



Standard Purchase Order Terms and Conditions

1.0 DEFINITIONS

The following words have the following meanings:

“Purchaser” means Allen-Vanguard Corporation, including all of its affiliates.

“Seller” means the person, firm or company to whom the Order is addressed by the Purchaser.

“Order” means the Purchase Order placed by the Purchaser for the supply of Goods and/or Services by the Seller.

“Contract” means the contract for sale and purchase of the Goods and/or Services subject to these terms and conditions.

“Goods” means the work or articles being sold by the Seller to the Purchaser.

“Party” or “Parties” shall mean the Purchaser or Seller individually or collectively;

“Services” means the services described in the Order.

2.0 ENTIRE AGREEMENT

This Order, together with any written documents, which may be incorporated by specific reference herein, constitutes the entire agreement between the parties. The applicable Purchase Order is incorporated by reference into this agreement. No stipulations, representations or agreements by the Purchaser or any of its officers, agents or employees shall be binding on the Purchaser unless contained in this order or incorporated herein by reference as above provided. If the terms of this order conflict with any understandings, transactions and communications or writings of the Seller, including without limiting the generality of the foregoing, the Seller’s invoices, and regardless whether they originated or are dated before or after this order, the terms of this Order shall prevail.

3.0 CHANGES

Upon notice to the Seller the Purchaser may change quantities, delivery schedules and/or specifications in respect of any part or parts of the goods, work, services or related material (collectively referred to in this Order as "Goods") not yet delivered by the Seller. In respect of such Goods not completed and delivered prior to such notice, the Seller shall be entitled to be reimbursed for the actual direct cost to the Seller of such uncompleted goods; provided that such cost shall not exceed the amount otherwise

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payable by the Purchaser pursuant to this order for the affected Goods; and further provided that the Seller shall have no claim for damages, compensation, loss of profits, allowance or otherwise resulting directly or indirectly from such changes made by the Purchaser.

4.0 PRICE

Unless otherwise indicated, the prices set forth in this order are in Canadian dollars. This Order shall not be filled at prices higher than indicated on the face hereof unless otherwise agreed to by the Purchaser in writing. If the price is not stated on this Order, the subject Goods must not be billed at a price higher than that last paid without 90-day written notice to the Purchaser and an appropriate response to the Purchaser's "non-acceptance" letter pertaining to said proposed price increase.

5.0 PAYMENT TERMS

Unless otherwise agreed to in writing by the Purchaser, the basis of payment shall be on delivery in accordance with Article 8.0 herein, and the payment term shall be Net 45 days from Purchaser's receipt of approved invoice.

6.0 INVOICES/PACKING SLIPS

Canadian Sellers must furnish two copies of invoices for each billing, and each shipment must contain a packing slip. Foreign Sellers must forward in quadruplicate properly certified Canadian Customs Invoices along with a Packing Slip on the same day that shipment is made together with such other documentation which may be reasonably required by the Purchaser. All invoices shall

set out the amount of the Goods and Services Tax and other taxes payable on the order as well as the Seller's GST registration number.

7.0 CASH DISCOUNT

If there shall be a cash discount period granted to the Purchaser as agreed between the Parties, this period shall date from the date of receipt of the subject Goods or the invoice for same, whichever is later. Interest fees, if any, must be agreed to in writing by the Purchaser and shall date in the same prescribed manner used for cash discount periods. Failure to agree to interest charges shall result in no interest being payable by the Purchaser.

8.0 DELIVERY

Unless otherwise indicated, all shipments and deliveries of the subject Goods shall be Delivery Duty Paid (DDP) Incoterms 2010, and title to such Goods shall pass only upon receipt and acceptance of same by the Purchaser. In the event that there is reason to believe prior to the required delivery date that such delivery cannot or will not be made, the Purchaser reserves the right to cancel such order at that time

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free of any claim or liability to the Seller. The Purchaser's rights of cancellation hereunder shall be in addition to any other rights which it may have in respect of such failure, including, without limitation, the right to obtain alternative sources of supply for the undelivered goods and the amendment of this order in accordance with the delivery of such alternate supplies. In such event, any additional price and direct costs or expenses relating thereto incurred by or on behalf of the Purchaser shall be borne by the Seller.

9.0 EARLY DELIVERY

9.1 The Purchaser shall not be obligated to receive nor accept Delivery of Goods at a time or date that is earlier than that specified in the Purchase Order, unless specifically agreed and approved in advance and in writing by the Purchaser. If the Seller delivers the Goods early without the prior written approval of the Purchaser, then the Purchaser may elect to reject the Goods delivered, and either return the Goods to the Seller at the Seller's expense, or hold them at the Seller's risk until received in accordance with Purchase Order due date.

9.2 Whether or not the Purchaser chooses to receive Delivery of the Goods at a time or date that is earlier than that specified in the Purchase Order, acceptance of the Goods shall not be deemed to have occurred until accepted by the Purchaser in accordance with Clause 8.0 – Delivery and the delivery due date specified in the Purchase Order. Unless otherwise agreed and approved in writing by the Purchaser, at no time shall the Purchaser be obligated to make any payment for the Goods sooner than that specified by the Purchase Order.

10.0 RISK

The subject Goods shall remain the responsibility of and at the risk of the Seller until such Goods are actually received and accepted by the Purchaser. In the event of the rejection of such Goods after delivery to the Purchaser the subject Goods shall immediately thereafter be again the responsibility and the risk of the Seller. The Seller shall be responsible for all packing and all shipping costs relating to subject goods and shall be liable for all damages, costs and expenses resulting from problems relating thereto.

11.0 INSURANCE

The Seller shall provide insurance coverage in respect of the subject Goods for such periods, in such amounts, on such terms as the Purchaser shall reasonably direct and shall provide proof of same upon request by the Purchaser.

12.0 INDEPENDENT CONTRACTORS

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The Seller is a contractor independent of the Purchaser and does not have any authority to bind the Purchaser to any third party or otherwise to act in any way as the representative of the Purchaser unless otherwise expressly agreed to in writing by the Purchaser.

13.0 WARRANTY

The Seller warrants title to the subject Goods, conformance thereof to the specifications and description, the good condition of Goods upon receipt by the Purchaser, the quality of Goods purchased and that the said Goods will be fit for the particular purpose for which they are

purchased. If the Goods or any part of them are found to contain any defect due to faulty design, materials or workmanship the Seller shall, within a reasonable period of time be notified of such defect by the Purchaser and the Seller shall, at the Seller's expense, make good the defect by repair or replacement. The Purchaser reserves the right to return for full credit all rejected Goods and any Goods received in excess of quantity specified. In either case all transportation costs and other expenses paid by the Purchaser shall be reimbursed to it by the Seller. The foregoing warranty shall not be waived in whole or in part as a result of any inspection or pretesting conducted by or on behalf of the Purchaser or any third party.

14.0 INTELLECTUAL PROPERTY

All intellectual property rights in any work products or Goods manufactured or created for Purchaser, including but not limited to patents, trademarks, copyrights, trade secrets, industrial designs, know-how, inventions, improvements and ideas, shall be the exclusive property of Purchaser. Any new intellectual property first conceived, developed or invented by the Seller in the performance of the work under this Order, shall be wholly assigned to the Purchaser, and become the exclusive property of the Purchaser, including that of the final Goods delivered. The Seller understands and accepts that it shall not be permitted to retain any right to use the Goods, or the intellectual property contained therein, nor shall the Seller challenge the validity of the Purchaser's exclusive rights to the Goods, or the intellectual property contained therein. The Seller represents and warrants to the Purchaser that the Goods purchased hereby or referred to herein do not constitute infringements of any Patents, Trade Marks, Industrial Designs, Copyrights or Trade Secrets, and the Seller shall indemnify the Purchaser against any claims or damages, liabilities, costs or expenses for such infringements. The Purchaser shall indemnify the Seller against any similar claims based on the use of models, plans, designs or similar matters which have been supplied to the Seller (but such shall at all times remain the sole property of the Purchaser) on behalf of the Purchaser for the execution of this Order.

15.0 CONFIDENTIAL INFORMATION

All information pertaining to the business and affairs of each of the Parties hereto and obtained as a result of or in respect of the relationship between the Parties relating to this Order shall be kept and

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maintained in confidence and treated as confidential information. Notwithstanding the terms contained within this Article 15.0, the Parties agree to be bound by the terms of any executed Confidentiality Agreement, if and as applicable, which agreement shall, in the event of conflict with any provision of these General Terms and Conditions, supercede and replace the conflicting terms included herein. Seller covenants to Purchaser that it has executed employment contracts with its employees that bind its employees to terms of client confidentiality no less restrictive than that contained within the executed PIEA.

16.0 COMPLIANCE WITH LAWS

The Seller represents and warrants to the Purchaser that the subject Goods comply with all laws, statutes, regulations or codes in force in Canada. In the event that the Purchaser determines that such is not the case, then the Purchaser shall have the right to immediately terminate or modify this order and immediately acquire from alternate sources any or all or the subject Goods and the relevant quantity of the subject Goods to be purchased from the Seller pursuant to the order shall be decreased accordingly. Further, the Seller shall indemnify and save harmless the Purchaser from and against all costs and expenses incurred by the Purchaser in respect of the securing of an alternate source of supply and shall reimburse the Purchaser immediately upon the delivery of any invoice by the Purchaser.

17.0 INDEMNITY

The Seller hereby indemnifies and holds harmless the Purchaser, and all of its affiliates, from and against all damages, costs, expenses, charges, losses, demands or liabilities whatsoever and including, without limit, claims of third parties, arising from or incidental to any failure by the Seller to perform and discharge its obligations and liabilities herein in respect of the subject Goods, including without limitation, breach of any warranties provided herein; provided however that this indemnity shall not apply to the extent of any damages, costs, expenses, charges, losses, demands or liabilities whatsoever resulting from the negligence of the Purchaser or its

representatives. This indemnity is in addition to and shall not affect any other indemnity referred to herein. For the avoidance of doubt, such indemnification shall be from and against damages, costs, expenses (including reasonable attorney fees) or any other amounts arising from or related to any manner of claims, demands, debts, actions, investigations, proceedings, suits, causes of action, made by any third party, however arising from, related to, or connected with the Order, including but not limited to:

- a. Seller's obligations under the Order and the performance or non-performance thereof;
- b. any injury to persons (including injury resulting in death);
- c. loss of or damage to property, including property of Purchaser;

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- d. payment or non-payment of the taxes and contributions referred to in Article 24; or
- e. Intellectual Property infringement damages and costs resulting from the direct actions of Seller on his own behalf.

18.0 SET-OFF

The Purchaser shall be entitled at all times to set-off any amount owing by the Seller to the Purchaser against any amount payable by the Purchaser or an affiliate of the Purchaser in connection with this Order or any other order between the Seller and the Purchaser or an affiliate of the Purchaser.

19.0 TERMINATION

For Cause: In the event that the Seller is in breach of, or fails to meet its obligations pursuant to these terms and conditions, makes any misrepresentation or further breaches any warranty or obligation to the Purchaser, makes a general assignment for the benefit of its creditors, files a petition in bankruptcy or is adjudicated as a bankrupt, or has a receiver and/or manager or a trustee appointed over its assets or part thereof for the benefit of one or more creditors of the Seller then this order may at any time thereafter be immediately cancelled in part or in whole at the Purchaser's option, upon written notice of same by the Purchaser to the Seller. The Purchaser shall be entitled to receive compensation from the Seller for any loss or damage caused to it, which naturally arose in the course of such breach or failure to perform, or likely to result from such breach or failure to perform. In addition, the Purchaser shall be entitled to obtain injunctive relief in the event of any breach by the Seller in the performance of the Services.

For Convenience: The Purchaser may terminate this order for its own convenience at any time upon 14 days written notice to the Seller. The Purchaser's liability to the Seller shall consist solely of, and be limited to, the actual and verifiable cost incurred by the Seller in the performance of the Services up to date of termination, not including payments already made.

20.0 ASSIGNMENT

The Seller may not assign this Order without the prior written consent of the Purchaser, which may NOT be unreasonably withheld.

21.0 GOVERNING LAW

This Order and these terms and conditions shall be governed by and construed in accordance with the laws of the Province of Ontario, Canada, and no action or proceeding in relation thereto or arising therefrom shall be initiated against the Purchaser except in the Courts of Law of Ontario to whose jurisdiction the Seller hereby attorns. The United Nations convention on contracts for the international sale of goods shall not apply to this Contract.

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22.0 TIME

Time is of the essence hereof.

23.0 NOTICE

All notices required to be given under this Order shall be and are deemed properly given on the day of such notice if given by personal service or electronic transmission or on the fourth business day after the date of mailing of such notice if sent by mail, postage prepaid.

24.0 TAXES AND COMPULSARY CONTRIBUTIONS

Seller shall be solely responsible for all tax liabilities and compulsory contributions in respect of its employees, including but not limited to 1) central, state or local tax, employment, withholding or reporting purposes; 2) provident fund, gratuity, bonus, workmen's compensation, employee state insurance or any other employment law deductions, private insurance, pension contributions,

health benefits, social security, or central or state withholding taxes, levies, duties, excise, and value add of any nature whatsoever, and any claims made by Seller's employees. The Seller shall indemnify and save harmless the Purchaser from and against all costs and expenses incurred by the Purchaser in respect these covenants.

25.0 CHARGE BACK

Purchaser reserves the right to charge back the Seller, and recover costs incurred as a result of the review and disposition of non-conforming Goods received from Seller. Upon confirmation of non-conformance, Purchaser shall be entitled to levy the following charges as applicable:

- a. For each Seller caused non-conformance identified by Purchaser at time of Goods receipt. Without limiting the foregoing, a chargeable non-conformance shall be any issue with the delivered Goods that prevents Purchaser from receiving the Goods or making them available for use, including but not limited to missing or incorrect documentation.
- b. For each Seller caused non-conformance identified by Purchaser at point of use of the Goods within the Purchaser's manufacturing process.
- c. For each Seller caused non-conformance identified by Purchaser in conjunction with returned Goods and/or failure analysis received from Purchaser's customers or as a result of failure of the Goods in the field.
- d. Any repeat non-conformance shall incur an additional charge back per occurrence.



Purchaser shall implement the charge back by means of a Debit Note system. Debit Notes and Proforma Invoices shall only be issued by Purchaser for the value of the excess cost incurred by Purchaser in disposition of the nonconforming Goods, and/or the value of the Goods in dispute; not the whole value of the Seller's invoice unless the value of the whole invoice is in dispute. Debit Notes shall reference and include details of the Seller's disputed invoice as applicable, and shall be considered operational as of the date specified thereon. For greater certainty, and without limiting the foregoing, Debit Notes may be raised by Purchaser for:

1. Excess cost incurred in disposition of non-conforming Goods;
2. Delivery shortages;
3. Defective or faulty Goods;
4. Damaged Goods;
5. Incorrect Goods supplied or not as ordered;
6. Pricing errors;
7. Any other disputed amounts.

26.0 INSPECTION/ACCEPTANCE

Payments, including final payment, shall not constitute acceptance, nor does any payment or final acceptance release Seller from any warranty obligation stated herein.

Following receipt of Goods in accordance with this Order, Purchaser shall be deemed to have accepted the Goods unless written notification of rejection has been issued by Purchaser no later than 15 days from delivery.

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