

TERMS AND CONDITIONS – NPL CANADA

1 PURPOSE AND SCOPE

- 1.1 These Terms and Conditions apply when referenced by NPL Canada Ltd. (“Company”) in a document authorizing a subcontractor, service provider, supplier or vendor (“Service Provider”) to provide goods, work, services or a combination thereof (such document shall be a “Purchase Order”), or any document authorizing changes to a Purchase Order (a “Change Order”; Change Order(s) and Purchase Order(s) may be collectively referred to as “Order(s)”). Along with any Order(s) and the Supplier Information Form, these Terms and Conditions form the entire agreement between the parties (the “Agreement”).
- 1.2 Company may purchase and/or lease goods, work, services or a combination thereof from Service Provider pursuant to individual Purchase Orders, as amended by any Change Orders. These Orders are subject to the contractual obligations, terms and conditions that are stated in this Agreement. The Parties agree that subsequent Orders do not need to contain or recite any terms and conditions in this Agreement, since they are incorporated by reference for all purposes, as if all words were recited verbatim in the Orders.
- 1.3 The work to be performed may include the furnishing and delivery by Service Provider of all labor, supervision, materials, tools, equipment and supplies which may be necessary to provide the goods, work or services purchased. For purposes of convenience, the terms goods, services or work may be used interchangeably.
- 1.4 Company is not obligated to issue any Order to Service Provider. Company makes no representation or commitment to Service Provider to provide any volume, quantity and/or frequency of work under this Agreement.

2 PURCHASE OFFER, CONDITIONS AND ACCEPTANCE

- 2.1 Unless the Parties agree otherwise with respect to any Orders, this Agreement governs all Orders between the Parties that relate to the purchase or lease of goods, work, or services.
- 2.2 Company’s offer to Service Provider is conditioned upon full and complete acceptance of all of the terms and conditions contained in this Agreement and any specific Orders which may be sent to Service Provider pursuant to this Agreement. This Agreement expressly limits Service Provider’s acceptance to the terms stated herein for any Order that may be issued pursuant to this Agreement. In the event that Service Provider submits or proposes any terms that state any additions, changes, deviations, or modifications to Company’s Order, those terms are automatically deemed void, objected to and rejected by Company unless the Service Provider’s terms are expressly agreed to in writing by an authorized representative of Company. Acceptance of Service Provider’s goods, work or services does not equal acceptance of any of the terms and conditions or other contractual provisions which may be stated in Service Provider’s documentation or agreements whether supplied prior or subsequent to execution or performance of this Agreement.
- 2.3 Any performance by Service Provider with additional, changed, deviated or modified terms constitutes “nonconforming goods, work or services.” Any nonconforming goods, work, or services delivered to Company are accepted under a “reservation of Company’s rights” to dispute, request offset, reject or return the nonconforming goods, work, or services.
- 2.4 This Agreement, all its terms and conditions and any attachments or exhibits are applicable to all Orders which may be issued under this Agreement and are incorporated by reference for all purposes and constitute a complete integration of the Parties’ understanding and agreements.
- 2.5 Service Provider shall sign all Orders which may be issued under this Agreement and return an original to Company. It is anticipated that Service Provider may ship goods or provide services to Company upon the receipt of Company’s Order without signing one or more Orders. In that event, Service Provider’s initiation of performance under an Order constitutes Service Provider’s acceptance of Company’s Order and Service Provider is subject to all of the terms and conditions contained herein and in the applicable Order.
- 2.6 Where Service Provider’s acceptance is by commencement of performance, Company reserves the right to treat its offer as having lapsed before Service Provider’s acceptance.
- 2.7 Upon Service Provider’s acceptance, the Order is the complete and exclusive statement of the terms of the resulting agreements.

3 PRICE

- 3.1 The price or prices for individual Orders issued hereunder are subject to agreement between Company and Service Provider will be set forth in an exhibit referencing this Agreement or in an individual Order.
- 3.2 No extra charges of any kind will be allowed unless specifically agreed to in writing by Company. No insurance or other charges will be allowed unless authorized by Company in writing.
- 3.3 All prices must include any and all taxes, fees, levies or similar charges.

4 QUALITY, INSPECTION, TESTING AND REJECTION OF NONCONFORMING GOODS, WORK OR SERVICES

- 4.1 All services rendered to Company and all items, whether included in service provided or purchased, manufactured or delivered must:
 - meet and conform to Service Provider’s representations;
 - meet and conform to Company’s specifications and requirements;
 - be of good quality and be free from defects in workmanship and material;
 - be fit for their ordinary, intended purposes, and any special purposes so specified;
 - unless otherwise agreed to in writing or inherent in the item(s), be new, this means not reconditioned, repackaged, returned, damaged or manufactured over one year from the date of the product’s original manufacture;
 - not contain, in whole or part, any substituted or inferior materials; and
 - be performed in a good and workmanlike manner.
- 4.2 Company has the right to inspect and test any goods delivered or work/services performed and to reject any or all said goods, work or services which are in Company’s sole judgment defective. In the event Company receives goods, work or services having defects or nonconformities which are not apparent on examination which result in damages to Company, then Company reserves the right to require the replacement, as well as payment of all damages which are caused by the defect, failure or non-conformance. Service Provider agrees to furnish to Company all information and data that is reasonably required to perform Company’s inspection.
- 4.3 The right to test and reject nonconforming goods, work or services applies to all purchases and Orders.

- 4.4 Any payments notwithstanding, Company has thirty (30) days after the first use of the goods, work or services to inspect, test and reject the goods, work or services to ensure they comply with the Order and Service Provider's representations.
- 4.5 Company's inspection or acceptance of or payment for the goods, work or services will not constitute a waiver of any warranties or rights that Company might otherwise have at law or by express reservation in this Agreement with respect to any nonconformity. Company's approval of any sample or acceptance of any goods will not relieve Service Provider from duty to deliver goods, perform services and/or deliver goods which conform to specifications, drawings, or descriptions.
- 4.6 Any tender of goods or performance of services which are nonconforming as to the quality, quantity, or the delivery schedule will constitute a breach of this Agreement, and Company will have the absolute right to reject the same, in whole or in part.
- 4.7 In the event that Company does not accept any goods, work, or services which have been submitted to Company, then Company is entitled to any and all remedies which are provided by law. Furthermore Company, in addition thereto, has the right to do any or all of the following:
- to hold the nonconforming goods or services for a reasonable period at Service Provider's risk and expense pending a determination to accept or reject any or all thereof;
 - to return that nonconforming goods, work, or services to Service Provider at Company's election and at Service Provider's risk and expense for replacement or correction— Company may charge Service Provider for all expenses of unpacking, examining, repackaging, storing, and reshipping of any merchandise rejected;
 - to accept the nonconforming goods, work, or services subject to an equitable price reduction;
 - to replace or correct the nonconforming goods, work, or services and charge to Service Provider the cost occasioned to Company thereby;
 - to recover by offset or otherwise any and all expenses, costs, price reductions, and damages paid, incurred, or suffered by Company as a result of the holding, return, replacement, correction, reductions, or rejections of nonconforming goods, work or services; or
 - to terminate this Agreement.
- 4.8 Service Provider understands that some of the items which may be purchased or services provided may be incorporated into and consumed in conjunction with some unit, vessel, or equipment, and that any inspection or testing of such item may not be accomplished until such unit, vessel or equipment is completed or placed in operation. In that event, Company is not obligated to test or accept such item until such time as such unit, vessel or equipment is placed in operation regardless of whether any invoice has been submitted or has been paid prior thereto.
- 4.9 Service Provider agrees to a continuing obligation, subsequent to delivery of goods or the providing of service, to notify Company in the event that Service Provider discovers or becomes aware of any quality or other deficiency in the delivered goods, work or services performed.
- 4.10 Service Provider must provide written notice to Company within twenty-four (24) hours of discovery of any quality or other deficiency in the delivered goods, work or services performed.

5 DELIVERY

- 5.1 Service Provider must strictly adhere to the delivery and completion schedules specified in this Agreement. The obligation of Service Provider to meet the delivery dates, specifications, and quantities set forth is of the essence of this Agreement and its contemplated Orders. Deliveries are to be made both in quantities and at times specified or if not, in quantities and at times as are specified pursuant to Company's written instructions. Shipments in greater or lesser quantity than ordered may be returned at Service Provider's expense unless written authorization is issued by Company.
- 5.2 If Service Provider's deliveries fail to meet schedule, Company, without limiting its other rights or remedies, may either direct expedited routing or charge excess cost incurred thereby to Service Provider or cancel all or part of this order in accordance with the default provisions.
- 5.3 Unless otherwise specified in an individual Order, shipments by Service Provider are made F.O.B. Company's location.
- 5.4 Acceptance of late deliveries will not be deemed a waiver of Company's right to hold Service Provider liable for any resulting loss or damage, nor will it act as a modification of Service Provider's obligation to make future deliveries in accordance with the delivery schedule set forth in the Order.
- 5.5 If Company rejects or refuses any goods, title to those goods reverts back to the Service Provider.
- 5.6 If, at any time, Service Provider believes it may be unable to comply with delivery or completion schedules, Service Provider must immediately notify Company in writing of the probable length of any anticipated delay and the reasons for it. Service Provider will continue to notify Company of any material change in the situation. In the event of such notification or an actual failure by Service Provider to comply with delivery or completion schedules, Company may, in addition to all other remedies, require Service Provider, at its expense, to ship goods via airfreight or expedited routing to avoid or minimize delay.

6 SHIPPING AND INVOICE INSTRUCTIONS

- 6.1 Shipments must be made as specified in the Order.
- 6.2 Originals of all bills of lading and express receipts must be sent to Company.
- 6.3 All invoices must be in writing and specify the items purchased, the amount and the prices charged.
- 6.4 Invoices must be submitted to Company within 60 days of the completion and/or delivery of the goods, works or services identified in the invoice. Invoices submitted after the aforementioned 60-day period are subject to a 10% administrative fee. Invoices submitted more than 180 days after the completion and/or delivery of the goods, works or services shall not be paid. Service Provider agrees to waive any right to recovery of the same.
- 6.5 Invoiced amounts, not subject to dispute or set off, are payable by Company NET 45 days from the payment due date.
- 6.6 Payment of an invoice does not constitute acceptance of the goods, work or services and is subject to appropriate adjustment for failure of Service Provider to meet the requirements of the Order including any warranties applicable to the goods, work or services purchased by Company. Company may set off any amount owed to Service Provider.

7 TERM, TERMINATION

- 7.1 **TERM.** This Agreement shall commence on the Effective Date and shall continue thereafter until terminated as provided in this Agreement or by ninety (90) days' prior written notice by either Party, with the exception of individual Orders, which are not terminable by ninety (90) days' prior written notice. At Company's written election, any Order not yet completed at time of termination this Agreement shall be treated as though this Agreement is still in effect.
- 7.2 **COMPANY TERMINATION FOR CONVENIENCE.** Company may at any time terminate this Agreement or any Order in whole or part for

its convenience upon written notice to Service Provider. In this event Service Provider is entitled to reasonable termination charges, consisting of a percentage of the Order price reflecting the percentage of any work performed prior to termination, plus actual direct costs resulting from termination. In no event is Company liable for more money than the Order cost, if the Order had not been terminated.

7.3 **COMPANY TERMINATION FOR DEFAULT.** Company may terminate this Agreement or any Order in whole or part if Service Provider defaults under this Agreement. Events of default are stated in Section 8.10. In the event of a termination for default, Service Provider must deliver the goods, work or service to Company which were completed or delivered prior to the termination. Payment for said goods, work or services must be at a price determined in the same manner as provided in the Order, except that Service Provider is not entitled to profit on the Order. Furthermore, Company is entitled to any and all damages which it may suffer as a result of Service Provider's breach of this Agreement. Company may withhold from Service Provider monies which may have otherwise been due to Service Provider for completed goods and/or manufacturing materials in such amounts as Company determines necessary to protect itself against loss due to outstanding liens or claims against said goods, work or services.

7.4 **SERVICE PROVIDER TERMINATION FOR DEFAULT.** Service Provider may terminate this Agreement or an Order if Company defaults under this Agreement and fails to cure the default(s) within 15 days of receipt of notice from Service Provider. Should Service Provider terminate this Agreement or an Order for default, Service Provider is entitled to reasonable termination charges, consisting of a percentage of the Order price reflecting the percentage of any work performed prior to termination, plus actual direct costs resulting from termination. In no event is Company liable for more money than the Order cost, if the Order had not been terminated.

8 GENERAL AND ADMINISTRATIVE PROVISIONS

8.1 **OBLIGATION TO FOLLOW AND RIGHTS UNDER GENERAL CONTRACT.** If Service Provider provides services or performs work for Company on a job site not owned by Company, Service Provider agrees to (i) comply with all rules and regulations of the owner of the job site, to the extent such rules and regulations exist and are applicable to the services or work; and (ii) assume toward Company all obligations, liabilities and responsibilities that Company, under such general/prime contract with owner, assumes toward owner. The terms of any such general/prime contract and this Agreement shall be supplemental to each other. To the extent any inconsistency or conflict exists or arises, the controlling provision shall be determined by Company in its sole discretion.

8.2 **ENTIRE AGREEMENT.** This Agreement, along with any other contemplated subsequent documents, such as an Order, represents the entire agreement by and between the parties.

8.3 **AMENDMENT, CHANGES OR MODIFICATION.** This Agreement along with any Order(s) may not be amended, added to, changed or modified except by writing which has been duly executed by Service Provider and Company. Notwithstanding Company's act of accepting or paying for any shipment or similar act of Company, this Agreement and all Orders may not be modified by or interpreted by reference to any course of dealing or usage of trade and may not be modified by any course of performance. Each shipment received by Company from Service Provider is deemed to be only upon the terms and conditions contained in this Agreement or a subsequent Order, notwithstanding any of Service Provider's terms and conditions that may be contained in any acknowledgment, bill of lading, certificate, invoice, Order or any other form or document between Service Provider and Company. Such terms are hereby expressly disclaimed by the Parties.

8.4 **ASSIGNMENT AND SUBCONTRACTING.** Service Provider may not assign, delegate, subcontract or otherwise transfer this Agreement, and any duty, right or interest herein in any manner without the prior written consent of Company, and any effort to the contrary is void. Service Provider will not subcontract without Company's prior written consent for the design, development or procurement of the whole or any substantial portion of any goods ordered hereunder. This limitation does not apply to Service Provider's purchases of standard commercial supplies or raw material.

8.5 **AUDITS.** Service Provider agrees to permit Company's auditors access, at reasonable times, to all records (including, without limitation, electronic records), correspondence, account books, invoices, canceled checks, payroll and other records that relate to this Agreement and Orders issued hereunder for the purpose of verifying that the Agreement and Orders have been complied with. Service Provider must preserve such records for three (3) years after completion of the work. If a Company audit discovers that Service Provider has failed to comply with the terms and conditions of this Agreement, Service Provider agrees to immediately reimburse Company for all sums related to the breach.

8.6 **CHOICE OF LAW, CURRENCY.** This Agreement and any dispute arising out of it or its subject matter or formation shall be governed by and construed in all respects in accordance with the laws of the province where the goods, work or services were delivered or performed, excepting any conflicts or choice of law rules that might otherwise refer construction or interpretation of this Agreement to the substantive law of another jurisdiction. For the avoidance of doubt the provisions of the United Nations Convention for the International Sale of Goods (CISG) are explicitly excluded. All prices, payments and other terms which relate to money refer to Canadian dollars (CAD). Prices quoted are those in effect at the time quoted regardless of any currency changes which may occur between the time the price was quoted and payment is made.

8.7 **COMPLIANCE WITH LAWS.** Service Provider shall procure and/or pay for at its own expense all required permits, fees, licenses and inspections by government agencies necessary for the proper prosecution of the Order(s). Service Provider shall provide all notices and comply with all Laws, and collective bargaining agreements related to the performance of this Agreement. For purposes of this Agreement, "Laws" shall mean the applicable and/or relevant provisions of all constitutions, treaties, statutes, laws (including the common law), rules, regulations, ordinances, and codes and any order, writ, injunction, decree, judgment, award, decision, license, permit or determination of any court or any federal, provincial, municipal or other governmental department, commission, board, bureau, agency, authority or instrumentality.

8.8 **REQUIRED INFORMATION AND NOTICES.** Each party must furnish to the other party any and all required forms, certificates, notices and information to facilitate the obligations under this Agreement, including but not limited to tax forms, their taxpayer identification, business number or Social Insurance Number.

8.9 **CONTRACT INTERPRETATION AND PRECEDENCE.** This Agreement may establish a comprehensive commercial arrangement, which may contemplate subsequent individual transactions. This Agreement may also cover procedures and prices for the purchase of both goods, work or services. Since this Agreement is intended to cover a wide range of both products, services and other contractual relationships, some of the terms or conditions may not be applicable to a specific transaction. In that event, the inapplicable language may be disregarded as surplus or inapplicable language. Company expects to leverage its buying power by purchasing goods, work or services for multiple facilities, standardize the purchase of products and obtain significant price discounts and concessions, reliable, high quality products or equipment, and maintain increased reliability and service. By execution of this Agreement, the Parties acknowledge that they have read and understood each provision, term and obligation contained in herein and in any attachments or exhibits. This Agreement, although drawn by one Party, must be

construed fairly and reasonably and not more strictly against the drafting party than the non-drafting Party. In the event of any inconsistency between the articles, attachments, specifications or provisions which constitute this Agreement, or any subsidiary documents referenced therein, the following order of precedence applies:

- Company's specifications;
- Any specific terms and conditions set forth in an Order
- Any general terms and conditions contained in this Agreement; and
- All other attachments or references which may be incorporated by reference.

8.10 CONFIDENTIALITY. Service Provider shall treat as confidential and proprietary to Company, and shall neither disclose to third parties nor use (except, with regard to use, as needed in its transactions with Company), any and all information disclosed by Company or as otherwise learned by Service Provider through its dealings with Company that constitute or otherwise relate to: technical information and know-how on Company products, equipment, processes, services, and systems; Company business planning information, such as new services, customer strategy, expansion plans, relocation, downsizing, acquisition and mergers; financial information on costs, investments, profit, margins and forecasts; problems in any area of Company's business; Company production information, progress reports and other productivity information; marketing strategies, pricing, supplier/subcontractor information, bid information and Company-developed bid programs; quality and improvement program results; and, employee information, such as but not limited to staffing, relocation, and compensation.

8.11 DEFAULT. Company may cancel this Agreement and any Order in whole or in part upon a breach of this Agreement by Service Provider. Events That Constitute a Default of This Agreement by Service Provider:

- failure to comply with any of the terms of this Agreement;
- failure to comply with any time or delivery deadlines;
- failure to meet any specifications, representations or quality requirements; or
- failure to perform under this Agreement.
- Service Provider becoming insolvent, making a general assignment for the benefit of creditors, or filing for bankruptcy protection; or Service Provider's creditors filing an involuntary bankruptcy against the Service Provider.

In the event Company cancels this Agreement or any Order hereunder, in whole or in part based on Service Provider's default, then Company may procure, upon such terms and in such manner as Company may deem appropriate, items or services similar to those so canceled and Service Provider will be liable to Company for any excess costs of such similar items or services. After receipt of a notice of cancellation, Service Provider must transfer title and deliver to Company satisfactorily completed work and such work in process as may be directed by Company. The rights and remedies of Company provided in this Section are not exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

Service Provider, at its option, may cancel any Order based upon Company's default if:

- Company's payments are late; or
- Company becomes insolvent or a petition under any bankruptcy act or similar statute is filed by or against Company and is not vacated within 80 days after such filing.

Such cancellation is effective upon receipt by Company of a written notice of cancellation issued by Service Provider.

8.12 DISPUTES. Company and Service Provider shall exercise their best efforts to expeditiously resolve by negotiation any and all claims, disputes, controversies or differences ("Disputes") between them. Failing resolution, Disputes shall be resolved in the first instance by decision of Company. If Service Provider disputes the decision of Company it shall give written notice of such dispute to Company no later than three (2) days after receipt of Company's decision. Such notice shall set forth particulars of the matters in dispute, the probable extent and value of the damage and the relevant provisions of this Agreement. Company shall reply to such notice no later than fifteen (15) days after it receives it, setting out in such reply its grounds and other relevant provisions of this Agreement. Service Provider shall comply with any instructions of Company without delay so as not to delay performance of the Order or any other work. Service Provider following the instructions of Company shall not be considered to have renounced or waived its rights or claims in relation to the dispute, provided that it has given the notices in accordance with this Agreement and has carried out the instructions of Company. If the matter in dispute is not resolved by agreement between the parties, either party may submit the dispute to such judicial tribunal in the province in which the Order is performed as the circumstances may require, or to mediation or arbitration if the parties so agree, following total completion of the Order. The parties hereby irrevocably agree to attorn to the jurisdiction of the Courts of the province in which the Order is performed.

8.13 FORCE MAJEURE AND SUSPENSION OF WORK. Company's Purchasing Representative may, by written order, suspend all or part of the work to be performed under this Agreement for a period not to exceed 90 days. Within such period, or any extension thereof to which the parties may agree, Company may either:

- cancel such suspension; or
- terminate the work covered by suspension.

Service Provider must resume work whenever a suspension is canceled or expires. An equitable adjustment will be made in the delivery schedule or contract price, or both, if:

- the suspension results in a change in Service Provider's cost of performance or ability to meet the Agreement delivery schedule; and
- Service Provider asserts a claim for adjustment within 30 days after the end of the period of suspension.

8.14 FURTHER ASSURANCES. Each party further agrees that it will take any and all necessary steps and sign and execute any and all necessary documents or agreements required to implement the terms of this Agreement.

8.15 INDEMNITY. To the fullest extent allowed by law, Service Provider shall hold harmless, defend and indemnify Company, its subsidiaries and affiliates, and their respective officers, directors, and employees, from and against any and all claims, damages, injuries, actions, penalties, fines, liabilities or costs (including without limitation attorneys' fees and litigation costs), whether for death, bodily injury, property damage, environmental pollution or release, or infringement of intellectual property (whether trademark, trade secret, patent or copyright) that result from, arise out of, or are in connection with Service Provider's goods, services, acts or omissions (irrespective of whether or not any such act

or omission constitutes negligence or is in breach of, or in compliance with, these terms and conditions), whether asserted under contract, tort, warranty, statute, or ordinance, irrespective of any act or omission by Company. The foregoing obligations of indemnity are in addition to, and not in lieu of, any right or remedy available to Company under law. The Service Provider's indemnification obligations shall not be limited or capped by any workers' compensation, disability or employment law, statute, regulation, ordinance, or the amount of any insurance coverage required to be procured under this agreement.

- 8.16 INDEPENDENT CONTRACTOR RELATIONSHIP; NO PARTNERSHIP INTENDED. All work or services provided hereunder will be performed in the capacity of an independent contractor rather than an employee and the parties have not formed, either expressly or impliedly, any joint venture or partnership arrangement. Under no circumstances will any party to this Agreement be deemed an employee, partner of the other, nor may either party act as an agent of the other party.
- 8.17 INSURANCE. Except as Company and Service Provider shall agree in a writing signed by both, Service Provider shall, at its own expense, carry and maintain the following insurance in amounts no less than indicated:

Workers Compensation:	In accordance with the laws and regulations of the province wherein the Work is performed.
Commercial General Liability:	Except as stated herein, for bodily injury and property damage, including products and completed operations, \$1 million per occurrence and in the aggregate. <i>For hauling or otherwise transporting materials and/or equipment, or for electrical work of any sort, the limits of liability shall be no less than: \$3,000,000 each occurrence (combined single limit for bodily injury and property damage); \$3,000,000 for personal and advertising injury liability; \$3,000,000 aggregate on products and completed operations; and \$3,000,000 general aggregate</i>
Professional Liability (if Service Provider's services include any professional services):	Coverage for claims arising from negligent performance of professional services, which shall be General Office Coverage written for no less than \$1 million per claim and in the aggregate. Professional Liability insurance shall contain prior acts coverage sufficient to cover all professional services performed by Service Provider, and the policy or policies shall be continued in effect for no less than five (5) years following final payment to Service Provider.
Automobile Liability:	Bodily injury and property damage, \$1 million combined single limit and aggregate

All required policies shall include waiver of subrogation against Company and owner, their respective affiliated and subsidiary companies, successors, and assigns. Moreover, the Commercial General Liability insurance shall name Company and Owner, their respective affiliates, subsidiaries, directors, officers, agents and employees, as additional insured and shall be primary with respect to any other insurance available to Company, notwithstanding the provisions of any such other insurance.

As a condition to Service Provider's initial transaction under these terms and conditions (and no less than annually thereafter, or upon Company's request), Service Provider's insurance broker or carrier shall furnish Company a certificate evidencing the above-required insurance and endorsements; all certificates shall, on date of issuance to Company, be the most current standard of Acord Form in the insurance industry.

- 8.18 LIENS OR CLAIMS AGAINST MATERIAL OR SERVICES PERFORMED. Service Provider represents that all work performed by it or its subcontractors and all material used on Company's behalf, will be completely paid for. Title to all goods, products, merchandise, materials or services which are provided to Company will be completely paid for and Service Provider represents that there are no materialman's or other liens attached to the goods, products, merchandise, materials or services which are provided to Company.
- 8.19 PARAGRAPH HEADINGS, USE OF PRONOUNS, AND CAPTIONS. The captions, numbering sequences, titles, paragraph headings, punctuation, and organization used in this Agreement are for convenience only and must in no way define, limit or describe the scope or intent of this Agreement or any part of it.
- 8.20 PAROL EVIDENCE, ENTIRE AGREEMENT. This Agreement and the attached incorporated exhibits, if any, contain the entire agreement of the Parties. There are no representations, inducements, promises, agreements, arrangements or undertakings, oral or written, between the parties to this Agreement other than those set forth herein and duly executed in writing.
- 8.21 RISK OF LOSS. Title and risk of loss in transit will not pass to Company until delivery to Company is complete. Company is not liable for payment until Service Provider or Service Provider's carrier has complied with all applicable federal, provincial, municipal or local Laws. Service Provider must indemnify Company for any damages or loss that may be asserted against Company as a result of Service Provider's or its carrier's failure to comply with the requirements contained in this Agreement.
- 8.22 SAFETY. In the event that Service Provider's agents, employees or subcontractors enter facilities or premises occupied by or under the control of Company, or any of its customers, or suppliers in the course of the performance of this Agreement, Service Provider will take all necessary precautions to prevent the occurrence of any injury (including death) to any persons, or of any damage to any property, arising out of acts or omissions of such agents, employees, or subcontractors. Service Provider understands that the goods, services or work contemplated herein may be performed or delivered at facilities which require the utmost attention to safety. In those situations, Service Provider agrees to perform its obligations or work according to any and all any rules, regulations or safety standards which may be applicable to any of Company's facilities. Service Provider agrees to perform the work safely, diligently, efficiently and in a professional manner, and in accord with all Laws. Service Provider agrees to comply with safety guidelines provided by Company prior to entering any facility or area in which such safety guidelines are applicable. Service Provider shall be responsible for the successful implementation of all safety precautions, including the provision and/or implementation of all necessary equipment, personal protective equipment, means, manners, methods and operative details.
- 8.23 SEVERABILITY. If a provision of this Agreement is, for any reason, held violative of any applicable law, governmental rule or regulation, or if the provision is held to be unenforceable or unconscionable, the invalidity of that specific provision will not be held to invalidate the remaining provisions of this Agreement. All other provisions and the entirety of this Agreement remain in full force and effect unless the removal of the invalid provision destroys the legitimate purposes of this Agreement, in which event this Agreement must be canceled and terminated.

- 8.24 SURVIVAL. All obligations continue notwithstanding the expiration, termination or cancellation of the Agreement.
- 8.25 THIRD-PARTY BENEFICIARIES. This Agreement is solely for the benefit of the parties named herein, their successors, and permitted assigns. This Agreement is not intended and does not confer any rights or benefits to any third party that is not a party signatory to this Agreement.
- 8.26 TIME LIMITS. Time is of the essence in this Agreement and, accordingly, all time limits must be strictly construed and strictly enforced. Failure of one party to this Agreement to meet a deadline imposed is considered a material and significant breach of this Agreement and entitles the nonbreaching party to any and all rights of default as stated above.
- 8.27 PREQUALIFICATION AND COMPLIANCE MONITORING. Service Provider shall be a registered and subscribing member of a third-party prequalification service provider as set forth by Company, and to the extent required by Company, Service Provider shall be responsible for any applicable fees. Service Provider shall cooperate in good faith with the third-party prequalification service provider to facilitate implementation of the program, including making Service Provider's personnel reasonably available to facilitate the gathering and submitting of required documents and information as necessary. As a condition of doing business with Company, Service Provider must be fully compliant with all requirements prior to performing work on the jobsite and must remain compliant with all requirements while performing work on the jobsite, unless Company, in its sole discretion, waives any such requirements in writing prior to performance of work.
- 8.28 WAIVER. The failure or delay of Company in the enforcement of its rights under this Agreement does not constitute a waiver of the rights nor is it considered as a basis for estoppel either at equity or at law. Company may exercise its rights under this Agreement despite any delay or failure to enforce those rights at the time the cause of action or right or obligation arose.
- 8.29 WARRANTIES. Whether or not Service Provider is a merchant of goods, work or services provided by it, Service Provider warrants that all goods and/or services provided by it must be performed in a manner that does not interrupt Company's normal operations at any of its facilities. Service Provider further warrants that:

For products and goods:

- be new, not used, substituted, restocked or refurbished, unless otherwise agreed to by the Parties or inherent in the products or goods ordered, and are of good quality and workmanship and are free from defects, latent or patent;
- must conform to all representations, drawings, specifications or plans given to Company from Service Provider;
- must conform to all of Company's specifications;
- must be merchantable and must pass without objection in the trade;
- must be suitable and sufficient for their intended purpose, Service Provider acknowledges that Company is relying on Service Provider's skill, judgment and recommendations in the purchase of goods, service or work contemplated herein and in the Orders; and
- must be free of any claim, lien, security or encumbrance so that good, free and clear title passes to Company.

For services:

- in addition to the above warranties, the services must be performed only by qualified persons who are both properly trained and/or licensed and have prior actual work experience in the trade or craft to which the services relate to;
- the Service Provider warrants that it will provide proper supervision to all persons or subcontractors who provide services to Company; and
- if Company believes that any person or subcontractor is either not qualified to perform the work or is not performing the services according to the agreed to standard or representation, Company may remove said person from the work and Service Provider must find a qualified replacement so that the work is not delayed or performed improperly.

None of the remedies available to Company for the breach of any of the forgoing warranties may be limited except to the extent and in the manner agreed upon by Company in a separate Agreement specifically designating such limitation and signed by an authorized representative of Company. Company's inspection or acceptance of or payment for goods, work or services does not constitute a waiver by it of any warranties. Company's approval of any sample or acceptance of any goods does not relieve Service Provider from responsibility to deliver goods and to perform services conforming to specifications, drawings, and descriptions. The parties agree that any and all goods, products or items purchased by Company are also covered by Service Provider's express warranties. Service Provider agrees to provide free repair or replacement of all labor and parts for three (3) years from the date of delivery of the product or longer if provided for in Service Provider's express warranty.

All warranties, including special warranties specified elsewhere herein, shall inure to Company, its successors, assigns, customers and users of its products.

Price Warranty. The Price stated in an Order is all that Company will pay. Company is not liable for any additional charges including but not limited to delivery charges, charges for returnable or reusable containers. Service Provider agrees that no prices will be escalated to match market price at the time of delivery. Service Provider agrees not to sell the same product under substantially the same terms and conditions to anyone else at a lower price; if Service Provider does, then Service Provider agrees to lower the price to Company to match the lower price, terms or conditions. Service Provider agrees to provide reasonable access to its records to permit Company to inspect and determine Service Provider's compliance with this provision. "Reasonable access" shall require Service Provider, when necessary, to redact any agreements which are otherwise confidential in order to facilitate Company's inspection.

Pricing for the term of this Agreement or any Order will be the prices stated in the Order or an exhibit, which must be attached thereto or referenced therein. Any increase in prices during the term of this Agreement must be limited to a maximum of 10% per calendar year.

8.30 COVID-19. Notwithstanding any other term of this Agreement, all costs, expenses, delay, supply chain disruptions, manpower shortages and risk relating to COVID-19 affecting or relating to the Work, including without limitation those caused or related to or resulting from any act in compliance with any Laws, public health order or regulation in effect as of the date of this Agreement and as amended or enacted during the term of this Agreement, of the federal, provincial or local government or health authority, are deemed to be foreseeable and anticipated and shall not entitle the Service Provider to any price increase or extension of time.