



STANDARD TERMS AND CONDITIONS OF PURCHASE

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1. **Acceptance**

Supplier's (i) full or partial performance under, or indication thereof, or (ii) acknowledgement of the Order, is acceptance of the Order and all terms and conditions contained in the Order, including these Terms and Conditions. Any terms and conditions proposed in Supplier's acceptance or in any acknowledgment, invoice, or other form of Supplier that add to, vary from, or conflict with the terms herein are hereby rejected.

2. **Definitions**

- 2.1. "Agreement" means the long-term purchase agreement, Order or other agreement that references these terms and conditions, and pursuant to which Orders are issued to Supplier.
- 2.2. "Buyer" means Opsens Inc. that enters into an Agreement or issues an Order referencing these Terms and Conditions, and any successor or assignee of Buyer.
- 2.3. "Buyer's Customer" means the ultimate user of Buyer's products incorporating the Goods and/or Services provided by Supplier under the Order.
- 2.4. "Delivery Date" means the date of delivery for Goods and Services as specified in an Order.
- 2.5. "Goods" means goods, parts, supplies, software, drawings, data, reports, manuals, other specified documentation, or items that are required to be delivered pursuant to, or in connection with, an Order, and where the context requires such services as are necessary and incidental to the delivery of Goods under any Order. For clarity, changes made by Buyer to the part numbers and/or other description of the Goods as a result of a change under the Changes clause of these Terms and Conditions will continue to be Goods.
- 2.6. "Intellectual Property" means all inventions, patents, software, copyrights, mask works, industrial property rights, trademarks, trade secrets, know-how, proprietary information and rights and information of a similar nature. Such information includes, without limitation, designs, processes, drawings, prints, specifications, reports, data, technical information, and instructions.
- 2.7. "Lead Time" means the maximum time within which Supplier agrees to deliver Goods after receipt of an Order for such Goods. Unless otherwise mutually agreed between Buyer and Supplier, Lead Times are measured in calendar weeks.
- 2.8. "Party" or "Parties" shall mean Buyer and/or Supplier, individually or collectively, as the context requires.
- 2.9. "Order" means a paper or electronic document sent by Buyer to Supplier to initiate the ordering of Goods or Services, such as a purchase order, a scheduling agreement, or other authorization, and including change notices, supplements or modifications thereto.
- 2.10. "Services" means any effort performed by Supplier necessary or incidental to the delivery of Goods, including design, engineering, installation, repair and maintenance. The term "Services" shall also include any effort required by an Order.
- 2.11. "Specifications" means all requirements with which Goods and Services and performance hereunder must comply, including, without limitation, drawings, instructions and standards, as such requirements are specified and/or referenced in Orders, and may be modified from time to time by Buyer.

- 2.12. "Supplier" means the legal entity providing Goods and Services or otherwise performing work pursuant to an Order.
- 2.13. "Terms and Conditions" means this document.

3. Delivery

- 3.1. The delivery information in the Buyer Order shall establish the Delivery Dates for the Goods and/or Services.
- 3.2. Time is of the essence in Supplier's performance of an Order, and Supplier shall deliver Goods and perform Services by the Delivery Date.
- 3.3. Shipment shall be to the location directed by Buyer. Unless otherwise specified in an Agreement, (i) the delivery terms for Goods shall be FCA Supplier's facility (Incoterms 2010) (ii) title shall pass to Buyer upon receipt of Goods at Buyer's facility or third party drop shipment point and (iii) risk of loss shall transfer to Buyer at Supplier's facility.
- 3.4. Delivery Dates which do not allow sufficient Lead Time shall be considered need dates and Supplier shall use all commercially reasonable efforts to meet such need dates. If Supplier agrees to the need dates, the need dates shall be considered the new Delivery Dates.
- 3.5. If Supplier is unable to deliver Goods by the Delivery Date, Buyer may, without liability: (i) reduce or cancel its requirements for any part of the quantity of the Goods that cannot be delivered by the Delivery Date, or (ii) reallocate to another Order, or (iii) reschedule, any portion of the Goods that cannot be delivered by the Delivery Date. In addition to any other rights and remedies that Buyer may have, in the event of Supplier's nonconformance with any of the requirements under this Section or any other delivery obligation, Supplier shall be responsible for all shipping costs and expenses incurred with respect to such nonconformance, including the costs of expedited shipment with respect to late deliveries.

4. Quality

- 4.1. Supplier shall comply with all drawings, Specifications, Buyer quality documents and all subsequent versions thereof applicable at the time of deliveries and incorporated in Orders placed by Buyer with Supplier for Goods.
- 4.2. Supplier shall maintain ISO 13485:2003 certification or other equivalent internationally recognized certification (at Buyer's sole discretion), throughout the performance of the Order and/or the duration of the Agreement.

5. Packaging

- 5.1. All Goods must be suitably packaged and prepared for shipment to withstand normal transportation and stocking functions, as may be required in the applicable Buyer SPS specified on the Order. Containers must be in accordance with best commercial practices and all applicable laws. When multiple Orders or Goods are combined in one container, they must be separately packaged inside that container.
- 5.2. A separate invoice and a separate packing list are required for each Order and must accompany each shipment. Seller will provide bar coded shipping labels with each shipment. When required on the Order, Seller shall also provide a certificate of compliance (CofC) duly signed

by its authorized representative certifying the compliance of the Goods with all Specifications contained in the Order. All documents must include the applicable Order number.

6. Inspection, Acceptance and Rejection

- 6.1. Supplier shall only tender Goods to Buyer that have passed inspection in accordance with all requirements of an Order.
- 6.2. Buyer may, with respect to any Goods: (i) reject all or a portion of any nonconforming Goods; (ii) accept all or a portion of such nonconforming Goods as-is or with a price reduction for the cost of repair if Supplier cannot repair or replace the Goods within timeframe needed by Buyer; or (iii) accept any conforming Goods and reject the rest.
- 6.3. Within ten (10) business days of Supplier's receipt of Buyer's notification of a nonconformity, Supplier shall investigate the nonconformity, deliver to Buyer a written report of its investigation and conclusions, and formulate a corrective action plan acceptable to Buyer.
- 6.4. With respect to rejected nonconforming Goods, Buyer may at its discretion and at Supplier's risk and expense (i) scrap nonconforming Goods in place with prior agreement of Supplier, or (ii) return nonconforming Goods to Supplier for, at Buyer's option, either (a) full credit or refund or (b) replacement Goods. Title to such rejected Goods returned to Supplier shall transfer to Supplier upon such delivery. Goods returned to Buyer hereunder shall be shipped at Supplier's expense and risk of loss. Additionally, rejected nonconforming Goods shall not be tendered again to Buyer for acceptance unless permitted by Buyer, and accompanied by a disclosure of Buyer's prior rejection(s).
- 6.5. Notwithstanding any other provision, in addition to the foregoing, Supplier shall be liable for Buyer's actual costs, expenses and damages related to or arising from nonconforming Goods, including but not limited to labor and other costs related to transportation of Goods, expediting, removal, disassembly, failure analysis, fault isolation, assembly, reinstallation, reinspection, retrofit, and any and all other such corrective action costs incurred by Buyer.

7. Warranty

- 7.1. Supplier warrants to Buyer and Buyer's successors, assigns, Buyer's Customers, and users of Goods sold by Buyer that all Goods provided under the Order shall be and continue to be: (i) merchantable and fit for the intended purpose, except if Goods are manufactured in accordance to a design provided by Buyer; (ii) new; (iii) free from defects in material and workmanship; (iv) free from defects in design if the design is not provided by Buyer; (v) manufactured in strict accordance with the Specifications; and (vi) free from liens or encumbrances on title (collectively, for this Section 7, "Warranty").
- 7.2. Notwithstanding any other provision, in addition to the foregoing, Supplier shall be liable for Buyer's actual costs, expenses and damages related to or arising from Goods not conforming to the Warranty, including but not limited to labor and other costs related to transportation of Goods, expediting, removal, disassembly, failure analysis, fault isolation, assembly, reinstallation, reinspection, retrofit, and any and all other such corrective action costs incurred by Buyer.
- 7.3. Supplier warrants to Buyer that all Services provided under or in connection with an Order: (i) will be performed in a professional and workmanlike manner and in accordance with current, sound and generally accepted industry standards and practices by appropriately licensed, trained, supervised and personnel who are experienced in the appropriate fields; and

(ii) will conform to and be in compliance with all applicable Specifications and other requirements contained in the Order (the "Service Warranty"). Supplier agrees that should any of the Services be defectively performed by Supplier, Supplier will re-perform or correct such defective Services at no additional charge. Notwithstanding any other provision, in addition to the foregoing, Supplier shall be liable for Buyer's actual costs, expenses and damages related to or arising from the Services not conforming to the Services Warranty.

7.4. This warranty shall be in addition to all warranties arising as a matter of law and shall be enforceable by Buyer for a period of 36 months after delivery of the Goods or Services to Buyer. Goods repaired and returned to Buyer under warranty during the Warranty Period shall be covered for the greater of twelve (12) months from return or for the balance of the original Warranty Period.

8. Prices, invoicing and payment

8.1. All prices will be firm and fixed and not subject to any escalation.

8.2. Supplier shall invoice Buyer at the prices stated on the Order. All invoices will indicate the Order number, Article description, quantity, unit price and total price of the Articles as well as the payment address, amount of applicable taxes and Goods and Services Tax (GST) and Quebec Provincial Sales Tax (PST) registration numbers.

8.3. Buyer shall pay Seller within 45 days from the latter of (i) Buyer's receipt of acceptable Goods or Services, (ii) applicable delivery date specified on the Order or (iii) receipt of Seller's invoices.

9. Taxes

9.1. Unless otherwise stated in the Order, all payments, prices, fixed or otherwise, sums, payments, fees and monetary amounts mentioned in the Order are exclusive of any and all sales taxes, value added taxes, goods and services taxes, taxes levied upon importation, such as customs duties, excises, or any other taxes ("Taxes") levied in regard of any of the transactions covered by the Order.

9.2. When invoicing, Supplier shall (i) include amounts of Taxes, or specific fees Supplier is required by applicable law to add-on to the sales price and collect from Buyer or otherwise is legally due from Buyer, and (ii) separately state each of the Taxes.

9.3. Where applicable, Buyer shall pay the Canadian Federal Goods and Services Tax (GST), the Harmonized Sales Tax (HST), as well as any applicable Provincial Sales Tax directly resulting from the transactions hereunder. Such taxes shall be shown separately on all of Supplier's sales invoices along with Supplier's tax registration numbers.

9.4. Supplier is solely responsible for the fulfillment of Supplier's obligations under law or statute in respect to collecting and remitting Taxes collected from Buyer under the Order to the proper tax authority. Any penalties, fees or interest charges imposed by a tax authority or other authority as the result of non-payment of Taxes collected by Supplier from Buyer will be borne by Supplier. Supplier shall also pay any Taxes arising out of its willful misconduct or negligence for which Buyer becomes liable.

10. Inspection and Audit Rights

- 10.1. Supplier (which, for the purposes of this Section, includes Supplier and its suppliers) shall at any time, and after reasonable notice by Buyer, (i) grant to Buyer, Buyer's Customers and/or to any competent regulatory authority, unrestricted access to (or if requested by Buyer, provide to Buyer copies of) Supplier's books and records (including, without limitation, agreements and technical inspection and quality records, but excluding financial books and records), wherever such books and records may be located (including third-party repositories), and (ii) provide Buyer, Buyer's Customers and/or any such authority the right to access, and to perform any type of inspection, test, audit or investigation at Supplier's premises, including manufacturing and test locations for the purpose of enabling Buyer to verify compliance with the requirements set forth in the Order or for any other purpose indicated by Buyer's Customers and/or said authority in connection with the design, development, certification, manufacture, sale, use and/or support of the Goods. Supplier and its suppliers shall furnish all reasonable facilities and assistance for the safe performance of the inspection, test, audit and/or investigation.
- 10.2. Supplier shall maintain complete manufacturing and inspection records for all Goods which shall be available to Buyer during performance of an Order and until the later of: (i) four (4) years after final payment, (ii) final resolution of any dispute involving the Goods delivered hereunder, or (iii) the latest time required by applicable laws and regulations.
- 10.3. Any corrective action requested by Buyer, Buyer's Customers and/or any said authority following any such inspection, test, audit or investigation shall be implemented by Supplier at no cost.

11. Subcontracting

Any subcontracting by Supplier of all or substantially all of its responsibilities or obligations hereunder, without Buyer's prior written consent, shall be wholly void, invalid and totally ineffective for all purposes and be cause for termination for default. In the case of any subcontracting or approved delegation of any of its responsibilities or obligations hereunder, Supplier shall perform all supply management activities that are necessary for the on-time delivery of Goods conforming to the requirements set forth herein. Supplier shall be solely and fully responsible for monitoring said suppliers under all provisions of the applicable subcontracts, and for ensuring that each of its suppliers complies with the requirements set forth herein. Supplier shall remain fully liable to Buyer for, and shall be Buyer's sole point of contact for, all aspects of proper performance of the Order, regardless of (i) any subcontracting, (ii) Buyer approval of the subcontractors, or (iii) Supplier's failure to ensure the relevant subcontracts contain provisions that comply in substance with the requirements set forth herein.

12. Buyer-Furnished and Buyer-Funded Items

- 12.1. All material, including information, required to be furnished to Supplier under the Order ("Buyer Furnished Items") shall be delivered as specified in the Order, or, if not specified, in sufficient time to enable Supplier's timely performance. Buyer shall have no liability to Supplier for any delays or failures in the delivery of Buyer Furnished Items. If Buyer Furnished Items are not delivered to Supplier in sufficient time to enable Supplier to meet Delivery Dates, Supplier may notify Buyer of the delay and shall be entitled to an extension to the impacted Delivery Dates not exceeding the period of the delay. Unless otherwise specified in the Purchase Agreement, such adjustment shall be Supplier's sole and exclusive remedy.

- 12.2. Title to all tooling, test equipment, and material identified as a separate line item under an Order, or referred to in any agreement between Buyer and Supplier, fabricated or acquired by Supplier and paid for by Buyer ("Buyer Funded Items") shall vest in Buyer.
- 12.3. Buyer Furnished Items and Buyer Funded Items (collectively, "Buyer Items") shall be used only for the purposes of the Order. Supplier shall not use Buyer Items on any other order without Buyer's written permission. Supplier shall, at its own expense: (i) establish and follow a preventative maintenance calibration and repair program for, (ii) safely store (separated from other material where practicable), and (iii) maintain in good, workable condition all Buyer Items.
- 12.4. Title to any Buyer Items shall remain with Buyer. Buyer, in order to protect its interests, may require Supplier to execute documents that are related to Buyer Items, including, Uniform Commercial Code financing statements or any similar documents. Supplier shall plainly mark and adequately identify Buyer Items as being Buyer's property.
- 12.5. Upon Buyer's request, Supplier shall provide an annual written inventory of Buyer's Items, including certification of compliance with this Section and proof of adequate insurance covering full replacement cost of Buyer Items.
- 12.6. Supplier shall, upon discovery, (i) provide notification to Buyer if any Buyer Items are lost, damaged or destroyed and (ii) repair or replace at Supplier's expense, such lost, damaged or destroyed Buyer Items. Upon completion or termination of the Order, or at any time upon Buyer's request, Supplier shall dispose of Buyer Items in accordance with Buyer's instructions and at Buyer's expense.

13. Changes

- 13.1. Buyer's authorized procurement representative (which does not include Buyer's engineering and technical personnel) may unilaterally make changes within the general scope of the Order, including changes in whole or part to: (i) shipping or packing instructions, (ii) place of delivery, (iii) Specifications, (iv) the statement of work, (v) Buyer Customer flowdown requirements and/or (vii) quality requirements (collectively "Change(s)").
- 13.2. Except as set forth herein, or as otherwise agreed, if any Change under this Section causes an increase or decrease in the cost of or the time required for performance, an equitable adjustment shall be made in price or delivery schedule or both ("Adjustment Claim"), and Buyer shall modify the Order accordingly. Supplier must submit an Adjustment Claim in writing in the form of a complete change proposal, fully supported by factual information, to Buyer's procurement representative no later than fifteen (15) business days after Supplier's receipt of the Change. Supplier acknowledges and agrees that certain changes in delivery schedule are normal and anticipated in the course of the Order. Supplier further agrees that the cost of such changes, is included in the prices provided under the Order. Accordingly, Supplier shall not be entitled to a price adjustment hereunder for any Change to the delivery schedule when deliveries are rescheduled within twelve (12) months of the delivery schedule in existence at the time of the Change.
- 13.3. If the cost of material made obsolete or excess as a result of a Change is included in the Adjustment Claim, Buyer may direct the disposition of such property or material. Notwithstanding any pending Adjustment Claims, Supplier shall diligently proceed with the performance of the Order, as directed by Buyer.

- 13.4. If Supplier considers that Buyer's conduct constitutes a Change, Supplier shall notify Buyer's authorized procurement representative immediately in writing as to the nature of such conduct and its effect upon Supplier's performance. Supplier shall take no action to implement any such Change without written direction from Buyer's authorized procurement representative.

14. Process Modification

Supplier shall notify Buyer, in writing, or seek Buyer's prior written consent, if required by Buyer or Buyer's customer, of any plans to modify any processes related to the manufacture of the Goods (including without limitation, relocation of the manufacturing process within or outside of its facility; changes to its manufacturing methods, applications and operations; and changes in equipment (collectively, "Process Modification")) at least ninety (90) business days before such Process Modification will occur, so that Buyer may assess the potential impact to quality and delivery of Goods. In addition to the foregoing, in the event Supplier proposes to make any changes to the design, composition or materials of any Goods, or changes to any lower tier suppliers, Supplier shall provide notice to Buyer and obtain Buyer's prior written consent.

15. Stop Work Order

Buyer may, from time to time, require Supplier to stop all or any portion of the work called for by the Order for a period of up to six (6) months ("Stop Work Period"). Upon receipt of written notice detailing the length and scope of the Stop Work Period, Supplier shall immediately comply with its terms at no charge. Within the Stop Work Period, Buyer may either: (i) cancel the stop-work order and Supplier shall resume work; or (ii) terminate the work covered by the stop-work order, for convenience. If Buyer has not exercised its rights set forth in either (i) or (ii) above prior to the expiration of the Stop Work Period, then the portion of the Order, covered by the stop-work order, shall be deemed terminated for convenience.

16. Delays

Whenever there is an actual delay or threat to delay the timely performance of the Order, Supplier shall immediately notify Buyer in writing of the probable length of any anticipated delay and take, and pay for, all activity to mitigate the potential impact of any such delay.

17. Force Majeure

- 17.1. A delay in the performance of Seller's obligations under the Order which is caused by an event which (i) is an act of God, act of government, terrorism, fire, riot or war and (ii) interferes with the performance of Seller's obligations and (iii) the effects of which could not have reasonably been avoided by Seller shall constitute an excusable delay.
- 17.2. Seller, within three (3) business days of Supplier's learning of such event, shall notify Buyer in writing and will diligently work with Buyer in coming up with an acceptable work-around plan which will limit the impact of such delay on the delivery schedule.
- 17.3. If the excusable delay lasts for more than twenty (20) business days, Buyer shall have the right to terminate the whole or any part of the Order in accordance with the provisions of Section 19 (Termination for Convenience).

18. Termination for Default

- 18.1. Buyer may, by written notice, terminate the Order (which, for the avoidance of doubt, includes the Agreement) or any portion thereof, for default without any liability or obligation

whatsoever to Supplier for the portion terminated, in the following circumstances: (i) Supplier fails to perform any obligation hereunder (other than a delivery obligation) and fails to cure such obligation within twenty (20) business days (or as otherwise mutually agreed) of a written notice from Buyer as to such failure (the "Cure Period") (ii) Supplier fails to perform any delivery obligation hereunder; (iii) should Supplier (a) become insolvent, (b) make a general assignment for the benefit of creditors, (c) have a receiver appointed for the whole or any substantial part of its assets, or (d) become in any way the subject of a bankruptcy petition. Notwithstanding the above, if a cure is not possible within such Cure Period, Supplier shall submit to Buyer, within a period of ten (10) business days after receipt of notice from Buyer specifying such failure, a detailed plan to cure such failure (including related time period) acceptable to Buyer in its sole discretion, provided, however, that if such a cure plan is approved by Buyer, Supplier's subsequent failure to comply with such cure plan shall be deemed a default hereunder, and Buyer may terminate immediately without additional cure periods.

- 18.2 Buyer shall have no liability in relation to those Goods terminated for Supplier's default. Supplier shall be liable to Buyer for any and all expenses, costs, and damages including increased procurement costs, requalification costs, and other non-recurring costs, except in the circumstance of any failure or delay constituting an "Excusable Delay" as set forth in Section 18 (Force Majeure).
- 18.3 If the Order is entirely or partially terminated under this Section, other than pursuant to Section 18.1(iii) Buyer, in addition to any other rights Buyer may have, may require Supplier, at no charge to Buyer, to: (i) deliver to Buyer all information, data, know-how, and other Intellectual Property, including proprietary and manufacturing information, utilized by Supplier in performing the Order; (ii) deliver the tooling and test equipment necessary to make or have made the Goods and provide technical and transition assistance; and (iii) provide to Buyer a worldwide, perpetual, non-exclusive, fully paid, irrevocable, license, with the right to grant sublicenses, to Supplier's information, data, know-how, and other Intellectual Property, including proprietary and manufacturing information, to the extent necessary, to enable Buyer to make, have made, use, sell and license the Goods.
- 18.4 If, after notice of termination under this Section, it is determined that Supplier was not in default, the rights and obligations of the Parties shall be the same as if the notice of termination had been issued pursuant to Section 19 (Termination for Convenience). In such case, Supplier shall not be entitled to any remedy other than as provided for in the Termination for Convenience Section.

19. Termination for Convenience

- 19.1 Buyer may, at any time, terminate all or part of the Order (which, for the avoidance of doubt, includes the Agreement), for its convenience upon written notice to Supplier.
- 19.2 Upon termination, in accordance with Buyer's written direction, Supplier will immediately: (i) cease work and place no further subcontracts or orders for materials, services, or facilities, except as necessary to complete the continued portion of the Order; (ii) prepare and submit to Buyer an itemization of all completed and partially completed Goods and/or Services; (iii) deliver to Buyer any and all Goods completed up to the date of termination at the pre-termination Order price; and (iv) if requested by Buyer, deliver any work-in-process once an agreement is reached between Buyer and Supplier for the costs thereof.
- 19.3 In the event Buyer terminates for its convenience after performance has commenced, Buyer will compensate Supplier only for the actual and reasonable work-in-process costs incurred by

Supplier on Goods ordered and terminated. Supplier shall use reasonable efforts to mitigate Buyer's liability under this Section. In order to receive compensation, Supplier's termination claim must be submitted within twenty (20) business days from the effective date of the termination.

- 19.4. Buyer shall not be liable to Supplier for costs or damages other than as described above, and in no event for lost or anticipated profits or for any sum in excess of the price allocated to the portion of the Order terminated.

20. Indemnification

Supplier agrees to be responsible and to assume liability for its acts, omissions and negligence and breach of the Agreement, the Orders or applicable laws, and for those for whom it is in law responsible including its personnel and its permitted subcontractors if any, arising out of or as a result of, or in connection with the conduct of the Agreement, and agrees to defend, indemnify and hold the Buyer harmless from any such liability. More particularly and without limiting the generality of the foregoing, Supplier shall defend, indemnify and hold Buyer harmless for any liability arising from the use of or caused by the Goods supplied under this Agreement or any Order including for any manufacturing defect of or non-conforming Goods, unless such liability is caused by the Buyer's breach of this Agreement or of applicable laws, or its fault or negligence.

21. Intellectual Property Rights

The Parties agree that unless expressly provided otherwise in the Agreement or Order:

- (a) all Intellectual Property provided by or otherwise belonging to either party prior to the effective date of the Agreement and all rights, titles, interests and improvements thereto shall remain the sole property of such party; more particularly and without limiting the generality of the foregoing, the parties understand and agree that the Goods as well as any Specification or other form of Intellectual Property provided by Buyer to Supplier shall remain the sole and exclusive property of Buyer;
- (b) all foreground Intellectual Property created in connection with Buyer's products or including any improvement of any products Intellectual Property that could not be used without infringing Buyer's Intellectual Property rights, as well as any improvements of a form of Intellectual Property for which a party could obtain a distinct patent or seek distinct Intellectual Property protections or shall be Buyer's sole and exclusive property; Supplier shall not be granted any rights, titles or interests whatsoever with respect to such foreground Intellectual Property other than as applicable the right to use it for the purposes of performing its obligations as set forth in the Agreement and hereby assign all its rights and renounce to any moral rights over such Intellectual Property to the Buyer.
- (c) all foreground Intellectual Property (other than the one described in the previous paragraph) and created by one party shall be its sole and exclusive property, while all rights over any Intellectual Property created jointly by the Buyer and the Supplier shall be the joint property of both parties taking into account the relative inventive contributions of the inventors of each parties and the rights over such Intellectual Property shall be governed by the agreement to be negotiated in good faith between the Buyer and the Supplier. Should the parties fail to reach an agreement, they shall refer to the dispute resolution mechanism set out in Subsection 28.2.

Except as expressly authorized herein, nothing in the Order shall be construed as Buyer granting Supplier a license in or any right to use any of Buyer's Intellectual Property other than in the performance of work under the Order.

22. Confidentiality

22.1. In the course of this Agreement, Confidential Information may be disclosed or rendered available by Buyer to Supplier. To that end Supplier agrees in its name and on behalf of its personnel, agents and subcontractors as applicable: (i) to preserve the confidential nature of the Confidential Information and to treat such information with at least the same degree of care that it uses to protect the confidentiality of its own most sensitive information, and in any event with no less than a reasonable standard of care required to protect information of similar nature; (ii) to use the Confidential Information solely to meet and discharge its obligations provided for in this Agreement or any Order; (iii) not to use, disclose or otherwise render accessible Confidential Information to anyone other than its personnel, agents and subcontractors as applicable on a "need-to-know" basis; (iv) to promptly inform Buyer after becoming aware of any disclosure required pursuant to applicable law or any loss or theft, any unauthorized access or use or any event threatening the confidentiality of the Confidential Information, and to take all reasonable measures requested by Buyer or required to avoid or minimize any potential or actual damage or loss resulting from the foregoing; and (v) upon Buyer's request and in accordance with its instructions to promptly cease to use its Confidential Information and to safely return or irrevocably destroy all such Confidential Information, as attested in writing by an executive of Supplier upon request from the Buyer or upon termination of this Agreement or Order(s). Notwithstanding the foregoing, Supplier shall be entitled to keep one copy of the Confidential Information, as required to comply with its legal obligations provided that such copy remains subject to the provisions of this Section 22 and that it is retained in Supplier's legal department under restricted access. The obligation under this Section 22 shall last for the duration of the term and for ten (10) years after termination of the Agreement, and/or each Order whichever is the latest and, in the case of information that constitutes a Trade Secret, the present obligation shall continue to apply until the relevant information no longer constitute a Trade Secret.

22.2. Supplier recognizes and agrees that the unauthorized use or disclosure of Confidential Information in violation of this Agreement, any Order or other documents may cause severe and irreparable harm to Buyer for which monetary damages would not be adequate remedy, and accordingly that the Buyer shall be entitled to seek from any court of competent jurisdiction injunctive relief, whether preliminary or permanent, as well as any other relief permitted by applicable law and may obtain that relief without making a showing of irreparable harm.

23. News Releases/Publicity/Other Disclosures

Supplier shall not make or authorize any news release, advertisement, or other disclosure that relates to the Order or the relationship between Buyer and Supplier, denies or confirms the existence of the Order or makes use of Buyer's name or logo, without the prior written consent of Buyer.

24. Assignment

The Supplier shall not assign, delegate, license, subcontract or otherwise transfer in whole or in part any Agreement or Agreements or any right or obligation provided for in such agreements without Buyer's prior written consent. Any of the foregoing made in contravention to this Section shall be void and of no effect. The Buyer shall have the right to assign, delegate or otherwise

transfer in whole or in part this Agreement, if any, or the Agreement(s) or any right or obligation provided for in such agreements without Supplier's consent.

25. Change in Control

- 25.1. In the event of a change of control at Buyer, Buyer shall have the right (but shall be under no obligation) to terminate the Agreement. Buyer will inform Supplier of its intent, if any, to terminate the Agreement. Such notice could be given at any time prior to this change of control taking place or within ninety (90) business days after the occurrence of such change of control. Likewise, in the event of a change of control at Supplier, Supplier will inform buyer within five (5) business days of such change of control. Buyer will respond within ninety (90) business days to inform Supplier if the Agreement is terminated.
- 25.2. For purposes of these Terms and Conditions, a "change of control" shall mean: (i) any event in which a person or group of persons not beneficially owning more than fifty percent (50%) of the voting power of the outstanding securities of Supplier (or of Buyer as the case may be) acquires or otherwise becomes the beneficial owner of securities of Supplier (or of Buyer as the case may be) representing more than fifty percent (50%) of the voting power of the then outstanding securities of Supplier (or of Buyer as the case may be) with respect to the election of directors of Supplier (or of Buyer as the case may be); or (ii) the consummation of a merger or consolidation of Supplier (or of Buyer as the case may be) with any other corporation, other than a merger or consolidation which results in the voting power of the outstanding voting securities of Supplier (or of Buyer as the case may be) immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity) more than fifty percent (50%) of the total voting power represented by the voting securities of Supplier (or of Buyer as the case may be) or such surviving entity outstanding immediately after such merger or consolidation;

26. Order of Precedence

The order of precedence provision in an Agreement, if any, shall prevail over this Section.

If there are any inconsistencies or conflicts in the provisions applicable to the Order, precedence shall be given in the following descending order:

- (i) terms of the Agreement if any;
- (ii) the Order;
- (iii) these Terms and Conditions;
- (iv) Buyer Specifications.

27. Compliance with Laws

Supplier shall comply with all applicable national, state, provincial, and local laws, ordinances, rules, and regulations applicable to the performance of the Order.

28. Applicable Law and Dispute Resolution

- 28.1. The Order, including any Agreement and these terms and conditions, shall be construed and determined in accordance with the laws of Canada and the Province of Quebec excluding its

private international law rules and the U.N. Convention on the International Sale of Goods that could lead to the application of another jurisdiction's law.

- 28.2. Any controversy, claim or dispute between Supplier and Buyer, directly or indirectly, concerning these Terms and Conditions or the Agreement or the breach hereof, or the subject matter hereof, shall be first deferred to parties' respective top executive officers for a thirty (30)-day period. If the disagreement cannot be resolved within that period of time, then such dispute or disagreement shall be finally settled by arbitration under the rules of conciliation and arbitration of the International Chamber of Commerce by one arbitrator appointed in accordance with the said rules. The place of the arbitration shall be Montreal, Quebec, Canada, and the language to be used in the arbitral proceedings shall be English. The results of such arbitration shall be conclusive and binding, provided, however, that both parties shall have the right to apply to a court of competent jurisdiction for such equitable relief as is necessary to preserve and enforce their rights under these Terms and Conditions or the Agreement. Notwithstanding any of the foregoing provisions, either party may join the other party to any action, suit or proceeding with respect to which the party seeking such joinder is a defendant, if the other party is required to defend, indemnify, and hold harmless such defendant in accordance with the terms and provisions hereof.
- 28.3. The Parties agree that these terms and conditions and any document referenced herein or in the Order be drafted in English. Les Parties aux présentes ont convenu que ces termes et conditions ainsi que tous les documents s'y rapportant, incluant le bon de commande, soient rédigés en Anglais seulement.

29. Duty to Proceed

Except as expressly authorized in writing by Buyer, no failure of Supplier and Buyer to reach any agreement regarding a dispute related to the Order shall excuse Supplier from proceeding.

30. Setoff

Buyer may withhold, deduct and/or set off all money due, or which may become due to Supplier arising out of Supplier's performance under the Order or the Agreement.

31. Remedies

Except as expressly provided herein, the rights and remedies set forth herein are cumulative and in addition to any other rights or remedies that the Parties may have at law or in equity.

32. No Waiver

No failure of any Party to exercise any right under, or to require compliance with, the Order, or knowledge of past performance at variance with the Order, shall constitute a waiver by such Party of its rights hereunder. No concession, latitude or waiver allowed by either Party to the other at any time shall be deemed a concession, latitude or waiver with respect to any rights unless and only to the extent expressly stated in writing, nor shall it prevent such Party from enforcing any rights in the future under similar circumstances.

33. Severability

If any provision of these Terms and Conditions or the Agreement(s) be in whole or in part invalid, unenforceable or in conflict with any applicable law, such provision (or part of provision) shall be deemed: (i) to be independent of the remainder of these Terms and Conditions/Agreements and to

be severable from it, and its invalidity, unenforceability or illegality shall not affect, impair or invalidate the remainder of these Terms and Conditions/Agreement(s), so that all rights and obligations be construed and enforced as if it did not contain the particular provision; and (ii) to be applicable and enforceable to the fullest extent permitted by law against any person and in any circumstance except those as to which it has been held or rendered invalid, unenforceable or illegal.

34. Survival

All rights, obligations, and duties hereunder, which by their nature or by their express terms extend beyond the expiration or termination of the Order, including but not limited to Warranties, indemnifications, Intellectual Property (including rights to and protection of Intellectual Property and proprietary information) shall survive the expiration or termination of the Order.

35. Relationship of the Parties

The relationship between Supplier and Buyer will be that of independent contractors and not that of principal and agent, nor that of legal partners. Neither Party will represent itself as the agent or legal partner of the other Party nor perform any action that might result in other persons believing that it has any authority to bind or enter into commitments on behalf of the other.