

SPARK POWER GROUP OF COMPANIES
STANDARD TERMS AND CONDITIONS OF SERVICE

The following terms apply to all services provided by any member of the Spark Power group of companies (severally, each a “**Seller**”).

1. **Contract Formation.** This document sets out the terms and conditions (“**Terms and Conditions**”) that are applicable to the supply of services by the Seller and products set forth in any purchase order issued by a customer of Seller (the “**Buyer**”) and accepted in writing by the Seller (each such purchase order accepted by Seller being referred to herein as a “**Purchase Order**”), for the performance of the services and sale of products set forth therein, including the scope of work to be performed by the Seller (“**Services**”). These Terms and Conditions are incorporated into and form part of each Purchase Order. Any term or condition, including any purported term or condition of the Buyer, which are different from or in addition to these Terms and Conditions, is objected to by Seller and is void and of no force or effect. If a contract is not earlier formed by mutual agreement in writing, the commencement of the supply of Services by the Seller shall be Buyer’s agreement to these Terms and Conditions in respect thereof. Accepted Purchase Orders cannot be cancelled, terminated or modified by Buyer in whole or in part except pursuant to a Change Order (see Section 10 below).

2. **Purchase Orders.** In connection with the Services to be performed pursuant to a Purchase Order, Seller may sell products, equipment and or supplies to the Buyer as specified in any Purchase Order (“**Products**”). The term Products as used herein does not include supplies and consumables that are incidental to performance of the Services, for example, wire and cable, unless that specific Product is enumerated in the applicable Purchase Order. Product selection is the sole responsibility of Buyer. All Products are sold based upon Buyer’s independent determination that they are appropriate for Buyer’s intended application and use. Seller is not responsible for the results or consequences of use, misuse or application of any Product by any person. Products shall become the property of, and title shall pass to, the Buyer upon receipt of payment in full by the Seller. Any modifications that may be required to the Products being supplied to meet safety requirements, local codes or local specifications are the responsibility of the Buyer. Supply of Products may require a deposit and other payments, as set forth in the applicable Purchase Order. All Purchase Orders are subject to express written acceptance and approval by the Seller, including as to Buyer’s credit.

3. **Schedule.** The Seller will use commercially reasonable efforts to complete the Services in accordance with the schedule of work and completion dates set forth in the applicable Purchase Order.

4. **Performance.** If Seller’s performance is delayed by any cause beyond its reasonable control (regardless of whether the cause was foreseeable) including, without limitation acts of God, strikes, labor shortage or disturbance, fire, accident, war or civil disturbance, delays of others, cyber-attacks, subsurface conditions, terrorist attacks, failure of normal sources of supply, acts or inaction of governmental authorities and public emergency (including epidemic and pandemic) (each a “**Force Majeure Event**”), Seller’s time for performance will be extended by a period equal to the length of the delay plus any consequences of the delay. Seller will notify Buyer within a reasonable time after becoming aware of any Force Majeure Event that will result in delay, and Seller will not be liable for any failure to perform due to any Force Majeure Event. If a Force Majeure Event resulting in delay extends beyond ninety (90) days from the originally scheduled dates set forth in the applicable Purchase Order for any milestone, either party may, with written notice to the other, terminate the applicable Purchase Order without further liability for the unperformed part of the applicable Purchase Order, and all amounts owing up to and including the date of such termination will be forthwith paid by the Buyer to Seller, with an equitable adjustment based on the proportion of the completed work at the time of any such termination, notwithstanding that a payment milestone may not have been met. If a Purchase Order is terminated for a Force Majeure Event affecting the Buyer, in addition to the forgoing payment, Buyer shall reimburse Seller for all forfeited deposits provided to third parties and the costs to terminate any contracts with third parties.

5. **Services Generally.** The Seller will provide the Services in all material respects in compliance with applicable laws and regulations, the applicable Purchase Order and in a good and workmanlike manner. Buyer agrees to: (a) provide the Seller with all information in the Buyer’s possession or control that relates to or is reasonably requested by the Seller in connection with the Services (including any Products or other products, equipment or components) and agrees that Seller is entitled to rely on the accuracy and completeness of such information so provided; (b) provide access and grant or obtain for Seller all access rights to each site for efficient execution of Services by Seller; (c) protect and secure the site location and all property located thereat, including

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all Product, unfinished work, equipment, tools and materials on-site related to the Services; and (d) except for permits contemplated to be obtained by Seller in the Purchase Order, which Buyer agrees to provide all assistance to obtain as requested by Seller, Buyer shall obtain and maintain in its name all permits, authorizations, licenses and other approvals of any governmental authority or required by law relating to the performance of the Services or Buyer's operations and facility.

6. **Hazardous Substances.** Seller shall be responsible and liable for the clean-up, removal, and remediation of any hazardous substances (as defined in applicable environmental laws of the jurisdiction where the Services are provided) that are in violation of environmental laws and which were brought to the site by the Seller or its subcontractors. Except as specifically provided above, Buyer shall, at its sole cost and expense, be responsible and liable for all hazardous substances and hazardous conditions at the site (including pre-existing conditions) and shall defend, indemnify and hold Seller fully harmless from and against any liability, cost, expense, claim, investigation or proceeding relating to any such hazardous substances or hazardous conditions. Seller shall not be required to perform the Services in an area affected by any hazardous substances or hazardous conditions, and upon discovery will provide notice to the Buyer and be authorized to cease work until any such hazardous substances or hazardous conditions is remediated.

7. **Cooperation with Other Providers.** Each party shall use reasonable efforts to cooperate and coordinate its activities with other contractors onsite, if any, to allow the performance of its and their respective obligations to occur concurrently, provided that concurrent performance of such obligations does not affect the liability, risk, or costs assumed or incurred by the Seller in the performance of its duties, is contrary to applicable law or applicable insurance policies. As between Buyer and the Seller, Buyer shall be solely responsible for the activities of such other contractors and for coordinating all persons present at the site to perform work, and Buyer shall be the "constructor" as defined in the *Occupational Health & Safety Act* (Ontario) and as may be applicable under similar legislation in other jurisdictions. Notwithstanding the foregoing, Buyer agrees not to, directly or indirectly, unreasonably interfere with the performance by the Seller of the Services.

8. **Safety.** The Seller's employees shall not perform work that, in their sole opinion, is not free of reasonably foreseeable harm. The Buyer will inform the Seller immediately and with full information of known

hazards (including hazardous substances) that are related to the Seller's scope of work and the site where the work will be performed. Furthermore, the Seller will perform and adhere to its own health and safety procedures in effect from time to time in connection with the Services.

9. **Change Orders.** Seller and Buyer may each suggest to the other, by notice in writing, that a change is desirable in the scope, scheduling and/or pricing of Services. In each such case, the Seller shall provide Buyer with an estimate of the costs and fees associated with such change, a description the changes to the scope of Services (including scheduling) caused by such change, the details of any resulting changes to the applicable Purchase Order required in connection with such change, and an explanation of the basis for the foregoing (a "**Change Order**"). Notwithstanding the foregoing, but subject to the next sentence, no proposed Change Order shall be effective unless the Buyer and Seller agree in writing to the terms thereof. If the Seller initiates any Change Order that Buyer refuses to accept, the Seller and Buyer shall use their commercially reasonable efforts to negotiate a resolution to such dispute, failing which the Seller may terminate the applicable Purchase Order without further liability.

10. **Payment.** Buyer shall pay the Seller for the Services plus all taxes, brokerage fees, and customs charges (and Products, if applicable, to which shipping charges will be added) the amounts set out in the Purchase Order in accordance with the terms thereof, including any milestone payments set out therein, subject to any amount disputed in good faith. Payments are due and payable not later than thirty (30) days of the invoice date. All payments shall be in the currency of the jurisdiction in which the Services are performed, unless otherwise noted in a quotation or Purchase Order. Seller has the right, in its sole judgment, at any time and from time to time, to require deposits, payment in advance or on delivery, letters of credit, and/or other assurance of payment satisfactory to Seller as a condition to acceptance of any Purchase Order. Seller reserves the right to change the amount of or withdraw any credit extended to Buyer. Any amounts owed to the Seller by Buyer not paid when due shall bear interest from the due date until paid in full at a rate of interest equal to the lesser of (a) 15% per annum, calculated and compounded daily, or (b) the maximum rate permitted by applicable law. The acceptance by the Seller of any late payment or interest payment shall not be construed as a waiver by it of its rights in respect of the default of Buyer of the applicable Purchase Order. If Buyer fails to make any payment as required, Buyer agrees to indemnify and hold harmless the Seller from and against all costs and expenses, including financing costs, legal fees, court

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costs and associated costs incurred by the Seller in obtaining payment from Buyer. Seller may suspend its performance without liability if any payment is not paid by the due date of such payment, and such suspension shall entitle the Seller to (a) an equitable adjustment of any schedule in effect, and (b) reimbursement of its reasonable demobilization and remobilization costs. Further, Seller may terminate any Purchase Order if any payment is not paid within 20 days of the payment due date and thereupon, in addition to any other remedies available to the Seller at law to recover amounts owing and damages, the Buyer shall immediately pay all amounts due and payable to the Seller as of such termination.

11. **Time & Materials Services.** Where Seller agrees to provide Services on a “time & materials” basis, it shall be entitled to charge Buyer for all labor at the rates included in any issued quotation (a “**Rate Card**”), or, in the absence of such rates, at its standard labor rates in effect at the time the Services are performed. To the extent that any issued Rate Card does not provide otherwise, (a) labor rates are deemed to automatically increase each calendar year by the greater of the Consumer Price Index as determined by Statistics Canada, or 2%, and (b) all materials supplied on a “time & materials” basis will be supplied at a 15% markup.

12. **Taxes.** The Buyer shall pay the Seller, in addition to the purchase price for Services (and Products, if applicable), the amount of all duties, licenses, tariffs, sales, use, value added, privilege, excise, import duties or other taxes levied or imposed by any governmental authority and any brokerage fees (“**Taxes**”) and any replacement or further Taxes imposed or levied subsequent to the date of the applicable Purchase Order which the Seller is required to pay or collect in connection with the provision of the Services (or Products). To the extent that Buyer claims an exemption from such Taxes, it indemnifies and holds harmless Seller for any re-assessment, fine, penalty, interest, and legal expense incurred arising from such exemption claim.

13. **Dispute Resolution.** If any dispute arises between the Parties relating to the application, interpretation, implementation or validity of any Purchase Order, or any payment due, either party may give the other party written notice of such matter which shall include the full particulars of the reasons for such dispute. The parties shall promptly meet and attempt to resolve any dispute. If the parties are unable to resolve such dispute within 10 days, the matter shall be resolved by binding arbitration. Either party may, on written notice to the other, propose the appointment of a single arbitrator. If the parties are unable to agree on the

appointment of an arbitrator within 10 days of such notice, either party may bring an application in the courts of competent jurisdiction for the appointment of single arbitrator to resolve the dispute. Unless otherwise agreed, the arbitration shall be held in the English language, within 100 km of the branch office of the Seller performing the Services. The arbitrator shall have the power to make costs awards in respect of the arbitration. Notwithstanding the foregoing, where the subject of the dispute relates to non-payment by Buyer, or where the value of such dispute is less than \$100,000, Seller may elect to have such dispute determined by the courts having jurisdiction over such dispute pursuant to these Terms & Conditions and in so doing, it shall be entitled to its reasonable legal fees and disbursements.

14. **Liens.** Notwithstanding the payment provisions set out in these Terms and Conditions, all payments will be subject to compliance with all applicable provisions of the applicable lien legislation in effect in the jurisdiction where the Services are provided.

15. **Intellectual Property.** Except as may be set forth in the applicable Purchase Order, the delivery of Services does not convey any express or implied right, title or interest, including any license, under any patent, copyright, trademark or other proprietary or intellectual property rights owned, licensed or controlled by the Buyer or Seller or any other person. All rights under any such rights are expressly reserved by the party who owns or holds such rights, including any improvements or advances relating thereto. The parties shall not sell, transfer, sublicense, reverse engineer or disassemble, or redistribute or display any such proprietary or intellectual property rights.

16. **Warranty.** Except as specifically stated in any Purchase Order, the Seller provides no warranty with respect to any Product, or other product, equipment, component or supply. Seller agrees to assign to the Buyer all assignable manufacturers’ warranties for Products, if any, delivered to Buyer pursuant to the applicable Purchase Order. Seller is not authorized to commit or bind any product manufacturer in any way, nor is any product manufacturer authorized to commit or bind Seller in any way. Seller assumes no post-sale technical support or warranty repair obligations, other than as set forth in these Terms and Conditions in connection with the Services. The Seller is not responsible for the results or consequences of use, misuse or application of any Product by any person. Seller warrants that the labor and workmanship provided in connection with the Services, including through subcontractors, except to the extent that a separate specific subcontractor warranty is provided to the Buyer, will be performed by qualified personnel with care, skill and diligence, and will be free

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of any material defects or deficiencies in workmanship for a period of 12 months from the date the applicable Service is substantially completed. This warranty will be void if the Buyer fails to provide written notice of any warranty claim to the Seller by the earlier of the date that (a) is 30 days from the occurrence giving rise to a warranty claim, provided that if continuing damage is resulting or there is risk to health or safety, the Buyer shall provide Seller with immediate notice of such claim, and (b) 12 months from the date of completion of the defective Services. The Seller will perform warranty services required to be performed by it to a standard that results in repair to a condition substantially equivalent to the condition immediately prior to the occurrence of the event or defect giving rise to the repair. Notwithstanding the foregoing, the Seller shall have no obligation to repair or replace its workmanship, and the warranties thereof set out herein will be void, if the equipment, parts, components or materials on which Services were supplied are the subject of any (A) abuse, (B) misuse, (C) misapplication, (D) neglect, (E) alteration, (F) accident, (G) improper or incorrect handling or maintenance not performed by the Seller, (H) abnormal conditions of use, or (I) any damage caused by power failure, power surge, storms, discharges, floods, earthquake, terrorist action, fire, explosion or any act of God or other cause beyond the Seller's control. Following any warranty service, the warranty period shall continue to run from the date the Service subject to the warranty claim was first completed. The Seller does not warrant the Services where the reason for the further services is replacement of defective Product, whether or not covered by the Product manufacturer's warranty. The Seller is not responsible for, and no warranty claim shall be available from the Seller, relating to the removal, reinstallation or repair of, or otherwise relating to any defective Product or recall of, the Product or other reason beyond the control of Seller.

17. **Limitations.** EXCEPT AS OTHERWISE EXPRESSLY PROVIDED, THE SELLER DOES NOT MAKE, AND HEREBY DISCLAIMS, ALL WARRANTIES AND CONDITIONS WITH REGARD TO THE SERVICES, PRODUCTS OR ANY OTHER ASPECT OF SELLER'S RELATIONSHIP WITH BUYER, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT OF THIRDPARTY RIGHTS. THE SELLER SHALL NOT BE LIABLE FOR ANY LOSS, COST, EXPENSE, LIABILITY, HARM, OR DAMAGE TO PERSON OR PROPERTY EXCEPT AS MAY DIRECTLY RESULT SOLELY FROM THE SELLER'S, ITS SUBCONTRACTORS, OR ITS OR

THEIR EMPLOYEES' GROSS NEGLIGENCE. SELLER SHALL NOT UNDER ANY CIRCUMSTANCES BE LIABLE TO THE BUYER FOR, AND THE BUYER SHALL NOT ASSERT ANY CLAIM FOR, CONSEQUENTIAL, SPECIAL, EXEMPLARY, PUNITIVE, INDIRECT, OR INCIDENTAL LOSSES, EXPENSES OR DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF REVENUE OR PROFITS, DOWNTIME, LOSS OF USE, COST OF CAPITAL, LOSS OF GOODWILL, FAILURE TO REALIZE EXPECTED SAVINGS OR AVOID LOSSES, AND BUYER HEREBY IRREVOCABLY RELEASES THE SELLER FROM ANY SUCH LIABILITY. UNDER NO CIRCUMSTANCES SHALL SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR IN CONNECTION WITH ANY PURCHASE ORDER, IN CONTRACT, TORT OR OTHERWISE, EXCEED THE AMOUNT ACTUALLY PAID BY BUYER IN RESPECT OF THE PURCHASE ORDER PURSUANT TO WHICH SUCH LIABILITY RELATES.

18. **Indemnity.** Subject to the limitations of liability set out in Section 16, each of Buyer and Seller (as an "**Indemnifying Party**") shall indemnify the other party (as an "**Indemnified Party**") from and against all legal or administrative proceedings, claims, demands, damages, fines, penalties, liabilities, interest, reasonable attorney's fees, costs, and expenses ("**Claim**") of whatsoever kind or nature, arising out of or in connection with third-party actions including actions of governmental, regulatory and administrative parties for (a) accidents, deaths, bodily injuries or damages to property if and to the extent caused by the negligent acts or omissions of the Indemnifying Party, (b) the presence, discharge, escape, release or threatened release of any hazardous material brought onto the site or permitted to be introduced to the site by the Indemnifying Party (including as provided in Section 6 above), and (c) violations of law or of any permits by the Indemnifying Party. In the event the injury or damage is caused by joint or concurrent negligence of Buyer and Seller, the loss or expense shall be borne by each party in proportion to its degree of negligence.

19. **Insurance.** During period of the provision of Services, the Seller shall obtain and maintain the following insurance from reputable insurers: (a) workers' compensation coverage for its employees employed to perform the Services; (b) general liability insurance, together with an umbrella policy, if applicable, in an aggregate amount not less than US\$5,000,000 per occurrence for bodily injury, including death, property damage and personal injury;

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and (c) owned and non-owned automobile liability insurance in an amount not less than US\$1,000,000 per occurrence for bodily injury and property damage. Certificates showing that the above insurance coverages are in effect shall be furnished to Buyer prior to commencement of Services if so requested by Buyer.

20. **Exclusivity.** The provisions of these Terms and Conditions constitute the Seller's and Buyer's exclusive liability, respectively, to each other, and Buyer and the Seller hereby release each other from and against any further liability.

21. **Privacy Policy.** Buyer consents to the collection, use and disclosure by the Seller of personal information of and maintained by the Buyer in accordance with the Seller's privacy policy as in effect from time to time, a current copy of which is available at <https://sparkpowercorp.com/privacy-policy/>, including account, payment and other financial information, as may be required for legal or regulatory compliance, for purposes of the Seller its employees, agents or subcontractors to fulfill its obligations under the applicable Purchase Order or to enforce their rights, or otherwise in connection with the business of the Seller in the ordinary course or outside the ordinary course of business.

22. **Confidential Information.** Confidential Information means any information provided by a party ("Disclosing Party") to the other party ("Recipient Party") or to which the Recipient Party had access as a result of the negotiation or performance of any Purchase Order, which is not generally known to the public, including without limitation, information relating to: (a) the design, specifications and content of the equipment and related documentation; and (b) the terms of the Purchase Order, including these Terms and Conditions. The parties agree that all such confidential information will be received and held in confidence for a period of two years and will be used only for the purpose of carrying out the obligations of, or with respect to the Buyer, for the purpose of installing, operating, maintaining and repairing the Product (the "Purpose"). Notwithstanding anything to the contrary in this Section, the Recipient Party may, on a need to know basis and for the Purpose, disclose confidential information of the Disclosing Party to its employees, agents, subcontractors and other third parties, provided that such persons agree to be bound by an obligation of confidentiality and non-disclosure consistent and no less constraining than the terms of this Section and that the Recipient Party remains liable to Disclosing Party for any breach of the terms of these confidentiality provisions by such persons. Confidential Information does not include: (i) information that was known to the Recipient Party before

receipt thereof from or on behalf of the Disclosing Party; (ii) information that is disclosed to the Recipient Party by a third person who has a right to make such disclosure without any obligation of confidentiality to the Disclosing Party; (iii) information that is or becomes generally known in the trade without violation of this Agreement by the Recipient Party; or (iv) information that is independently developed by the Recipient Party or its employees or affiliates without reference to the Disclosing Party's information. The Recipient Party will protect the Disclosing Party's Confidential Information with at least the same degree of care it uses with respect to its own Confidential Information and will not use the Disclosing Party's Confidential Information other than in connection with its obligations hereunder. Notwithstanding the foregoing, the Recipient Party may disclose Confidential Information if (i) required by law, regulation or legal process; (ii) it is advised by counsel that it may incur liability for failure to make such disclosure; (iii) requested to by the Disclosing Party; provided that in the event of (i) or (ii) the Recipient Party shall give the Disclosing Party reasonable prior notice of such disclosure to the extent reasonably practicable and cooperate with the Disclosing Party (at the Disclosing Party's expense) in any efforts to prevent such disclosure. Expiration or termination of the Agreement does not relieve any party from its obligations to protect confidential information received during the term of the Agreement.

23. **Default and Termination.** Subject to Section 4, Buyer may terminate a Purchase Order if Seller materially defaults in the performance of its obligations thereunder and fails to cure such default within 30 days after written notice thereof from Buyer, provided that Seller shall have a further 30 days to cure any such default so long as Seller shall diligently takes commercially reasonable actions to remedy such default.

24. **Export Controls.** Buyer understands that certain transactions of Seller may be subject to export control laws and regulations ("Export Regulations") which prohibit export or diversion of certain products and or services, and technology to certain countries. Any and all obligations of Seller to export, re-export or transfer Products, Services as well as any technical assistance, training, investments, financial assistance, financing and brokering will be subject in all respects to such Export Regulations and will from time to time govern delivery of Products, Services and technology abroad by persons subject to the jurisdiction of the relevant authorities responsible for such Export Regulations. If the delivery of Products, Services and/or documentation is subject to the granting of an export or import license by certain governmental authorities or

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otherwise restricted or prohibited due to export/import control regulations, Seller may suspend its obligations and the Buyer's rights until such license is granted or for the duration of such restrictions or prohibitions. Furthermore, Seller may at its option terminate any applicable Purchase Order, in all cases without incurring any liability towards the Buyer. Buyer warrants that it will comply in all respects with the export, re-export and transfer restrictions set forth in such Export Regulations or in export licenses (if any) for every Product and Service supplied to Buyer. Buyer accepts the responsibility to impose all export control restrictions to any third party if the items are transferred or re-exported to third parties. Buyer shall take all actions that may be reasonably necessary to ensure that none of its customers/purchasers or end-users contravenes such Export Regulations.

25. **Miscellaneous.** Buyer shall not have any right, nor purport to exercise any right, or claim set off or deduction for any claim for money due from the Seller for any reason, whether arising out of this or any other transaction, agreement or arrangement with the Seller. Buyer shall not assign all or any portion of any Purchase Order. Seller may subcontract all or any portion of the Services, provided that the Seller remains liable for the performance of such Services to the Buyer. No waiver of any provision of a Purchase Order (including these Terms and Conditions) shall be binding unless executed in writing by the party to be bound thereby. No waiver of any provision of a Purchase Order (including these Terms and Conditions) shall constitute a waiver of any other provision nor shall any waiver of any provision of a Purchase Order constitute a continuing waiver unless otherwise expressly provided in writing. If, in any jurisdiction, any provision of a Purchase Order (including these Terms and Conditions) or its application to any party or circumstance is restricted, prohibited or unenforceable, such provision shall, as to such jurisdiction, be ineffective only to the extent of such restriction, prohibition or unenforceability without invalidating the remaining provisions of the Purchase Order (including these Terms and Conditions) and without affecting the validity or enforceability of such provision in any other jurisdiction. Each Purchase Order enures to the benefit of and binds the parties' and their respective heirs, executors, administrators, legal representatives, successors and permitted assigns, as applicable. These Terms and Conditions survive completion of the Purchase Order and payment of the purchase price therefor. Notwithstanding any contrary statute of limitations, any cause of action or claim for any alleged breach or non-performance of a Purchase Order by the Seller shall be barred unless commenced by Buyer within one (1) year after the accrual of such cause or

action. Each Purchase Order is not intended to create, and shall not be construed to create, and neither party shall be or constitute, or be deemed or construed to be or constitute, under any circumstances or for any purpose whatsoever, a partner, joint venture, agent or legal representative of the other party, and the parties expressly disclaim any intention to create a partnership, joint venture, association or other such relationship. Neither party is granted any right or authority to assume or create any obligation or responsibility, express or implied, on behalf of or in the name of the other party, or to bind the other party in any manner.

26. **Engineering Services.** Where the Services include engineering services, such Services shall be rendered to the Buyer by a person licensed and in good standing to practice engineering in the jurisdiction where the engineering Services are to be provided. The applicable Purchase Order sets out the entirety of Seller's obligations with regard to engineering Services. The Buyer agrees to provide the Seller all relevant information required by the Seller to fully perform the engineering Services, including design objectives, constraints and criteria, special equipment and systems, and site requirements upon which Seller and subcontractors and representatives will rely in performance of the engineering Services as to the accuracy and completeness of all such information. The Buyer hereby grants the Seller authority to act as the Buyer's agent in all matters falling within the scope of engineering Services and will execute all such documents confirming any action so taken by the Seller in accordance with the such engineering Services. Buyer agrees to promptly review all documentation relating to engineering services submitted by the Seller and inform the Seller of all required decisions in time for the orderly progress of such Services. Buyer will notify the Seller in writing immediately, whenever the Buyer, or any Buyer's representative, becomes aware of a defect or deficiency in the engineering Services (including any engineering related documents). Seller, or its subcontractors, as applicable, shall have and retain exclusive right, title, and interest worldwide in and to all intellectual property relating to or deriving from the engineering Services. Subject to payment in full by Buyer of all amounts owing to the Seller, the Seller hereby grants the Buyer a royalty-free, perpetual, non-transferable, non-assignable, non-exclusive license to use any delivered documents forming part of the engineering Services solely for the purpose described in the applicable Purchase Order. Buyer shall not use the work product from the engineering Services other than for the purposes described in the applicable Purchase Order (and the license granted herein to use the same). Seller and its employees and subcontractors, as

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applicable, shall carry professional liability insurance (errors and omissions) in accordance with the requirements of the governing body of engineers in the jurisdiction in which the engineering Services are being provided.

27. **Entire Agreement.** The Purchase Order(s), including these Terms and Conditions, constitute the entire agreement between the parties relating to the subject matter thereof and supersedes any previous agreements, quotations, proposals, writings and discussions pertaining thereto. In interpreting the rights and obligations of the parties and in the event of any inconsistency between the terms of any Purchase Order and these Terms and Conditions, the order or priority of the documents shall be: (a) first, the applicable Purchase Order; and (b) second, these Terms and Conditions. Provisions in a Purchase Order and these Terms and Conditions shall not be considered to be inconsistent if both relate to the same subject matter and the provision in one imposes more onerous obligations or restrictions than the corresponding provision in the other. Furthermore, a conflict or inconsistency shall not occur or be deemed to have occurred if a Purchase Order or the Terms and Conditions provide for a matter that the other does not. There are no representations, covenants or other terms other than those set forth in the Purchase Order(s), including these Terms and Conditions. A Purchase Order may only be amended by a written document signed by each of the parties. No course of dealing or usage of trade will form part of or be incorporated any Purchase Order or these Terms and Conditions.

28. **Governing Law.** The provisions of the Purchase Order and these Terms and Conditions shall be construed in accordance with (a) the laws of the State of Texas where the Services are delivered to the Buyer in the United States; or (b) the laws of the Province of Ontario where the Services are delivered in Canada. The parties irrevocably attorn to the jurisdiction of the courts of the applicable jurisdiction, having regard to the foregoing. Notwithstanding the foregoing, the Seller is entitled to file and perfect a construction lien, repair and storage lien, mechanic's or materialmen's lien, or other such filing in the jurisdiction in which Services are performed, and the Buyer hereby irrevocably attorns to such jurisdiction for the adjudication of such claims. The parties expressly exclude the application of the *UN Convention on Contracts for the International Sale of Goods* (CISG). **EACH PARTY, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY AS TO ANY ISSUE RELATING HERETO IN ANY ACTION,**

PROCEEDING, OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THESE TERMS AND CONDITIONS OR ANY OTHER MATTER INVOLVING THE PARTIES HERETO.

29. **Counterparts.** Any document respecting a Purchase Order may be executed in any number of counterparts and delivered in the original, by facsimile or by email attachment in Portable Document Format ("PDF"), each of which when so executed and delivered shall constitute an original and all of which taken together shall constitute one and the same instrument.