POWERCO CANADA INC.

NON-PRODUCTION STANDARD PURCHASE TERMS AND CONDITIONS

(June 2026)

Unless otherwise specifically detailed in writing and signed by the parties hereto (sometimes referred to hereinafter as "**Party**" and collectively as the "**Parties**"), the following Non-Production Standard Purchase Terms & Conditions and any appendices related thereto ("**Terms**") apply to contracts, agreements, Purchase Orders, SOWs and Change Orders (collectively referenced herein as an "**Order**") between PowerCo Canada Inc. ("**Customer**") and a supplier to Customer (each, a "**Supplier**"). These Terms apply to Orders for Goods, Services and/or Goods and Services, as the case may be.

I. Definitions

1. Defined Terms. In addition to the defined terms as otherwise contained in this document and associated Orders, the following terms shall have the meanings herein specified unless the context otherwise requires. Defined terms herein shall include in the singular number, the plural, and in the plural, the singular.

2. Affiliate. Affiliate shall mean, with respect to any Person, any other Person directly or indirectly controlling, controlled or under direct or indirect common control with such Person (including without limitation all employees, directors and officers of such Person). A Person shall be deemed to control an entity if such Person possesses, directly or indirectly, the power to direct or cause direction of the management and policies of such entity, whether through the ownership of voting securities, by contract or otherwise. The foregoing notwithstanding, a Subcontractor of Supplier is considered an Affiliate and shall be subject to all of the obligations of Supplier stated herein.

3. Business Day. Business Day shall mean any day on which Customer is open for business. Unless otherwise stated, any references to a number of "days" shall mean calendar days.

4. Business Owner. Business Owner shall mean that person who a Party may designate in a SOW or Purchase Order who has responsibility for the project as defined in the SOW or other Order documents and who has authority to direct the project, agree to and sign Change Orders, and is the main point of contact for the Party. In the absence of a specific designation, the person who signs the SOW or Purchase Order shall be the Business Owner.

5. Child Labour. Child Labour has the meaning given within the *Fighting Against Forced Labour and Child Labour in Supply Chains Act* (Canada).

6. Claim(s). Claim(s) shall include any demand, assertion, request or other claim made with respect to any matter arising out of or related to the Goods, Services and/or the Order.

7. Covered Production**.** Covered Production means the extraction, processing, recycling, manufacturing, or assembly (collectively, "production") of any qualifying battery component or applicable critical mineral (as those terms are defined in 26 USC 45X(c)(1)), or any input to such qualifying battery component or applicable critical mineral, for use in electric vehicles or energy storage systems by Customer or any of its Affiliates.

8. Customer Policies. Customer Policies mean the Code of Conduct for Business Partners, the PowerCo Travel Policy and such other policies and practices as are identified by Customer to Supplier from time to time, all of which may be amended or supplemented by Customer from time to time during the term of these Terms or Order without notice to Supplier.

9. Daily Delay Liquidated Damages Amount. Daily Delay Liquidated Damages Amount means the daily delay liquidated damages specified in the Purchase Order.

10. Delay Liquidated Damages Cap. Delay Liquidated Damages Cap means the delay liquidated damages cap specified in the Purchase Order.

11. Deliverables. Deliverables shall mean those items prepared or provided by Supplier in its provision of the Goods or performance of the Services or as otherwise specified in these Terms or an Order, and includes all other Documents.

12. Delivery/Completion Date(s). Delivery/Completion Date(s) means the delivery and completion dates specified in the Purchase Order.

13. Documents. Documents shall mean all designs, drawings, plans, specifications, calculations, notes, studies, reports, memoranda, product data, test results, source data, e-mails, computer data, computer programs (other than Supplier's proprietary computer programs), technical information, operation and maintenance instructions, and other documents or materials relating to the project or the Goods and/or Services generated in Supplier's performance of a Purchase Order including the electronic version of any of the foregoing documents stored on any computer drives, servers or laptops maintained by Supplier or to which any employees, contractors or agents of Supplier have access.

14. Facility. Facility shall mean any building or facility to the extent owned, leased or otherwise controlled by a Party where any obligation under the Order is to be performed.

15. Forced Labour. Force Labour has the meaning given within the *Fighting Against Force Labour and Child Labour in Supply Chains Act* (Canada).

16. Goods. Goods shall mean, collectively or individually, the products, software, equipment, supplies and any other goods which Customer may purchase from Supplier pursuant to the Purchase Order.

17. HST. HST means the value-added tax imposed pursuant to Part IX of the *Excise Tax Act* (Canada), and any successor legislation thereto.

18. Intellectual Property. Intellectual Property shall mean any property which is protected by Intellectual Property Rights.

19. Intellectual Property Rights. Intellectual Property Rights means any right or protection existing from time to time in any specific jurisdiction, whether registered or not, under any patent law or any other invention or discovery law, copyright law, performance or moral rights law, trade secret law, confidential information law (including breach of confidence), plant breeders law, industrial design law, integrated circuit topography law, semiconductor chip protection law, trademark law, unfair competition law, or other similar laws and includes legislation by competent governmental authorities and judicial decisions under common law or equity.

20. Mandatory Spare Parts. Mandatory Spare Parts shall mean the specific amount of the mandatory spare parts specified in a Purchase Order to be supplied by Supplier as part of the Goods and/or Services.

21. Operational Life. Operational Life shall have the meaning specified in the Purchase Order.

22. Operational Spares. Operational Spares shall mean the operational spares specified in a Purchase Order to be supplied by Supplier as part of the Goods and/or Services.

23. Order. Order has the meaning given at the top of the page.

24. Person. Person shall mean any individual, joint venture, partnership, corporation or other business or legal entity.

25. Personnel. Personnel shall mean officers, directors, agents and employees.

26. Prohibited Foreign Entity**.** Prohibited Foreign Entity means a "prohibited foreign entity" as such term is defined in Section 7701(a)(51)(A) of the Internal Revenue Code of 1986, as amended, including as such term is interpreted and applied pursuant to any subsequent regulations or guidance issued by the U.S. government.

27. Public Office Holder. Public Office Holder shall mean a public office holder as defined in the *Lobbying Act* (Canada) or the *Lobbyists Registration Act* (Ontario), as amended.

28. Purchase Order(s). Purchase Order(s) shall mean any written order(s) issued by Customer to Supplier for the purchase of Goods and/or Services, including orders submitted to Supplier electronically and those orders issued by Customer to Supplier through Customer's Order Hub.

29. Sanctions. Sanctions shall mean economic or financial sanctions, trade embargoes or trade restrictions imposed, administered or enforced from time to time by the Government of Canada, the Federal Government of the United States or the European Union, including, but not limited to, under regulations, lists or orders promulgated under the *Special Economic Measures Act*, the *United Nations Act*, the *Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law)*, the *Freezing of Assets of Corrupt Foreign Officials Act*, the *Export and Import Permits Act,* the *Regulations Establishing a List of Entities*, under subsection of 83.05(1) of the *Criminal Code* or as listed in the Consolidated Canadian Autonomous Sanctions List.

30. Services Warranty. Services Warranty shall have the meaning given in Article VII of these Terms.

31. Services. Services shall mean, collectively or individually, the services and tasks which Customer may purchase from Supplier pursuant to the Purchase Order.

32. SOW(s). SOW(s) shall mean a statement of work entered into between the Parties and which shall set forth in detail the unique purchase requirements pursuant to which the Goods and/or Services shall be produced and rendered, including, without limitation, the specifications, technical requirements, project milestones, delivery dates and charges for the Goods and Services. SOWs may also contain service level agreements and other terms and conditions.

33. Spare Availability Period. Spare Availability Period means the spare availability period specified in a Purchase Order, if applicable to an Order.

34. Steel and Aluminum Products. Steel and Aluminum Products means [●]. ***[NTD: Subject to further review]***

35. Subcontractor. Subcontractor refers to an independent Third Person of any tier engaged by Supplier, directly by Customer or indirectly through another independent Third Person, to produce Goods and/or perform Services associated with the Order or other obligations to be performed by Supplier under the Order.

36. Supplier Group. Supplier Group means any of Supplier, and Supplier's Affiliates, Subcontractors and Personnel of each of the aforementioned Persons and those Persons for whom each or any of Supplier and its Affiliates, Subcontractors and their Personnel are responsible for under any applicable laws.

37. Supplier's Performance Security. Supplier's Performance Security shall mean the performance security to be provided by Supplier specified in a Purchase Order.

38. Taxes. Taxes means all taxes, however denominated, including any interest, penalties, or other additions that may become payable in respect thereof, imposed by any government authority, which taxes shall include all income or profits taxes (including federal income taxes and provincial income taxes), capital taxes, withholding taxes, payroll and employee withholding taxes, employment insurance (including provincial health insurance, old age benefits, welfare funds, pensions and annuities and disability insurance), social insurance taxes, sales and use taxes, goods and services tax, value added taxes, ad valorem taxes, excise taxes, customs duties, tariffs, franchise taxes, gross receipts taxes, business license taxes, occupation taxes, real and personal property taxes, stamp taxes, environmental taxes, transfer taxes, workers' compensation, other governmental charges, and other obligations of the same or of a similar nature to any of the foregoing (together with any penalties, interest, or other similar amounts thereon).

39. Third Person. Third Person shall mean a Person, including its employees, contractors or agents that is not a Party to the Order.

40. Unionized Trades. Unionized Trades means Canadian unionized employees, including Canada's Building Trades Unions, the London Building Trades Council and each of their affiliates and signatory contractors and "**Unionized Trade**" means any one of the above.

II. Interpretation, Offer, Acceptance and Exclusive Terms

1. Interpretation. Each Order is comprised of the following documents, all of which are hereby incorporated by reference into and form part of an Order:

   (a) these Terms;

   (b) SOW; and

   (c) Purchase Order.

2. Ambiguities. In the event of any ambiguities, conflicts or inconsistencies between or among any of the provisions of an Order, the provisions shall govern in the following order of precedence with each taking precedence over those listed subsequently:

   (a) any provision establishing a higher standard of safety, reliability, durability, performance or service shall take precedence over a provision establishing a lower standard of safety, reliability, durability, performance or service;

   (b) specifications and/or technical requirements, as applicable;

   (c) the provisions of amendments in writing to an Order signed by the Parties and Change Orders shall govern and take precedence only over those specific provisions of the Order expressly amended thereby;

   (d) these Terms;

   (e) SOWs; and

   (f) Purchase Order, as applicable.

3. Purchase Order. Each Purchase Order issued by Customer is an offer to Supplier identified on the Purchase Order for the purchase of Goods and/or Services. When accepted, a Purchase Order supersedes all prior agreements, purchase orders, quotations, proposals and other communications regarding the Goods and/or Services covered by the Purchase Order, except that a prior agreement signed by an authorized representative of Customer (e.g. the Order or Non-Disclosure Agreement) will continue to apply. The Purchase Order does not constitute an acceptance of any offer, quotation or proposal made by Supplier. Any reference in the Purchase Order to any offer, quotation or proposal made by Supplier is solely to incorporate the description or specifications of the Goods and/or Services in the prior proposal, but only to the extent that the description or specifications do not conflict with the description and specifications in the Purchase Order.

   Any terms, conditions or other provisions included in any document or quotation from Supplier shall not be incorporated into an Order unless specifically agreed upon by Customer and included within a Purchase Order. **Each Purchase Order is limited to and conditional upon Supplier's acceptance of these Terms exclusively.** An Order and these Terms, and any attachments thereto, shall be considered the complete agreement between Customer and Supplier with respect to the subject matter thereof and shall supersede any prior or contemporaneous agreements relating thereto. Any modification of these Terms must be expressly stated in the Order. Each Order can be modified only in accordance with Article III. References herein to "including" shall be deemed to mean "including, but not limited to," or "including, without limitation" or such similar meaning.

4. Purchase Order Acceptance. Supplier accepts a Purchase Order, including these Terms, and forms a contract by doing any of the following:

(a) commencing any work under the Purchase Order;

(b) accepting the Purchase Order in writing;

(c) shipping the Goods and/or performing the Services; or

(d) any other conduct that recognizes the existence of a contract with respect to the subject matter of the Purchase Order.

5. Cooperation. Each Party will reasonably cooperate with the other Party in connection with its obligations under the Order. Such cooperation will include: (a) cooperating with and coordinating work, schedules and other performance obligations with other suppliers and/or Subcontractors who are also performing work at the Customer Facility, and (b) informing the other Party of all management decisions, conditions or other occurrences that the Party reasonably expects to have a material effect on the obligations required to be performed by that Party under the Order, including, providing written notice to Customer of any condition or occurrence which Supplier reasonably believes may affect Supplier's, Customer's or any Subcontractor's schedules.

6. Conduct, Safety and Removal. While at a Customer Facility, Supplier shall be responsible for its Personnel, Subcontractors and Affiliates. Supplier and its Personnel, Subcontractors and Affiliates will conduct themselves (including wearing attire acceptable to Customer) in a safe, business-like and professional manner and will comply with Customer's reasonable requests, Customer Policies, rules and regulations, including with respect to personal conduct, safety, including the wearing of protective clothing or gear if applicable, parking, building access, identification badges, and security rules and regulations of which Supplier has been notified in writing or of which Supplier should reasonably be aware. Customer shall further have the right to require, at Supplier's expense, health, safety, or other testing to prove, in writing, the fitness of Supplier's employees to enter into Customer's premises. Customer may, upon giving written notice to Supplier, require Supplier to reassign, replace or remove any individual or Subcontractor performing the Services under the Order when Customer determines that the performance of such individual or Subcontractor is such that it may have an adverse impact on Customer. Supplier will, on receipt of such written notice, begin diligent efforts to address Customer's concerns. If Supplier has not, in Customer's reasonable determination, addressed Customer's concerns within five (5) Business Days from date of written notice by resolving the issue or providing an action plan with respect thereto, Supplier will reassign, replace or remove such individual or Subcontractor and complete such reassignment, replacement or removal as soon as practicable at no cost to Customer. In addition, Customer may, on giving written notice to Supplier, and at no cost to Customer, require the immediate removal of any individual or Subcontractor who has violated any safety or security rules or regulations, or any other policies or procedures, of which Customer has made Supplier aware, or violated any laws or regulations in the course of performing services under the Order or breached any of the provisions of the Order and/or these Terms. Supplier agrees to maintain the highest standards of moral, legal and ethical conduct and to safeguard and promote the reputation of Customer and its products. Supplier shall refrain, and shall ensure that its Personnel, Affiliates and Subcontractors, refrain from making any negative comments about the Customer throughout the term of the relevant Order and for a period of no less than twelve (12) months after the expiration of the Order. Supplier shall take all appropriate measures to verify that all Supplier Personnel performing services at a Customer Facility are legally eligible to work in Canada and any province or territory in which such Personnel perform services. Supplier shall complete, execute, and maintain all legally required forms and documentation for all Personnel performing services at a Customer Facility. Supplier shall not knowingly or intentionally direct or allow any of its Personnel to enter a Customer Facility or to perform any services of any nature if such Personnel is not legally eligible to work in Canada and any province or territory in which such Personnel may enter a Customer Facility or perform services. Upon Customer's request and subject to applicable law, Supplier shall make available to Customer the employment, qualification and training records and documentation of its Personnel, including records and documentation regarding the eligibility of Supplier's Personnel to work in Canada and any province or territory in which such Personnel perform services. If Supplier provides Services at a Customer Facility, Supplier will examine the Facility to determine whether the Facility is safe for the Services and will advise Customer promptly of any situation it deems to be unsafe. Supplier shall be solely responsible for, and Customer shall have no liability for, any loss, expense, damage or claim arising out of, or in connection with, the performance of the Services at a Customer Facility.

7. Subcontractors. Supplier may engage Subcontractors to produce the Goods and perform the Services associated with the Order or other obligations to be performed by Supplier under the Order following the approval of such Subcontractor by Customer, provided that Supplier will remain fully responsible for the acts, omissions, work, activities and other obligations of its Subcontractors and will insure that its Subcontractors perform the work as authorized by and pursuant to their respective engagements with Supplier. Prior to engaging a Subcontractor, Supplier will notify Customer in writing and provide any information that Customer may reasonably request regarding such Subcontractor. If Customer does not object within thirty (30) days after receiving written notice and all requested information, Supplier may engage such Subcontractor. Supplier represents and warrants that any Subcontractor shall be subject to all of Supplier's obligations, responsibilities and warranties under the relevant Order, and that Supplier will ensure the compliance of all Subcontractors with the terms of the Order for which the Subcontractor has been engaged (including these Terms and ensuring that all Subcontractors comply with the insurance requirements, Personnel documentation and other work eligibility and qualification provisions set forth in these Terms). Customer reserves the right to check at any time the qualifications and performance of any Personnel of Supplier or its Subcontractors.

   If requested by Customer, Supplier shall provide opportunities to local communities and Indigenous persons or contractors in connection with the Services or provision of the Goods. When performing the Services or provision of the Goods, Supplier shall use best efforts to consider candidates from under-represented communities. Supplier shall provide the information requested by Customer in connection with Supplier's efforts in that regard. Unless otherwise approved by Customer in writing, all workers at the Customer Facility site shall be Canadian workers.

   [Supplier shall only purchase [Steel and Aluminum Products] from Canadian suppliers. ***[NTD: PowerCo to confirm requirements for the subject purchase]***

8. Subcontractor Reviews. At Customer's request, the Parties will review the performance of any Subcontractor. Matters discussed at such reviews may include without limitation any work performed by a Subcontractor. If Customer determines that the performance of the Subcontractor, including any of its Personnel, does not conform to the Order or is otherwise unacceptable, Customer may, without liability, require the removal or termination of such Subcontractor or its Personnel. If Customer removes or terminates, or requires the removal or termination, of any Subcontractor or its Personnel, Supplier shall ensure that any replacement Subcontractor or its Personnel will perform the Services of the removed Subcontractor or its Personnel at the same Charges and pursuant to the same terms as set out in the applicable Order.

9. Travel Expenses. All travel undertaken by Supplier, its Personnel, or Subcontractors pursuant to the Order shall be at Supplier's expense.

10. Health and Safety. Supplier shall:

   (a) at all times ensure that all steps and reasonable care are taken to ensure the protection of workers at the Customer Facility and compliance with the *Occupational Health and Safety Act* (Ontario), and regulations made thereunder ("**OH&S Laws**");

   (b) ensure that all necessary information and forms under the OH&S Laws have been provided to Customer;

   (c) ensure that all necessary reports are made to the Ministry, or kept in Supplier's records, as required under the OH&S Laws, including with respect to fatalities, critical injuries, accidents, explosions or fires;

   (d) provide written proof to Customer in a timely manner of the registrations, notifications and reporting made under the OH&S Laws;

   (e) establish and implement systems that ensure such compliance and maintain reasonable health and safety programs, including health and safety management plans in accordance with the necessary standard of care and the performance of Services in accordance with same;

(f) comply with all OH&S Laws to prevent injury or damage to Persons, property in, on, under, about or adjacent to the Customer Facility;

(g) ensure any member of Supplier Group accessing the Customer Facility for the purpose of performing Services have effective coverage under the applicable workers' compensation legislation, including personal coverage if they are otherwise exempt from other means of coverage, and Supplier shall ensure any Subcontractors retained to perform Services provide a clearance letter provided by WSIB, before commencing any Services and thereafter on a regular basis, maintain current clearance letters;

(h) comply with all direction, requests for information and records, and any other management provided by Customer, in respect of the health and safety of Persons at the Customer Facility, provided the same complies with or exceeds all applicable laws;

(i) notify Customer immediately upon becoming aware of any accident, emergency, regulatory contact or non-compliance regarding the Goods or the Services, and provide Customer with all information requested by Customer or a Customer's representative in relation to any accident, emergency, regulatory contact or non-compliance;

(j) limit its communication for regulatory contact to that required by OH&S Laws and except for immediate reporting requirements to a regulatory contact as required by OH&S Laws, allow Customer to either communicate or approve all information, communication or reporting regarding any accident, emergency, regulatory contact or non-compliance, including press releases, publicly available investigation reports and contact with the media, and any Third Persons;

(k) at all times during the performance of the Services, provide at the Customer Facility on a fulltime basis, a safety representative holding a Canadian Registered Safety Professional designation, or other suitable safety designation deemed equivalent by Customer acting in its discretion, and having a minimum of five (5) years of industry experience;

(l) comply with any direction made by Customer, its representatives or any "constructor" (as defined in the *Occupational Health and Safety Act* (Ontario)), provided such direction complies with OH&S Laws; and

(m) ensure that any Subcontractors retained to perform Services comply with the foregoing obligations in (a) through (l) above.

11. Unionized Trades. Supplier shall employ Unionized Trades for performance of the Services to the extent practicable, provided that if Unionized Trades are not practicable Supplier shall only employ Canadian non-unionized employees with wages and benefits that are comparable in the aggregate to the wages and benefits of similar Canadian Unionized Trades. If Supplier is of the view it is not practicable to engage a Unionized Trade, Supplier shall obtain the prior written consent of Customer, which consent shall not be unreasonably withheld, prior to engaging any person that is not a Unionized Trade. Supplier shall respect workers' rights to decide on union representation in accordance with applicable laws.

III. Change Orders

1. General. Any addition, reduction, substitution, omission, modification, deletion, removal or other changes to the Order, including to a SOW or a Purchase Order, or the Goods or Services related thereto, ("**Change(s)**") shall be made through the change order process described in this Article III. The Parties agree that (a) no Change which is reasonably expected to affect the function, Charges or performance of any Goods or Services will be implemented without prior consultation between the Parties; and (b) all approved Changes will be formalized in a change order ("**Change Order**") executed by both Parties.

2. Requests for Changes. All requests for Changes by a Party will be communicated in writing by that Party's Business Owner to the other Party's Business Owner, including all requests for Changes communicated electronically. Any request for Changes will include a detailed description of the Change requested (including reasons for proposing the Change), the projected schedule and timing for the Change and the priority of the Change.

3. Change Documentation. Within five (5) Business Days of either Party delivering a request for a Change in accordance with Article III Section 2, Supplier shall prepare and deliver to Customer notice of the effect, if any, of the proposed Change on:

(a) the scope of the Goods or Services;

(b) Supplier's and Customer's obligations under the Order;

(c) the Charges, including the budget, price or fees associated with the Change and any costs or cost savings to Customer;

(d) the impact to the schedule for the delivery of the Goods or completion of the Services; and

(e) any other reasonably foreseeable implications of the Change which may be relevant to Customer's evaluation of the proposed Change.

Within ten (10) Business Days after receiving such information, Customer will: (i) approve the Change; (ii) withdraw any request for the Change; (iii) reject Supplier's request for Change; or (iv) request further particulars or documents from Supplier as it may reasonably require to evaluate the Change request or information delivered by Supplier. If Customer does not do any of the foregoing within ten (10) Business Days, then Customer shall be deemed to have rejected or withdrawn the request for Change, as applicable. Upon approval by Customer of the Change, the Parties shall enter into a Change Order in respect of the Change. Subject to Customer's rights under Article IV Section 2, if the Parties cannot agree on the impacts of a Change and Customer would like to proceed with a Change, then Customer shall be entitled to issue a Change Order for such Change and Supplier shall be responsible to carry out and complete the Change and in such event (A) Supplier shall be entitled to the direct costs reasonable incurred by Supplier as a direct result of such Change, if any, and (B) the Delivery/Completion Date(s) shall be reasonably adjusted to the extent the Change prevents Supplier from delivering the Goods or completing the Services in accordance with the Delivery/Completion Date(s) prior to such Change, as determined by Customer, acting reasonably. For certainty, if Customer orders additional or incremental Goods, the provisions of Article IV Section 2 shall apply.

IV. Goods and Services

1. Goods and Services. Customer may, during the term of the Order, purchase the Goods and Services as described in the applicable Order. Except as may be otherwise expressly negotiated and stated in the Order and in the absence of an express declaration to that effect, Customer shall have no obligation to purchase any particular quantity of Goods and/or require any particular Services from Supplier. Supplier shall produce the Goods and perform the Services as ordered by Customer in accordance with the Order and shall, unless otherwise provided in the Order provide and pay for labour, materials, equipment, tools, utilities, transportation and other facilities and services necessary for proper execution of Supplier's obligations under the Order, whether temporary or permanent and whether or not incorporated, or to be incorporated, into the Goods and Services. Supplier shall follow all written instructions from Customer. Customer shall not be responsible for verbal instructions given by any other Persons or for Supplier's interpretations of the Terms and/or other Purchase Order, SOW or other part of the Order. Supplier shall keep the Goods and Services, as well as Customer's Facility and any other property leased or owned by Customer, free and clear of any and all liens, encumbrances and claims arising out of or relating to the Order.

2. Ordering. If and when applicable, each Purchase Order shall specify the description, quantity, Charges, special requirements, if any, delivery dates for Goods and completion dates for Services, shipping terms and any additional terms as mutually agreed upon between the Parties for the Goods and/or Services ordered by Customer from Supplier (collectively, the "**Order Terms**"). Customer may, during the term of the Order, order additional or incremental Goods and Services from Supplier under the Order pursuant to and in accordance with Article III and, for a period of twelve (12) months from the date of the Order, Customer shall have the right, at its option, to purchase additional Goods by issuing a Change Order (which are the same type of Goods as specified in the Order) for the lesser of (a) the fair market value of such Goods, or (b) the same amount as the Charges for the specific Goods within a Purchase Order (and Supplier shall promptly deliver such Goods to Customer). Supplier shall not fabricate or ship any Goods or provide any Services except to the extent authorized in Customer's written Orders.

3. Shipping, Risk of Loss and Title. Except as otherwise stated in the Order, and only if and when applicable, Customer requires that Supplier ship Goods delivery duty paid ("**DDP**") to the designated Customer Facility. Shipping, including carriage, shall be arranged by Supplier and shall be at Supplier's cost. Except as otherwise stated in the Order, Incoterms 2010 shall apply to all shipments. Notwithstanding anything to the contrary, unless specified in the Order, title and risk of loss or damage to the Goods shall pass to Customer upon acceptance of the Goods and Services at the designated Customer Facility in accordance with Article IV Section 4, without prejudice to Customer's rights to reject or return Goods pursuant to the Terms.

4. Acceptance of Goods and Services. Except as otherwise stated in the Order, acceptance by Customer of Goods or Services shall occur upon Customer's notification to Supplier that it has accepted the Goods and Services, which notification will be given by Customer within the Acceptance Period (as defined herein) when Customer confirms the Goods have been satisfactorily delivered, inspected, and installed, or the Services have been fully performed, and the Goods and Services meet all applicable performance criteria set forth in the Order. Customer shall inspect and notify Supplier in writing within a reasonable time from the date the Goods and Services have been received or performed, whether Customer has accepted or rejected the Goods or Services (the "**Acceptance Period**"). Customer's payment of any invoice shall not be deemed to constitute acceptance of the Goods or Services, and its acceptance of the Goods or Services shall not be construed as evidence that the Goods or Services do, in fact, conform in all respects with the Goods and Services requirements set forth in the Order, or as a waiver of Supplier's warranty obligations as contained herein.

5. Customs Related Matters. Credits or benefits resulting from the Order, including trade credits, export credits, or the refund of duties (including duty drawback), taxes, or fees belong to Customer. Supplier shall provide all information and certificates (including Free Trade Agreement ("**FTA**") certificates and United States-Mexico-Canada Agreement ("**USMCA**") Certificates of Origin) necessary to permit Customer to receive these benefits or credits. Supplier agrees to notify Customer of any Goods or Services which are subject to Canada's or any other country's import or export laws and to fulfill any customs, FTA or USMCA related obligations, origin marking, or labeling requirements, and content origin requirements. Supplier shall notify Customer in writing of any Goods subject to Canadian export laws and regulations, including any changes to provincial/territorial or FTA or USMCA content, which in each case are subject to Customer approval. Export licenses or authorizations necessary for the export of Goods are Supplier's responsibility unless otherwise stated in the Order, in which case Supplier shall provide the information necessary to enable Customer to obtain the licenses or authorizations. Supplier shall promptly notify Customer in writing of any material or components used by Supplier in filling the Order that Supplier purchases in a country other than the country in which the Goods are delivered. Supplier shall furnish any documentation and information necessary to establish the country of origin or to comply with the applicable country's rules of origin requirements. Supplier shall promptly advise Customer of any material or components imported into the country of origin and any duty included in the Goods' purchase price. If Goods are manufactured in a country other than the country in which Goods are delivered, Supplier shall mark Goods "Made in [*country of origin*]." Supplier shall provide to Customer and the appropriate governmental agency the documentation necessary to determine the admissibility and the effect of entry of Goods into the country in which Goods are delivered. This shall include supporting documentation required by Canada Border Services Agency and any other governmental agencies, including, without limitation, Transport Canada, Environment & Climate Change Canada, and Health Canada. Supplier warrants that any information that is supplied to Customer about the import or export of Goods is true and that all sales covered by the Order will be made at not less than fair value under the anti-dumping laws of the countries to which the Goods are exported. To the extent any Goods covered by the Order are to be imported into Canada, Supplier shall comply with all applicable recommendations or requirements of the Canada Border Services Agency's Partners in Protection ("**PIP**") program. Upon request, Supplier shall certify in writing its compliance with the PIP program and shall provide any supporting documentation requested by Customer and/or the Canada Border Services Agency.

6. Time and Quantity of the Essence. Time and quantity are of the essence to Customer. Supplier shall deliver the Goods and complete the Services in accordance with the Delivery/Completion Date(s). Time and quantity provisions of Order(s) generated in connection with these Terms shall be strictly observed. Supplier shall promptly notify Customer in writing of any and all events which could affect the obligation of Supplier to make deliveries of Goods and/or Services at specified times or in specified quantities and of corrective measures that Supplier shall implement to comply with Supplier's obligations under the

Order. In such circumstances, Customer may exercise any and all rights it may have pursuant to the Order. Alternatively, Customer may, at its option, require Supplier to do all things necessary at no cost to Customer (including without limitation working overtime or extra shifts, or shipping by premium means, all at Supplier's expense) to deliver or perform as committed. The fact that such notice is given, however, shall not affect or diminish any obligation of Supplier. Customer is not obligated to accept early deliveries, late deliveries, partial deliveries or excess deliveries. Any provision to the contrary herein notwithstanding, and in addition to any other remedies that Customer may have under these Terms or by law, in the event that Supplier is delayed in delivering the Goods and/or completing the Services by the applicable Delivery/Completion Date(s) to Customer, Supplier shall pay the Daily Delay Liquidated Damages Amount for each day that the delivery of the Goods and/or completion of the Services is delayed, however, that such liquidated damages shall not exceed, in the aggregate, the Delay Liquidated Damages Cap. If the Daily Delay Liquidated Damages Amount owing by Supplier reach the aggregate Delay Liquidated Damages Cap then any further delay by Supplier shall be a material breach of this agreement and Customer may pursue any of its rights or remedies at law or in equity, including without limitation terminating the Order, or any part thereof, for cause. Supplier acknowledges that the Daily Delay Liquidated Damages Amount are reasonable, are not Customer's exclusive remedy in the event of delay and that Customer may pursue any and all rights and remedies it may have at law or in equity, including without limitation recovering liquidated damages in accordance with this Article IV Section 2, in the event of Supplier's delay. Customer, without cost or liability to Supplier, may reschedule delivery of the Goods or Services by giving timely written notice to Supplier.

7. Acceleration and Recovery Plan. If Supplier is delayed providing the Goods or performing the Services, as applicable, Customer shall have the right, at any time, to require Supplier to:

   (a) at Supplier's cost, take action, including to reallocate resources, to work overtime or extra shifts, or to provide such additional labour, equipment or materials or cooperate with a third party, such that Supplier's supply of the Goods and performance of the Services, as applicable, is accelerated or improved to meet the Delivery/Completion Date(s); and

   (b) to provide a recovery plan demonstrating the corrective measures that will be taken by Supplier to overcome such delay and meet the Delivery/Completion Date(s). Supplier shall provide such plan to Customer within seven (7) days of Customer's request and Supplier shall otherwise promptly implement and comply with such recovery plan and all costs and expenses incurred by Supplier in relation to such corrective action plan shall be at the cost of Supplier.

8. Design and Manufacturing Procedures and other Services. Supplier shall comply with the design and manufacturing requirements and procedures of Customer, including without limitation procedures relating to testing, safety, delivery, installation, scheduling, production and training. During the period Supplier is designing and/or manufacturing the Goods, and upon reasonable request, Customer shall have the right of access to any of Supplier's plants as may be necessary to allow Customer to review Supplier's progress and verify that the Goods are being designed and/or manufactured according to specifications and the production schedule and are otherwise in compliance with Customer's design and manufacturing requirements and procedures and all other applicable laws and regulations. Supplier shall provide Customer with appropriate technical assistance for the Goods, including without limitation redesign services if design modifications are required by applicable law, on-site support and spare parts. Supplier's technical assistance obligations under this Article IV Section 8 shall survive the termination or expiration of the Order.

9. Supply Chain Sustainability and Code of Conduct. In addition to complying with Customer's other requirements, Supplier shall comply with Volkswagen AG's and its Affiliates' Code of Conduct for Business Partners. The Code of Conduct defines the expectations of Customer and its Affiliates regarding environmental compliance, sustainable development and conduct by business partners, including with respect to the added value of their products. Without limitation, Child or Forced Labour are prohibited in the supply chain for the delivery of Goods or Services covered by an Order. The full text of the requirements can be found on vwgroupsupply.com under Cooperation/ Supply Chain Sustainability/Sustainability Requirements. When Supplier submits an offer and/or accepts an Order, Supplier confirms its awareness of and agreement to comply with, the then current Code of Conduct.

V. Charges and Payment

1. Charges. Customer shall pay Supplier the purchase prices and/or service fees for the Goods and/or Services set forth in the applicable SOWs and Purchase Orders (collectively, the "**Charges**"). In addition to any right of set-off or recoupment provided by law, Customer may withhold, set-off and recoup against its accounts payable to Supplier any amounts (a) for which Supplier or Supplier's Affiliates are liable to Customer under any Order or agreement with Supplier or Supplier's Affiliates; (b) which are otherwise due and owing by Supplier to Customer, including amounts arising from any breach of an Order by Supplier; (c) which are being disputed by Customer pursuant to the Terms; or (d) which are required to be withheld in accordance with applicable laws. Subject to Article III, the Charges for the Goods or Services shall not exceed the amount specified in the Order. The Charges include all charges, including without limitation transportation (DDP), storage, drayage, demurrage, insurance, boxing, packing, crating, carting, customs, duties imposed before passage of title, testing, installation, training and technical assistance and all applicable Taxes except HST imposed upon the sale or transfer of goods or services or other obligations for which Customer is responsible under these Terms and properly invoiced by Supplier and Customer will not accept any extras or additional charges unless specified in the Order or otherwise agreed by Customer in writing or pursuant to and in accordance with Article III. Supplier assumes the risk of events or causes affecting prices including without limitation foreign exchange rates, increases in raw material costs, inflation, increases in labour and other production and supply costs. Supplier represents that the Charges shall not exceed the prices charged to any other Customer of Supplier for goods which are the same or substantially similar to the Goods, taking into account the quantities and terms of the Order. Moreover, Supplier agrees to refund any excess amounts charged by Supplier to Customer or otherwise incurred by Customer with respect to the provision of the Goods and the Services in violation of this Article V Section 1.

2. Taxes. Except as provided in this Article V Section 2, Supplier is exclusively liable for, and shall pay before delinquency, all Taxes imposed or levied in respect of the supply of the Goods and the performance of the Services. Supplier shall pay or remit to any applicable governmental authority any payments or remittances required to be made by it, including any amounts subject to self-assessment and file any documents required to be filed pursuant to applicable laws or administrative policy within the time periods specified therein. No payment will be made by Customer to compensate Supplier as a result of costs and expenses associated with any such Taxes imposed upon Supplier and Supplier shall be liable for, and shall defend, indemnify and hold Customer harmless from and against all such Taxes, expenses or costs incurred or suffered by Supplier owing to Supplier's failure to do so.

   Supplier shall provide Customer with documents that shall be required to obtain any applicable exemption, credit, rebate, remission, refund, reduction or other relief from taxes or foreign tax credit. Customer is authorized to deduct or withhold from each payment to Supplier all taxes which Customer is required by law to deduct or withhold and to pay the amount withheld or deducted to the relevant tax authorities.

   Supplier shall comply in a timely manner with all requirements imposed on Supplier by all applicable taxing statutes, including requirements in respect of registration, payment, collection, and remittance of taxes and provision to the taxing authorities of such deposits, guarantees or other forms of security as may be required by law or the administration thereof, and shall upon request provide Customer with written proof of such compliance. Supplier shall indemnify, defend, and hold harmless Customer for any amounts assessed against Customer arising from Supplier's failure to so comply.

   The Parties acknowledge that the Charges are exclusive of HST, but inclusive of all other taxes which may be imposed in respect of the Goods and the performance of the Services. HST shall be added to the Charges only if Supplier is registered for purposes of such tax, and in such case Customer shall pay, and Supplier shall collect and remit such HST in accordance with applicable laws. Any applicable HST which may be imposed upon Customer in respect of the Goods and the Services shall be: (i) calculated by Supplier in the manner stipulated herein and as required by applicable laws or administrative policy; and (ii) reflected on the applicable invoice as a separate line item, together with such information as required under applicable laws or administrative policy so that Customer can obtain an input tax credit with respect to such HST.

   Customer may deduct or withhold from any payments made under these Terms or an Order (without any gross-up for the taxes so withheld or indemnity to Supplier) any amounts that are required to be deducted

or withheld therefrom in respect of any taxes pursuant to applicable laws. Customer shall remit such amounts to the applicable governmental authority and shall, within a reasonable time, furnish a tax form, receipt or other evidence to Supplier showing payment of any tax or withholding.

Without limitation to Customer's rights in this Article V Section 2, if Supplier is or becomes a "non-resident" for the purposes of the *Income Tax Act* (Canada) or, in the event Supplier is a partnership, then if Supplier is not or ceases to be a "Canadian Partnership" as defined in the *Income Tax Act* (Canada), Supplier agrees to provide the following information on its invoices to Customer:

(a) the amount chargeable for activities related to the Goods and the Services performed in Canada and outside of Canada;

(b) the cost of the portion of the Services performed by Third Persons (along with a copy of the relevant invoices, separately indicating the cost of Services provided in Canada, the cost of the portion of the Services performed outside Canada and the amount of reimbursed expenses);

(c) identification of and rationale for any charge that is unrelated to the Goods and performance of the Services;

(d) the information prescribed by the Input Tax Credit Information (HST/HST) Regulations under the *Excise Tax Act* or by other applicable laws or administrative policy or any other information prescribed for a similar VAT; and

(e) details of any expenses for which reimbursement is sought, including for meals, hotel, airfare, travel and similar expenses;

in which event Customer shall withhold from any monies payable to Supplier in respect of that invoice such amounts as Customer may be obliged to withhold under the *Income Tax Act* (Canada), and to remit the same to the applicable taxing authorities in Canada, unless such requirement is waived in advance by the applicable taxing authority and evidence thereof acceptable to Customer is provided to Customer prior to payment. Supplier shall provide any supporting documentation or information to establish or verify the portion of the activities or services performed in Canada as reasonably requested by Customer. Supplier shall defend, indemnify and hold Customer harmless from and against all such taxes, expenses or costs incurred or suffered by Customer as a consequence of any inaccuracy in any such invoice. Without restricting any obligation of Supplier pursuant to these Terms, or otherwise releasing Supplier therefrom, Supplier shall promptly give notice to Customer of any change affecting Customer that would result in Customer's obligation to withhold and remit taxes arising or changing under any applicable laws, together with supporting documentation reasonably requested by Customer.

3. Import. Supplier shall be the importer of record with respect to the Goods. Supplier shall be responsible to account for and pay any taxes and other charges, duties, expenses or fees whatsoever relating in whole or in part to any importation and exportation and re-exportation or re-importation into or out of any country, province or state in connection with the supply of the Goods. Supplier shall also be liable for, and indemnify and hold Customer harmless from the consequences of any errors, ambiguities, inconsistencies or omissions in documents prepared and submitted by or on behalf of Supplier to applicable taxing authorities resulting in failure of customs authorities to levy the correct amount in respect of *Special Import Measures Act* (Canada) duties, tariffs and other duties and fees imposed under the customs tariff, taxes, or other charges, expenses or fees whatsoever, or any failure to provide timely authorizations or to carry out inspections in a timely manner as a result of such errors, ambiguities, inconsistencies or omissions. Supplier shall strictly comply with all applicable requirements and procedures of taxing authorities to obtain customs release for importation, exportation and re-exportation into or out of any country, province or state in connection with the supply of the Goods and to obtain any import and export licences or permits required by the *Export and Import Permits Act* (Canada) and related regulations, or any other applicable laws.

Supplier represents that it has confirmed and shall otherwise ensure that all Goods and any other goods or materials used in connection with the Goods or Services coming into Canada are not subject to:

(a) any extraordinary import or export duties, tariffs, surtaxes, penalties, assessments or reassessment under the *Special Import Measures Act* (Canada), the *Canadian International Trade Tribunal Act*;

(b) any surtax orders issued under the Canadian Customs Tariff; or

(c) any similar trade-related tariff measure.

Supplier will not provide any Goods and any other goods or materials used in connection with the Goods or Services that are subject to (a) – (c) above. If a Canadian customs authority, the Canada Border Services Agency, or a court, or administrative tribunal of competent jurisdiction determines, for *Special Import Measures Act* (Canada) purposes that Customer is the importer, or the importer in reality, as the case may be with respect to any Goods and any other goods or materials used in connection with the Goods or Services, including special tools or equipment necessary for Supplier's performance of the Services, Supplier will undertake to make all reasonable efforts to assist Customer and provide any documentation requested by Customer if Customer is determined to be the importer or importer in reality, as the case may be, with mitigation of the *Special Import Measures Act* (Canada) duties, penalties, assessment, re-assessment payable by Customer.

4. Invoices. Supplier shall issue individual invoices for each Service performed and each shipment of Goods delivered for amounts owing in accordance with payment milestones or payment terms in a Purchase Order. Invoices must:

(a) be delivered at the end of each month where an amount is owing to Supplier in such month in accordance with the Purchase Order;

(b) contain the Purchase Order number;

(c) contain a description of Goods and/or Services; and

(d) for any Goods or Services that are subject to the *Construction Act* (Ontario), be "proper invoices" issued in accordance with such Act and which invoice must meet the requirements of the Act, these Terms and any requirements in an Order.

5. Payment. Customer shall pay the Charges set forth in Supplier's non-disputed invoices when due based on:

(a) where the *Construction Act* (Ontario) does not apply, a net sixty (60) day payment term from receipt of an invoice; and

(b) where the *Construction Act* (Ontario) does apply, the amount payable under a proper invoice (less amounts subject to a notice of non-payment) no later than twenty-eight (28) days after receiving the proper invoice from Supplier.

In the event of any delay in receiving an invoice, or any errors or omissions in any invoice, Customer may withhold payment without losing its rights to any applicable cash discounts. Except as otherwise stated in the Order, all payments will be in Canadian Dollars. Supplier agrees to accept payment by electronic funds transfer or by cheque mailed on or before the due date unless otherwise expressly agreed by Customer. Any failure of Customer to issue a notice of non-payment under the *Construction Act* (Ontario), or any payment by Customer to Supplier, shall be without prejudice to Customer's right to dispute any amounts invoiced by Supplier or paid by Customer that are not or were not actually owing to Supplier in accordance with the Order. Supplier shall promptly, and no later than thirty (30) days after such amounts are determined to be due to Customer, reimburse Customer any amounts Customer paid to Supplier which are subsequently determined to not be owed to Supplier, plus interest. For certainty, Customer's payment of any invoiced amounts by Supplier hereunder shall not limit Customer's right to later dispute any of the amounts invoiced by Supplier and payment by Customer shall not be deemed to be acceptance of the Services/Goods. Where applicable, any determination of an adjudicator pursuant to the *Construction Act* (Ontario) will be without prejudice to Customer's or Supplier's right to dispute such determination or have the merits of the issue determined by the dispute resolution provision of these Terms.

6. Audits by Customer. Supplier shall keep books, accounts, records, documents and any other materials and information (collectively "**Records**") within Canada such that Customer, its representatives or any governmental authority may verify, audit, examine, evaluate or support (a) the proper performance by Supplier of its obligations under an Order, (b) any costs or expenses payable by Customer under these Terms or any costs or expenses paid by Supplier on behalf of Customer, or billed to Customer directly, in relation to an Order, and (c) in respect of Charges that are fixed, the correct application of such Charges in any invoice issued hereunder. Customer's audit rights shall exist at all times within seven (7) years following acceptance of the Goods or the Services.

   At Customer's request, Supplier will allow Customer or its designated representatives to audit its Records or its Subcontractors' Records relating to the Order to the extent necessary to verify Supplier's compliance with completed and current Orders, including the accuracy of any Charges. Supplier will cooperate with and comply with all reasonable requests from Customer or its designated representatives in connection with such audit. Supplier shall maintain its Records relating to the Order for at least seven (7) years after the acceptance of the Goods or the Services.

   Upon completion of any such audit, the Parties will review the audit report together and work in good faith to agree upon (i) any adjustment of Charges to Customer (including any reimbursement of any overpayment by Customer or reimbursement to Supplier for any underpayment by Customer); and (ii) any appropriate adjustments to Supplier's billing practices. If any such audit discloses overpayments that in the aggregate equal one percent (1%) or more of the amounts that were actually due as shown by the audit, then Supplier will reimburse Customer for the costs of the audit.

7. Operational Audits. Customer may monitor Supplier's performance of its duties under the Order at any time during normal business hours, upon prior written or verbal notice to Supplier.

VI. Confidentiality

1. Confidential Information. "**Confidential Information**" shall mean any information typically regarded as confidential and proprietary that has been or may hereafter be disclosed or discovered in any form, whether in writing, orally, electronically, visually or otherwise, by either Party or its Personnel, Affiliates, consultants or advisors (each a "**Representative**") (collectively, a "**Disclosing Party")** to the other Party or its Representatives (collectively, a "**Receiving Party**") including all information relating generally or specifically to a Party's business, including without limitation patents, copyrights, inventions, designs, discoveries, improvements, formulae, product data, specifications and processes, trade secrets, Customer lists and contacts, personal data and information, information on Customer quantity and technical requirements, product pricing information, geographic and sales data, technical or commercial information, and financial information, information related to mergers or acquisitions, software, software documentation, and information concerning business plans or business strategy that is supplied to or obtained by the other Party pursuant to or as a result of the Order and that is not generally known in the trade or industry. Each Party may use Confidential Information of the other Party only in connection with the performance of duties under the Order. Neither Party shall copy Confidential Information or disclose Confidential Information of the other Party to persons who do not need Confidential Information in order to perform its duties under the Order. Confidential Information will be returned to the Disclosing Party seeking to protect such information upon request of the Disclosing Party. Confidential Information does not include information that is generally known or available to the public prior to the date of the Order, information that becomes generally known or available to the public by publication or otherwise not due to any unauthorized act or omission of the Party not claiming the information to be confidential, or information that is not treated as confidential by the Party claiming the information to be confidential. Because the breach of either Party's confidentiality obligations may cause the other Party to suffer irreparable harm in an amount not easily ascertained, any such breach, whether threatened or actual, will give the non-breaching Party the right to obtain equitable relief to enjoin or restrain the disclosure or use of such Confidential Information. The provisions of this Article VI Section 1 will survive the termination of the relevant Order for the longer of five (5) years from the disclosure of the Confidential Information or three (3) years after the date of termination or expiration of the related Order; provided that each Party agrees to maintain indefinitely the confidentiality of any trade secret of the other Party which is disclosed or discovered during the term of the Order, provided that the trade secret has been specifically identified in writing as a trade secret. Notwithstanding anything to the contrary in these Terms, any confidentiality or non-disclosure agreement between the Parties that predates these Terms will remain in effect except as expressly set forth in these Terms, and to the extent

of a conflict between the express terms of such an agreement and this Article VI Section 1 the terms of that agreement will control.

2. Restrictions on Use of Confidential Information. The Receiving Party will use at least the same degree of care, but no less than a reasonable degree of care, to avoid unauthorized disclosure or use of the Disclosing Party's Confidential Information as it employs with respect to its own Confidential Information, including taking reasonable measures to record who has access to Confidential Information.

The Receiving Party may disclose Confidential Information only to its own Personnel and to its Representatives, Affiliates and Subcontractors who reasonably need to know it in order to meet the contractual obligations as contemplated by the Order. The Receiving Party will be responsible to the Disclosing Party for any violation by its Personnel, Representatives, Affiliates or Subcontractors. Supplier shall take reasonable steps to record who has access to Confidential Information, including by keeping written access logs. The Receiving Party shall, upon request, provide to the Disclosing Party the identities and names of the Persons to whom Confidential Information has been disclosed. Notwithstanding anything to the contrary herein, Customer will have the right to disclose any Confidential Information to government authorities as may be required from time to time.

The Receiving Party may not print or copy, in whole or in part, any documents or other media containing the Disclosing Party's Confidential Information, other than copies for its Personnel, Representatives, Affiliates, or Subcontractors who are working on the matter, without the prior consent of the Disclosing Party. The Receiving Party shall keep a written record of who has received such prints or copies and, upon request, provide to the Disclosing Party the identities and names of such individuals.

The Receiving Party may not use the Disclosing Party's Confidential Information for competing with the Disclosing Party, for its own benefit, or for any purpose not in furtherance of the Order.

As promptly as practicable (and in any event within ten (10) days) after the earlier of the completion of the Receiving Party's obligations under, or the termination of, the Order, the Receiving Party will return or, with the consent of the Disclosing Party, destroy all of the Disclosing Party's Confidential Information, except for business records required by law to be retained by the Receiving Party, and upon request of the Disclosing Party shall deliver an affidavit signed by an officer of the Receiving Party attesting to the return and/or destruction of the Confidential Information.

If the Receiving Party is requested, as part of an administrative, judicial or other legal proceeding, to disclose any of the Disclosing Party's Confidential Information, the Receiving Party will, to the extent permitted by applicable law, notify the Disclosing Party in writing of such request as promptly as practicable (and in any event within five (5) Business Days after receiving the request) and cooperate with the Disclosing Party, at the Disclosing Party's expense, in seeking a protective order or similar confidential treatment for such Confidential Information.

3. Personal Information. To the extent that Supplier shares "**Personal Information**" (as defined in the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c.5) with Customer, Supplier will do so in compliance with applicable law, including providing appropriate notice (including notice regarding the sharing of Personal Information with third parties) and obtaining consent if required; or, if Supplier is not the first party collector of such Personal Information, ensuring that suppliers of such information have provided appropriate notices and obtained any required consents to share such data. Supplier agrees to make available, upon request, information to demonstrate compliance, including a copy of the compliant notices or consents.

VII. Warranties and Certain Covenants

1. Goods Warranty (by Supplier). Supplier warrants to Customer that:

(a) the Goods will be produced and delivered in strict accordance with the terms and requirements set forth in the Order, be free of defects in design, materials and workmanship, be merchantable and be fit and sufficient for the particular purpose intended by Customer and shall conform in all material respects to all applicable laws and regulations in force at the time the Goods are produced;

(b) the documentation provided by Supplier shall be correct, free from defects and in sufficient detail to permit Customer to properly and safely operate and maintain the Goods;

(c) the Goods shall perform in accordance with the performance requirements set forth in the Order;

(d) Supplier has the expertise and resources necessary to produce and deliver the Goods in accordance with the requirements and specifications (including timeframes) set forth in the Order, including, without limitation, the SOW; and

(e) Supplier is familiar with the condition of the Facility and other conditions under which the Goods will be used, including without limitation the prevailing weather conditions, and Supplier agrees that such conditions will not affect the use of the Goods in accordance with all the requirements and specifications (including timeframes) set forth in the Order (the "**Goods Warranty**").

Without prejudice to any other remedy available to Customer, promptly after written notice of any defect or failure to comply is provided by Customer, Supplier shall, at Customer's option, do any of the following with respect to the Goods that do not conform to the Goods Warranty: (i) replace the Good(s), (ii) repair the Good(s), or (iii) refund the purchase price for such Good(s) within the time periods for delivery of the Goods specified in the Order. Customer's acceptance of Goods, including those which have been repaired, replaced or modified, shall be evidenced by a written confirmation thereof. Goods repaired, replaced or modified shall be subject to all provisions of the Order to the same extent as items initially delivered, with any applicable warranty period beginning upon the completion of such repair, replacement or modification, which completion date shall be the date confirmed in writing by Customer which is at least six (6) weeks after the repaired, replaced or modified items have functioned properly without further defect ("**Replacement Warranty Period**"). Any provision to the contrary in the Order notwithstanding, if Supplier fails to timely deliver the Goods, including without limitation the failure to promptly replace, repair, or modify a nonconforming Good, then Customer shall have the right, in addition to the right of termination under Article XII, to purchase replacement goods from a party other than Supplier and charge Supplier for any price differential for these cover purchases from the purchase price, as well as recover any and all damages to which Customer is entitled under law and equity, including, without damages, legal costs (on a full indemnity basis) and costs incurred as a result of Supplier's breach of its obligations.

2. Services Warranty. Supplier represents and warrants to Customer that:

(a) all Services will be performed in a prompt, professional and workmanlike manner in accordance with the requirements and specifications (including timeframes) set forth in the Order, including, without limitation, the SOW, and otherwise in accordance with industry standards and will conform in all material aspects with all applicable laws and regulations in force at the time the Services are performed;

(b) Supplier has the expertise and resources necessary to undertake and complete the Services in accordance with the requirements and specifications (including timeframes) set forth in the Order, including, without limitation, the SOW; and

(c) Supplier is familiar with the condition of the Facility and other conditions under which the Services will be performed, including, without limitation, the prevailing weather conditions, and Supplier agrees that such conditions will not affect the performance of all Services in accordance with all the requirements and specifications (including timeframes) set forth in the Order (collectively, the "**Services Warranty**").

Without prejudice to any other remedy available to Customer, promptly after written notice of any defect or failure to comply is provided by Customer, Supplier shall, at Customer's option, do any of the following with respect to the Services that do not conform to the Services Warranty: (i) re-perform any Services, or (ii) refund the Charges for any Services. Customer's acceptance of the Services, including those which have been repaired, replaced or modified, shall be evidenced by a written confirmation thereof. Services re-performed shall be subject to all provisions of the Order to the same extent as Services initially performed, with any applicable warranty period beginning upon the completion of such re-performance. Any provision to the contrary in the Order notwithstanding, if Supplier fails to timely

re-perform a nonconforming Service, then Customer shall have the right, in addition to the right of termination under Article XII, to purchase replacement services from a party other than Supplier and charge Supplier for any differential in fees charged by the replacement supplier in relation to the replacement services, as well as recover any and all damages to which Customer is entitled under law and equity, including without limitation damages, legal costs (on a full indemnity basis) and costs incurred as a result of Supplier's breach of its obligations.

3. Warranty Period. Except as otherwise stated in the Order, the warranty period is the longer of: (a) three (3) years from written acceptance by Customer in accordance with Article VII Section 1; (b) the warranty period specified by Supplier and Supplier's documentation relating to the Goods or Services, as the case may be; and (c) any warranty period provided by applicable law.

4. Additional Warranties. Supplier represents and warrants to Customer:

(a) Supplier and any Goods and Services supplied by Supplier or any member of Supplier Group, are in compliance with and will comply with all Customer Policies and all applicable laws, including rules, regulations, orders, conventions, ordinances, and standards, including, without limitation, (i) relating to the manufacture, labeling, transport, import, export, licensing, permitting, approval or certification of the Goods and Services, and (ii) relating to environmental matters, hiring, wages, hours and conditions of employment, immigration, worker documentation and permits, international prohibitions on slave, child, prisoner or any other form of forced, involuntary or illegal labour, Subcontractor selection, discrimination, occupational health or safety, motor vehicle safety and data and information security. An Order incorporates by reference all clauses required by these laws;

(b) All materials used by Supplier in the Goods or in their manufacture will satisfy current governmental and safety constraints on restricted, toxic, or hazardous materials as well as any and all environmental, electrical, and electromagnetic considerations that apply to the country of manufacture, sale, or destination. Supplier shall furnish Customer, no later than the date the Goods are delivered, with a Safety Data Sheet ("**SDS**") for any Goods which are covered by the Workplace Hazardous Materials Information System as described in the *Hazardous Products Act*, RSC 1985, c H-3, and the Hazardous Products Regulations, SOR/2015-17, and shall promptly provide updated SDS documentation to reflect any changes in the compilation of any materials supplied;

(c) Supplier shall furnish the weight and dimensions of each part in grams and millimeters, respectively;

(d) Supplier and any member of Supplier Group will abide by the highest ethical standards. Supplier agrees to comply with all federal and provincial/territorial laws and regulations pertaining to product content and warning labels, including without limitation the *Canadian Environmental Protection Act*, SC 1999, c 33 and European Union Directive 2000/53/EC. Neither Supplier nor any member of Supplier Group will utilize slave, child, prisoner or any other form of forced, involuntary or illegal labour or engage in abusive worker treatment or corrupt business practices in the sale of Goods or provision of Services under these Terms.

(e) Supplier and any member of Supplier Group are licensed, permitted and in compliance with all laws of the Province of Ontario with respect to licensing and permitting, including, without limitation, laws regarding the licensing and permitting of contractors and Subcontractors;

(f) Neither Supplier nor any member of Supplier Group are subject to Sanctions;

(g) No amounts received by Supplier from Customer pursuant to these Terms will be used, directly or indirectly, by Supplier in violation of Sanctions;

(h) Supplier owns or has the right to use all Intellectual Property necessary to: (i) provide the Goods and perform the Services, including for the use of the Services and Goods by or on behalf of Customer; and (ii) carry on its business as presently conducted and planned to be conducted, including with respect to the performance of an Order, without conflict with the rights of others;

(i) Supplier has not received, and does not expect to receive, any government funding (including federal or provincial tax credits) in connection with the Goods, the Services or the project; and

(j) At Customer's request, Supplier shall certify Supplier's, its Personnel's, Subcontractors' and Affiliates' compliance with the foregoing.

5. Global Affairs Canada Compliance. Supplier warrants that it is currently in compliance with, and shall at all times during the term of an Order remain in compliance with, the acts that Global Affairs Canada administers (including listed persons under the *United Nations Act*, RSC 1985, c U-2, and the Consolidated Canadian Autonomous Sanctions List, each a "**Listed Person**"), and any statute, executive order, or other governmental action relating thereto. In addition, Supplier shall confirm that its suppliers, sub-suppliers, and sub-sub suppliers are also in compliance with these requirements and shall remain so during the term of an Order, so that no component or sub-component of an item purchased by Customer from Supplier or Services provided to Customer by Supplier are in violation of Sanctions or the acts and regulations that Global Affairs Canada administers.

6. Lobbying Requirements. Supplier warrants and represents:

(a) that it has not been retained by Customer to communicate and/or arrange meetings with Public Office Holders for remuneration that is or would be contingent in any way upon the success of such communication or arranged meetings with Public Office Holders and Supplier will not do so at any time on Customer's behalf;

(b) that it has filed all *l*obbying registrations or returns required to be filed in respect Supplier's Personnel who communicate and/or arrange meetings with Public Office Holders for the benefit of Customer, and that it will continue to do so;

(c) that it has not contracted and will not contract with any Person to communicate and/or arrange meetings with Public Office Holders for remuneration that is or would be contingent in any way upon the success of such Person communicating or arranging meetings with Public Office Holders for the benefit of the Customer; and

(d) all Persons who are, have been, or will be employed or contracted by Supplier to communicate and/or arrange meetings with Public Office Holders for the benefit of Customer are in full compliance with the registration and other requirements of applicable lobbying statutes and regulations.

7. Public Servant Restrictions. Supplier represents and warrants that no member of the House of Commons will be admitted to any share or part of an Order or to any benefit to arise therefrom. No person who is a member of the Senate will, directly or indirectly, be a party to or be concerned with an Order. Supplier confirms that no current or former public servant or public office holder to whom the Values and Ethics Code for the Public Service, the Values and Ethics Code for the Public Sector, the Policy on Conflict of Interest and Post-Employment or the *Conflict of Interest Act* apply, will derive a direct benefit from an Order unless the provision or receipt of such benefits is in compliance with such legislation and codes.

8. Equal opportunity employer. Supplier represents and warrants to Customer that it is an equal opportunity employer and that it is in compliance with all applicable federal, and provincial/territorial labour and employment laws, regulations and orders, including, without limitation, those laws, regulations and orders that address the payment of wages, harassment and discrimination in employment and immigration.

9. Goods. Supplier represents and warrants to Customer that: (a) it has good and marketable title to the Goods; (b) the Goods will be free from any liens, claims, charges, hypothecs, encumbrances, security interest of any kind whatsoever and interests of third parties, including without limitation Supplier's vendors and Subcontractors and the Intellectual Property interests of any third party, and that all of Supplier's vendors and Subcontractors will have been paid to such extent as may be required by law or by Supplier's subcontracts or suborders; and (c) it has all requisite power and authority to transfer title to the Goods to Customer. If at any time the acts or omissions of Supplier or its Subcontractors result in a claim or indebtedness against Customer or against Supplier or its Subcontractors, or lien rights against the Goods or any part thereof or against any Facility or other property of Customer is filed by or through

Supplier or Subcontractor, Supplier shall notify Customer in writing of such claim, indebtedness or lien rights and immediately pay such claim or indebtedness to be paid or cause such lien rights to be removed or discharged or otherwise at Supplier's expense within ten (10) Business Days, and otherwise indemnify, defend and hold harmless Customer from such claim, indebtedness or lien rights. If Supplier fails to comply with this Article VII Section 2 then Customer may, without prejudice to any right or remedy that Customer may have, take such steps or proceedings, including payment, settlements or compromise of any claim or payment into court, as Customer reasonably determines is necessary to procure release of any such claim, indebtedness or lien, and all payments and costs, including legal fees and disbursements incurred by Customer will be paid by Supplier to Customer or may be deducted from any amount due or thereafter becoming due to Supplier, unless the claim, indebtedness or lien was a direct result of a breach of the Order by Customer.

10. Title to Goods and Documents. Customer shall acquire a property interest and title to the Goods (including any materials, components or portions thereof) upon the earliest occurrence of the following: (a) at any time prior to delivery to Customer at the designated delivery location, Customer shall acquire a property interest and title in the Goods (including any materials, components or portions thereof) equivalent to the percentage which is the cumulative amount of Customer's payments for such Goods (including any materials, components or portions thereof) bears to the portion of the Charges for such items; or (b) on delivery to Customer at the designated delivery location, Customer shall acquire the entire property interest and title in the Goods (including any materials, components or portions thereof) whether yet paid in full or not. Customer shall acquire title to the Deliverables on creation by Supplier or any person retained by Supplier.

11. Obligation under Order. Supplier represents and warrants that (a) it has all requisite power and authority to execute, deliver, and perform its obligations under the Order, (b) the execution, delivery, and performance of the Order have been duly authorized, and (c) no approval, authorization, or consent of any governmental or regulatory authority is required to be obtained in order for it to enter into and perform its obligations under the Order.

    Supplier represents and warrants to Customer that, in performing its obligations under the Order, (i) it will not employ or subcontract with any person who is a Listed Person under the *United Nations Act* (Canada), or the Consolidated Canadian Autonomous Sanctions List, and (ii) Supplier is not a Listed Person.

12. Warranties Under Law. The foregoing warranties are in addition to any provided to Customer by applicable law.

13. Warranty Costs. All costs incurred in connection with performing any warranty obligation, including all travel expenses and daily allowances, shall be the obligation of Supplier and Supplier shall fulfill Supplier's warranty obligations without additional fees or charges of any kind to Customer, unless otherwise specified in the Order or otherwise agreed by Customer in writing.

14. Supplier's Performance Security. If required with a Purchase Order, and then upon the effective date of the Order, Supplier shall provide Customer with Supplier's Performance Security. Supplier's Performance Security shall remain in full force and effect until the later of (a) expiry of the warranty period and any Replacement Warranty Period, or (b) resolution of any outstanding Customer claims which Supplier is notified of prior to expiry of the period in (a) above. When Supplier is in default under an Order or where Customer is entitled to exercise a right or remedy under this Purchase Order, including when monies are due and owing to Customer, Customer may have recourse to all or part of Supplier's Performance Security, in which event Customer may draw down the applicable amount or exercise its rights and remedies from Supplier's Performance Security, and without derogating from any other rights and remedies available to Customer under the Order, Supplier's Performance Security or under applicable laws. Customer may exercise any such rights and remedies at its discretion and without Supplier having any right of objection or prior notice of any nature whatsoever, without prejudice to Supplier's dispute resolution rights in Article XIII.

15. Spare Parts. If applicable in a Purchase Order, Supplier shall:

(a) supply any Mandatory Spare Parts as part of the Goods and/or Services to the designated delivery location on or before the applicable delivery dates or completion dates, the cost of which is included in the Charges; and

(b) upon Customer's request, promptly deliver the Operational Spares to Customer (to the designated delivery location in a Purchase Order) that are ordered by Customer at any time throughout the Spare Availability Period. Customer shall be entitled to purchase the Operational Spares from Supplier for the amounts specified in a Purchase Order.

VIII. Indemnification

1. Indemnification by Supplier. All indemnification provisions in the Order are supplemental to and part of the indemnification provisions in this Article VIII. To the fullest extent permitted by applicable laws, Supplier shall, at its expense, indemnify, defend and hold harmless Customer and its Affiliates, agents, and invitees and their respective Personnel, successors and assigns (each a "**Customer Indemnitee**"), in full against all loss, liability, damages, fines, penalties, deficiencies, fees, costs and expenses, legal costs (on a full indemnity basis), settlements, professional fees, expert fees, and judgments arising from and relating to any claims, actions, or lawsuits (collectively, "**Losses**") claimed by any Third Person in any claim, demand, suit or proceeding in connection with any of the following:

   (a) any misrepresentation by Supplier or the breach by Supplier of its obligations or warranties to Customer under these Terms or the Order;

   (b) the death or bodily or personal injury of, or other legally enforceable damage incurred by, any agent, employee, Customer, business invitee, or business visitor or other person caused by the breach of contract, breach of warranty, negligence, misconduct or any other acts or omissions of Supplier or any member of Suppler Group;

   (c) the damage, loss or destruction of any real or personal property caused by the breach of contract, breach of warranty, negligence, misconduct or any other acts or omissions of Supplier or any member of Supplier Group;

   (d) liens, encumbrances and other claims relating in any manner to the Goods and Services which are asserted by or through Supplier or any member of Supplier Group; or

   (e) Claims by Supplier or any member of Supplier Group relating to any benefits normally associated with employment, including insurance, pension, health, dental, vehicles, compensation, tax withholdings, and social security, and any claims relating to Supplier's failure to comply with any applicable federal or provincial/territorial statutes, laws, ordinances, rules, regulations or orders pertaining to immigration, discrimination, wrongful dismissal (actual or constructive), breach of express or implied contract, worker's compensation, compensation (including payroll, withholding, employment taxation, social security, unemployment insurance, minimum wage, overtime, unpaid wages, vacation and/or sick leave pay), intentional and/or negligent infliction of emotional distress, defamation, and/or any other cause of action.

2. Indemnification by Supplier with Respect to Intellectual Property. Supplier shall, at its expense, indemnify, defend, and hold harmless the Customer Indemnitees from any Third Person claims made against Customer or any of its Affiliates and their respective Personnel in full against all loss, liability, damages, costs and expenses, including legal costs (on a full indemnity basis), settlements, professional fees, expert fees, and judgments arising from any claims, actions, or lawsuits alleging that any Goods or Services infringe a Third Person's Intellectual Property Rights ("**Intellectual Property Claim**"). Customer shall notify Supplier promptly in writing and furnish Supplier with such information and assistance as Supplier may reasonably request to evaluate the Intellectual Property Claim. Supplier shall then, at its own expense and option, either (a) settle the Intellectual Property Claim, (b) procure for Customer and its Affiliates, as applicable, the right to use the alleged infringing Good or Service, (c) replace or modify the alleged infringing Good or Service in order to avoid the Intellectual Property Claim, (d) remove the alleged infringing Good or Service and refund the prices (including transportation costs) paid by Customer and its Affiliates, as applicable, to Supplier less a reasonable amount directly proportionate to Customer's, and its Affiliates', as applicable, actual usage of the infringing Good or Service, or (e) litigate the Intellectual Property Claim; provided, however, prior to Supplier taking any

of the foregoing responses, the Parties shall meet to discuss the action or actions which Supplier proposes to take in response to the Intellectual Property Claim. If the Parties are unable to agree upon the action or actions to take in response to the Intellectual Property Claim, Customer may, at its sole option and without liability, elect to terminate the Order, or any part thereof, as to any alleged infringing Good or Service upon five (5) days prior written notice to Supplier. Regardless of Supplier's response to the Intellectual Property Claim or Customer's election to terminate the Order, or any part thereof, as to any alleged infringing Good or Service, Supplier shall remain obligated to defend the Intellectual Property Claim and to pay any final judgments awarded against Supplier and/or Customer and its Affiliates, as applicable, based upon the Intellectual Property Claim.

Supplier shall have no obligation to indemnify Customer against any Third Person claims made against Customer or any of its Personnel or Affiliates if it is finally determined that liability is the sole result of (i) a modification made to a Good by Customer which has not been approved by Supplier, or (ii) the use by Customer of a Good in combination with goods that are not provided to Customer by Supplier and which use is not contemplated by the Order and infringes the Third-Person's copyright, patent or trade secret.

3. Indemnification Procedures. The following procedures will apply to all claims for indemnification under this Article VIII:

(a) Promptly after receipt by Customer of written notice of the commencement or threatened commencement of any action, suit, proceeding, judgment, claim made involving a claim for which a Customer Indemnitee may be entitled to indemnification, written notice of such claim will be conveyed to Supplier. However, the failure to so notify Supplier will not relieve that Party of its obligations under the Order.

(b) The Customer Indemnitees will have the right to determine who controls the defense in any negotiations or legal proceedings pertaining to a claim covered by this Article VIII (notwithstanding that Supplier shall bear the cost of the defense for the Customer Indemnitees). If the Customer Indemnitees elect to control their own defense and permit Supplier to control its own defense, both Parties may select their own legal counsel and experts; however, to the maximum extent possible permitted by the circumstances and ethical considerations, counsel for Supplier and counsel for the Customer Indemnitees will work together to avoid duplication of effort or expense, in legal costs or otherwise. In addition, Supplier and the Customer Indemnitees will make good faith efforts to coordinate their activities so as to take consistent positions in the course of negotiations or legal proceedings.

(c) If Supplier controls the defense, Supplier shall timely provide to Customer Indemnitees all information with respect to such defense, compromise or settlement as Customer Indemnitees may request. Supplier shall not assume any position or take any action in connection with such defense, compromise or settlement (including without limitation any admission of liability) that would impose an obligation of any kind (other than the obligations under Article VIII hereof) or restrict the actions of Customer Indemnitees, it being understood that Supplier would be acting solely on its own behalf, for its own account and at its own risk.

(d) No admission of liability nor any settlement, compromise or termination of any actions, suits, proceedings, judgments, claims made or threatened will be made by Supplier without the prior written consent of the Customer Indemnitee, such consents not to be unreasonably withheld or delayed.

(e) If Supplier does not participate in the defense of a claim covered by this Section, the Customer Indemnitees will have the right to defend the claim in such manner as they may deem appropriate, at Supplier's cost and expense. Supplier will promptly reimburse to Customer all such costs and expense incurred by the Customer Indemnitees, demand for which may be made periodically, and such amounts shall become due and owing by Supplier to Customer.

(f) Notwithstanding anything to the contrary in the Order, no limitations on damages or remedies set forth in the Order shall apply to Supplier's obligations to indemnify, defend and hold the Customer Indemnitees harmless against Losses or Intellectual Property Claims. Indemnity obligations shall survive the termination, cancellation or non-renewal of the Order. Supplier's

obligation to indemnify, defend and hold harmless shall apply regardless of whether the claim arises in tort, negligence, contract, warranty, equity or otherwise except to the extent of claims that arise solely as a result of the negligence or willful misconduct of Customer. The indemnification obligations set forth in these Terms, including this Article VIII, are independent of and in addition to any insurance and warranty obligations of Supplier.

4. Governmental Authority Waiver. Supplier shall not seek to recover any Claims or Losses from, and Supplier waives and releases: (a) his Majesty the King in Right of Ontario, his ministers, agents (including Infrastructure Ontario), appointees and employees and the Corporation of the City of St. Thomas; and (b) his Majesty the King in Right of Canada, his ministers, agents, appointees and employees in connection with the project or in connection with any of the above entities' involvement in the project, except any Claims and Losses resulting from the gross negligence or wilful misconduct of an entity in (a) or (b) above and Supplier shall indemnify Customer for any Claims and Losses incurred by Customer as a result of Supplier's breach of this Article VIII Section 4.

5. No Limitation on Mitigation Obligations. Nothing in these Terms in any way restricts or limits the general obligation under applicable laws of an indemnified Party to mitigate any damages which it may suffer or incur. If any Claim or Losses can be reduced by any recovery, settlement or otherwise under or pursuant to any insurance coverage, or pursuant to any claim, recovery, settlement or payment by or against any other Person, the indemnified Party shall take all appropriate steps to enforce such recovery, settlement or payment and the amount of any damages of the indemnified Party will be reduced by the amount of proceeds actually recoverable by the indemnified Party. If an indemnified Party receives an amount under such insurance coverage or pursuant to any claim, recovery, settlement or payment by or against any other Person, at any time subsequent to any indemnification payment made by an indemnifying Party, then such indemnified Party shall promptly pay over to the indemnifying Party an amount equal to the lesser of (a) the amount of such indemnification payment, or (b) the net amount of such recovery.

IX. Liability Limitation and Force Majeure

1. Limitation of Liability. Customer shall not be liable for, and Supplier hereby waives any right to, (a) any special, contingent, exemplary, indirect, incidental, consequential or punitive damages, and (b) any lost or anticipated loss of profits, fees, business, use, revenue, production, contracts, business reputation, opportunities or costs associated with business interruptions, employee severance or like damages (the "**Excluded Damages**"), whether based upon contract, tort, equity or any other legal theory, resulting from or in any way connected with the performance by either Party of their respective obligations, covenants and agreements under the Order. Customer shall not be liable to Supplier for the Excluded Damages, whether foreseeable or not, and even if Customer has been advised or otherwise has knowledge of the possibility of the Excluded Damages.

2. Force Majeure. Except for Services relating to business continuity and/or recovery of data, any delay or failure of either Party to perform its obligations will be excused if and to the extent the Party is unable to perform due to an event or occurrence beyond its reasonable control and without its fault or negligence, such as: (a) acts of God, including action of the elements, epidemics, landslides, earthquakes, floods or natural disaster, (b) industry-wide and provincial-wide strikes, work stoppages, restraints of labour, or other industrial/labour disturbances, and (c) acts of the public enemies, including wars which are either declared or undeclared, terrorism, blockades and insurrections (each a "**Force Majeure Event**"). The following shall not be considered a Force Majeure Event: (i) a lack of funds or inability to pay amounts owed under these Terms or an Order for any reason whatsoever or an inability to use available funds; (ii) the default or delay of any Subcontractor (except where constituting, caused by, or arising out of the Force Majeure Events in (a) to (c) above); (iii) shortages or non-availability of labour, accommodation, materials, supplies or other resources or strikes, work stoppages, or other industrial/labour disturbances of a regional nature or those only affecting Supplier; and (iv) seasonal conditions or weather, including the seasonal conditions of any access roads or means of transport to the Customer Facility. Supplier shall provide Customer with notice within five (5) days following the occurrence of a Force Majeure Event, which notice shall provide full particulars of the Force Majeure Event, its anticipated duration and the obligations a Party is unable to perform. If Supplier fails to submit such notice within such five (5) day period, Supplier shall be deemed to have waived its right to any relief related to such Force Majeure Event.

Supplier shall use its best efforts to reduce the effects of Force Majeure Events on Supplier's performance of its obligations. Supplier's inability to perform as a result of, or delays caused by, Supplier's or Subcontractor's insolvency or lack of financial resources is deemed to be within Supplier's control. The change in cost or availability of materials or components based on market conditions, supplier actions, or contract disputes, or any labour strike or other labour disruption applicable to a Party or any of its subcontractors or suppliers, including Subcontractors, shall not excuse such Party's performance (under theories of force majeure, commercial impracticability or otherwise) and each Party assumes these risks. As soon as possible (but no more than one full Business Day) after the occurrence of a Force Majeure Event, the affected Party will provide written notice describing such delay, including any corrective measures which the affected Party will implement to cure such delay, and assuring the other Party of the anticipated duration of the delay and the time that the delay will be cured. During a delay or failure to perform by Supplier, Customer may unilaterally by written notice to Supplier and without liability to Supplier: (A) purchase Goods from other sources and reduce the quantity of the Goods delivered by Supplier, (B) require Supplier to deliver to Customer in accordance with the terms of the Order all finished goods, work in process and parts and materials produced or acquired for work under the Order and/or (C) have Supplier provide Goods from other sources in quantities and at a time requested by Customer and at the purchase price set forth in the Order. In addition, Supplier at its expense will take all necessary actions to ensure the supply of Goods to Customer for a period of at least thirty (30) days during any anticipated labour disruption or resulting from the expiration of Supplier's labour contracts. If delay on the part of Supplier lasts longer than thirty (30) days, Customer may terminate the Order without liability and Supplier shall reimburse Customer for costs associated with the termination.

If a Force Majeure Event prevents Supplier from producing the Goods and completing any Services on or before the applicable Delivery/Completion Date(s), Supplier shall be entitled to a reasonable extension of time to the Delivery/Completion Date(s)to the extent of any delay which cannot be mitigated or overcome by Supplier. Any extension of time granted to Supplier as a result of a Force Majeure Event shall be determined by Customer by Change Order, acting reasonably and in consultation with Supplier, and which extension shall be equal to the time period required to remedy the impacts of such Force Majeure Event, and for the period which cannot be mitigated or overcome by Supplier, considering the number of days Supplier is actually prevented from progressing the Services due to the Force Majeure Event. Supplier will provide all information reasonably requested by Customer in connection with: (I) any delays or alleged delays in connection with a Force Majeure Event; (II) the nature of the Force Majeure Event or any other information in connection with such Force Majeure Event; and (III) the actions Supplier has taken to mitigate the impacts of the Force Majeure Event.

X. Insurance

1. Maintenance of Insurance. Supplier shall maintain in force, and cause its Subcontractors to maintain in force, at its own expense, insurance of the type and in the amounts set forth below:

   (a) Statutory workers' compensation insurance in accordance with the legal requirements of each country, province or territory exercising jurisdiction over the Personnel of Supplier and/or Subcontractor performing Services in such country, province or territory;

   (b) Employer's liability insurance with a minimum limit in an amount not less than $2,000,000 per accident, covering bodily injury by accident, and $2,000,000 per policy covering bodily injury by disease, including death;

   (c) Comprehensive commercial general liability insurance (written on an occurrence basis and including contractual liability and products and completed operations liability insurance) in an amount not less than $5,000,000 per occurrence, general aggregate, products and completed operations aggregate. Customer and its Personnel shall be named as additional insureds as respect to its interest in the Goods;

   (d) Comprehensive automobile liability insurance for owned, hired or non-owned vehicles with a combined single limit in an amount not less than $5,000,000 per accident for bodily injury and property damage liability. Customer and its Personnel shall be named as additional insureds;

   (e) Professional Liability or Errors and Omissions liability insurance to cover Losses due to Supplier's errors or omissions in the performance or failure to perform its professional Services

obligations or responsibilities under the Order, with a per claim limit in an amount not less than the greater of $5,000,000 and the value of the applicable Purchase Order(s) and the greater of $5,000,000 or the value of the applicable Purchase Order(s) in the annual aggregate;

(f) Employee fidelity bond with Third Person liability endorsement or Customer added as loss payee in an amount not less than $500,000;

(g) Umbrella/excess liability (written on an occurrence basis) in an amount not less than the greater of $10,000,000 or the value of the applicable Purchase Order, as applicable, per occurrence. Customer and its Personnel shall be named as additional insureds;

(h) Insurance coverage with respect to information and data protection security, cyber liability and similar matters with respect to information security in amounts not less than $5,000,000; and

(i) Property insurance covering the building and all equipment and materials owned by the Supplier and supplied as part of the Services or provision of the Goods for the period Supplier has risk of loss for the Goods.

2. Rating of Insurance Companies. All policies described above will be written by insurance companies rated at least A-: VII by A.M. Best's rating service or equivalent. The required insurance will provide primary and non-contributory coverage to Customer for claims arising out of or in connection with the Order.

3. Waiver. Supplier, for itself and its Subcontractors, including their respective insurance carriers, hereby agrees to waive any right of subrogation and have no right of recovery from Customer, its Personnel or its insurers. Supplier, for itself and on behalf of its Subcontractors, warrants that their respective insurance carriers grant them the right to agree to such advance waivers of subrogation or contribution. Supplier represents that required types and amounts of insurance will necessarily be adequate to respond to all exposures to Losses. The required limits of insurance shall not be deemed as a limitation or maximum liability with respect to the indemnity obligations as set forth under the Order or these Terms. Supplier agrees to be financially responsible for its and its Subcontractors' respective deductibles, retentions, self-insurance or co-insurance obligations, or claims or Losses in excess of the required insurance coverage limits.

4. Insurance Documentation. On or before the date of the Order, and annually thereafter upon expiration, Supplier, and if applicable its Subcontractor, will furnish to Customer certificates of insurance and other appropriate documentation (including endorsements as required to bind the insurers) evidencing all coverage referenced in this Article X. Such certificates or other documentation will include a provision under which the applicable insurer will give at least thirty (30) days' written notice to Customer before limits or scopes of coverage are materially altered or insurance is cancelled or non-renewed. Supplier also will require by contract that each Subcontractor furnish such certificates and other appropriate documentation to Customer and that the certificates or other appropriate documentation include a provision under which the applicable insurer will give at least thirty (30) days' written notice to Customer before limits or scopes of coverage are materially altered or insurance is cancelled or non-renewed. Without limiting any of the rights and remedies available to Customer, it shall be a condition precedent to Customer's obligation to pay Supplier that Supplier shall have timely provided the certificates or certified copies of insurance policies as required herein. In addition, Supplier will promptly advise Customer in writing if it becomes aware that required limits or scopes of coverage are materially altered or that required insurance is cancelled or non-renewed.

XI. Intellectual Property

1. Intellectual Property Representations. Supplier hereby represents and warrants to Customer that it owns all rights in (or has obtained all rights necessary to license or otherwise furnish to Customer) the Goods and Services (including software, microcode, and other Intellectual Property of any sort) provided to Customer under the Order. Customer hereby represents and warrants to Supplier that it owns all rights in (or has obtained all rights necessary to license or otherwise furnish to Supplier) all materials furnished by Customer to Supplier and which Supplier uses in connection with its production of the Goods or the

rendering of the Services including without limitation any artwork or files furnished by Customer to Supplier.

2. Unless stated otherwise in a Purchase Order, Supplier shall, at no additional cost to Customer:

(a) provide and, upon Customer's request from time to time, install, any patch, fix, service pack, correction, release, updates, and other modifications to any software embedded in or applicable to the operation of any Goods that Supplier generally makes available to its other customers (the "**Updates**") for the duration of the Good's useful life, and

(b) ensure that all Updates are created, and to the extent applicable, installed: (i) with professional skill and diligence; (ii) in accordance with leading industry standards; and (iii) in compliance with all applicable laws.

3. Customer Intellectual Property. Other than as may be required for the performance of the Services hereunder, nothing in these Terms shall be construed as granting Supplier or any other Person any license or other right to use any Intellectual Property or other property that Customer may now or hereafter own, possess, or in which it may hold licensing rights.

The Parties agree that all Deliverables and Services Product (as defined below) shall be the property of, and owned exclusively by, Customer. Supplier agrees that neither it nor any member of Supplier Group shall have any ownership rights of any kind therein. Supplier, for itself and on behalf of each member of Supplier Group, hereby assigns to Customer all of Supplier's and any member of Supplier Group's rights, titles and interests, if any, in and to the Deliverables and Services Product automatically upon the creation, development or conception of same. This assignment includes any and all Intellectual Property Rights with respect to the Deliverables and Services Product in any jurisdiction. The foregoing does not apply to Supplier's Intellectual Property Rights, which (subject to this Article XI Section 3) shall remain the exclusive property of Supplier.

Supplier hereby unconditionally and irrevocably waives and shall cause each member of Supplier Group to unconditionally and irrevocably waive all Intellectual Property Rights of Supplier or any member of Supplier Group that exist or may exist in any Deliverable or Services Product. Supplier shall, upon Customer request, obtain from each and every one of Supplier Group any agreement or assignment required to confirm (a) the ownership rights in the Deliverables and Services Product in favour of Customer, (b) the licenses granted herein, and (c) the waiver of all moral rights therein.

No element of Supplier's Intellectual Property shall be used in the performance of the Services or become embedded or bundled in, or become necessary for use in any Services Product or Deliverable, or necessary for the design, function, construction, evaluation, testing, operation, repair, modification, extension, rebuilding, retrofit, refurbishment, maintenance service or decommissioning of any aspect of the project subject to the Goods or Services (or any other project), without the prior express written consent of Customer. To the extent that any element or elements of Supplier's Intellectual Property is used in the performance of the Services or becomes embedded or bundled in, or is necessary for use of any Services Product or Deliverable, or necessary for the design, function, construction, evaluation, testing, operation, repair, modification, extension, rebuilding, retrofit, refurbishment, maintenance service or decommissioning of any aspect of the project (or any other project), Customer and its Affiliates are hereby granted an irrevocable, nonexclusive, transferable, worldwide, royalty-free, sublicensable (at any level), perpetual, fully paid up right and license to use such element or elements of Supplier's Intellectual Property, without obligation to account to, or obtain consent from, Supplier or any third party. For the avoidance of doubt: (i) the foregoing shall include the right and license to use such Supplier's Intellectual Property in connection with the design, function, construction, evaluation, testing, operation, repair, modification, extension, rebuilding, retrofit, refurbishment, maintenance service or decommissioning of any facility worldwide in perpetuity and at no additional cost, fees, or expenses; and (ii) Supplier shall not, without Customer's prior express written consent, embed or bundle into any Deliverable or Services Product the Intellectual Property of any third party (other than a member of Supplier Group). ***[NTD: Subject to further review in conjunction with "Covered Production" obligations]***

Without limiting any of the representations, warranties, conditions, or covenants of Supplier set out in these Terms, the Parties acknowledge and agree that the Services Products and Deliverables are not

suitable for any project other than the specific project subject to the Goods or Services that may be undertaken by or on behalf of Customer or its Affiliates. Customer further acknowledges and agrees that Supplier may include the foregoing disclaimer in any Deliverables.

4. Definitions. For purposes of the Order and these Terms:

   (a) "**Services Product**" means any Intellectual Property which is conceived of, developed, created by or on behalf of Supplier or any member of Supplier Group, either solely or with others, in whole or in part, during the course of, or in connection with, the performance of the Services or these Terms (including the provision of any Deliverables); but does not include Supplier's Intellectual Property Rights.

5. Names and Trademarks. Neither Party shall acquire, by reason of the Order, any right, title or interest in or to the other Party's names, trade names or trademarks.

XII. Termination

1. Termination Without Cause. Customer may terminate the Order at any time without cause upon thirty (30) days' prior written notice to Supplier. Upon receipt of written notice of termination, and unless otherwise directed by Customer, Supplier will comply with the requirements of Article XII Section 4. Upon termination by Customer under this Article XII Section 1, Customer will be obligated to pay only the following without duplication: (a) the Charges for all finished Goods and Services in the quantities ordered by Customer that conform to the Order and are performed, delivered and accepted by Customer for which Supplier has not been paid, and (b) Supplier's reasonable actual cost of carrying out its obligation under Article XII Section 4(d). Customer shall pay for Supplier's reasonable actual cost of merchantable and usable work-in-process, as well as any parts and materials, which Customer requests be transferred to it under Article XII Section 4(d). Notwithstanding any other provision herein, Customer will have no obligation for and will not be required to pay Supplier, directly or on account of claims by Subcontractors, for Excluded Damages and including costs associated with business interruptions, unabsorbed overhead, employee severance, interest on claims, product development or engineering costs, facilities or equipment rearrangement costs or rental, unamortized capital or depreciation costs, finished goods, work-in-process or raw materials that Supplier fabricates or procures in amounts exceeding those authorized in the Order, or general administrative burden charges from termination of the Order, except as otherwise expressly stated in a separate Order issued by Customer. Customer's obligation for any Supplier claims related to termination will not exceed the Charges. Supplier will furnish to Customer, within one month after the date of termination, its termination claim, which will consist exclusively of the claims eligible for reimbursement by Customer to Supplier that are expressly permitted by this Article XII Section 1. Customer may audit Supplier's records before or after payment to verify amounts requested in Supplier's termination claim.

2. Termination for Cause. Either Party (the "**Non-Defaulting Party**") may terminate the Order if the other Party (the "**Defaulting Party**") breaches any of its material duties or material obligations under the Order or these Terms, by delivering to the Defaulting Party a written default notice (the "**Default Notice**"). The Default Notice shall specify: (a) the default(s) in reasonable detail, (b) the action necessary to cure the default(s), and (c) the cure period within which the Defaulting Party must cure the default(s), which cure period shall not be less than thirty (30) days for a payment default, and ten (10) days for a performance default (the "**Cure Period**"). If the Defaulting Party cures the default(s) within the applicable Cure Period to the reasonable satisfaction of the Non-Defaulting Party, the Non-Defaulting Party will rescind the Default Notice. If the Defaulting Party does not cure the default(s) during the applicable Cure Period, at the option of the Non-Defaulting Party, the Order will terminate as of the close of business on the last day of the applicable Cure Period or on such later date as determined by the Non-Defaulting Party. Upon written notice of termination by Customer, Supplier shall promptly return all amounts previously paid to Supplier by Customer for the Goods (if any) and, in addition to any other damages Customer shall be entitled to, and Supplier shall pay to Customer, damages equal to (i) all costs incurred by Customer in connection with the manufacturing of the Goods for the Order, including without limitation training, systems programming, site preparation, cost of supplies and facilities, excepting only such costs as are included in the price of substitute goods obtained from any other manufacturer, and (ii) the difference in price between the Goods to be delivered hereunder and substitute goods. Notwithstanding anything to the contrary herein, Supplier shall not be entitled to terminate the Order if Customer does not pay an amount subject to a *bona fide* dispute.

If Customer terminates the Order as a result of Article XII Section 2 or Article XII Section 3, Supplier shall be deemed to have breached its material duties or obligations in relation to every other Order such that Customer may, in its discretion, terminate any, or all, Orders in accordance with these Terms, but without the requirement to provide Supplier with a further opportunity to remedy the breach of its material duties or obligations.

3. Termination for Insolvency. Customer may terminate the Order if Supplier: (a) admits in writing its inability to pay its debts generally as they become due; (b) is the subject of a bankruptcy or insolvency proceeding; (c) has been determined by a court of competent jurisdiction or regulator to be insolvent or unable to meet its obligations to pay its debts as they generally become due; (d) makes a general assignment for the benefit of creditors or a receiver is appointed because of Supplier's insolvency; (e) is wound up, liquidated or ceases to carry on business; or (f) is unable to pay its debts generally as they come due, by giving written notice to Supplier of its intention to terminate the Order as of a date specified in the written notice, which date will not be less than ten (10) days after the date of the written notice, during which time Supplier may cure such default, or by providing Customer with verification of solvency or otherwise of its ability to perform its obligations hereunder. If Supplier fails to cure such default or otherwise to provide Customer with the information set forth above, the Order will terminate on the date set forth in the written notice.

4. Termination Obligations. Upon receipt of written notice of termination, and unless otherwise directed by Customer, Supplier will at no additional cost to Customer:

   (a) promptly terminate all work under the Order on the effective date of termination;

   (b) transfer title and deliver to Customer the finished Goods, the work in process, the parts and materials that Supplier reasonably produced or acquired according to quantities ordered by Customer and that Supplier cannot use in producing goods for itself or for others, together with all information and materials related to or otherwise used in connection with the Order, including without limitation packaging, documents, standards, databases, specifications, drawings, manufacturing processes or any other items of value (collectively, "**Customer's Property**");

   (c) prior to allocating any amounts received by Customer to any other source, Supplier shall upon termination for any reason, first verify and settle any claims by Subcontractors for actual costs incurred directly as a result of the termination;

   (d) take actions reasonably necessary to protect property in Supplier's possession in which Customer has an interest until disposal instruction from Customer has been received; and

   (e) cooperate with Customer and its designees and provide the Services reasonably requested by Customer or its designees to allow Customer's business operations to continue without material interruption or adverse effect, including with respect to the orderly transition to Customer's new supplier. Effective immediately upon termination and without further notice or legal action, Customer may enter Supplier's premises and take possession of all of Customer's Property. Customer may direct that Customer's Property be immediately released to Customer or delivered by Supplier to Customer in accordance with Article IV. Customer shall have no liability with respect to any of Customer's Property until such property is in the Customer's actual possession.

5. Transition Assistance. In addition to the Termination Obligations set forth in Article XII Section 4 upon expiration or termination of the Order for any reason, Supplier shall, at Customer's request and subject to these Terms, provide transition assistance services as reasonably requested by Customer for a period of up to ninety (90) days after the termination of an Order or following completion of Supplier's obligations herein (the "**Transition Assistance Period**") and such transition assistance services shall be included in the Charges for the Goods and/or Services and shall be at no additional cost to Customer. During the Transition Assistance Period, Supplier shall provide transition assistance in order to facilitate the orderly transfer of responsibility for the Goods and Services then being provided by Supplier to Customer or its designees.

6. Survival of Certain Provisions. The provisions of the Order that by their nature should survive any termination of the Order, including, without limitation, Articles VI through XI, and will survive such termination and any Transition Assistance Period, if requested.

XIII. Miscellaneous

1. Publicity. Neither Party will use the other Party's name, trademarks or service marks or refer to the other Party directly or indirectly in any media release, public announcement or public disclosure relating to the Order or its subject matter to the extent the materials in such media release, announcement or disclosure have not previously been made publicly available without obtaining specific written consent from the other Party for each such use or release, which consent may be withheld at the Party's sole discretion. This restriction includes, but is not limited to, any promotional or marketing materials, Customer lists or business presentations (but not including any announcement intended solely for internal distribution by a Party or any disclosure required by legal, accounting or regulatory requirements beyond the reasonable control of a Party).

2. Notices. All consents, written notices, requests, demands and other communications to be given or delivered under the Order will be in writing (including wire, telefax, e-mail or other electronic means) and will be deemed given (a) when delivered personally; (b) on the second Business Day when sent by a nationally recognized overnight courier; (c) on the third Business Day after being mailed by certified mail, return receipt requested; and (d) if sent via wire, telefax, e-mail or other electronic means, upon receipt if properly confirmed. All written notices to Customer shall be sent to PowerCo Canada Inc., 800 Talbot Street, Unit 1, St. Thomas, Ontario N5P 1E2, to the attention of the named Business Owner, with a copy to the office of the General Counsel at the same address. All written notices to Supplier shall be sent to its address as set forth on the Order. Either Party may, upon written notice to the other Party, change its notice address under the Order.

3. Assignment. An Order will be binding upon and enure to the benefit of each Party and its successors and permitted assigns. An Order and any of the rights, interests or obligations under the Order may be assigned or delegated by the Customer without the prior consent of Supplier. An Order and any of the rights, interests or obligations under the Order may not be assigned by Supplier without the prior written consent of the Customer. A transaction that includes a sale of a substantial portion of Supplier's assets used for the production of Goods or the provision of Services or a merger, sale or exchange of stock or other equity interests or other transaction that would result in a change in control of Supplier shall constitute an assignment that requires the prior written consent of Customer.

4. No Exclusivity. Nothing about the Order or these Terms shall prevent Customer from securing similar or competing services or goods from a third party.

5. Relationship of the Parties. Supplier, in furnishing Goods and Services to Customer under the Order, is acting only as an independent contractor. Except as otherwise stated in the Order, Supplier does not undertake to perform any obligation of Customer, whether regulatory or contractual, or to assume any responsibility for Customer's business or operations and Supplier has the sole right and obligation to supervise, manage, contract, direct, procure, perform or cause to be performed all Goods and Services and related works. In no event will Customer be deemed to be an employer or co-employer of any Personnel of Supplier and the Order may not otherwise be construed to create a partnership, joint venture, a legal entity or an agency relationship between the Parties. No Party shall have the authority or right, nor shall any Party hold itself out as having the authority or right, to assume, create or undertake any obligation of any kind whatsoever, on behalf of or in the name of the other Party without the express written consent of that other Party.

6. Restriction on Hiring. Supplier agrees not to directly or indirectly solicit or recruit any employee, officer or subcontractor of Customer during the term of the Order and for a period of one year after the termination or expiration of the Order; provided, however, that the foregoing restriction shall not apply to the extent that such employee may answer a public advertisement for an open position.

7. Approvals and Similar Actions. Where agreement, approval, acceptance, consent or similar action by Supplier is required by any provision of an Order, such action will not be unreasonably delayed or withheld. If any governmental or regulatory approval of the sale or use of the Goods and/or Services is required by any applicable law, court order or regulation, Supplier, at its expense, will obtain such

approval in sufficient time to permit the sale or use of the Goods and/or Services in accordance with Customer's schedule, and will furnish an authenticated copy of each such approval to Customer.

8. Modification and Waiver. Except as stated in Article III, the Order may be modified, supplemented, amended, restated or replaced only by written agreement duly executed by the Parties. A waiver of any breach of an Order or the failure of any Party to enforce or require performance by any Party of any of the provisions of the Order will not be construed to be a waiver of such provision, affect the validity of the an Order or any of its parts, or prejudice the right of any Party to enforce each and every provision of an Order. A waiver of, or consent to depart from, the requirements of any provision of an Order is effective only if it is in writing and signed by an authorized signatory of the Party so waiving or consenting, and only in the specific instance and for the specific purpose for which it has been given.

9. No Third-Party Beneficiaries. Each Order is for the sole benefit of the Parties and is not intended to, and shall not, confer any rights or benefits on any Third Person.

10. Severability. Any provision of the Order which is, becomes or is declared illegal, invalid, ineffective or unenforceable under the governing law of the Order shall be severed from the Order and shall not affect or impair the remaining provisions of the Order.

11. Governing Law. The Order shall be governed and construed under the laws of the Province of Ontario and the federal laws of Canada and shall be treated in all respects as an Ontario contract, without regard to conflicts of laws principles. Subject to Article XIII Sections 12 to 19, the Parties hereby irrevocably attorn to the exclusive jurisdiction of the courts of the Province of Ontario and all courts competent to hear appeals therefrom. The Parties expressly exclude the application of the *United Nations Convention on Contracts for the International Sale of Goods*. To the extent applicable, the Parties expressly exclude the application of the *United States Uniform Commercial Code*.

12. Resolution of Claims and Disputes. The Parties agree to resolve all Claims and disputes related to an Order in accordance with Article XIII Sections 12 to 19. Claims must be made by written notice to the other Party specifying the existence and nature of the Claim provided within a reasonable time following the occurrence of the event giving rise to the Claim. The responsibility to substantiate Claims shall rest with the Party making the Claim.

13. Initial Meeting. Not less than ten (10) days following receipt of such notice, the Parties may meet and attempt to resolve such Claim at the field level (the "**Initial Meeting**") through discussions between both Parties' respective field representatives (the "**Party Representatives**").

14. Second Meeting. If the Party Representatives cannot resolve the Claim within thirty (30) days after the Initial Meeting, then, upon the request of either Party, the Parties' managers, supervisors, or other designated executives shall meet again and attempt to resolve such Claim.

15. Meeting Procedures. At least three (3) Business Days prior to any meetings between the Parties, including the Party Representatives, to attempt to resolve Claims, the Parties shall exchange any relevant information that will assist the Parties in resolving the Claim. Either Party may elect to be accompanied at any such meeting by a legal representative provided that the Party intending to be accompanied by a legal representative shall give the other Party at least five (5) days' notice of such intention.

16. Arbitration. All disputes, controversies or Claims arising out of or relating to these Terms or Order ("**Disputes**") shall be exclusively and finally resolved by binding arbitration under the Rules of Arbitration of the International Chamber of Commerce (the "**ICC Rules**"), except to the extent of conflicts between the ICC Rules and the provisions of these Terms, in which event the provisions of these Terms shall prevail. The following provisions shall apply to an arbitration commenced pursuant to this Article XIII Section 16 ("**Arbitration**"):

    (a) The number of arbitrators shall be one, who shall be appointed in accordance with the ICC Rules;

    (b) The legal seat of the Arbitration shall be Toronto, Ontario, Canada;

    (c) The language to be used in all aspects of the Arbitration shall be English;

(d) All awards issued by the arbitral tribunal shall be final and binding on the Parties, may be filed in any court of competent jurisdiction, and may be enforced by a Party as a final judgment in such court. The Parties expressly waive, to the maximum extent permitted by law, any right of appeal of any award, including appeals based on questions of law, questions of fact, questions of mixed law and fact, or otherwise;

(e) The Parties agree that time is of the essence in any Arbitration commenced hereunder, shall request that the arbitral tribunal render a final award as soon as reasonably practicable after the commencement of an Arbitration, taking into consideration the size, nature and complexity of the matters in dispute and the Parties' intent to achieve a just, timely, and cost-effective determination of the matters in dispute;

(f) Any award for monetary damages shall be made and payable in Canadian dollars and may include interest from the date of any breach or violation of an Order or these Terms until paid in full at the rate determined by the arbitral tribunal;

(g) The Parties agree that any Arbitration carried out hereunder shall be kept strictly private and confidential, and that the existence of the proceedings and any element of it (including but not limited to all awards, the identity of the Parties and all witnesses and experts, all materials created for the purposes of the Arbitration, all testimony or other oral submissions, all documents disclosed in Arbitration, and all documents produced by a Party that were not already in the possession of the other Party) shall be kept strictly private and confidential, except: (i) with the consent of the Parties, (ii) to the extent disclosure may be lawfully required in *bona fide* judicial proceedings relating to the Arbitration, (iii) where disclosure is lawfully required by a legal duty, and (iv) where such information is already in the public domain other than as a result of a breach of this clause or these Terms. The Parties shall request that the arbitral tribunal and the ICC keep any Arbitration carried out hereunder strictly private and confidential, including but not limited to all of the foregoing items, and shall request that the arbitral tribunal and the ICC refrain from publishing or disclosing any such items. The Parties also agree not to use any information disclosed to them during the Arbitration for any purpose other than in connection with the Arbitration; and

(h) The arbitral tribunal shall be guided, but not bound, by the International Bar Association's Rules on the Taking of Evidence in International Commercial Arbitration.

The Parties agree that notwithstanding any Dispute or Arbitration, the Parties shall continue to perform their obligations under an Order and these Terms and, to the extent of any Dispute or Arbitration pertaining to any obligation, Supplier shall comply with the instructions and directions of Customer pending resolution of such Dispute or Arbitration, provided that such performance shall be without prejudice to the rights and remedies of the Parties and shall not be read or construed as a waiver of a Party's right to claim for recovery of any loss, costs, expenses or damages suffered as a result of the continued performance of these Terms.

Except as otherwise specifically permitted by these Terms, no undisputed payment due or payable by a Party shall be withheld on account of a pending Dispute or Arbitration.

Any Dispute determined by adjudication as prescribed by any applicable laws ("**Adjudication**"), including the *Construction Act* (Ontario), shall be without prejudice to a Party's right to have any such Dispute resolved by Arbitration pursuant to this Article XIII Section 16 to the maximum extent permitted by law. Further, the findings of any such Adjudication shall not be binding in any Arbitration commenced pursuant to this Article XIII Section 16, to the maximum extent possible under applicable laws.

The Parties agree that an Order and other agreements with respect to the Customer's project may be substantially related and that it is in the interests of justice and efficiency that Disputes under this Contract and, to the extent disputes under an Order and a substantially related agreement be resolved by a single arbitral tribunal whenever possible to avoid diverse findings on the same facts or law. To this end, upon the request of Customer, the Parties agree that an arbitral tribunal appointed under an Order or such other agreement may exercise jurisdiction over Disputes and Parties under both an Order and the other agreement.

17. Equitable Relief. Notwithstanding any other provision herein to the contrary, either Party may, with respect to a Claim, apply to a court for equitable relief, including a temporary restraining order, preliminary injunction or other interlocutory relief, provided that such application for equitable relief will not delay or adversely affect in any material respect the date set by Customer for completion of the project. The Arbitration tribunal shall have the authority to modify any court order granting such interlocutory relief and such court order shall remain in full force and effect until so modified. Any court relief sought under this Article XIII Section 17 shall be brought in and subject to the exclusive venue and jurisdiction of the courts of the Province of Ontario, provided that Customer may elect to seek such relief against Supplier in any court having jurisdiction over Supplier. Any court order or Arbitration tribunal order granted under this Section may be enforced in any court having jurisdiction to do so, in any jurisdiction.

18. Arbitration Fees, Expenses and Legal Fees. The failure by one Party to pay its share of arbitration fees and expenses in accordance with the ICC Rules shall constitute a waiver of such Party's Claim or defence in the arbitration. Fees and expenses in connection with the Arbitration shall be awarded to the successful Party in addition to any other damages or other amounts it may be awarded, including without limitation reasonable legal fees, disbursements and reimbursement of the share of the arbitration fees and expenses paid by the successful Party.

19. Statute of Limitations. In no event shall a demand for arbitration be made after the date when institution of legal or equitable proceedings based on such Claim would be barred by statutes of limitations.

20. Sanctions. No materials used in or activities by Supplier to deliver the Goods and perform and complete the Services shall be purchased, performed or supplied in contravention of Sanctions. Supplier will:

    (a) maintain in effect policies and procedures reasonably designed to ensure compliance by itself and its respective Personnel with Sanctions;

    (b) conduct its business in compliance with Sanctions;

    (c) not use, directly or indirectly, any amounts received by Customer or incurred in connection with the Goods and the Services in violation of Sanctions;

    (d) not act in any other manner that would result in the violation of Sanctions; and

    (e) cause each member of Supplier Group to comply with (a)-(d) above.

21. Entire Agreement. Except as otherwise expressly stated in a writing signed by both Parties, these Terms, the Order, together with SOW, Purchase Order, Change Order (as applicable) and any attachments, exhibits, specifications, technical requirements, supplements or other terms of Customer specifically referenced therein or related thereto, constitute the final, entire and exclusive agreement between the Parties with respect to the subject matter hereof.

22. Claims by Supplier. Any legal action or arbitration proceeding by Supplier under any Order must be commenced no later than one (1) year after the breach or other event giving rise to Supplier's Claim occurs, or Supplier becomes aware of the existence (or facts and circumstances giving rise to the existence) of such Claim, whichever occurs first.

23. Remedies Cumulative. All rights, powers and remedies set forth in these Terms or an Order are cumulative and in addition to and without prejudice to any right, power or remedy available to Customer under the Terms, an Order or at law or in equity. All costs incurred in connection with any remedy, including all travel expenses and daily allowances as well as any and all legal fees and costs incurred by Customer as a result of Supplier's breach of its obligations, shall be the obligation of Supplier. Supplier shall not have any right of set-off.

24. Supplemental Terms and Conditions. Customer may issue supplemental terms and conditions to address special or additional requirements.

25. Interpretation. Supplier and Customer agree that the Order, including these Terms, was negotiated by the Parties with the benefit of legal representation, and any rule of construction or interpretation otherwise

requiring provisions to be construed or interpreted against any Party as having been drafted by it will not apply. The tables of contents, headings, marginal notes and references to them in the Terms or an Order are for convenience of reference only, shall not constitute a part of the Terms or an Order, and shall not be taken into consideration in the interpretation of, or affect the meaning of, the Terms or an Order. In an Order, a reference to "Article X" will mean Article X of the Terms, unless followed by a reference to another specific document.

26. Further Assurances. Each Party shall do all things, from time to time and execute all further documents necessary to give full effect to the Terms and the Order.

27. Compliance with Law. Each Party shall observe and comply with all applicable laws, regulations, court order or judgments, ordinances, codes and regulations of government agencies and authorities, including federal, provincial/territorial, and state/local bodies having jurisdiction over such Party in which such Party operates or the conduct of the services delivered by such Party.

28. No Forced Labour or Child Labour. Supplier represents that no Forced Labour or Child Labour will be used at any step of the production or supply of the Goods or Services, and Supplier and any member of Supplier Group shall not use, or permit the use of, directly or indirectly, any Forced Labour or Child Labour at any step of the production or supply of the Goods or Services. Within sixty (60) days following the effective date of an Order, Supplier shall provide Buyer with a report confirming:

(a) its structure, activities and supply chains;

(b) its policies and its due diligence processes in relation to Forced Labour and Child Labour;

(c) the parts of its business and supply chains that carry a risk of Forced Labour or Child Labour being used and the steps it has taken to assess and manage that risk;

(d) any measures taken to remediate any Forced Labour or Child Labour;

(e) any measures taken to remediate the loss of income to the most vulnerable families that results from any measure taken to eliminate the use of Forced Labour or Child Labour in its activities and supply chains;

(f) the training provided to employees on Forced Labour and Child Labour; and

(g) how the entity assesses its effectiveness in ensuring that Forced Labour and Child Labour are not being used in its business and supply chains.

29. Counterparts. Any documents related to an Order may be executed by the Parties in any number of counterparts and may be executed and delivered originally, by electronic signature or transmission in Portable Document Format ("**PDF**") and each such electronic copy or PDF copy, which is so executed and delivered, will be deemed to be an original, and all of which taken together will constitute one and the same instrument.

XIV. Express Reservation of Rights to Customer

1. Reservation of Rights to Customer. With respect to any Covered Production by Customer or any of its Affiliates, nothing in this Order shall be construed, interpreted, or applied in any way to limit the following specific rights of Customer, each of which shall in perpetuity be reserved expressly to Customer (within the meaning of 26 USC 7701(a)(51), 26 CFR §§ 1.30D-2, and any subsequent regulations or guidance issued by the U.S. government, including, but not limited to, Section V.E(ii) of the U.S. Department of Energy's final interpretive rule *Interpretation of Foreign Entity of Concern*, 89 Fed. Reg. 37,079 (May 6, 2024)):

(a) to determine the quantity of critical mineral, component, or material produced;

(b) to determine the timing of production, including when and whether to cease production;

(c) to use any critical mineral, battery component, or battery material for its own purposes or to sell the critical mineral, battery component, or battery material to entities of its choosing;

(d) to access all areas of any production site continuously and observe all stages of the production process; or

(e) at its election, to independently operate, maintain, and repair any and all equipment critical to production and to access and use any intellectual property, information, and data critical to production, for the duration of the contractual relationship.

2. Limitation on Rights of Supplier. With respect to any Covered Production by Customer or any of its Affiliates, nothing in this Order shall be construed, interpreted or applied in any way to provide the following rights to Supplier (within the meaning of 26 USC 7701(a)(51) and any subsequent regulations or guidance issued by the U.S. government on such provision):

(a) to specify or otherwise direct one or more sources of components, subcomponents, or applicable critical minerals utilized in the production of an eligible component;

(b) to direct the operation of any production unit that produces an eligible component;

(c) to limit Customer's utilization of intellectual property in the production of an eligible component;

(d) to receive royalties under any licensing agreement, including this Order or any similar agreement (or payments under any related agreement) beyond the 10th year of the agreement (including modifications or extensions thereof);

(e) to direct or otherwise require Customer to enter into an agreement for the provision of services for a duration of longer than two years (including any modifications or extensions thereof);

(f) to withhold technical data, information, and know-how necessary to enable Customer to produce the eligible component or components subject to the contract, agreement, or other arrangement without further involvement from Supplier or a specified foreign entity.

3. In the event that a conflict exists between this provision and any other term of this Order, the terms of this provision shall be construed to supersede any such conflicting terms, and the rights contemplated herein shall be in all cases expressly reserved to Customer.

4. This Section XIV shall not be construed to impose limitations on the joint development of intellectual property as contemplated under the terms of this Order insofar as such development does not implicate Covered Production.

5. This Section XIV shall be interpreted and applied in a manner that complies with 26 USC 7701(a)(51), 26 CFR §§ 1.30D-2, and any subsequent regulations or guidance issued by the U.S. government with respect to the interpretation of those provisions (including but not limited to, the U.S. Department of Energy's final interpretive rule *Interpretation of Foreign Entity of Concern*, 89 Fed. Reg. 37,079 (May 6, 2024)), including as such regulations or guidance may be subsequently interpreted and/or amended.

XV. Prohibited Foreign Entity Representations, Warranties and Covenants

1. Supplier hereby represents, warrants and covenants to Customer that, as of the effective date of the Order and throughout the term of this Order, Supplier is not a Prohibited Foreign Entity.

2. Supplier shall promptly notify Customer of any changes to its status as a non-Prohibited Foreign Entity.

3. Customer shall be entitled to terminate this Order or cancel any purchases or services immediately for cause upon issuance of notice to Supplier upon a change in the Prohibited Foreign Entity status of Supplier.

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