

Alberta Energy Regulator Purchase Order Terms and Conditions

1. TERMS OF AGREEMENT

1.1 The purchase order, together with these terms and conditions, and any other documents incorporated by reference and appended and marked as attachments to the purchase order, including any scope of work (collectively the "Purchase Order"), constitutes the entire agreement between the Alberta Energy Regulator ("AER") and the vendor identified in the purchase order (the "Vendor") in relation to the performance of the Work. Vendor's electronic receipt of the Purchase Order, or commencement of performance, constitutes Vendor's acceptance of these terms and conditions. By accepting the Purchase Order the Vendor agrees that any terms different from or in addition to the terms of the Purchase Order, whether communicated orally or contained in any purchase order confirmation, invoice, acknowledgement, release, acceptance or other written correspondence, irrespective of the timing, shall not form a part of the Purchase Order, even if Vendor purports to condition its acceptance of the Purchase Order on AER's agreement to such different or additional terms.

1.2 Notwithstanding section 1.1 of these terms and conditions, if a service agreement or master agreement covering performance of the Work described in the Purchase Order exists between Vendor and the AER, the terms of such agreement shall prevail over any inconsistent terms herein.

2. DEFINITIONS

2.2 "Due Date" means the date or dates specified in the Purchase Order by which the Vendor is required to deliver or perform the Work.

2.3 "Harmful Code" means any software intentionally designed to (i) disrupt, disable, harm, or impede operation, or (ii) impair operation based on the lapse of time, including but not limited to viruses, worms, time bombs, time locks, drop-dead devices, access codes, security keys, back doors, or trap door devices.

2.4 "Intellectual Property Rights" means any and all tangible and intangible intellectual and industrial property rights (of every kind and nature throughout the world and however designated) whether arising by operation of law, contract, license, or otherwise, including but not limited to copyrights and other rights associated with works of authorship, trademark and trade name rights, trade secret rights, patents, designs and other industrial property rights.

2.5 "Pre-existing Materials" means any Intellectual Property Rights or tangible personal property of Vendor or the AER created before the date of this Purchase Order or outside the scope of this Purchase Order.

2.6 "Products" means tangible goods specified in the Purchase Order to be delivered by the Vendor to the AER.

2.7 "Services" means the services that Vendor is to perform for the AER specified in the Purchase Order.

2.8 "Statement or Scope of Work" means the document specifying, without limitation, the scope, objective, and time frame of the Work that Vendor will perform for the AER.

2.9 "Subcontractor" means a third party performing Work under an agreement (a "Subcontract") with the Vendor.

2.10 "Vendor Personnel" means Vendor's employees, consultants, agents, independent contractors and Subcontractors.

2.11 "Third Party Intellectual Property" means the Intellectual Property Rights of a third party which Vendor uses or incorporates into the Work.

2.12 "Work" means the, Products and/or Services to be delivered or performed on or before the Due Date specified in the Purchase Order..

3. DELIVERY

3.1 Time is of the essence in Vendor's performance of its obligations under the Purchase Order. Vendor will immediately notify the AER if the Vendor's timely performance under the Purchase Order is delayed or is likely to be delayed. The AER's acceptance of the Vendor's notice will not constitute the AER's waiver of any of the Vendor's obligations. The AER may accept Work performed by the Vendor after the Due Date and may require the Vendor to provide a refund or credit in an amount the AER deems reasonable to represent the diminished value of the late Work.

3.2 If the Vendor delivers Work after the Delivery Date, the AER may reject such Work without any obligation on the AER to make any payment to the Vendor.

3.3 The AER will hold any Work rejected under this Purchase Order at the Vendor's risk and expense, while awaiting the Vendor's return shipping instructions. The Vendor will bear all storage and return shipping charges, including, without limitation, insurance charges the AER incurs on Vendor's behalf. The AER may, in its sole discretion, destroy or sell rejected Work for which AER does not receive return shipping instructions within a reasonable time, and apply the proceeds, if any, first toward any storage or handling charges.

3.4 The Vendor will preserve, pack, package and handle the Products so as to protect the Products from loss or damage and in accordance with best commercial practices in the absence of any specifications the AER may provide. Without limiting the foregoing, the Vendor shall observe the requirements of any local laws and regulations relating to hazardous Work, including, without limitation, with respect to its accompanying information, packing, labeling, reporting, carriage and disposal.

3.5 Vendor will include with each delivery of Products a packing list identifying the Purchase Order number, a description and the quantity of each of the Products, and the date of shipment.

3.6 You must supply and pay for all labour, materials, facilities and approvals necessary or advisable to perform the Work under this agreement. Unless the AER expressly instructs otherwise, Vendor will deliver all Work to the AER's location at the address set forth in the Purchase Order. The Vendor assumes responsibility for all shipping and delivery charges including, without limitation, customs, duties, fuel surcharges, costs, taxes and insurance. Risk of loss for any Products does not pass to the AER until acceptance in accordance with section 6.

3.7 If providing Services, Vendor must perform them to a standard of care, skill, and diligence maintained by persons providing, on a commercial basis, services similar to the Services.

3.8 When using AER premises and/or property in the delivery or performance of the Work, the Vendor must comply with all applicable AER health, safety and security policies, procedures and regulations and ensure that it and all persons it employs or retains to perform the Work comply with the Occupational Health & Safety Act and all applicable regulations thereunder, and that all persons employed or retained by the Vendor are competent and are properly trained, instructed, and supervised.

4. PRICE, PAYMENT AND TAXES

4.1 Unless otherwise specified in the Purchase Order, the price for the Work includes all taxes and other charges such as shipping and delivery charges, fuel surcharges, administrative charges, duties, customs, tariffs, and government-imposed surcharges. Vendor will, at the AER's request, detail the price of all such taxes and other charges, in its invoices.

4.2 Unless otherwise specified, payment terms are net 30 days from the date of invoice. The AER will pay Vendor the price in accordance with the payment terms set forth in the Purchase Order following the later of: (i) the Due Date; (ii) the date of the AER's acceptance of all of the Work; or (iii) the AER's receipt of a properly prepared invoice. A properly prepared invoice must include the Purchase Order number and, if required in the Purchase Order, Vendor's certification of conformance of the Work to the requirements of the Purchase Order.

4.3 Unless otherwise specified on the Purchase Order: (i) the Vendor will submit an invoice for each consignment or Purchase Order to: The AER Finance, Accounts Payable, Ste 1000, 250 – 5 Street SW, Calgary, Alberta, Canada T2P 0R4; and (ii) prices are in Canadian dollars (CAD).

4.4 The Vendor agrees, if the Goods and Services Tax (GST) applies, to invoice in accordance with the *Excise Tax Act* and include a valid business registration number.

4.5 The Vendor agrees that all Canadian GST and Customs, Duty entitlements provided by the *Excise Tax Act* Canada and *Customs/Tariff Acts* and Tax or Custom Duty rate decreases and exemptions resulting from amendments, re-classifications, remissions, or clarifications thereof on tax and duty-included goods and materials, whether recognized or not, must be passed on to the AER, excluding any taxes based upon or determined by reference to the Vendor's income which are the responsibility of the Vendor.

4.6 If the Vendor manufactures or purchases any goods involved in this Contract outside of Canada, it must ensure that the AER is the "importer of record" for customs purposes, unless otherwise expressly stipulated by the AER or agreed to by the parties and confirmed in writing.

5. OWNERSHIP AND LICENSE

5.1 Unless otherwise specified in a SOW and except as provided in section 5.2, the AER is the sole and exclusive owner of all Work and Vendor hereby irrevocably assigns and transfers to the AER all of its worldwide right and title to, and interest in, the Work, including all associated Intellectual Property Rights.

5.2 Unless otherwise specified in a SOW, each party owns all right, title, and interest in and to any of its pre-existing materials. The Vendor hereby grants the AER a perpetual, irrevocable, worldwide, transferable, royalty-free, nonexclusive license, with the right to sublicense and authorize the granting of sublicenses, to use and reproduce the Vendor's Pre-existing Materials in the Work to the extent necessary for the AER's exercise and exploitation of its rights in the Work.

5.3 Unless otherwise specified in an SOW, Vendor will obtain and assign to the AER a nonexclusive, royalty-free, worldwide, perpetual, irrevocable, transferable, sub-licensable license to use all Third Party Intellectual Property Rights incorporated into, required to use, or delivered with the Work. Vendor will deliver copies of the above assignments and licenses to the AER upon the AER's request.

6. INSPECTION AND ACCEPTANCE

6.1 The AER may reject any or all of the Work which does not conform to the requirements of the Purchase Order within 10 business days of Vendor's delivery or performance of the Work. At the AER's option, the AER may (i) reject or return the nonconforming Work to Vendor for a refund or credit; (ii) require Vendor to replace the non-conforming Work; or (iii) require Vendor to repair the non-conforming Work so that it meets the requirements. As an alternative to (i) through (iii), the AER may accept the non-conforming Work conditioned on Vendor providing a refund or credit in an amount the AER deems reasonable to represent the diminished value of the non-conforming Work. The AER's payment to Vendor for Work prior to the AER's timely rejection of such Work as non-conforming will not be deemed as acceptance by the AER.

7. CHANGES

7.1 As used in this section 7, "Change" means a change the AER directs or causes within the general scope of the Purchase Order, including any applicable SOW, that requires the Vendor to adjust the Due Date or cost of the Work to be performed.

7.2 The AER, by written order ("Change Order"), may make Changes in accordance with this section 7.

7.3 If Vendor asserts that the AER has directed or caused a Change to the cost of or time for performance for which the AER has not issued a Change Order, Vendor will promptly notify the AER in writing of the Change, providing (i) a description of the action or inaction asserted to have caused the Change; (ii) a detailed estimate of any adjustments to the Work, the Due Date, and the cost of the Work that would be required for Vendor to perform the Changed Work; and (iii) a date no less than 30 days from the date of notice by which the AER must respond to Vendor's notice. The AER will evaluate Vendor's notice of Change in good faith, and if the AER agrees that it has directed or caused a Change to the Work, the AER will issue a Change Order to the Vendor.

7.4 The Vendor shall, as promptly as practicable, after giving notice of the Change, or within 10 days of receiving a Change Order, submit a request for equitable adjustment specifying the adjustment in the price or time for performance resulting from the Change.

7.5 The parties shall negotiate an amendment to the Purchase Order or applicable SOW to incorporate a Change Order providing for an equitable adjustment to the price, time for performance, or both.

7.6 The Vendor will proceed with the Changed Work as directed, regardless of whether or not the parties have agreed on an adjustment to the price and/or time for performance of the Work.

7.7 Where the AER has not directed or caused a Change to the Work, it may from time to time give you reasonable instructions (in writing or otherwise) as to the performance of the Services. You must comply with those instructions but, unless otherwise specified in this agreement, you may determine the manner in which the instructions are carried out.

8. REPRESENTATIONS AND WARRANTIES

8.1 Vendor represents and warrants that: (i) it has the full power to enter into the Purchase Order and to deliver and perform the Work and perform its obligations under the Purchase Order; (ii) it has the right and unrestricted ability and authority to provide the assignments and/or transfers contemplated in these terms and conditions in relation to the Work including, without limitation, the right to assign and/or transfer to the AER the right, title and interest in any Work performed by Vendor Personnel; (iii) the Work, and AER's use of the Work, do not and will not infringe upon any third party's Intellectual Property Rights, right of publicity or privacy, or any other proprietary rights, whether contractual, statutory or common law; (iv) the Vendor will not disclose to the AER, bring onto the AER's premises, or induce the AER to use any confidential or proprietary information that belongs to anyone other than the AER or Vendor which is not covered by a non-disclosure agreement between the AER and Vendor; (v) Software supplied by Vendor does not contain any Harmful Code; (vi) Vendor's Work conforms to the Purchase Order, the AER's specifications, and, if properly incorporated by reference to this Purchase Order, the Vendor's quotation or proposal, and Vendor's brochures or catalogs, and if none of the foregoing is applicable, then such Work is suitable for the intended use.

8.2 The AER warrants and represents to Vendor that it has the full power to enter into the Purchase Order and to perform its obligations under the Purchase Order.

8.3 The Vendor represents and warrants that it will comply with all applicable laws and regulations pertaining to its performance of its obligations under this Purchase Order.

9. ASSIGNMENT AND SUBCONTRACTING

9.1 Vendor may not assign any of its rights or delegate any of its obligations under the Purchase Order without the AER's prior written consent, which AER will not unreasonably withhold.

9.2 Vendor may not subcontract any of its rights or obligations under the Purchase Order without AER's prior written consent. If AER consents to the use of a Subcontractor, Vendor will: (i) guarantee and will remain liable for the performance of all subcontracted obligations; (ii) subject to the limitations in section 13, indemnify AER for all damages and costs of any kind, incurred by AER or any third party and caused by the acts or omissions of Vendor's Subcontractors' and (iii) make all payments to its Subcontractors. If Vendor fails to make timely payment to a Subcontractor for Work performed, AER will have the right, but not the obligation, to pay the Subcontractor and offset any amount due to Vendor by any amount paid to the Subcontractor.

9.3 To the extent allowed by applicable law, no person who is not a party to Purchase Order shall be entitled to enforce or take the benefit of any of its terms whether as a result of applicable legislation, custom or otherwise.

10. TERM AND TERMINATION

10.1 The Purchase Order will remain in effect until the Work is delivered or completed and accepted or until terminated in accordance with these terms and conditions.

10.2 Either party may terminate the Purchase Order, any scope of work or both, immediately by delivering written notice to the other party upon the occurrence of any of the following events: (i) a receiver is appointed for either party or its property; (ii) either makes a general assignment for the benefit of its creditors; (iii) either party commences, or has commenced against it, proceedings under any bankruptcy, insolvency or debtor's relief law, if such proceedings are not dismissed within 60 days; or (iv) either party is liquidating, dissolving, or ceasing to do business in the ordinary course.

10.3 Either party may terminate this Purchase Order, any scope of work or both, immediately by delivering written notice to the other party for any material breach not cured within 30 days of receipt of notice of the breach. The AER shall have no further payment obligation to Vendor if the AER terminates the Purchase Order, any scope of work, or both under this section 10.

10.4 The AER may immediately terminate the Purchase Order upon written notice to Vendor if there is a change in ownership representing 20 percent or more of the equity ownership of Vendor.

10.5 Notwithstanding any other provision under this section 10 the AER may terminate this Purchase Order, any scope of work, or both at any time, for no reason or for any reason, upon 15 calendar days written notice to Vendor. Upon receipt of notice of such termination, Vendor will inform the AER of the extent to which it has completed performance as of the date of the notice, and the Vendor will immediately collect and deliver to the AER whatever Work then exists. The AER will pay Vendor for all Work performed and accepted up to and including the effective date of the termination, provided that the AER will not be obligated to accept any Work performed or delivered after the Vendor has received notice of termination. Under no circumstance will the AER be obligated to pay any more than the payment that would have become due had Vendor completed and the AER had accepted the Work. The AER will have no further payment obligation in connection with any termination.

10.6 The AER may pursue other remedies in addition to termination.

11. CONFIDENTIALITY AND FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY

11.1 The Vendor acknowledges that the Freedom of Information and Protection of Privacy Act (FOIP) applies to all information, documents, data and other records (collectively the "Material") transferred to it, or collected, created, or stored by it in relation to this agreement. If Vendor receives a demand for any of the Material and the disclosure by it of such Material is not expressly authorized under this agreement, Vendor will: (i) immediately notify the AER of the demand and forward a copy of the demand to the AER (unless prohibited by Alberta law); and (ii) not disclose the Material or part thereof unless directed by the AER to do so, provided, however, that Vendor may disclose any information that it is required to disclose pursuant to the order of a court or other authority under the laws of Alberta or the laws of Canada in force in Alberta. In that case you must advise the AER of the disclosure immediately upon receipt of the demand therefor, or as soon thereafter as is reasonably practicable and permitted by law.

In this agreement, "personal information" has the meaning given to it in the FOIP. You agree that in relation to this agreement you will:

- a) not collect or use personal information unless the information is needed for you to perform this agreement;
- b) protect personal information in your custody or control by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure, disposal, and disaster; and
- c) restrict access to any personal information to those persons who need access to the information in order for you to be able to perform this agreement, or otherwise as the AER may direct or permit you to allow access to the information.

11.2 In addition to its obligation in section 11.1 of these terms and conditions the Vendor will (a) implement and maintain appropriate technical and organizational measures and other protections for Personal Data [including, without limitation, not loading any personal data provided to Vendor on (i) any laptop computers or (ii) any portable storage media that can be removed from Vendor's premises unless each case (A) such data has been encrypted and (B) such data is loaded onto portable storage media solely for the purpose of moving such data to off-site storage]; (b) report to AER any breaches of security of personal information immediately after discovery ("Security Incident"), (c) cooperate fully with the AER in investigating any Security Incidents, (d) cooperate fully with AER's requests for access to, correction of, and destruction of personal information in Vendor's possession, (e) comply with all instructions or other requirements provided or issued by AER from time to time relating to personal information, and (f) permit AER and/or its duly authorized representatives, on reasonable prior notice, to inspect and audit Vendor's business premises and computer systems to enable AER to verify that Vendor is in full compliance with its obligations under section 11 of these terms and conditions.

11.3 The Vendor will not transfer personal information across any country border unless it (i) is strictly unavoidable for the proper performance under this Purchase Order, and (ii) has notified to AER in writing prior to any such transfer.

11.4 The Vendor will not provide the AER with personal information of any third party or its own employees. Notwithstanding the foregoing, if Vendor does provide the AER with any personal information, Vendor represents and warrants that it has obtained the necessary consent to provide that Personal Data to the AER and to allow the AER to use, disclose, and transmit such personal information among the AER and its employees, contractors and affiliates in connection with this Purchase Order.

11.4 The Vendor must treat as confidential all documents, records, data, and materials, that have been received by Vendor or any Vendor Personnel as a result of this agreement ("Material"), including this Purchase Order.

11.5 The Vendor must obtain the AER's written consent prior to any publication, presentation, public announcement, or press release concerning its relationship as a Vendor to the AER.

12. INDEMNIFICATION

12.1 As used in this section 12, a "Claim" is any third party claim, demand, loss, damage, liability, cost or expense (including professional fees and costs) as incurred.

12.2 Vendor shall defend, indemnify and hold the AER harmless from and against any and all Claims arising out of or in connection with any (i) act or omission of Vendor or Vendor Personnel; or (ii) any infringement of a third party's Intellectual Property Rights or any other rights, arising out of or in connection with the performance of the Work.

12.3 The AER shall indemnify and hold the Vendor harmless from and against any and all Claims for which the AER is legally responsible arising out of or in connection with: (i) Vendor's use of the AER's products, services, information, or materials provided to the Vendor by the AER in connection with the Work, provided that such use is in accordance with the terms of the Purchase Order and is necessary to deliver or perfume the Work; or (ii) infringement of a third party's Intellectual Property Rights or any other rights provided that such infringement is a direct result of Vendor's adherence to the terms of the Purchase Order and is necessary to deliver or perform the Work.

12.4 The indemnified Party will provide the indemnifying Party with prompt written notice of the Claim and permit the indemnifying Party to control the defense, settlement, adjustment, or compromise of any Claim. The indemnified Party may employ counsel at its own expense to assist it with respect to any Claim. The indemnified Party will have no authority to settle any Claim on the indemnifying Party's behalf.

12.5 If a third party enjoins or interferes with the AER's use of any Work, then in addition to Vendor's obligations under section 12.2, Vendor will use its best efforts to (i) obtain any licenses necessary to permit the AER to continue to use the Work; (ii) replace or modify the Work as necessary to permit the AER to continue to use the Work; or if (i) and (ii) are not, in the AER's reasonable opinion, commercially reasonable, then (iii) promptly refund to the AER the amount paid for any Work for which a third party enjoins or interferes with the AER's use of the Work.

12.6 Nothing in this section 12 shall limit any other remedy of the parties.

13. LIABILITY

13.1 Notwithstanding anything else in the Purchase Order or otherwise, under no circumstances or theory of liability will the AER be liable to the Vendor with respect to the subject matter of the Purchase Order for any amounts in excess in the amount the AER paid to the Vendor in the six months preceding the event or circumstance giving rise to such liability.

13.2 In no event will the AER be liable to the Vendor for any incidental, indirect, special, consequential damages or loss of profits arising out of, or in connection with, the Purchase Order, whether or not such damages were foreseeable or the AER was advised of the possibility of such damage.

13.3 The limitations in this section 14 will apply notwithstanding any failure of the essential purpose of any limited remedy provided herein. Nothing in the Purchase Order limits either party's liability for bodily injury of a person, death, or physical damage to property or any liability which cannot be excluded under applicable law.

14. INSURANCE

14.1 Vendor will secure and maintain General Liability Insurance (in accordance with the Alberta Insurance Act) in an amount not less than \$2,000,000 inclusive per occurrence, insuring against bodily injury, personal injury and property damage including loss thereof. Such insurance shall include blanket contractual liability, and non-owned automobile liability.

14.2 If the AER in its absolute discretion deems it necessary, Vendor will secure and maintain:

- i) Automobile Liability Insurance in an amount of not less than \$2,000,000 for Contractors' vehicles used in the performance or delivery of the Work; and/or
- ii) Professional or Errors & Omissions Liability Insurance in an amount not less than \$1,000,000 throughout the term of this agreement and for a period of 12 months following the completion or termination of this agreement insuring its liability resulting from errors or omissions in the performance of its professional services under this Contract.

14.3 All insurance policies shall be provided and maintained by the Vendor at its own expense. It shall be the sole responsibility of the Vendor to decide whether or not any insurance coverage, in addition to that required by this agreement, is necessary for its own protection or to fulfill its obligations under this agreement. Vendor will maintain such additional types and limits of insurance as is customary for a company of similar size and similar operations to Vendor in the jurisdiction or jurisdictions in which Vendor's operations take place.

15. WORKERS' COMPENSATION BOARD, OCCUPATIONAL HEALTH AND SAFETY ACT

15.1 Vendor will comply with all applicable statutes, regulations, by-laws, rules, orders and other requirements including, without limitation, the Workers' Compensation Act, Occupational Health and Safety Act, and Labour Relations Code howsoever enacted or imposed by Federal, Provincial, Municipal, or other governmental bodies, agencies, tribunals or other authorities with respect to the obligations hereunder and the liabilities of an employer to its employees for injuries and disease suffered in connection with employment.

15.2 At the discretion of the AER, the Vendor may be requested to provide a Statement of Outstanding Orders from Occupational Health and Safety.

15.3 Vendor will ensure compliance with the Alberta Occupational Health and Safety Act, Regulation and Code requirements.

15.4 Vendor shall ensure compliance with the requirements of the Workers' Compensation Act (Alberta) and amendments thereto and any regulations thereunder. The Vendor must maintain an account in good standing with the Workers' Compensation Board. Vendor's account must include coverage for all Vendor Personnel, partners, proprietors or directors of the firm, proprietorship, company or corporation who are present or may have cause to be at the work site.

15.5 At the discretion of the AER, the Vendor may require verification from the Workers' Compensation Board that the Vendor has an account in good standing with the Workers' Compensation Board prior to proceeding with the Work or at anytime during the performance of the Work. The AER, notwithstanding any provision in the Contract Documents, may refuse to make a final payment unless the Vendor furnishes a letter or other evidence from the Workers' Compensation Board indicating that the Vendor's account with the Board is in good standing.

15.6 If the AER is required to pay any amount to the Workers' Compensation Board of Alberta on behalf of the Vendor by reason of any wrongful act or omission of Vendor, the AER may deduct the amount from any amount owing to the Vendor under the Contract or under any other contract, or may demand a reimbursement by the Vendor to the AER for the amount so paid by the AER.

16. GOVERNING LAW

16.1 The Purchase Order will be construed in accordance with, and all disputes will be, governed by the laws of the Province of Alberta and the federal laws of Canada applicable therein without regard to its conflict of laws provisions. The Vendor irrevocably consents to the exclusive jurisdiction and venue of the Courts of the Province of Alberta.

17. CONFLICT OF INTEREST

17.1 The Vendor and the Vendor Personnel providing Services under this agreement shall, prior to this agreement, disclose to the AER: (i) any business relationship that the Vendor or any of its related parties (persons who have material ownership interest in the Vendor, or are directors or officers of the Vendor) has with any AER personnel; (ii) the name of any AER personnel who is a relative of the Vendor or any of its related parties; and (iii) the name of any AER personnel with whom the Vendor or any of its related parties is connected by frequent or close association. The AER shall have the right to terminate this agreement if it determines (acting reasonably) that the relationship gives rise to an unacceptable conflict of interest.

18. GENERAL

18.1 Any notice to be given under the Purchase Order will be in writing and addressed to (i) the 'Issued To' contact person (in the case of the Vendor) and (ii) the 'Ship To' contact person (in the case of the AER), at the respective addresses stated in the Purchase Order. Notices will be deemed effective (a) if personally delivered, upon delivery to the contact person for the receiving party, (b) if sent by an overnight service with tracking capabilities, upon receipt by the receiving party; (c) if sent by fax or electronic mail, at such time as the party which sent the notice receives confirmation of receipt by the applicable method of transmittal from the proper contact person for the receiving party; or (iv) if sent by certified or registered mail, within five business days of deposit in the mail. Where no contact person has been identified in the Purchase Order, notice will be deemed effective if provided as described in this provision directly to any officer or director of a party.

18.2 Subject to sections 1.1 and 1.2 of these Terms and Conditions, if there is a conflict between or among the purchase order and any documents attached to and incorporated by reference, the conflict will be resolved as follows: (i) A conflict between the purchase order and these terms and conditions or the terms and conditions set forth in a scope of work will be resolved in favor of the purchase order; (ii) A conflict between these terms and conditions and those set forth in a scope of work will be resolved in favour of these terms and conditions unless a specific provision is expressed in the scope of work indicating that the conflicting scope of work term or terms will operate notwithstanding this section 18.2.

18.3 Any obligations or duties which, by their nature, extend beyond the expiration or termination of the Purchase Order shall survive the expiration or termination of the Purchase Order.

18.4 Subject to section 9 herein, the terms and conditions the Purchase Order shall be binding upon and enure to the benefit of the parties hereto and their successors, transferees, and assignees.

18.5 In the event of any dispute or difference arising in connection with the Purchase Order, the parties' respective senior representatives will, within ten (10) days after receipt of a written request from either party to the other, enter into good faith discussions and use their best efforts to resolve the dispute without recourse to legal proceedings. If the dispute or difference is not resolved within thirty (30) days after the start of such discussions, any dispute or difference between the parties may be referred to the Alberta courts unless, within that period, they agree to refer the matter to arbitration under the Arbitration Act of Alberta.

18.6 A waiver of any term of this agreement or of any breach by of this agreement is effective only if it is in writing and signed by the non-breaching party and is not a waiver of any other term or any other breach.