request, immediately submit to Owner, or, if requested by Owner, destroy all of Owner's Confidential Information.

17.6 **Personal Information** Supplier acknowledges and agrees that in the course of performing its obligations under this Agreement it may receive, use or access Personal Information in Owner's or its Affiliates' possession. Supplier agrees that such Personal Information constitutes Confidential Information of Owner to which the provisions of Section 17.3 apply, except to the extent such provisions are inconsistent with this Section 17.6, which prevails with respect to Personal Information. In addition to Supplier's obligations in Section 17.2, and despite the disclosure provisions of Section 17.4, Supplier will:

- (a) only share, transmit, disclose, collect, hold or store (even if only transitorily) such Personal Information in accordance with Privacy Laws and for such purposes as are necessary to discharge, complete or fulfill Supplier's obligations under this Agreement or the applicable Purchase Order;

- (b) perform its obligations in a manner that will ensure Owner complies with Privacy Laws;
- (c) provide reasonable assistance to Owner in:
 - (i) responding to any access, amendment, correction or similar request in connection with any Personal Information in Supplier's possession;
 - (ii) investigating, mitigating or responding to any complaint relating to the receipt, use or disclosure of Personal Information in the course of performance of the Services or the supply of the Materials; and
 - (iii) responding to any requests or instructions issued by a governmental authority in connection with such Personal Information;
- (d) use all reasonable efforts to protect and safeguard such Personal Information including to protect such Personal Information from loss or theft, or unauthorized access, disclosure, copying, use, modification, disposal or destruction and to promptly notify Owner of any such known or suspected loss, theft or unauthorized activity, and use all reasonable efforts to prevent any further loss, theft or unauthorized activity;
- (e) only collect, use, disclose, process or store such Personal Information in Canada or the United States of America, or such other jurisdiction as Owner may consent to in writing;
- (f) only disclose such Personal Information to a third party where such third party, has first agreed to be bound by covenants substantially similar to the provisions of this Article and with the prior consent of Owner;
- (g) immediately:
 - (i) inform Owner where Supplier is unable or unwilling to comply with any of the foregoing provisions and at the request and option of Owner return or cause to be returned, or destroy or cause to be destroyed, all of such Personal Information; and,
 - (ii) suspend all use or disclosure of the Personal Information disclosed by Owner to Supplier until such time as Supplier is able and willing to comply with the foregoing provisions; and
- (h) ensure and be responsible for the compliance of its Subcontractors and Employees consistent with this Article.

17.7 **Consent to Injunctive Relief** Supplier acknowledges that any violation of the provisions of this Article 17 may cause irreparable damage or injury to Owner, the exact amount of which may be impossible to ascertain, and that, for this reason, in addition to any other remedies available to Owner, Owner is entitled to proceed immediately to court in order to obtain, and Supplier:

- (a) will consent (without any condition) to, interim, interlocutory, and final injunctive relief restraining Supplier from breaching, and requiring Supplier to comply with, its obligations under this Article 17, without a requirement that a finding of irreparable harm, proof of actual damages or other criteria for the awarding of injunctive relief be made;
- (b) agrees not to plead sufficiency of damages as a defence; and
- (c) acknowledges the importance to Owner of Supplier's strict compliance with the terms of this Article 17, and that Owner's interest in the strict enforcement of this Article 17 will

outweigh the balance of convenience or harm that Supplier may suffer as a result of the strict enforcement of this Article 17.

- 17.8 **Survival** The obligations of confidentiality in this Article 17 shall survive the termination of this Agreement.

ARTICLE 18 – INTELLECTUAL PROPERTY

- 18.1 Neither Supplier nor its directors, Employees, Subcontractors, assignees or other representatives engaged in the provision of Material and Services hereunder shall release or publish any data or documents used in the performance of that Party's obligations under this Agreement without the prior written consent of Owner. Supplier shall submit to Owner copies of all inspections, tests, or approvals prepared by any authority, Person, firm or corporation other than Owner.

- 18.2 Subject to Section 18.4, Owner is and will be the exclusive owner of, and have all Intellectual Property rights in and to:

- (a) all custom deliverables provided by Supplier to Owner in connection with this Agreement or a Purchase Order excluding, for greater certainty, any standard documentation provided by Supplier to its customers generally;
- (b) all information and data generated by Supplier in carrying out its obligations under this Agreement or a Purchase Order or generated by or on behalf of Owner; and
- (c) any other deliverable in which the Intellectual Property is to vest in Owner pursuant to the applicable Purchase Order,

(collectively, "**Work Product**"). All right, title and interest, including all Intellectual Property rights, in Work Product will vest in Owner, immediately upon creation and regardless of the state of completion of such Work Product and, to the extent applicable will be deemed a "work made for hire" (as defined in Title 17 of the United States Code).

- 18.3 Supplier:

- (a) will promptly disclose to Owner the creation of any Work Product;
- (b) hereby assigns and transfers, agrees to assign and transfer, and agrees to cause its Subcontractors and Employees to assign and transfer, all right, title and interest (including all Intellectual Property rights) in and to all Work Product, as and when created, to Owner;
- (c) will obtain unconditional and irrevocable waivers for the benefit of Owner, its Affiliates and its assignees, from all individuals involved in the creation of any Work Product, of all rights which cannot be assigned, including moral rights; and
- (d) will execute and cause its Employees and Subcontractors to execute such assignments and other documents as may be necessary to confirm the allocation of ownership of Intellectual Property rights as contemplated in this Article 18.

- 18.4 Owner acknowledges that the performance of the Services and the supply of the Materials by Supplier under this Agreement requires the skills and know-how of Supplier, including all concepts,

know-how, ideas, knowledge, methodologies, and techniques developed by Supplier other than Work Product (collectively, the “**Know-How**”).

- 18.5 Supplier hereby grants to Owner and its Affiliates a non-exclusive, worldwide, irrevocable, perpetual, royalty free, assignable license (with the right to sublicense to their service providers) to access, use, copy, develop derivative works from, modify, or enhance the Know-How as reasonably necessary for Owner and its Affiliates to receive and benefit from the performance of the Services and the supply of the Material and to exercise their rights in any deliverables provided by Supplier to Owner or any of its Affiliates in connection therewith.
- 18.6 Nothing contained in this Agreement prohibits Supplier from using any of the Know-How to perform similar services for others; provided, however, that Supplier will not use any of Owner’s Confidential Information or Personal Information in providing services to others.
- 18.7 Supplier hereby grants to Owner and its Affiliates a non-exclusive, worldwide, irrevocable, perpetual, royalty free, assignable license (with the right to sublicense to their service providers) to access, use, copy, develop derivative works from, modify, or enhance any deliverables provided in connection with this Agreement or a Purchase Order (excluding Work Product) in connection with the use of such deliverables for the benefit of Owner and its Affiliates, subject to the terms, conditions and restrictions set forth in the applicable Purchase Order.
- 18.8 Supplier shall be liable to and in addition shall indemnify and hold harmless Owner Group and users of said items from and against any and all Losses whatsoever arising out of any actual or alleged infringement, misuse or misappropriation of Intellectual Property rights relating to any Material, Services or deliverables provided hereunder by Supplier, its Subcontractors or Employees or the use thereof by Owner or any of its Affiliates. If Owner or any of its Affiliates becomes subject to a claim as set forth above, Supplier, without limiting its obligations set forth in this Section, will:
- (a) procure for itself as agent on behalf of Owner, the applicable Owner Affiliates or both, the right to continue to:
 - (i) perform or have performed the Services,
 - (ii) use the infringing deliverable or Material,as applicable; or
 - (b) modify the Material and/or the performance of the Services, the deliverable, as applicable, to eliminate the infringement without causing any material adverse change to the Material, Services or deliverable, as applicable.
- 18.9 Where Supplier, at its discretion, uses the product of a particular process licensor or Supplier or manufacturer, Supplier shall obtain from such entities, for the protection of Owner, indemnity agreements with terms at least as protective as those set out herein and in any case in a form approved by Owner, acting reasonably, for such entities’ infringements, misuses or misappropriations of Intellectual Property rights.
- 18.10 Supplier shall promptly give notice to Owner if Supplier has or acquires knowledge of any Intellectual Property rights under which an action could reasonably be expected to be maintained because of the use or purchase by Owner of Material and Services provided hereunder, or used,

incorporated or to be used or incorporated by Supplier with or into such Material and Services. Following such notification, Supplier will discontinue use of the contentious item in performing its obligations under this Agreement, and will not use the item again without Owner's prior written approval.

18.11 The provisions of this Article 18 shall survive the termination of this Agreement.

ARTICLE 19 – FORCE MAJEURE

19.1 Notwithstanding anything herein contained, but subject to Section 19.2, neither Party shall be responsible or accountable for total or partial failure to perform any obligation hereunder to the extent such failure arises from any cause or causes beyond the control of such Party that could not reasonably have been anticipated including, without limiting the generality of the foregoing, the following: acts of God; expropriation or confiscation of land or personal property; compliance with any Applicable Laws, request, recommendation or requirement of any governmental authority, body or agency; war; riot; rebellion; sabotage; flood; fire; or unusually severe weather that could not reasonably have been anticipated; in each case, an “**Event of Force Majeure**”). The provisions of this Agreement shall not be construed as requiring either Party hereto to accede to the demands of labour and labour unions that it considers unreasonable.

19.2 The following are specifically not excused as Events of Force Majeure:

- (a) late performance by Supplier or one of its Subcontractors caused by a shortage of supervisors or labour, inefficiencies or similar occurrences;
- (b) late delivery of equipment or materials unless caused by the Event of Force Majeure;
- (c) lack of finances; or
- (d) weather conditions that are typical of the location in which the Purchase Order is performed.

19.3 If Supplier is delayed in performance of its obligations hereunder by an Event of Force Majeure, Supplier shall give written notice of the delay, the reasons for the delay and how long it is expected to continue, as soon as reasonably possible (and in no event later than seventy-two (72) hours after the beginning of any cause for delay), in the absence of which Supplier waives its right for an excuse for such delay.

19.4 Any impacts on schedule or compensation resulting from an Event of Force Majeure shall be delivered to Owner by Supplier in a duly approved Change Order.

19.5 Notwithstanding anything else in this Agreement, if an Event of Force Majeure occurs on the part of Supplier, Owner will have no obligation to pay any fees for obligations that Supplier fails to provide in accordance with the applicable Purchase Order.

19.6 Supplier shall make reasonable efforts and take mitigating action to minimize the effects of the Event of Force Majeure on Owner and on the Scheduled Completion Date.

19.7 The performance of obligations under a Purchase Order shall be suspended during any Event of Force Majeure and shall be resumed as soon as practicable after the Event of Force Majeure has ceased. If any Event of Force Majeure involving Supplier or Supplier's suppliers or Subcontractors

(i) disrupts, or threatens to disrupt, Owner's operations; or (ii) if the Event of Force Majeure lasts for more than twenty (20) days, Owner may, by written notice, terminate all obligations and liabilities imposed on it by a Purchase Order except for the obligation to pay the reasonable costs and expenses incurred by Supplier in the course of its performance of its obligations under such Purchase Order prior to such notice of termination.

ARTICLE 20 – INDEMNITY AND LIABILITY

20.1 Supplier will indemnify, defend, save and hold harmless Owner's Group against all Losses resulting from, arising out of, relating to or incurred by reason of, in whole or in part, any of the following events (including the defense of such events):

- (a) any negligent, criminal, or fraudulent act or omission of, or willful misconduct by Supplier, Supplier Affiliate, Supplier Subcontractor or Employees;
- (b) any death, bodily injury, sickness, disease or injury of any kind, of any Person, to the extent caused by any act or omission of Supplier, Supplier Affiliate, Supplier Subcontractor or Employees;
- (c) any damage, loss or destruction of any tangible, real, personal or intangible property to the extent caused by any act or omission of Supplier, Supplier Affiliate, Supplier Subcontractor or Employees;
- (d) any taxes that are the responsibility of Supplier or which may arise or be imposed as a consequence of a breach of a covenant of Supplier hereunder;
- (e) Supplier's (or Supplier's Affiliates') breach of or default under this Agreement, including any inaccuracy of any representation or warranty under this Agreement;
- (f) any worker's compensation or workplace safety and insurance premiums as referred to in Section 21.1(d);
- (g) Supplier's indemnification obligations in Section 24.1 (Independent Contractor);
- (h) any breach of the obligations of Supplier in Article 17 (Protection of Confidential Information); and
- (i) any of Applicable Laws by Supplier, a Supplier Affiliate, Supplier Subcontractor or Employee or any action by an applicable governmental authority where such action is directly related to Supplier's performance of the Services or provision of the Material.

20.2 Indemnification Procedure

- (a) Upon becoming aware of any claim which is the subject of an indemnification under this Agreement (each a "**Claim**"), Owner will promptly notify Supplier of the Claim (although failure to so notify Supplier shall only relieve Supplier of its obligations to the extent Supplier is prejudiced).
- (b) Owner will, at its sole discretion, determine whether Owner will defend against the Claim and any related proceedings or settlement negotiations or elect to have Supplier, at Supplier's own cost and expense, defend against the Claim and any related proceedings or

settlement negotiations. In the event that Owner elects to have Supplier defend the Claim and any related proceedings or settlement negotiations, Supplier shall use reputable counsel reasonably acceptable to Owner, and any related proceedings or settlement negotiations.

- (c) At the sole cost and expense of Supplier, Owner or any Affiliate will take all reasonable steps to co-operate with Supplier in the defence of such Claim, proceedings or negotiations.
- (d) In connection with any Claim, Supplier will:
 - (i) provide Owner with regular updates on the status of the defence at Owner's request; and
 - (ii) not agree to any settlement of the Claim without Owner's prior written consent unless such settlement only involves a monetary payment and will not give rise to any additional liability or negative exposure to Owner.

20.3 When Exclusions and Limitations Do Not Apply

- (a) Notwithstanding anything to the contrary in this Agreement, Supplier does not exclude or limit its liability in respect of:
 - (i) Losses suffered or incurred by Owner as a result of any deliberate and sustained cessation of a material portion of the Services provided under a Purchase Order without a bona fide attempt to resume such portion of the Services or to remedy the cause of such cessation;
 - (ii) Supplier's indemnification obligations hereunder or under a Purchase Order;
 - (iii) any breach of the obligations of Supplier in Article 17 (Protection of Confidential Information);
 - (iv) any of Applicable Laws by Supplier, a Supplier Affiliate, Supplier Subcontractor or Employee (including any breach of Article 27) or any action by an applicable governmental authority where such action is directly related to Supplier's performance of the Services or provision of the Material; or
 - (v) any Losses, to the extent such Losses would be recoverable under any of the insurance policies required pursuant to Article 21 or otherwise required under this Agreement or a Purchase Order, regardless of whether Supplier has maintained such insurance policy.

20.4 Limitation of Liability

- (a) Subject to Section 20.3 above, the Parties, their Affiliates and their respective directors, officers, employees and agents will not have any liability for, or obligation with respect to, any damages that are not reasonably foreseeable in nature and in no event will any Party be liable for damages that are special or punitive.
- (b) Subject to Section 20.3 above, a Party's aggregate liability for any Purchase Order is limited to three (3) times the value of such Purchase Order.

20.5 If Supplier shall be comprised of more than one Person, the obligations of each such Person shall be joint and several.

ARTICLE 21 – INSURANCE

21.1 **Required Insurance** Prior to commencement and throughout the Term of this Agreement, Supplier shall procure and maintain at its cost, as applicable, policies in respect of the following insurances:

- (a) Commercial General Liability Insurance (“**CGL**”) including coverage for liability assumed under contract, Owner’s and Contractor’s Protective, Broad Form Property Damage, Products and Completed Operations, Severability of Interest and Cross Liability and when applicable to the operations on site as determined by Owner, Sudden and Accidental Pollution Liability, in the minimum amount of twenty million dollars (\$20,000,000) per occurrence. This policy of insurance shall include Owner as Additional Insured, and contain a waiver of subrogation in favour of Owner.

This limit may be satisfied by Supplier through a combination of CGL and Umbrella or Excess Liability Insurance.

If such CGL is written on a Claims Made form, then the policy must be kept in full force and effect for a period of two (2) years following termination of this Agreement.

- (b) Automobile Liability Insurance - covering all vehicles owned or non-owned, operated and/or licensed in connection with the performance of this Agreement. The insurance to be provided shall include coverage for bodily injury, pollution liability, passenger hazard if applicable, and property damage, in an amount of not less than five million dollars (\$5,000,000) inclusive any one occurrence or accident.

Non-owned automobile liability may be provided by the CGL or the Automobile Liability policy. This limit may be achieved through a combination of Automobile Liability and Umbrella or Excess Liability.

- (c) Property Insurance – “All Risk” insurance (including flood and earthquake) upon all property owned by Supplier or for which Supplier is legally liable, or which is installed by or on behalf of Supplier as well as Supplier’s personal property, and construction machinery and equipment owned or rented and used by Supplier for the performance of the work, in an amount of at least one hundred percent (100%) of the full replacement cost. This policy shall contain a waiver of subrogation in favour of Owner.

Contractor’s equipment may be included in the property policy or in a separate policy.

- (d) Workers’ Compensation and Employer’s Liability Insurance – during the term of this Agreement, Supplier shall procure and maintain at its cost, the following minimum insurance:

- (i) Supplier shall comply with Employment Insurance and Worker’s Compensation legislation covering all Persons employed by Supplier including directors, partners, and proprietors;

- (ii) Supplier shall procure Workers' Compensation insurance in accordance with the jurisdictional requirements in which the work is being performed. This policy shall contain a waiver of subrogation in favour of Owner;
 - (iii) Employer's Liability Insurance for employees domiciled in the United States covering all Persons employed by Supplier including directors, partners and proprietors in the amount of one million dollars (\$1,000,000), in a form as required in the jurisdiction in which the work is being performed. This policy shall contain a waiver of subrogation in favour of Owner;
 - (iv) Employer's Liability Insurance for employees domiciled in Canada covering all persons employed by Supplier who are not required to be covered by Workers' Compensation, and Contingent Employers Liability Insurance covering all Supplier employees where such employee is covered by Workers' Compensation. This insurance may be provided on the CGL policy, and shall contain a waiver of subrogation in favour of Owner.
- (e) Design Professional Liability Insurance (if performing design professional services and as determined by Owner), or if Supplier's errors or omissions in the course of performing the Services, could result in pure financial loss to Owner, Errors and Omissions Insurance, with minimum limits of ten million dollars (\$10,000,000) and a deductible no greater than one million dollars (\$1,000,000) to protect Supplier against claims which may arise from its negligence or errors and omissions in connection with this Agreement. Such Professional Liability Insurance or Errors or Omissions Insurance shall be kept in full force and effect by Supplier at all times during the work and for a period of four (4) years following completion date.
- (f) Aircraft Liability covering owned or non-owned aircraft if such are used directly or indirectly in the performance of this Agreement and as determined by Owner, including use of aviation premises, in an amount of not less than five million dollars (\$5,000,000) for Aircraft Passenger Hazard. This policy of insurance shall include Owner as Additional Insured, and contain a waiver of subrogation in favour of Owner.
- (g) Contractor's Pollution Liability Insurance (if performing contractors pollution services and as determined by Owner) covering Losses caused by pollution conditions (including sudden and accidental and non-sudden and accidental pollution conditions) arising from the Services provided by Supplier or any Subcontractor, in the amount of ten million dollars (\$10,000,000) per claim. Coverage to apply, without limitation, to bodily injury, property damage, loss of use of damaged property, clean-up costs, and liability arising from the transportation of hazardous waste. This policy shall include Owner as Additional Insured, and contain a waiver of subrogation in favour of Owner. If such Contractor's Pollution Liability Insurance is written on a Claims made form, then the policy must be kept in full force and effect for a period of two (2) years following termination of this Agreement.
- (h) Insurance Required by Law - any other insurance which is required by law in connection with this Agreement.

21.2 Prior to commencement of the Term, Supplier shall provide Owner with a certificate of insurance evidencing the aforementioned insurance policies.

- 21.3 For all policies, there shall be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written notice from Supplier or its insurer(s) to Owner. Any failure to comply with the reporting provisions of this clause shall constitute a material breach of the Agreement and each Purchase Order and shall be grounds for immediate termination of this Agreement and/or a Purchase Order by Owner. Supplier shall deliver to Owner all documentation evidencing renewal of the particular insurance policy prior to expiration.
- 21.4 The aforementioned insurances must be placed with insurers who have an A.M. Best rating of A- or better, and who are licensed to do business in the location in which the work is being performed.
- 21.5 All insurance coverages required shall be primary and non-contributing with any other insurance coverage available to Owner. Insurance coverage required under this Agreement shall be additional security for the liability Supplier has assumed hereunder and shall not be deemed to limit any such liability, nor shall such requirements be considered the amount or types of insurance Supplier should carry to adequately protect itself from the risks of its occupation.
- 21.6 **Liability not Displaced** The requirement for Supplier to maintain insurance shall not displace any liability Supplier would otherwise have to Owner.

ARTICLE 22 – TERMINATION OF THE AGREEMENT

- 22.1 Owner may, subject to the provisions of Section 22.7 hereof, terminate this Agreement or any Purchase Order at Owner's sole option, without cause, at any time by giving fourteen (14) days' written notice to Supplier.
- 22.2 Subject to Sections 22.3 and 22.4, Owner may at its sole discretion, terminate this Agreement or a Purchase Order for cause by providing written notice to Supplier in each of the following circumstances:
- (a) a breach by Supplier of any term or condition of this Agreement or the applicable Purchase Order;
 - (b) the bankruptcy or insolvency of Supplier, or upon receipt of a receiving order made against it or making an arrangement with its creditors, or commencing to be wound up (not being a voluntary winding up for the purpose of a bona fide amalgamation or restructuring of Supplier), or carrying on its business or any significant part thereof by or under the supervision of a receiver or administrator (or similar Person or entity) for the benefit of its creditors or any of them; and
 - (c) a breach by Supplier of Applicable Laws or permits.
- 22.3 Upon the occurrence of a default contemplated in Section 22.2(b), Owner shall be entitled to immediately terminate this Agreement and/or any Purchase Order.
- 22.4 Upon the occurrence of a default contemplated in Sections 22.2(a) or 22.2(c), Owner shall be entitled to terminate this Agreement and/or the applicable Purchase Order immediately unless, to the extent such default is capable of being cured, Supplier cures such default within five (5) days of receiving the aforementioned notice of such default.

- 22.5 Owner shall be in default of this Agreement and the applicable Purchase Order upon the occurrence of a failure of Owner to pay any amount owing to Supplier when due under such Purchase Order.
- 22.6 Upon the occurrence of a default pursuant to Section 22.5, Supplier shall provide Owner with written notice of such unpaid amount and Owner shall have sixty (60) days from the date of receipt of the notice in which to pay the amount or dispute payment of such amount. If the amount remains unpaid following this sixty (60) day period or within sixty (60) days following a final determination of any disputed amount, Supplier may immediately terminate this Agreement and the applicable Purchase Order.
- 22.7 Effect of Termination.
- (a) Any expiration or termination of this Agreement will not result in the termination of a Purchase Order unless that Purchase Order is terminated in accordance with its terms.
 - (b) Expiration or termination of a Purchase Order will not result in the termination of any other Purchase Order or this Agreement unless that other Purchase Order or this Agreement is terminated in accordance with its terms.
 - (c) Where this Agreement terminates or expires and a Purchase Order does not terminate, the provisions of this Agreement that are incorporated into the Purchase Order will continue to apply.
 - (d) Termination of this Agreement, a Purchase Order or any portion of either of them in accordance with this Article will be without cost or liability to Owner. Supplier will be entitled to receive payment for all Materials and Services provided in accordance with the terms of any Purchase Order, up to the date of expiry or termination of such Purchase Order. Supplier will promptly refund Owner for all Materials and Services paid for by Owner that have not been performed up to such termination or expiration date.
 - (e) Termination of this Agreement or a Purchase Order or any portion of either of them, however and whenever occurring, will not prejudice or affect any right of action or remedy which will have accrued to any Party up to and including the date of such termination.

ARTICLE 23 – ASSIGNMENT AND SUBCONTRACTING

- 23.1 **Assignment** Owner may assign, pledge or make other disposition of rights, benefits or entitlements, or delegate any duty, obligation or liability it has under this Agreement or a Purchase Order at any time without the prior written consent of Supplier. Supplier shall not assign, pledge or make other disposition of rights, benefits or entitlements, or delegate any duty, obligation or liability it has under this Agreement or a Purchase Order without first obtaining the prior written consent of Owner, which consent shall not be unreasonably withheld.
- 23.2 **Subcontracts** Should Supplier wish to subcontract all or part of the supply of Material and Services, Supplier shall notify Owner of such intent prior to engaging the Subcontractor, and shall not engage any such Subcontractor without Owner's prior written consent, which consent may be withheld in Owner's sole discretion. Any portion of the Material and Services supplied by a Subcontractor shall be pursuant to an appropriate agreement between Supplier and the Subcontractor that specifically binds the Subcontractor to the applicable terms and conditions of this Agreement. Nothing contained in this Agreement shall create any contractual relation between any Subcontractor and Owner. With respect to any portion of the supply of Material and/or

Services so subcontracted, Supplier hereby guarantees the performance of this Agreement and each Purchase Order by each such Subcontractor and hereby assumes full responsibility for any of their acts or omissions. Supplier shall remain fully liable to Owner notwithstanding any such approved subcontract.

- 23.3 **ISNetworld** Supplier shall maintain, and shall require that its Subcontractors who perform Services on any Work Site maintain, a subscription to ISNetworld and a grading of no less than B within ISNetworld. Access to Work Sites may be denied to any Supplier or Subcontractor who fails to comply with this requirement. Compliance with this Article shall not relieve Supplier of any of its obligations under this Agreement or any Purchase Order.

ARTICLE 24 – INDEPENDENT CONTRACTOR

- 24.1 **Independent Contractor** Supplier shall for all purposes of this Agreement and each Purchase Order, be an independent contractor and not an agent or partner of Owner or any of its Affiliates. Supplier shall engage and pay for personnel skilled in the appropriate disciplines and duly qualified or, as necessary, registered, to supply the Material and any Services and in order to comply with all Applicable Laws. No provision in this Agreement shall be deemed or construed to create a joint venture, partnership, agency or other such association between the Parties. To the extent a court finds otherwise, the Supplier shall indemnify, defend, save and hold harmless the Owner. Without limiting the Supplier's indemnity obligations under this Agreement, at law or equity and with respect to the performance of any Services procured hereunder at the Owner's facility located in Louisiana, Supplier acknowledges and agrees that a statutory employer relationship as envisioned by La. R.S. 23:1061 (A) exists between Supplier and Owner as to the Supplier's direct employees and its statutory employees and that the work to be performed under this order is an integral part of, or essential to, the ability of the Owner to generate its own goods, products or services.
- 24.2 **Direction of Supplier** Other than Owner's interest in ensuring that the required results are obtained, any provision of this Agreement or a Purchase Order that appears to give Owner or any of its Affiliates the right to direct Supplier as to the details of anything to be done, or to control performance of the supply of the Material and Services, shall be deemed to mean that Supplier shall follow the desires of Owner or its Affiliate, as applicable, only as far as the objectives or end result of the supply of Material and Services are concerned, and not in the means by which anything is to be accomplished. Except as specifically provided, Supplier shall have complete control over the manner in which the Material and Services are supplied and shall at all times be responsible for supervising and directing its personnel.
- 24.3 **ACA** At all times during the Term, Supplier shall:
- (a) be responsible for its Employees and for their compensation, benefits (including, if applicable, all ACA coverage and reporting obligations) and contributions, including their supervision, discipline, and adherence to the contract, policies, law and regulations;
 - (b) if applicable, maintain compliance with the ACA, including timely offering and, if elected by its employees, providing each of its full-time employees (and his or her dependent children) with group health coverage that: (i) qualifies as minimum essential coverage under an eligible employer-sponsored plan; (ii) is affordable; (iii) provides minimum value; and (iv) does not have a waiting period in excess of 90 days of the date the Supplier's employee began working for it, so that no payment may be assessed to the Supplier or the Owner (or any Affiliates of Supplier or Owner) under Section 4980H of the Internal Revenue Code with respect to the Supplier's employees or any other full-time employees

of Owner or any Owner Affiliate for any month. Supplier shall amend its agreements with Subcontractors to ensure that all Subcontractors' personnel agree to comply with this Section and agree to indemnify, defend, save and hold harmless Owner for any breach of this Section. The terms "full-time", "dependent children" "eligible employer sponsored plan", "minimum essential coverage", "affordable", "dependent" and "minimum value" shall have the meanings set forth in Internal Revenue Code Section 4980H and the final regulations issued by the Internal Revenue Service interpreting Code Section 4980H's requirements.

ARTICLE 25 – UNAUTHORIZED USE OF OWNER’S NAME AND TRADEMARKS

25.1 Supplier shall not, without Owner’s prior written consent:

- (a) make any statement or publish or release to any other Person any photograph, advertisement, testimonial, letter of commendation or approval, or any other document or written matter that might imply Owner’s or any of its Affiliates’ approval of the products, actions or performance of Supplier; or
- (b) make any use of Owner’s or any of its Affiliates’ trademarks or logos.

ARTICLE 26 – LIENS

26.1 Provided that Owner has made all payments required pursuant to the Agreement, other than those which it has disputed in good faith, Supplier shall and shall cause its Subcontractors, suppliers, agents and assigns to: (i) keep the property and premises of Owner and its Affiliates free and clear of all liens, charges and encumbrances arising by reason of having provided labor, materials and equipment relating to the supply of Material and Services under a Purchase Order; (ii) not cause or allow to be filed any mechanic’s liens, materialmen’s liens or other liens or encumbrances arising by reason of having provided labor, materials and equipment relating to the supply of such Material and Services; and (iii) defend, indemnify and hold Owner’s Group harmless from and against any and all such liens and encumbrances.

26.2 In addition to any rights given under applicable legislation, Owner may pay and discharge any claims or portion thereof arising out of the supply of the Material and Services and deduct the amount paid, including legal fees and other costs, from amounts due to Supplier under a Purchase Order. If the cost of discharging such lien or claim exceeds amounts due to Supplier, Supplier shall promptly reimburse the difference to Owner.

26.3 Supplier warrants that upon submission of an invoice pursuant to the terms hereof, the invoice shall, to the best of Supplier’s knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of Supplier, Subcontractors, material suppliers, or other Persons or entities making a claim by reason of having provided labor, materials and equipment relating to the supply of Material and Services hereunder.

ARTICLE 27 - BUSINESS ETHICS COMPLIANCE

27.1 In performance of its obligations under the Agreement, neither Supplier nor any Person acting on behalf of Supplier shall:

- (a) authorize the giving of, offer, or give anything of value to anyone for the purpose of influencing or inducing the recipient to obtain, retain, or direct business for or to any Person or for the purpose of securing any improper advantage;
- (b) request, agree, receive, or accept any bribe, kickback, or anything of value from anyone with the knowledge or belief that all or a portion of the payment is given with the purpose of improperly influencing Owner's, its Affiliates' any of their employees, or your actions;
- (c) violate any laws where they conduct business on behalf of Owner including any laws of the United States or Canada or any corruption laws of any country including any corrupt practices act of the United States, United Kingdom, Canada, or the domestic country.

27.2 Notwithstanding any other provisions in the Agreement, if Owner reasonably determines that Supplier's performance under the Agreement is contrary to:

- (a) the Corruption of Foreign Officials Act (Canada);
- (b) the *United States* Foreign Corrupt Practices Act;

or any other laws where they conduct business, then Owner may immediately terminate the Agreement. Any compensation paid or accrued relating to such violation shall be forfeited and/or refunded to Owner by Supplier, and no future payments or accruals shall be made by Owner for Supplier's account. Under no circumstances may Owner be required to make any payment that could be construed to be in furtherance of a violation of this Article 27 or any anti-corruption laws.

27.3 If Supplier, its Affiliates, shareholders, Subcontractors, members, managers, directors, officers, Employees, independent contractors, agents or representatives, are made the subject of any claim, charge, or accusation of being, or are found to be, in violation of any anti-bribery legislation in connection with the performance of the Agreement, Supplier shall reimburse Owner for any costs, including investigations and any legal/expert fees that arise out of the violations and shall further defend Owner's Group against any and all threatened or actual claims, suits, actions, or proceedings, and indemnify and hold each and all of them harmless against any costs incurred (including pre-suit investigations, expert fees, legal fees) and any and all sums paid or awarded with respect thereto as penalties, damages, restitutions, or otherwise. Owner shall have the right to recovery any expense including, attorney fees to enforce the rights conferred in favor of Owner under this Article 27.

27.4 Supplier shall have and shall maintain in place throughout the Term and any PO Term its own policies and procedures regarding anti-bribery and gifts & entertainment, including adequate procedures to ensure compliance with this Article 27.

27.5 Supplier shall maintain accurate books and records necessary to demonstrate compliance with this Article 27 and will execute reasonable certifications and disclosures requested by Owner in connection with the foregoing. Supplier will cooperate fully in any investigation by Owner of a potential violation of any of this Article 27. In addition, Supplier shall retain such books and records for a minimum of seven (7) years after the termination of the Agreement. Failure to do so is a material breach of the Agreement and grounds for termination. Supplier shall require the same covenant from its suppliers and Subcontractors involved in providing the Material or Services.

27.6 Supplier shall permit Owner or an independent auditor reasonably acceptable to both Owner and Supplier to examine and take abstracts from the relevant records of Supplier's and/or examine

physical inventory to such extent as may be reasonably necessary to enable Owner to verify or determine compliance with this Article 27. SUPPLIER'S FAILURE TO MAKE ITS AND ITS' SUBCONTRACTORS' AND SUPPLIERS' RECORDS AVAILABLE AS AND WHEN REQUESTED BY OWNER SHALL BE GROUNDS FOR OWNER TO IMMEDIATELY TERMINATE THE AGREEMENT.

- 27.7 This Article 27 shall survive termination of the Agreement and Supplier shall not destroy any Records relating to the Agreement without Owner's prior written consent for seven (7) years after the termination of the Agreement. Costs associated with the audit/investigation shall be borne by Owner. However, if Owner determines that a violation has occurred, Supplier shall reimburse Owner for all of its investigation/auditing expenses.
- 27.8 Supplier shall immediately notify Owner if Supplier becomes aware of any breach of this Article 27, including by any of its Subcontractors or suppliers.
- 27.9 Notwithstanding any other provision in the Agreement, Owner shall not be obliged to take any action or omit to take any action that it believes, in good faith, would cause it to be in violation of any law or regulation. Owner's action or failure to act in reliance upon this Article 27 shall not expose Owner to liability to Supplier.

ARTICLE 28 – PERSONNEL

- 28.1 **Key Personnel** If required in the applicable Purchase Order, Supplier will propose a list of person(s) to perform the Services and Owner shall have the right to review and accept or reject the proposed person(s). Upon acceptance by Owner, such person(s) will be deemed “**Key Personnel**” for purposes of this Agreement.
- 28.2 **Removal of Key Personnel** If a list of Key Personnel is required in the applicable Purchase Order, except upon request of Owner, Supplier shall not remove or replace Key Personnel unless Supplier provides fourteen (14) days prior written notice to Owner, and Owner gives its consent in writing to such removal or replacement, which consent shall not be unreasonably withheld. Supplier agrees to minimize turnover to the extent reasonably possible. Owner shall not be responsible for any costs incurred as a result of personnel changes initiated by Supplier, and personnel changes shall not adversely affect any milestone commitments related to a Purchase Order.
- 28.3 **Overlap** During the period of overlap when Key Personnel are being replaced, Owner shall not be responsible for any of Supplier's costs involved with information transfer between Supplier staff if those personnel changes are initiated by Supplier.
- 28.4 **Replacement of Personnel** Owner may require Supplier to remove said personnel from performance of Services hereunder and to replace them with personnel satisfactory to Owner, at no additional cost to Owner. Supplier shall provide a replacement acceptable to Owner as soon as reasonably possible and shall use reasonable efforts to minimize negative impacts on the applicable schedule.
- 28.5 **Compliance with Owner Policies** Supplier shall be responsible for ensuring that its Employees comply with all Owner policies, made known by Owner to Supplier. Prior to entering a Work Site, Supplier agrees to ensure its Employees are familiar with all site-specific safety requirements established by Owner.

- 28.6 **Representatives** Matters pertaining to the administration of this Agreement shall be dealt with through Owner's Representative and Supplier's Representative as identified in Principal Document - Part I. Either Party may change its Representative by notice pursuant to Section 33.2(Notices).
- 28.7 **Diversity & Inclusion** Supplier shall comply with diversity and inclusion obligations set out on Exhibit "E".

ARTICLE 29 – PRESENCE ON OWNER'S PREMISES

- 29.1 If Supplier is performing the Services at or on a Work Site, before Supplier commences Services, Supplier shall obtain full particulars as to the limitations or restrictions on Supplier's activities or rights of occupation under the licenses, permits and rights of entry acquired or provided by Owner for the Services at a Work Site and the access thereto.
- 29.2 Supplier shall perform the Services at a Work Site in strict compliance with Owner's approved safety procedures, and shall ensure that all Subcontractors comply therewith.
- 29.3 Supplier shall maintain the Work Site in a clean and orderly condition, at all times, clear of all tools, equipment, waste materials, rubbish and any obstructions and hazards.
- 29.4 Supplier acknowledges that Owner has entered into agreements and may in its discretion enter into additional agreements with Persons other than Supplier (each, an "**Other Service Provider**") for the supply of products or services that are related to the Material and Services. Supplier acknowledges and agrees that the performance by such Other Service Providers of their obligations may require the cooperation and assistance of Supplier or its Subcontractors. At Owner's request, Supplier will, and will cause each Subcontractor to, cooperate with and assist the Other Service Providers in order to coordinate the performance by each Other Service Provider of its obligations with the performance of the obligations of Supplier, such Subcontractor and any other Subcontractors.

ARTICLE 30 – SAFETY

- 30.1 If Supplier performs Services at or on a Work Site, Supplier shall be responsible and accountable for safety related to all aspects of the Services. Supplier shall obtain all health, fire and other relevant safety regulations, work practices and procedures prescribed by law together with all policies made known by Owner as contemplated in Section 28.5 from time to time and shall ensure that its Employees are notified of, understand, and abide by said regulations, practices, procedures and policies at all times. If Supplier fails to remedy any breach or to comply with any directive immediately after receipt of written notice, Owner may, in addition to any other remedies provided in this Agreement or a Purchase Order, enter upon Work Site and effect such measures as may be necessary to secure compliance and Owner shall have the right to deduct from any payment due to Supplier an amount sufficient to indemnify Owner against the cost of securing such compliance.
- 30.2 Supplier shall promptly report all accidents, environmental incidents, injuries and safety incidents to government authorities, as required by Applicable Laws, and to Owner on forms to be supplied by Owner and as directed by Owner.
- 30.3 At any reasonable time, Owner may inspect a Work Site and appropriate records regarding procedures and performance statistics to ascertain compliance by Supplier and its Subcontractors with safety requirements of this Agreement. However, neither the existence nor exercise of such

right shall relieve Supplier of its responsibility for monitoring compliance by Supplier and Subcontractors with safety requirements of this Agreement and for fulfilling its other obligations thereunder with respect to safety.

- 30.4 Unless otherwise agreed in this Agreement or a Purchase Order, Supplier shall provide, at no cost to Owner, all required personal protective equipment and other equipment required for the safe performance of the Services.

ARTICLE 31 – SUPPLIER CODE OF ETHICS

- 31.1 Supplier shall conduct, and shall cause its Subcontractors and Employees to conduct, their operations pursuant to this Agreement and each Purchase Order and discharge their obligations thereunder, in all respects, in accordance with the Code of Ethics (the “Code”), as set out in Exhibit “F”.
- 31.2 Supplier shall ensure that its Subcontractors and Employees are aware of the Code, and have reviewed its provisions.
- 31.3 Supplier shall, and shall cause its Subcontractors and Employees to, comply with all Applicable Laws in every jurisdiction in which they do business. The Parties acknowledge that local Applicable Laws may in some cases be less onerous, prescriptive or restrictive than the principles set forth in the Code. In such situations, Supplier shall comply with the Code and with Applicable Laws.
- 31.4 If Supplier becomes aware that it or any of its Subcontractors or Employees have failed to comply with the provisions of the Code in conducting their operations and discharging its obligations under this Agreement or a Purchase Order, Supplier will provide Owner with notice of the breach, and shall, at the its own expense, promptly rectify any such non-compliance and report to Owner on the rectification measures taken or, in the case of a Subcontractor, no longer use such Subcontractor for any Services under this Agreement.
- 31.5 Supplier shall cooperate fully with any inquiry or investigation of a violation of the obligations under this Section.
- 31.6 Owner shall have the right to terminate this Agreement and any Purchase Order should it determine, acting reasonably, that a material violation of Supplier’s obligations under this Section has occurred.

ARTICLE 32 - SUFFICIENCY OF INFORMATION AND AGREEMENT DOCUMENTS

- 32.1 Supplier acknowledges that prior to accepting Owner’s offer in relation to the provision of the Services, Owner provided Supplier with every opportunity for inspecting and testing the Work Site and gave it every assistance in relation to the investigation of all local and other conditions affecting the performance for this Agreement, and the provision of the Services, including, where applicable, in relation to meteorological, geological, labor, accommodation, fuel, power, water, telecommunications and transport conditions. Supplier has sole responsibility for such conditions, and no adjustment to the Prices or extension of time will be granted to the Supplier with respect to any such surface conditions or subsurface conditions.

- 32.2 Supplier is deemed to have carefully and fully examined all documents and information which have been provided to it by Owner as part of this Agreement and the Services or Materials provided thereunder, and Supplier has satisfied itself as to the accuracy of such documents and information given to it at any time by Owner and accepts full responsibility for any use by it of such information including responsibility for any conclusions drawn by it from such documents or information.
- 32.3 Owner does not warrant or guarantee the accuracy, sufficiency or otherwise of any information provided to Supplier under this Agreement and disclaims all responsibility for it. The Parties acknowledge that any information so provided is for the convenience of Supplier only and does not form part of this Agreement unless otherwise expressly agreed to by the Parties in writing, and that any bid or tender submitted by Supplier and its subsequent execution and performance of this Agreement is deemed to have been based on the Supplier's own investigations and determinations. OWNER IS NOT LIABLE FOR ANY LOSSES THAT ARISE OUT OF, OR ARE ATTRIBUTABLE TO, INCURRED OR SUFFERED BY THE SUPPLIER AS A RESULT OF ITS RELIANCE IN ANY WAY UPON ANY DOCUMENTS OR INFORMATION GIVEN TO IT BY OWNER.

ARTICLE 33 - MISCELLANEOUS

- 33.1 **Rights Cumulative** The rights, powers and remedies of Owner in this Agreement or a Purchase Order are cumulative and in addition to and not in substitution for any right, power or remedy that may be available to Owner.
- 33.2 **Notices** Any notice or other communication required or permitted under this Agreement or a Purchase Order shall be sufficiently given in writing and (a) delivered personally, (b) sent by e-mail, (c) sent by registered or certified mail (return receipt requested) or (d) delivered by a recognized courier service, to the Parties' Representatives identified in Principal Document - Part I.
- 33.3 **No Waiver** Owner may at any time insist upon strict compliance with the terms and conditions of this Agreement or a Purchase Order, notwithstanding any previous custom, practice or course of dealing between the Parties to the contrary. The waiver by Owner of any breach of any term, covenant, condition or agreement contained in this Agreement or a Purchase Order shall not be deemed to be a waiver of any subsequent breach of the same or a breach of any other term, covenant, condition or agreement.
- 33.4 **Survival** The provisions of Article 7, Article 8, Article 10, Article 11, Article 12, Article 13, Article 17, Article 18, Article 20, Article 21, Article 22, Article 25, Article 26, Article 27 and Article 33 and any other provisions which by their nature are intended to survive the termination or expiration of this Agreement or a Purchase Order, including any expressed limitations of or releases from liability and any warranties or guarantees, shall continue as valid and enforceable obligations of the Parties notwithstanding any such termination or expiration.
- 33.5 **Entire Agreement/ Changes** This Agreement together with a Purchase Order sets forth the entire understanding and agreement between the Parties as to the subject matter hereof and supersedes all prior documents, agreements and understandings, written or oral, between the Parties. No variations of the terms and conditions of this Agreement or a Purchase Order shall be binding on Owner unless evidenced in a Change Order and executed by the Parties.

33.6 **Governing Law**

This Agreement shall for all purposes be construed and interpreted according to the laws of the **[State of New York] OR [Province of Alberta] OR [Province of Saskatchewan]** and the federal laws of **[the United States] OR [Canada]** applicable therein, excluding reference to conflicts of laws principles. Neither the *Uniform Commercial Code*, nor the *United Nations Convention for the International Sale of Goods* shall apply to this Agreement. Any dispute relating to this Agreement shall be resolved by the **[state] OR [provincial]** courts of the **[State of New York located in the city of New York] OR [Province of Alberta located in the city of Calgary] OR [Province of Saskatchewan located in the city of Saskatoon]** and those competent to hear appeals therefrom.

Any Purchase Order issued by Owner or an Owner Affiliate with a principal address in Canada (the “**Canada Agreements**”) will in all respects be governed by, and construed in accordance with, the Applicable Laws (excluding conflict of laws rules and principles) of the **[Province of Alberta] OR [Province of Saskatchewan]** applicable to agreements made and to be performed entirely within such province, including all matters of construction, validity and performance. Jurisdiction and venue in any claim (i) arising under the Canada Agreements or (ii) in any way connected with or related or incidental to the dealings of the Parties in respect of the Canada Agreements or any of the transactions related thereto, in each case whether now existing or hereafter arising, will properly and exclusively lie in the provincial courts of the Province of **[Alberta located in the city of Calgary] OR [Saskatchewan located in the city of Saskatoon]**.

Any Purchase Order issued by Owner or an Owner Affiliate with a principal address in the United States (the “**US Agreements**”) will in all respects be governed by, and construed in accordance with, the Applicable Laws (excluding conflict of laws rules and principles) of the State of New York applicable to agreements made and to be performed entirely within such State, including all matters of construction, validity and performance. Jurisdiction and venue in any claim (i) arising under the US Agreements or (ii) in any way connected with or related or incidental to the dealings of the Parties in respect of the US Agreements or any of the transactions related thereto, in each case whether now existing or hereafter arising, will properly and exclusively lie in the state courts of the state of New York located in New York County (the “**New York State Courts**”) or, to the extent the New York State Courts do not have subject matter jurisdiction, the United States District Court for the Southern District of New York and the appellate courts having jurisdiction of appeals in such courts (the “**New York Federal Courts**”) or, to the extent neither the New York State Courts nor the New York Federal Courts have subject matter jurisdiction, the state courts of the state in which Owner’s principal address is located.

Any Purchase Order issued by Owner or an Owner Affiliate with a principal address in Trinidad and Tobago (the “**Trinidad Agreements**”) will in all respects be governed by, and construed in accordance with, the Applicable Laws (excluding conflict of laws rules and principles) of Trinidad & Tobago applicable to agreements made and to be performed entirely within such jurisdiction, including all matters of construction, validity and performance. Jurisdiction and venue in any claim (i) arising under the Trinidad Agreements or (ii) in any way connected with or related or incidental to the dealings of the Parties in respect of the Trinidad Agreements or any of the transactions related thereto, in each case whether now existing or hereafter arising, will properly and exclusively lie in the Supreme Court of Judicature.

33.7 **Enurement** This Agreement shall be binding upon and shall enure to the benefit of the Parties and their respective successors and permitted assigns.

- 33.8 **Set Off** Owner shall have the right to apply any monies due to Supplier under a Purchase Order toward the payment of any sums which Supplier or any of its Affiliates may now or hereafter owe to Owner or any of its Affiliates. In addition, in the event that Supplier defaults, in any other agreement between the Parties, Owner shall have the right to withhold any unpaid sums due on all such agreements with Supplier.
- 33.9 **Severability** In case any provision in this Agreement, a Purchase Order or the application thereof, is held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
- 33.10 **Counterparts** This Agreement may be executed in counterparts and may be signed and delivered by facsimile, pdf or other means of electronic communication producing a printed copy, each of which so signed and delivered shall be deemed to be an original and such counterparts together shall constitute one and the same instrument.
- 33.11 **Draftsmanship** The fact that one of the Parties may have drafted or structured any provision of this Agreement shall not be considered in construing the particular provision either in favour of, or against, such Party.
- 33.12 **Electronic Signature** This Agreement may be executed by inserting an electronic signature comprising an image of the signature of an authorized signing officer of the Party executing this Agreement into the electronic version of this Agreement.
- 33.13 **English Language** The Parties agree that this Agreement, each Purchase Order and any documents ancillary thereto shall be drafted in English only. *Les Parties conviennent que ce contrat, chaque bon de commande et tout accessoire de documents s’y rapportant doivent être rédigés en anglais seulement.*

***** END OF PRINCIPAL DOCUMENT PART II: AGREEMENT TERMS AND CONDITIONS

EXHIBIT “A”: COMPENSATION

[NTD: Insert applicable Exhibit “A” which includes placeholder for prices for the Materials/Services and expense policy (we’ve attached PCS’ current expense policy for consideration).]

Expense Reimbursement Policy

1. Owner will not be billed for travel time and nor does travel time count towards any overtime pay.
2. In the event Owner has pre-approved the reimbursement of any expenses incurred by Supplier in connection with the performance of the Services, Supplier shall invoice Owner for such expenses at the actual invoiced cost with no mark up and will provide their supplier invoice as back up for the Supplier invoice to Owner.
3. Reimbursable Expenses

Final reimbursement of pre-approved expenses is based on sufficient and proper documentation of reasonable and actual expenses supported by the original, itemized receipts. Pre-approved expenses which may be reimbursed by Owner, and the conditions related thereto (if any), are as follows:

- A. Airfare – Travelers are expected to obtain the lowest available airfare that reasonably meets business travel needs. Travelers are encouraged to book flights as far in advance as possible to avoid premium pricing.
 - i) Coach class or economy tickets must be purchased for domestic or international flights. A higher-priced coach ticket cannot be purchased for a subsequent upgrade in seating.
 - ii) In any case, first class and business class tickets are not reimbursable.
 - iii) In the event of flight cancellation, Owner may reimburse Supplier for any and all cancellation fees provided that the cancellation fee must be substantiated by airline documentation and the cancellation is the a result of Owner’s decision and not the decision, action or inaction of Supplier, a Supplier Employee or a Subcontractor.
- B. Automobile – Reimbursement for usage of a personal automobile is \$0.54 CAD per kilometer in Canada and \$0.54 USD per mile in the US and Trinidad.
- C. Automobile – Reimbursement for a commercial rental vehicle as a primary mode of transportation is authorized only if the rental vehicle is more economical than any other type of public transportation, or if the destination is not otherwise accessible. Vehicle rental at a destination city is reimbursable. Owner will only authorize reimbursement for entry-level or the most economic vehicle available. If 3 or more people are traveling or in order to ensure the safety of the travelers (*i.e.* inclement weather or road conditions), Supplier may be entitled to rent a larger vehicle. The rental agreement must clearly show the date, the points of departure/arrival, as well as the total cost. Drivers must adhere to the rental requirements and the restrictions applicable thereto must be followed.

EXHIBIT "A": COMPENSATION

- i) Parking fees, tolls, and other incidental costs associated with the vehicle usage are not covered by the rental agreement.
 - ii) Owner requires Supplier to ensure rental vehicle is returned to rental agency with a full tank of fuel. Owner will not reimburse Supplier for any costs associated with fuel or service fees due to Supplier personnel or contractors failing to avoid this excessive charge.
- D. Meals (Per Diem) – A daily maximum reimbursable cost for meals is \$50 per day and is only applicable for travel greater than two (2) hours one way from personnel’s office or when overnight travel.
- i) Breakfast - \$10 per day paid when an overnight stay is required;
 - ii) Lunch - \$15 per day paid if employee is on site from an overnight stay or for travel greater than two (2) hours from personnel’s office; and
 - iii) Dinner - \$25 per day from an overnight stay or for travel greater than two (2) hours from personnel’s office.
- E. Business Meals – Travelers are required to list all attendees including Owner name and title along with reason for the business meal. Only reasonable costs will be reimbursed, excessive meal or beverage costs may be rejected at the sole discretion of Owner.
- F. Business Expenses – Business expenses including faxes, photocopies, Internet charges, data ports, and business telephone calls incurred while on travel status are included in the hourly rate as overhead.
- G. Parking –The lodging bill can be used as a receipt when charges are included as part of the overnight stay.
- H. Telephone Calls – The costs of personal telephone calls are the responsibility of the individual. Any business related calls are included in hourly rate as overhead.
- I. Roadway Tolls
- J. Miscellaneous Transportation – For example taxi, bus, subway, metro, ferry, and other modes of transportation.
4. Non- Reimbursable Expenses
- The following expenses will not be reimbursed by Owner:
- A. Airline club memberships
 - B. Airline upgrades

EXHIBIT "A": COMPENSATION

- C. Business class for domestic flights/first class for all flights
- D. Child-care, babysitting, house-sitting, pet-sitting/kennel charges
- E. Any and all costs related to pets
- F. Commuting between home and PCS Site
- G. Costs incurred by traveler's failure to cancel travel or hotel reservations in a timely fashion
- H. Evening or formal wear expenses
- I. Haircuts and personal grooming
- J. Laundry and dry cleaning, unless travelling for longer than one week and the employee is not receiving a living allowance
- K. Passports, vaccinations, and visas when not required as a specific and necessary condition of the travel assignment
- L. Personal entertainment expenses including in-flight movies, headsets, health club facilities, hotel pay-per-view movies, in-theatre movies, social activities and related incidental costs
- M. Travel accident insurance premiums and/or purchase of additional travel insurance
- N. Spouse or dependent travel costs
- O. Other expenses not directly related to the business travel

***** END OF EXHIBIT "A": COMPENSATION *****

EXHIBIT “B”: FORM OF SCOPE OF WORK

[OWNER]

And

[SUPPLIER]

SCOPE OF WORK
FOR [INSERT SERVICES/DELIVERABLES]
[insert date]

**SCOPE OF WORK
FOR [INSERT SERVICES/DELIVERABLES]**

This scope of work for [describe services/deliverables] (the “**Scope of Work**”) is entered into as of ●, (the “**SOW Date**”) by and between [Owner] (“**Owner**”), and [Supplier] (“**Supplier**”), pursuant to the [Master Supply and Services Agreement between Owner and Supplier, dated ●,] (the “**Agreement**”) and is agreed to in connection with purchase order # ● (the “**Purchase Order**”).

**ARTICLE 1
INTERPRETATION**

Section 1.1 Deemed Incorporation of Agreement Terms.

In accordance with **Section 9.4** of the main body of the Agreement, this Scope of Work will be deemed to form part of the Purchase Order which incorporates by reference the terms and conditions of the Agreement except to the extent otherwise expressly stated herein.

Section 1.2 Definitions.

Unless otherwise defined herein, words and phrases defined in the Agreement will have the same meaning in this Scope of Work. To the extent that a capitalized term is defined in this Scope of Work as having a meaning different than the meaning ascribed to such term in the Agreement, the Parties intend that the meaning in this Scope of Work will prevail over the definition contained in, or referred to, in the Agreement for the purposes of this Scope of Work.

Section 1.3 Priority.

Except as described in Section 1.2, to the extent of any discrepancy between the terms of this Scope of Work and the Agreement, the provisions contained in the Agreement will prevail.

**ARTICLE 2
TERM**

Section 2.1 Commencement Date and Term.

This Scope of Work will commence as of [●] and will continue for a period of [●] or until terminated in accordance with the Agreement (the “**SOW Term**”).

Section 2.2 [Extended Term.]

[Owner may, at its sole option, extend the SOW Term [by consecutive] [● (●) periods] by providing notification to Supplier [no less than ● (●) months prior to the expiry of the SOW Term (or any extension thereof as applicable)]. In the event Owner elects to extend the SOW Term, this Scope of Work will continue to apply for the duration of the extended term in accordance with its terms including the charges as described herein.]

**ARTICLE 3
SCOPE OF WORK**

Section 3.1 Deliverables and Services.

- a) Pursuant to the terms and conditions herein, Supplier agrees to provide to Owner:
 - (i) **[describe deliverables]** (the “[●]”); and
 - (ii) **[describe services]** (the “[●] Services”), collectively the “[●]”.

[NTD: Provide specifications as required.]

- b) Supplier will provide the following **[additional]** Documentation to Owner in connection with this Scope of Work:
 - (i) **[describe Documentation to be provided, if any]**

Section 3.2 **[Supplier Dependencies.**

In connection with Supplier’s performance of the Services, Owner will be responsible for:]

[●] [NTD: Describe any matters in connection with the Services which Potash and/or Agrium will be responsible for, if any.]

Section 3.3 [Out of Scope Services.

Notwithstanding Section 3.1, Supplier shall not be responsible for the following:]

[●] [NTD: Describe any services/deliverables which are expressly out of scope under this SoW.]

**ARTICLE 4
ACCEPTANCE TESTING**

Section 4.1 Acceptance Testing.

[NTD: In this Article describe:

- (1) **the process for acceptance testing;**
- (2) **the criteria which will be used to determine whether a Milestone/Deliverable has passed acceptance testing;**
- (3) **the date on which acceptance testing for each applicable Milestone/Deliverable must be completed (the “Acceptance Testing Deadline”); and**

- 1. the specific remedies, if any, available to Owner in the event Supplier fails to meet the Acceptance Testing Deadline.]**

**ARTICLE 5
STAFFING AND SUBCONTRACTING**

Section 5.1 Key Personnel.

The following individuals will be Key Supplier Personnel:

[NTD: Insert names of individuals.]

Key Supplier Personnel shall dedicate at least [%●] of their time to the provision of Services to Owner.

Section 5.2 Subcontractors.

Owner acknowledges and agrees that Supplier will utilize the following subcontractors in connection with the performance of the Services as contemplated below:

Subcontractor	Description of service to be performed by such Subcontractor
[●]	[●]

**ARTICLE 6
COST OF WORK**

Section 6.1 Charges.

[NTD: To be used where Services are being performed on a time and materials basis.]

[As full compensation for the provision of the Services, Supplier shall charge Owner on a time and materials basis as follows:

CAD \$[●] (the “Rate(s)”).

If the SOW Term is extended in accordance with this Scope of Work, Owner and Supplier shall negotiate in good faith a new Rate for such extended term.]

OR

[NTD: To be used where Services are being performed on a fixed fee basis.]

[As full compensation for the provision of the Services, Supplier shall charge Owner [●].
[NTD: Set out either (i) the fixed fee for all services/deliverables to be performed/provided under this SoW, or (ii) the fixed fee associated with each Milestone to be completed under this SoW.]

Section 6.2 Invoices.

- a) Supplier shall invoice Owner the total amounts payable under this Scope of Work as follows:

[●] [NTD: Describe when Supplier must invoice Owner for payment – for example, on a monthly basis, in the event payment is on a time and materials basis, or within 30 days of the completion of a Milestone, in the event payment is on a fixed fee, Milestone based, basis.]

b) Invoices for this Scope of Work shall be submitted to the following addresses:

[●]

Attention: **[●]**

c) [NTD: Provide any payment and invoicing requirements/terms not addressed in the MSA.]

ARTICLE 7 SERVICE LEVELS

Section 7.1 Service Levels.

Supplier shall perform the Services **[in accordance with the service levels set out in Exhibit “●”] OR [as follows**

[●]

(collectively, the “**Service Levels**”).

Section 7.2 Service Credits.

If Supplier fails to achieve a Service Level during any month, Owner shall be entitled to the corresponding service credits specified in Exhibit “●”, together with any additional reasonable out-of-pocket expenses directly incurred as a result of Supplier’s failure to meet the Service Levels (collectively, a “**Service Credit**”).

ARTICLE 8 ADDITIONAL TERMS

[NTD: Include any additional terms and conditions related to the provision of the Services.]

ARTICLE 9 AUTHORIZATION

Section 9.1 Authorization.

This Scope of Work is between Supplier and Owner and together with all schedules and exhibits attached hereto and the Agreement constitutes the entire agreement between the parties with respect to the matters contemplated by this Scope of Work. Each of Owner and Supplier acknowledges that it has read and understands this Scope of Work. Supplier and Owner agree to be bound by the terms and conditions in this Scope of Work.

[Signature Page to Follow]

This Scope of Work has been signed by the Parties as of the SOW Date.

[OWNER]

By: _____
Authorized Signing Officer

[SUPPLIER]

By: _____
Authorized Signing Officer

***** END OF EXHIBIT B: FORM OF SCOPE OF WORK *****

EXHIBIT “C”: CHANGE ORDER FORM

TO:		Date:
Change No:	Revision:	Revision Date:
Initiated by: ^a Owner ^a Supplier		Initiator’s Name:
PROJECT TITLE:		
Owner Agreement No.:		Supplier File No:

Owner Purchase Order No:

DESCRIPTION OF CHANGE: ¹

REASON FOR CHANGE:

^a Safety	^a Operability	^a Maintainability	^a Construction	^a Supplier Back Charge
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^a Other

ACTION REQUIRED:

^a Detailed Cost Estimate	Date:
^a Schedule Impact Date	Effect:
^a Begin Work on Change	Up to \$

Change Request signed by Supplier Representative:

C H A N G E A U T H O R I Z A T I O N

Supplier’s Name:

is requested to ^a proceed ^a NOT proceed with the above requested change.

EFFECT ON:

Agreement Price:	Plus or Minus \$
-------------------------	-------------------------

Scheduled Completion Date:	_____ + / - Number of Days: _____
Supplier's Warranty:	
Approved by: ²	Date:

¹ Attach more details on a separate sheet if required.

² Approval and Signature must be by an Owner Representative only.

***** END OF EXHIBIT C: CHANGE ORDER FORM *****

EXHIBIT “D”: AGREEMENT REVISION FORM

AGREEMENT NUMBER: _____

AGREEMENT TITLE: _____

EFFECTIVE DATE: _____

SUMMARY OF AMENDMENT TO AGREEMENT - Prior to any amendments to the executed Agreement, as initiated by Owner and/or Supplier, an Agreement Revision Form **must** be completed in full and approved by both Parties.

DATE:		
TO:	Revision #:	Revision Date:
Initiated by: <input type="checkbox"/> Owner <input type="checkbox"/> Supplier		Initiator’s Name:
Detailed Description of Amendment:		
Action(s) Required: Date Due:		
Effect On Agreement Pricing: (+ / -)	\$	Net % Change
		%
AMENDMENT AUTHORIZATION		
<p>Except as amended above, all other terms, conditions, liabilities, and responsibilities under this Agreement remain unchanged.</p> <p>Owner and Supplier hereby agree to the terms of amended Agreement and have caused amended Agreement to be executed by a duly authorized individual below:</p> <p>FOR SUPPLIER: FOR OWNER:</p> <p>Signature: _____</p> <p>Name Printed: _____</p>		

Title: _____	Title: _____
Date: _____	Date: _____

***** END OF EXHIBIT D: AGREEMENT REVISION FORM *****

EXHIBIT “E”: DIVERSITY & INCLUSION COMMITMENT TO FIRST NATIONS AND MÉTIS PEOPLE

To the extent the Material and Services are supplied in the United States and/or Saskatchewan, Canada, the following will apply:

- 1) Owner seeks to create sustainable, mutually beneficial relationships with diverse suppliers as part of our goal to be a world-class procurement program. Our overall objective is to develop a skilled, effective, and innovative supply chain that accurately reflects the demographics of the areas where we operate and provides fair opportunities for all people associated with our business. As such, Owner has issued a Statement of Commitment to First Nations and Metis (“**Aboriginal**”) People in Saskatchewan. Where Supplier is providing Owner with Material or Services in the Province of Saskatchewan, Supplier is expected to acknowledge this Commitment and, during the course of a formal relationship with Owner, formally articulate and undertake appropriate, measurable initiatives and activities, and at a minimum annually report to Owner its performance on those in the following areas: The Supplier’s opportunities and initiatives for direct training and employment of Aboriginal people in Saskatchewan in its business;
- 2) The Supplier’s opportunities and initiatives in its business supply chain that involve Aboriginal people in Saskatchewan;
- 3) The Supplier’s support, investment in and/or promotion of Aboriginal entrepreneurship and/or Aboriginal communities.

Owner additionally is committed to engaging Minority and Women-owned Business Enterprises (“**MWBE**”) for United States operations.

*****END OF EXHIBIT E: DIVERSITY & INCLUSION COMMITMENT TO FIRST NATIONS AND MÉTIS PEOPLE *****

EXHIBIT “F”: SUPPLIER CODE OF ETHICS

This Code is organized in two sections:

- A. Requirements –Supplier must comply with these expectations.**
- B. Encouragements –Supplier shall undertake these actions.**

A. Requirements

1. Supplier must:

- **Comply with all Applicable Laws, regulations, and rules and promptly report any violations.**
- **Not tolerate retaliation of any kind against a person making a report or complaint of a violation of this Code, or other illegal or unethical conduct, or against a person cooperating in an investigation related to a violation.**
- **Not tolerate unlawful workplace conduct, including child, forced, exploitative or compulsory labour, discrimination, intimidation, coercion, corporal punishment, abuse and harassment.**
- **Ensure employees receive pay complying with applicable national wage laws, and ensure working hours do not exceed the maximum set by the applicable national law.**
- **In accordance with local laws, uphold employees’ right to freedom of thought, conscience and religion, opinion, and expression.**
- **Not practice or tolerate any form of corruption, bribery, kickbacks, extortion, embezzlement, or insider trading.**
- **Not offer, give, or provide any entertainment, gift, gratuity or any other kind of personal benefit to any employee, any member of its family, or a public official, or anyone acting on behalf of each Party for the purpose of securing any improper advantage, unless it: (a) is not a cash gift, (b) is consistent with customary business practices, (c) is not excessive in value, (d) does not violate any applicable laws.**
- **Not engage in any activities that would constitute an unreasonable restraint of trade, unfair trade practice, or other anti-competitive course of conduct.**
- **Protect confidential information, act to prevent its misuse, theft, fraud, improper use or disclosure, and protect business partners’ and employees’ privacy and valid intellectual property rights.**

B. Encouragements

1. Supplier is encouraged to:

- **Allocate appropriate resources to achieve compliance with this Code**
- **Offer related employee training**
- **Develop related management systems, including procedures and assessments**
- **Communicate the requirements of this Code through their supply chain**
- **Support the United Nations' (UN) Universal Declaration of Human Rights, the International Labour Organization's Declaration on Fundamental Principles and Rights at Work, the UN's Declaration on the Rights of Indigenous Peoples, the Voluntary Principles on Security and Human Rights, and the UN Global Compact**
- **In accordance with local laws, uphold employees' right to freedom of association, and the rights to collective bargaining and to form and join trade unions.**
- **Provide employees with equal pay for equal work, timely pay, and periodic holidays with pay**
- **Provide a work environment that supports accident prevention and minimizes workplace exposure to health risks.**
- **Maximize environmental protection through efficient use of energy and natural resources.**

2. Further, to encourage accountability, Supplier shall:

- **Consider externally reporting their commitments, activities and performance related to corporate social responsibility, including, but not limited to: human and indigenous rights; business ethics; stakeholder engagement; community relations; environment; health, safety and security; and employee relations.**

C. Definitions

Abuse – Improper usage or treatment for a bad purpose.

Bribery – An offer or receipt of any gift, loan, fee, reward or other advantage to or from any person as an inducement to do something that is dishonest, illegal or a breach of trust, in the conduct of the enterprise's business.

Child Labour – See ILO Convention No. 138.

Coercion – Forcing another party to act in an involuntary manner (whether through action or inaction) by use of threats, intimidation or some other form of pressure or force.

Corporal Punishment – The deliberate infliction of pain as retribution for an offence, or for the purpose of disciplining or reforming a wrongdoer, or to deter attitudes or behaviour deemed unacceptable.

Corporate Social Responsibility – Self-regulating approach whereby a business ensures compliance with laws, ethical standards, and international norms, embraces responsibility for its actions, and encourages through its activities a positive impact on the environment, consumers, employees, communities, and other stakeholders.

Corruption – The abuse of entrusted power for private gain.

Discrimination – The prejudicial or distinguishing treatment of an individual based on his or her membership—or perceived membership—in a certain group or category such as race, religion, age, gender (including pregnancy and childbirth), marital status, family status, sexual orientation, national or ethnic origin, non-qualifying disability, veteran status, or conviction for which a pardon has been granted.

Embezzlement – Withholding assets for the purpose of theft of such assets by one or more individuals, to whom such assets have been entrusted, to be held and/or used for other purposes.

Exploitative Labour – Work obtained from a person under threat (real or perceived) and which the person has not offered themselves voluntarily.

Extortion – Unlawfully obtaining money, property, or services from a person, entity, or institution by threatening the personal integrity or the life of the private actors involved.

Forced or Compulsory Labour – See ILO Convention No. 29.

Harassment – Behaviour intended to threaten or disturb.

Insider Trading – Selling or buying of a company’s stock or other securities by individuals with access to non-public information about the company.

Kickback – Providing a portion of illegal gain to someone in order for their assistance in obtaining it.]

*****END OF EXHIBIT F: SUPPLIER CODE OF ETHICS *****