

# ANCHOR DANLY

## TERMS AND CONDITIONS OF PURCHASE

An “ANCHOR DANLY” purchase order constitutes an offer by Anchor Danly (“Buyer”) to the Seller to whom a purchase order is issued (“Seller”) to purchase the articles, materials, services or equipment covered by our purchase order (the “Product”) exclusively upon the terms and conditions of purchase set forth below (or incorporated herein by reference) and shall become a binding contract including such terms and conditions upon either issuance of an order acknowledgment hereof by Seller or substantial performance hereunder by Seller (the “Agreement”). No contrary or additional terms or conditions of sale proposed by Seller will be accepted by Buyer and any such proposed contrary or additional terms are to be construed as proposals for addition to this Agreement which are hereby rejected unless otherwise indicated in a written instrument executed by an authorized officer of Buyer making specific reference to this purchase order and the specific contrary or additional term proposed by Seller. Seller’s performance pursuant to this order shall be deemed unqualified acceptance of the terms and conditions of purchase set forth below.

**1. Price.** The price for the Product sold hereunder shall not be higher than that appearing on the face of this purchase order, or if no price appears thereon, then not higher than the last price quoted by Seller. Seller covenants that if it should at any time prior to the delivery of the Products covered hereby sell like articles, materials, services or equipment in similar quantities to any third party at lower prices, it will notify Buyer in writing of such lower prices and Buyer will receive the full benefit of such lower prices from the date of such sale to any third party. – **Non-Binding Counteroffer** - If Buyer issues a firm offer to purchase from Seller pursuant to Purchase Order, then, in the event of a counteroffer by Seller, Seller acknowledges and agrees that a contract does not exist between the parties on the terms proffered by Seller unless and until Buyer accepts such counteroffer in writing. Any performance by Seller prior to written acceptance of the terms of the counteroffer by Buyer shall be under the terms originally issued by Buyer and at the sole risk of Seller.

**2. Invoices.** Except as otherwise stated in this Agreement, Seller shall submit invoices upon Seller’s Delivery of all Goods and/or completion of all Services. Each such invoice shall be submitted by Seller to the location shown in the purchase order, and shall include: (i) the purchase order number, (ii) an itemization of the specific Goods and/or Services provided by Seller; (iii) the applicable date of Delivery for all such Goods and/or Services; (iv) an itemization of the respective unit prices, if applicable, for which payment or partial payment is invoiced; (v) the total invoice amount; and (vi) the Buyer’s location to which the goods and/or services have been delivered. If Seller is providing Goods or Services to Buyer under more than one agreement, each such agreement shall be invoiced separately.

### **3. Warranties.**

**Quality of Services** – Seller warrants and represents to the Buyer that the services shall: (i) be performed in a good and workmanlike manner in accordance with professional industry standards (with a level of skill, knowledge and judgment required or reasonably expected of providers of comparable services), (ii) meet the terms of this Agreement, and (iii) be free from defects. This warranty for quality of Services shall be effective for two (2) years after Acceptance of all Work.

**Quality of Goods** – Seller warrants and represents to the Buyer that each item of Goods provided pursuant to this Agreement shall (i) strictly conform to the requirements of this Agreement, (ii) be free from defects in workmanship, materials and design, (iii) be merchantable, (iv) be fit for its intended use, and (v) be new. Unless otherwise stated in the Purchase Order, no surplus, rebuilt, reconditioned, or used Goods shall be provided.

**Warranty Claims** - Upon receipt of oral or written notice from the Buyer of a warranty claim, Seller shall, if required by Buyer, at the Seller's sole expense, correct any Work ("Work" is hereby defined as product, goods and or services defined in the purchase order, which may include but not limited to, drawings, terms and conditions, specifications, standards and or productivity measures) or re-perform any Work that fails to conform to the warranties herein and shall promptly take down, remove and at its sole expense, promptly repair or replace, as determined by Buyer, all portions of the Work that fail to conform to the warranties herein. Seller shall also perform tests as Buyer may require verifying that the repairs or replacements comply with the requirements of this Agreement. The expense of all Work incidental to such correction, re-performance, repair, replacement, or testing shall be borne solely by the Seller. If Seller fails within a reasonable time or refuses to repair, replace, correct or re-perform any Work as required by Buyer, Buyer may, at its sole discretion, repair, replace, correct any work or take other remedial action. The parties agree that if the Buyer does not require repair, replacement, correction or re-performance, Buyer shall make a corresponding reduction in Compensation.

**Title** – Seller warrants and represents to the Buyer that it owns all right, title and interest in and to the goods, or if not the owner, Seller has full authority to sell the goods to the Buyer on behalf of the owner. Seller further warrants that the Goods are free from any and all security interests, claims, liens or other encumbrances.

**Disclaimer** – THE WARRANTIES SET FORTH HEREIN ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES WHETHER STATUTORY, EXPRESS OR IMPLIED. THE REMEDIES SET FORTH IN THIS ARTICLE ARE IN ADDITION TO, AND NOT IN LIEU OF, SUCH OTHER REMEDIES AS MAY BE AVAILABLE TO BUYER AT LAW OR IN EQUITY. SELLER SHALL NOT BE EXCUSED FROM ITS OBLIGATIONS UNDER THIS ARTICLE BY BUYER'S FAILURE TO INSPECT, FAILURE TO DISCOVER DEFECTIVE WORK, APPROVAL OF OR PAYMENT FOR THE WORK OR ANY PORTION THEREOF.

**4. Inspection.** All Products delivered hereunder shall be subject to final inspection and acceptance by Buyer at its facility notwithstanding prior payment or inspection at Seller's facility. Acceptance of any Products shall not alter or affect the warranties of Seller referenced above. Buyer may, at its option, either hold rejected Products for Seller's instructions and at Seller's risk, or return them to Seller at Seller's expense and require their correction, and Seller shall promptly reimburse Buyer for any and all damages sustained by Buyer as a result of failure of Products to conform to the provisions and specifications set forth in this purchase order.

**5. Cancellation.** Buyer reserves the right to cancel this order or any part thereof, or terminate this Agreement, and Buyer's sole responsibility to Seller shall be to pay the agreed price for such Products as have been delivered as of the time such cancellation is effective and to reimburse to Seller its actual costs of materials and direct labor expended by it in reasonable anticipation of its fulfillment of this Agreement which are not recoverable by Seller, provided that no allowance shall be made to Seller for any overhead or anticipated profit for undelivered Product, Buyer's maximum liability on account thereof shall be agreed price for the Products as set forth in paragraph 1 above, and Seller shall deliver to Buyer any inventory paid for by Buyer under this paragraph 5.

**6. Time and Delivery.** Because Buyer's business and operations are in part dependent on receipt of the Products that are the subject of this Agreement, timely delivery of the Products is essential to the performance of Seller's obligations hereunder. Unless otherwise specified on the face of this purchase order, terms of delivery of the Products are F.O.B. destination with freight prepaid. Deliveries shall be made at the times and of the quantities specified on the face of this purchase order, and Seller shall not, without the written consent of Buyer, make shipments in advance of such schedule. Buyer may order expedited routing in place of scheduled routing, if necessary to meet schedule or recover time lost by any delay, in which event any excess transportation costs shall be paid by Seller. Buyer may postpone delivery of

any Products covered hereby. Over shipments may be returned by Buyer at Seller's expense or retained by Buyer at no increase in price. Seller shall not make any commitment or production arrangements in excess of the amounts, or in advance of the time, necessary to meet Buyer's delivery schedule for Products.

**7. Intellectual Property Warranty and Indemnity.** Seller warrants that the Products delivered to Buyer hereunder, and the use of the Products for their normal purposes, will be free from any claims of alleged infringement of patent, copyright, trade mark, service mark, trade secret or any other intellectual property right of any other party. If any third party asserts any such claim or allegation against Buyer or its customers, Seller shall defend, indemnify and hold harmless Buyer and its customers from and against any and all costs (including reasonable attorneys' fees incurred), expenses, losses, damages, liabilities, penalties, or judgments relating to such claim or allegation.

**8. Assignment of Work Product to Buyer.** All work product developed by Seller in connection with its performance under this Agreement, including (but not limited to) computer files, concepts, ideas, designs, discoveries, drawings, inventions, models, plans, programming, schedules, specifications, technical documentation, software, or source code ("Work Product") is Buyer's property and all right, title and interest, including (without limitation) copyright interest, shall belong exclusively to Buyer and shall be assigned to Buyer accordingly. Seller is not permitted to retain copies of such Work Product and shall deliver all Work Product to Buyer with the Products ordered hereunder. Seller shall not photograph or otherwise visually document any Work Product except for archival purposes. This Agreement transfers all right, title or interest, including (without limitation) copyright and patent, that Seller may otherwise have in such Work Product to Buyer. Seller will at Buyer's request execute and deliver such documents as in Buyer's opinion may be necessary, proper, appropriate, convenient or expedient to protect, register, enforce or evidence further Buyer's ownership of such Work Product. Seller warrants and represents that any tangible Work Product developed by it pursuant to this purchase order will be either original to Seller, in the public domain, or obtained by Seller with the written consent of the owner thereof to use such other works or intellectual property in or to develop the Work Product. Seller shall defend, indemnify and hold harmless Buyer and its customers from and against any and all costs (including reasonable attorneys' fees incurred), expenses, losses, damages, liabilities, penalties, or judgments relating to any claim or allegation that any Work Product infringes any intellectual property right of any third party.

**9. Indemnity for Injury to Persons or Property.** Seller will defend, indemnify and hold harmless Buyer and its officers, directors, employees, and affiliates from and against any and all costs (including reasonable attorneys' fees incurred), expenses, damages, liabilities, penalties, personal injuries or judgments suffered or incurred by any individual or to any real or personal property attributable to the Products, their use or to Seller's actions or omissions.

**10. Confidentiality.** Buyer and Seller may have a proprietary interest in certain Confidential Information furnished to each other pursuant to this Agreement. Buyer and Seller shall keep in confidence and shall not disclose, without the prior written consent of the disclosing party, any such Confidential Information, provided it is disclosed in writing and marked as Confidential Information of disclosure at the time of disclosure.

Notwithstanding the foregoing, Buyer may disclose such Confidential Information to its Sellers or contractors for the purpose of securing services, securing goods or seeking bids for such services and/or goods in connection with the operation, modification or maintenance of Buyer's facilities, provided Buyer requires such Sellers and contractors to return or destroy all written materials containing Confidential Information and to agree not to make any further disclosure of same or to use it for any purpose other than that for which it was disclosed by Buyer.

The provisions of this Article shall not apply to Confidential Information which: (i) is or becomes generally known or available to the public without breach of this Agreement, (ii) is received from a third person without limitation or restriction at the time of disclosure, or (iii) was known to

recipient, as can be documented by recipient's written records, prior to receiving the disclosure by the disclosing party.

Notwithstanding these restrictions, Buyer or Seller may disclose such Confidential Information where required by any court, government agency or proper discovery request or to the extent necessary to secure governmental authorization. Prior to making any such disclosure, the recipient of Confidential Information shall, to the extent practicable: (i) provide the discloser with timely advance notice of its intent to comply with the disclosure requirement in order to allow the discloser to make objection to the disclosure requirement, (ii) minimize the amount of Confidential Information to be disclosed consistent with the interests of the discloser and the requirements of the court, government agency or discovery request involved, and (iii) make reasonable efforts to secure confidential treatment of the Confidential Information to be provided or to seek revision of the information request to minimize the amount of Confidential Information to be supplied.

Upon request of Buyer, and in any event upon termination of this Agreement, Seller shall, at the sole option of Buyer, either return all of Buyer's Confidential Information including all originals, copies and records thereof, or furnish to Buyer an officer's certificate of destruction of the Buyer's Confidential Information.

Buyer shall have the right to reproduce in any format any and all physical documentation supplied under the terms of this Agreement, provided, however, that such reproduction shall be for the sole use of the Buyer and shall be subject to the same restrictions on use and disclosure as are contained herein.

**11. Compliance with Laws and Buyer's Zero Harassment Tolerance Policy.** In performing its obligations hereunder, Seller shall comply with the Occupational Safety and Health Act, the Employment Standards Act, and all other applicable federal, provincial, municipal, or local laws, rules, regulations, orders, decisions or permits of any relevant jurisdiction. Buyer has a zero tolerance policy prohibiting harassment of any kind in or about its premises. Copies of this policy will be furnished to Seller upon request. Seller also agrees to make such reports to Buyer as may be required. Any violation by Seller, its agents, employees, representatives or subcontractors of any of the foregoing shall be deemed a breach of Seller's obligations hereunder and Buyer may cancel this purchase order or Agreement (without penalty and without any payment otherwise payable to Seller pursuant to paragraph 5) at any time thereafter. Seller will defend, indemnify and hold harmless Buyer from and against any and all costs (including reasonable attorneys' fees incurred), expenses, damages, liabilities, penalties, or judgments relating to any breach by Seller, its agents, employees, representatives, or subcontractors of its obligations hereunder.

**12. Insurance.** If Seller performs any services for Buyer on buyer's premises, during the term of this Agreement and for a period of at least one year after completion of Seller's obligations pursuant hereunder, Seller will maintain the following levels of insurance coverage with a reputable and financially sound insurance carrier: (a) workers' compensation insurance as required by applicable law; (b) employer's liability insurance with limits not less than CDN \$1 million; (c) Commercial General Liability, including Products and Completed Operations and Contractual Liability, with a minimum combined single limit of \$2,000,000 per occurrence; and (d) Excess Liability insurance with limits not less than CDN \$5 million. Seller will provide Buyer will an insurance certificate from its insurance carriers for each of the required foregoing insurance coverage's, and naming Buyer as an additional insured for Commercial General Liability and Excess Liability insurance. Seller shall require each of its subcontractors (regardless of tier), if any, to carry insurance in accordance with all of the above terms set forth in the preceding sentences.

**13. Software Warranty.** If licensing or providing software or a computerized system to Buyer hereunder, whether or not embedded within a system or otherwise, Seller warrants that such software or computerized system will operate without interruption notwithstanding any change in dates, passing of calendar years, leap years, or otherwise. If such software or computerized should fail on account of the foregoing, Seller shall immediately repair or patch the software or

computerized software and defend, indemnify and hold harmless Buyer from and against any and all costs (including reasonable attorneys' fees incurred), expenses, losses, damages, liabilities, penalties, or judgments attributable to the failure of such software or computerized system.

**14. No Assignment.** Neither this purchase order, the Agreement, nor any right or obligation of Seller hereunder may be assigned or delegated by Seller, by contract, merger, operation of law, or otherwise, to any other party without the prior consent of Buyer which may be granted at Buyer's sole discretion. Seller is not permitted to engage subcontractors in connection with the performance of its obligations to Buyer hereunder without the prior consent of Buyer.

**15. Independent Contractor.** Nothing in this purchase order or Agreement is intended to, or does, create any joint venture, partnership, agency or similar relationship between Buyer and Seller, other than a buyer and seller relationship. Seller shall not be, and it's not authorized to represent itself as, an agent or representative of Buyer for any purposes.

**16. Waiver.** Buyer's failure to insist in any one or more instances upon the full performance by Seller of any term, covenant, obligation, covenant or condition imposed on it by this Agreement shall not be construed as a waiver of any right available to Buyer hereunder with respect to such nonperformance or as Buyer's condoning further nonperformance.

**17. Specifications, Plans and Drawings.**

The parties agree that specifications, plans and drawings, both general and detailed, attached to the Purchase Order or referenced in this Agreement are incorporated herein as an integral part of the Agreement.

Seller agrees that its execution of this Agreement shall be deemed conclusive evidence of the prior examination by Seller of the specifications, plans and drawings and confirmation that the same are sufficient and appropriate for their intended purpose. Detailed drawings shall take precedence over general drawings for the same part of the Work.

Specifications and detailed drawings that may be prepared or approved by Buyer after the execution of this Agreement are, so far as the Work calls for and as may be fairly inferred from the original specifications, plans and drawings, to be deemed a part of such specifications, plans and drawings and the resulting Work shall be performed without any change in the Compensation.

Seller shall notify Buyer of all conflicts among the applicable plans, specifications and drawings and any laws, rules, regulations, ordinances and restrictions that come to Seller's attention or should have come to its attention through the exercise of due care. If Seller knows, or through the exercise of due care should have known, that the performance of the Work pursuant to this Agreement is contrary to any such laws, rules, regulations, ordinances or restrictions and fails to give Buyer notice thereof prior to such performance, Seller shall bear all costs arising there from. Any discrepancies, inconsistencies or ambiguities discovered by Seller among the specifications, plans, drawings and site conditions shall be immediately reported to Buyer.

**18. Changes.** Buyer may, at any time, by written change order and without notice to Seller's surety, if any, make changes in, additions to or deletions from the Work to be performed pursuant to this Agreement. If any such change significantly increases or decreases the time required for the performance of Seller's obligations hereunder, an equitable adjustment shall be made in the Performance Schedule. If this Agreement is being performed on a fixed-price basis, and if any such change significantly increases or decreases the cost to Seller of performing the Work, then there shall be an equitable adjustment in the Compensation. Seller shall not be entitled to an adjustment in the rate of Compensation due for any change if this Agreement is being performed on a cost-reimbursable or time and materials basis. Seller's right to an equitable adjustment in Compensation, Performance Schedule, or both, as a result of any change initiated by Buyer pursuant to this Article, is expressly conditioned upon Seller providing Buyer with a written request for such adjustment within ten (10) days after receipt of Buyer's change order. Such request for an equitable adjustment in Compensation, Performance

Schedule, or both, shall include a statement setting forth in detail, with a suitable breakdown by cost of Goods and Services, Seller's estimate of the change in its costs, if any, together with any proposed adjustment in the Compensation, Performance Schedule, or both. Seller shall proceed with its performance obligations as changed prior to or pending agreement upon an equitable adjustment in the Compensation, Performance Schedule, or both, and shall not halt or delay performance of the Work because of any failure so to agree.

In order to clarify the Work, the administrative requirements of this Agreement or the procedures to be followed by Seller and its subcontractors and their employees, Buyer may issue administrative instructions from time to time during performance under this Agreement. Such administrative instructions shall not be construed as changes in this Agreement.

**19. Delays - Force Majeure.** Neither Buyer nor Seller shall be responsible or liable for, or deemed in breach of this Agreement because of, any delay in the performance of their respective obligations pursuant to this Agreement due solely to circumstances beyond the reasonable control and without the fault or negligence of the party experiencing such delay, including, but not limited to, acts of God; unusually severe weather conditions; strikes or other labor difficulties; war; riots; requirements, actions or failures to act on the part of governmental authorities; inability despite due diligence to obtain required permits or licenses; accident; fire; damage to or breakdown of necessary facilities; or transportation delays or accidents (such causes hereinafter called "Force Majeure"); provided, however, the party experiencing the Force Majeure shall exercise due diligence in endeavoring to overcome any Force Majeure impediment to its performance, but settlement of its labor difficulties shall be entirely within its discretion; and provided further that the party experiencing the Force Majeure shall promptly give oral notification to the other party. Such oral notification shall be confirmed in writing within five (5) days after such party has learned of the Force Majeure and every thirty (30) days thereafter, and such written notification shall give a full and complete explanation of the Force Majeure delay and its cause, the status of the Force Majeure, and the actions such party is taking and proposes to take to overcome the Force Majeure. The party experiencing the delay shall undertake reasonable measures to make up for the time lost through delay without additional Compensation. If performance by either party is delayed due to Force Majeure, the time for that performance shall be extended for a period of time reasonably necessary to overcome the effect of the delay, subject, however, to Buyer's right to terminate this Agreement in whole or in part.

**Delays Caused by Buyer.** - If Buyer delays Seller's performance, then there shall be an equitable adjustment in the Performance Schedule. If Seller's performance is delayed due solely to acts constituting intentional interference by Buyer, and, if Buyer is not excused for such delay pursuant to paragraph A above, there shall be an equitable adjustment in the Compensation and/or Performance Schedule. Seller shall not be entitled to an adjustment in the rate of Compensation for any delay caused by Buyer if this Agreement is being performed on a cost reimbursable or time and materials basis. Seller shall give Buyer prompt written notice of the delay and shall submit a written request for an equitable adjustment in Compensation or Performance Schedule, or both, within ten (10) days after the end of the delay and shall provide supporting documentation pursuant to the Article entitled Changes. Failure to submit a timely notice of delay and a request for an equitable adjustment shall be deemed a waiver of Seller's right to an equitable adjustment. Except as provided in this Article, Buyer shall not be liable for any increased costs incurred by Seller due to any delay in Seller's performance.

**Delays Caused by Seller.** - If Seller falls behind schedule to the extent that the completion date or any intermediate milestone date is in jeopardy as determined by Buyer, Seller shall recover the schedule at no additional cost to Buyer. The means for schedule recovery shall include, but not be limited to, overtime, increased manning, multiple shifts, additional materials and equipment, or any combination thereof. Seller shall submit a schedule recovery plan that demonstrates that the proposed course of action will ensure that the Work is finished by the scheduled date.

**Suspension of Work.** - Buyer may, without cause, order Seller in writing, to suspend performance of the Work, in whole or in part, for such period of time as Buyer may determine.

Buyer shall not be liable for the cost of any unauthorized Services performed by Seller during any such period of suspension, and Seller shall not place further orders or enter into further subcontracts for materials, equipment or services relating to the suspended Work or Services. Delays in Seller's performance ordered by Buyer shall be considered a delay caused by Buyer. **Documentation of Delay Time.** - Seller shall identify all delay time as such on its standard timesheets. Buyer's or Seller's signature on such timesheets shall not be deemed to be evidence that either party assumes responsibility for the delay. Timesheets do not constitute official notice of delays, nor official requests for adjustment, as are required hereunder. Notwithstanding the foregoing, all delay time not identified as such on applicable timesheets shall be for Seller's account.

**20. Records and Right to Audit.** Seller shall keep accurate and complete books of account, records, documents and other evidence related to the negotiation, pricing and performance of this Agreement, and any change or modification hereto. Seller shall maintain accounting procedures and practices sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred or anticipated to be incurred in performing this Agreement. For all cost reimbursable, labor hour, time and material, adjustable or other payment provisions based on Seller's costs, and for all claims for equitable adjustment, termination charges, additional compensation or damages for delay or other alleged breach of this Agreement by Buyer, Buyer or its representatives shall have the right to inspect and audit such books, records, documents and other evidence, including all such documentation pertaining to any Seller personnel employed under this Agreement or employed by Seller to support the performance of this Agreement.

All materials and documents described above and required for such audit shall be made available

at Seller's offices, at all reasonable times, for inspection, audit and reproduction, until the later of the expiration of three (3) years from the date of final payment hereunder or the final settlement or disposition of any claim made pursuant to this Agreement. Each party shall bear its own costs incurred in connection with any such inspection or audit.

**21. Termination.** Buyer may, without cause, terminate this Agreement at any time, in whole or in part, by providing written notice of termination to Seller specifying the Terminated Work. Such termination is to be effective as specified in Buyer's notice but not earlier than one (1) day after Seller's receipt of such notice. Upon receipt of such notice, Seller shall: (i) discontinue the Terminated Work in accordance with the Buyer's instructions, (ii) thereafter perform only such portion of the Work not terminated, (iii) not place further orders or enter into further subcontracts for Goods and/or Services relating to the Terminated Work, and (iv) terminate all existing orders and subcontracts insofar as such orders and subcontracts relate to the performance of the Terminated Work. Upon termination, Seller shall deliver to Buyer those Goods for which Buyer has made payment, including all Goods in manufacture, but not yet completed and all Work Products, whether or not in final form, created by Seller or its subcontractor prior to termination. Within thirty (30) days after the effective date of termination, or such later date as may be mutually agreed to by the parties, Seller shall provide Buyer with a detailed summary and supporting documentation that identifies Termination Costs. The Termination Costs shall be subject to audit and verification by Buyer in accordance with the Article entitled Records and Right to Audit, such audit to be initiated, if at all, within ninety (90) days after Buyer receives from Seller the summary and supporting documentation of the Termination Costs. Prior to determining the amount of any Termination Charge which may be owed by Buyer hereunder, Termination Costs shall be reduced by the total payments previously made to Seller that were allocable to the completed portion of the Work and by any claims Buyer may have against Seller in connection with the completed portion of the Work. If the payments previously made to Seller by Buyer exceed the Termination Costs as determined in accordance with the preceding sentence, Seller shall promptly pay the difference to Buyer, and no Termination Charge shall be owed by Buyer. Upon termination and payment by Buyer of any Termination Charge, if one is owed, Buyer shall have no further obligation to Seller with respect to the Terminated Work.

**22. Hazardous Materials.** If any of the materials furnished pursuant to this Agreement are designated by laws, rules, regulations or ordinances as hazardous or toxic, either in the form to be furnished or as waste upon disposal, Seller shall notify Buyer and propose a non-hazardous or nontoxic alternative if such an alternative exists. Seller shall package and label all such materials in accordance with applicable laws, rules, regulations and ordinances and with all applicable certificates, warnings and instructions for shipping, safety, handling exposure and disposal in a form sufficiently clear for use by non-technical personnel.

**23. Governing Law.** This Agreement shall be governed exclusively by the laws of the Province of Ontario without regard to its conflicts of laws principles that would have a contrary result. The United Nations Convention on the International Sale of Goods shall not apply to this Agreement. Any dispute, claim, or controversy between Buyer and Seller related to this Agreement that cannot be resolved through good faith negotiations shall be finally venued in the Ontario Provincial Court or the Supreme Court of Canada.

**24. Site Rules.** If Seller performs any services for Buyer on Buyer's premises ("Site"), its employees, and its subcontractors (regardless of tier) shall comply with and observe all directions, rules, and regulations of Buyer relating to conduct while on Buyer's Site. These directions, rules, and regulations ("Rules") include, but are not limited to the following: safety and health, fire prevention, environmental, housekeeping, maintenance and protection of the Site, delivery and storage of materials, ingress and egress to the premises, parking, employee conduct, and public relations. Copies of such Site Rules will be furnished to Seller upon request.

**25. Entirety.** This Agreement, together with all attachments and incorporated references, is the entire agreement between Buyer and Seller with respect to the Work and supersedes any prior or contemporaneous agreement or understanding between the parties regarding the subject matter hereof. The parties shall not be bound by or be liable for any statement, representation, promise, inducement or understanding of any kind or nature not set forth or provided for herein. No prior course of dealing, usage of trade or course of performance shall be used to supplement or explain any term, condition or instruction used in this Agreement, nor shall same be deemed to effect any amendment hereto.