

## **PURCHASE ORDER TERMS AND CONDITIONS**

*DPW Canada Inc.*, shall be herein referred to as the “Purchaser”. These terms and conditions together with the purchase order to which these are attached (the “Purchase Order”) are collectively referred to herein as the “Agreement”. All other capitalized terms used herein shall have the meanings ascribed to them in these terms and conditions or elsewhere in the Purchase Order, as applicable.

### **1.0 Modification**

No terms or conditions other than those stated herein, or elsewhere in the Purchase Order, and no agreement or understanding in any way modifying the terms and conditions herein stated, shall be binding upon Purchaser unless made in writing and signed by an authorized signatory of the Purchaser.

### **2.0 Warranty**

Seller warrants that the Products shall: (i) be free from all liens, charges and encumbrances, and from defects in design, material, workmanship and title; (ii) meet all operating, technical and productivity specifications stated under this Agreement (“Operating Specifications”); (iii) comply with all applicable laws, rules and regulations of the Governmental Authority having jurisdiction; and (iv) conform in all respects to the terms of this Agreement and to the applicable drawings issued for manufacture. Seller also warrants, that the materials and components provided as part of the Products shall conform to the relevant technical and performance specifications in this Agreement and the Purchase Order, and be otherwise fit for use in connection with the Operating Specifications.

Unless the warranty period is otherwise specified in this Agreement, the following warranty shall apply: if, any time prior to eighteen (18) months after delivery or twelve (12) months from the date of commercial operation of Purchaser's facility whichever comes first (“Warranty Period”), or, with respect to liens, title or latent defects at any time, it appears that the Products, or any part thereof, do not conform to these warranties, and Buyer (or Purchaser) so notifies Seller within the Warranty Period, Seller

shall promptly correct such nonconformity so as to confirm with the Contract, at Seller's sole expense.

If Seller fails in such obligation, Buyer or Purchaser may reject or revoke acceptance, and cover by making any reasonable purchase of Products in substitution for those rejected and the Seller will be liable to the Buyer (or to Purchaser) for any additional costs for such substituted Products. In such circumstances, Buyer (or Purchaser), at its sole discretion, may itself proceed to correct Seller's nonconforming work by the most expeditious means available, and reasonable costs for such correction shall be for Seller's account; or, alternatively, Buyer (or Purchaser) may retain the nonconforming Products and an equitable adjustment reducing the order price to reflect the diminished value of such nonconforming Products will be made by written revision. Seller's liability hereunder shall extend to all damages proximately caused by the breach of any of the foregoing warranties, including damages, such as disassembly, removal, inspection, re-installation, re-testing, costs of transportation or warehousing.

Seller further warrants any and all corrective actions it performs against defects in design, material, workmanship and title for a period of twelve (12) months, in addition to any existing Warranty Period, following such corrective action. If, during such extended period of twelve (12) months, any corrective actions are performed on the same corrected work, the Seller further warrants any and all corrective actions it performs against defects in design, material, workmanship and title for a third and final period of twelve (12) months, in addition to any remaining Warranty Period on the balance (if any) of the Product, following such corrective action. Neither a Certificate of Final Acceptance nor the final payment nor any provision in this purchase Order shall relieve Seller from responsibility for defective design, materials, equipment and workmanship appearing within the Warranty Period.

The express warranties set forth in these terms and conditions and the warranties stated or reasonably implied in each of the technical, specifications and testing procedures provisions applicable to this Purchase Order are the exclusive warranties intended under the Agreement, and no other additional or independent warranties, including any implied warranty of merchantability or fitness for a particular purchase, shall apply.

### **3.0 Indemnity**

The Seller agrees to indemnify the Purchaser and its employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses and legal fees arising out of or related to: (a) infringement or any claimed infringement of any copyright, trademark, patent or other right that arises by reason of the Purchaser's use of any of the materials covered by this purchase order, or; (b) the performance,

non-performance or purported performance of this contract, including those related to personal injury, property (including environmental) damage or death. Notwithstanding the foregoing, in no case, including negligence by the Seller or any person for whom it is responsible in law, shall the Seller be liable for delay claims or consequential loss or damage or loss of profits, goodwill or opportunity.

#### **4.0 Incorporation by Reference**

Any clauses required to be included in agreements, contracts or purchase orders of this type by any applicable federal, provincial or local law or code, bylaw or regulation having the effect of law shall be deemed to be incorporated herein. The Seller will obtain and pay for all permits, licenses, and other authorizations required in order to complete the work and shall deliver the goods the subject of this purchase order and carry out all other requirements in compliance with all federal, provincial, municipal and other laws and requirements.

#### **5.0 Tax, Tariff, Duty**

Save and except for (i) 'Goods and Services Tax' under the *Excise Tax Act*, Canada; or (ii) Provincial Sales Tax (Provincial sales tax), all of which shall be paid by the Purchaser as applicable, no tax, tariff, or duty imposed upon the sale, importation, transfer or possession, use or consumption of the article or material purchased hereunder, or services rendered in connection therewith, shall be charged or collected by the Seller without the prior express consent of the Purchaser. All such taxes, tariffs, or duties are the responsibility of the Seller. The quoted price shall be deemed to include all such taxes, tariffs, or duties unless otherwise expressly indicated. Any and all refunds, reductions or eliminations of taxes, tariffs, duties and charges shall enure to the benefit of the Purchaser. The Seller shall separately state on its invoices to the Purchaser any charges for freight, installation or repair service, and any credits for purchase discounts and exchange allowances.

#### **6.0 Payment and Risk of Loss**

Purchaser shall take title upon delivery of the purchase materials in good condition at Purchaser's designated point of delivery. Risk of loss or damage prior to such time shall be on the Seller. The Purchaser shall be obligated to pay only upon receipt of materials in good condition. No money shall be payable by the Purchaser to the Seller during such time as any lien, claim of lien or encumbrance is filed, registered or threatened.

## **7.0 Contract**

The Purchase Order is not binding until accepted under the terms, conditions and instructions appearing on the face and reverse side of the Purchase Order. Any deviation from such terms and conditions must have specific written approval of the Purchaser. No terms stated by the Seller in accepting or acknowledging this Purchase Order shall be binding upon the Purchaser unless accepted in writing by the Purchaser. The terms of any written contract pursuant to which the Purchase Order is issued shall, in the case of conflict with the terms and conditions of this Purchase Order, take precedence.

## **8.0 Acceptance**

If any equipment, articles or materials are delivered or services are performed as called for by this Purchase Order, this shall be deemed an acceptance of the entire Purchase Order on these terms and conditions. The Purchaser has the right to reject any goods not in accordance with the Purchase Order.

## **9.0 Termination for Convenience**

The Purchaser may, upon 30 days written notice to the Seller, terminate all or any part of this purchase order at any time or times without cause for the Purchaser's convenience. Upon receipt of such a termination notice, the Seller shall stop work under this purchase order to the extent specified and terminate all orders with suppliers or subcontractors relating to this purchase order except as may be necessary for completion of that portion of this purchase order not terminated by the Purchaser, deliver to the Purchaser forthwith (1) all completed goods; (2) such partially completed goods as the Purchaser considers necessary; (3) all Proprietary Data owned by the Purchaser. Purchaser will certify the cost of Contract incurred to the date of termination notice and execute the payment to Seller in accordance with terms of payment specified elsewhere in this Agreement.

## **10.0 Deductions**

The Purchaser may deduct and retain from monies otherwise payable to the Seller sums that are, in the opinion of the Purchaser, adequate to satisfy claims of the Purchaser, liquidated or unliquidated, and to satisfy the amount of any liens or claims of lien filed or threatened.

## **11.0 Jurisdiction**

This Contract shall be governed by and construed in accordance with the laws of the Province of British Columbia. Any dispute arising out of, or in connection with this Agreement which cannot be resolved through direct negotiation shall be referred to and finally resolved by a single arbitrator under the rules of British Columbia International Commercial Arbitration Centre.

All parties must comply with all laws, statutes, regulations and codes, including but not limited to all local, supra-national and extra-territorial laws that are in force for the time being.

## **12.0 Subcontracting**

The Seller shall not assign or subcontract this purchase order without the Purchaser's prior written consent, provided however, that the Seller may subcontract portions of the work as is customary in carrying out similar work. The Seller shall cause all assignees and sub-contractors to comply with all conditions of this purchase order insofar as the same shall be applicable.

## **13.0 Default**

The Purchaser may, by notice to the Seller, terminate the whole or any part of this Agreement within the time specified or if the Seller fails to diligently carry out and complete its obligations in a timely and good and workmanlike manner or if the Seller becomes insolvent or makes an assignment for the benefit of creditors or a receiver or trustee is appointed. In the event the Purchaser terminates this contract in whole or in part, the Purchaser may procure completion of the works or delivery of the same or of similar equipment, articles and materials covered by this purchase order and the Seller shall be liable to the Purchaser for any excess costs paid.

#### **14.0 Price**

Nothing is to be shipped on this purchase order in excess of quantities ordered or at a price higher than shown hereon or, if not shown, higher than last quoted or charged, without first advising the Purchaser and receiving written confirmation that such is satisfactory. No charges shall be payable by the Purchaser unless agreed to in writing by the Purchaser on this Purchase Order.

#### **15.0 Limitations and Liability**

Notwithstanding anything to the contrary in this contract contained or otherwise, the maximum liability of the Purchaser to the Seller hereunder or otherwise shall be the contract price less amounts paid to the Seller and in no case, including negligence by the Purchaser or any person for whom it is responsible in law, shall the Purchaser be liable for delay claims or consequential loss or damage or loss of profits, goodwill or opportunity.

#### **16.0 Services**

All work and services to be carried out hereunder shall be carried out in a good and workmanlike manner and to the satisfaction of the Purchaser.

#### **17.0 Workers Compensation Board**

The Seller agrees to register with the Workers' Compensation Board of BC or its equivalent from time to time (if applicable) and to ensure that all subcontractors register with the Workers' Compensation Board (if applicable) and agrees to ensure that all assessments payable relating to the job are paid in full (if applicable) and the Seller may be required to show proof of this prior to payment.

#### **18.0 Risk and Insurance**

All goods supplied hereunder will be at the risk of the Seller until the contract is totally performed. The Seller shall place property insurance including all loss marine cargo and transit insurance (or otherwise in accordance with specified delivery mode) equal to the full replacement cost of all goods, materials and equipment supplied hereunder and shall

place comprehensive public liability insurance containing limits, deductibles and terms satisfactory to the Purchaser before commencing work or delivering goods, materials or equipment under this purchase order.

#### **19.0 Time of Essence**

Time is of the essence. Seller shall supply schedule, progress reports, and unpriced copies of Seller's purchase orders and subcontracts for Purchaser's use in expediting. Seller shall notify Purchaser in writing of any actual or anticipated delays immediately upon discovery. Such notice shall include an estimated period of delay, cause and corrective actions being taken. Slippage in Seller's schedule may be deemed to be reasonable ground for insecurity in which event Purchaser may demand in writing that Seller provide adequate assurances that Seller will perform on time.

#### **20.0 Inspection**

The Seller agrees to permit the Purchaser access to the Seller's plant at all reasonable times for the purpose of inspecting any goods and services ordered herein. Final acceptance of all goods and services ordered herein is subject to final inspection and inspection at the Purchaser's site or other place designated in writing by the Purchaser. The Purchaser may return rejected goods at the Seller's expense to correct any deficiencies in the goods.

#### **21.0 Force Majeure**

If at any time either party is prevented or hindered from carrying out its obligations under the Agreement by reason of the occurrence of any fire, flood, tempest, act of nature, insurrection, acts of terrorism, war, Governmental intervention, strike or lockout other than between that party and its own workforce, or other similar act beyond the reasonable control of a party (collectively "Force Majeure"), then the performance of such obligations shall be suspended for the period of time of such circumstances of Force Majeure and the party affected shall not be liable for any delay occasioned thereby. For greater certainty financial incapacity of a party, or the failure or inability of the suppliers and subcontractors of a party to supply that party for any reason other than due to an event of Force Majeure affecting them, shall not constitute Force Majeure for the purposes of this Agreement. If an event of Force Majeure results in the suspension of performance by a party for a period in excess

of 30 days, then the other party may terminate this Agreement on 7 days written notice given at any time thereafter.

## **22.0 Confidentiality**

The Seller will keep confidential any and all proprietary or confidential information of Purchaser which may be disclosed to it in the course of Seller's performance of this Agreement. If requested by Purchaser on or after the date of signature of this Agreement, the Seller will also execute Purchaser's standard form confidentiality or non-disclosure agreement which shall thereafter be read and construed together with this Agreement.

## **23.0 Human Slavery and Human Trafficking**

The Seller shall comply with all applicable anti-slavery and human trafficking laws, statutes, regulations from time to time in force including but not limited to the UK Modern Slavery Act 2015 (the "Anti-Slavery Requirements") and;

- (a) Have and maintain throughout the term of the Agreement robust and adequate internal procedures (including but not limited to appropriate policies, approval processes, training and monitoring) to ensure compliance with the Anti-Slavery Requirements and,
- (b) Not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4 of the UK Modern Slavery Act 2015 if such activity, practice or conduct was carried out and,
- (c) Promptly notify the Purchaser in writing if the Seller, or any of its employees, agents, contractors or representatives become the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence under the UK Modern Slavery Act 2015 (including if any such investigation is threatened or pending), or if it becomes aware of any slavery and human trafficking taking in any part of its business.

## **24.0 Business Conduct**

The Seller shall be subject to and conduct themselves in accordance with the Purchaser's Vendor Code of Conduct Policy located at the following link: [vendor-code-of-conduct.pdf \(dpworld.com\)](https://www.dpworld.com/vendor-code-of-conduct.pdf)