

# PURCHASE ORDER TERMS AND CONDITIONS

## Application of These Terms and Conditions

1. The terms and conditions of this Purchase Order shall constitute the whole Agreement and any terms and conditions printed on invoices, price lists or other documents presented by Supplier and not specifically made part of this Purchase Order are null and void for the purposes of this Purchase Order. These Terms and Conditions can only be altered or qualified by a Change Order designated as such signed by a duly authorised representative of the Buyer and setting out in full the relevant alterations and qualifications hereto.

2. Delivery by the Supplier shall of itself constitute an acceptance of the Terms and Conditions.

## Definitions

3. When used herein "the buyer" means UTEC Survey Canada "the supplier" means the Supplier, its agents, servants or subcontractors shown overleaf. "the Purchase Order" means the Buyer's Purchase Order set out overleaf. "the goods" means, subject to the terms of these Conditions the goods agreed to be supplied as set out in this Purchase Order. "the work" means, subject to the terms of these Conditions the work agreed to be supplied as set out in this Purchase Order. "the Contract" means the contract between the Supplier and the Buyer for the supply and purchase of the goods/work as set out in this Purchase Order. "the Contract documents" mean the documents and drawings referred to in this Purchase Order and/or these terms and any documents or drawings referred to in such documents or drawings.

## Variation to the Goods or Works

4. The buyer may at any time by notice make changes to the quantity, design or specification, the method of packing and delivery or the time required for performance of the goods or work. If such change increases or decreases the cost of, or the time required for performance of the Contract, an equitable adjustment shall be made to the price and/or the time or date of performance provided that no increase in price or extension of time for performance shall be made unless the Supplier gives the Buyer notice of its claim for an increase or extension within 15 days of delivery of the Buyers notice.

## Delivery/Advice Notes

5. Time of delivery/performance is of the essence of the Contract. The Supplier shall allocate sufficient resources at all times to the performance of the Contract and shall commence, execute and complete all works and do all things necessary for the performance of the Contract in accordance with the terms of the contract and in such order and by such time as will ensure that the goods are delivered/the work is completed at the time or on the dates shown in this Purchase Order.

6. A detailed delivery /advice note is required to be sent with the Goods containing such information regarding the Goods as Buyer may require. The Buyer may refuse the goods if no such note is provided.

7. The buyer shall not be obliged to take delivery of goods tendered before the time(s) or on the date(s) shown in this Purchase Order and may return any goods so tendered to the Supplier at the Supplier's risk and expense.

8. If for any reason the buyer is unable to take delivery of goods which are duly tendered in accordance with the Contract the Supplier shall store them until the Buyer is able to accept delivery.

## Conditions

9. The goods or work shall be supplied in strict adherence to any specifications, drawing, nomenclature, catalogue numbers or other references in this order. Any breach of any provisions of this Purchase Order Agreement shall entitle the Buyer to repudiate its obligations hereunder.

10. The goods or work shall conform in all respects to the requirements set out or referred to in this Purchase Order and the contract documents and with any statutory or regulatory provisions which may be applicable to the goods, or work be fit for the purpose for which they are intended, be free from any defect in materials, workmanship and design and be equal to any sample to any patterns previously provided or accepted by the buyer.

11. The Supplier shall maintain and apply in the production and testing of the goods or work the quality control procedures stipulated in this Purchase Order or if no procedures are stipulated, such procedures as the buyer shall hereafter approve or specify.

12. The Buyer, on giving 12 hours notice, may at the suppliers premises or elsewhere, inspect/test all goods finished

or in progress and remove samples for testing. The Supplier shall keep such production and quality control records as the Buyer shall request from time to time for such periods as buyer may reasonably require.

13. If the goods or work are in any way defective, inadequate, unsuitable or fail to conform to the requirements or specifications of this Purchase Order the Buyer may, without prejudice to any other rights it has against the Supplier require the goods or work to be repaired or replaced at the Suppliers own expense. If Supplier fails to repair/replace the defective goods or work to the Buyers satisfaction within 14 days after receiving notice the Buyer may take such steps as the Buyer deems necessary to remedy the defective goods or work at the supplier's sole expense and risk.

14. The signature by or on behalf of the Buyer of any document in respect of the delivery and receipt of any goods is evidence only of the number of packages received.

## Price and Payment

15. The price and currency for payment of the goods or work are shown in this Purchase Order. Payment shall be made 30 days from receipt of approved invoice unless otherwise stated on Purchase Order.

16. All Suppliers who are registered for Goods and Services Tax are required to issue a proper tax invoice before the Buyer shall be required to make payment for goods or work supplied in accordance with this Purchase Order. Similarly, Suppliers shall issue appropriate documentation for those goods zero rated.

17. Unless otherwise specified in this Purchase Order all prices are fixed. Unless otherwise specified in this Purchase Order the Supplier shall make no minimum order charges and the price shall cover all packing, insurance and transport, license or other permit, and all customs and other duties or taxes.

18. If the buyer disputes any invoices in whole or in part, the buyer shall promptly notify Supplier of dispute and shall pay when due only the undisputed portion. Supplier and buyer shall endeavour to settle and adjust any disputed amount forthwith. The law governing the Contract shall be the law of Newfoundland and Labrador and any dispute arising out of or in connection with the Contract shall be submitted to the jurisdiction of the Newfoundland and Labrador Courts.

19. Buyer may set-off against payment due to Supplier hereunder any amount due to buyer by Supplier for any reason.

20. Any payment made by the buyer hereunder including the final billing under this Purchase Order shall not prevent the buyer from filing claims or prejudice its right to recover the amount of such claims however they may have arisen. Without limiting the type or nature of the claims mentioned in the preceding sentence Buyer may recover any sums paid to Supplier by mistake of law or fact.

## Packaging

21. All goods shall be carefully and properly prepared, secured and packed in a manner suitable for the type of shipment to provide adequate protection against damage in transit to destination.

22. The Buyer shall not be liable to pay for or return to the Supplier any packaging or crating unless otherwise agreed.

## Title and Risk

23. Unless otherwise specified in this Purchase Order the title and risk in the goods or work shall pass to the buyer upon delivery and completion by Buyer of a satisfactory inspection and Supplier shall be responsible for transport and unloading costs and insurance of goods or work to their full value against all risks of damage or loss prior to completion of delivery by whomsoever effected.

## Indemnity

24. The Supplier shall indemnify the Buyer against any loss, damage or expense suffered by the Buyer and against all claims, demands, actions or proceedings made or brought against the buyer by any third party (and any resultant damages, costs, expenses, losses or other liability which are awarded against or incurred by the Buyer) arising out of any act, neglect, default or omission of the Supplier in the course of performance of the Contract or as a result of any breach of the terms of the Contract (expressed or implied) or any defect in the goods or the work.

25. The Supplier shall indemnify the Buyer against all actions, proceedings, claims and demands whatsoever and howsoever brought against the Buyer and all costs, liabilities, damages and expenses whatsoever and howsoever incurred by the Buyer to third parties arising out of or in connection with the infringement of any letters, patent, copyright, registered designs, trademark or other intellectual property by reason of the use or sale of the

goods or work except where the same has been manufactured in accordance with the specifications or designs supplied by the Buyer.

## Buyers Rights in Specifications etc. and Confidentiality

26. Any specification, plan, drawing, pattern or design obtained directly or otherwise from the Supplier and data, in connection with this Contract shall be deemed confidential and under no circumstances be used copied loaned or otherwise made use of by the Supplier save in the fulfilment of this Purchase Order or any other Purchase Order placed by the Buyer upon the Supplier for goods or work of the same specification. Any specification, plan, drawing, pattern or design supplied by the Buyer to the Supplier in connection with the Contract shall be returned or disposed of at the completion of the Contract in accordance with the Buyer's reasonable requirements.

## Termination for Default or Insolvency

27. If the Buyer becomes entitled to reject and rejects any goods or work the Supplier is in breach of any term of the Contract (express or implied) and either the breach is incapable of remedy or the Supplier fails to remedy it as soon as practicable following notice of such breach by the Buyer to the Supplier or the Supplier has a Receiver, Liquidator or Trustee in Bankruptcy appointed of any of its assets or takes or has instituted against it any action or proceedings which has as its object or may result in the winding up of the Supplier, the Buyer may terminate the Contract, in whole or in part forthwith by notice without payment of compensation.

28. Upon termination pursuant to Clause 27.

(a) the Supplier shall assign title in and deliver to the Buyer such completed or partially completed goods or work and materials/articles for incorporation in the goods or work as the Buyer shall direct and assign to the Buyer in a form acceptable to the Buyer, such subcontracts between the supplier and its suppliers as the Buyer shall direct.

(b) the Supplier shall cease to be entitled to any further payments under the Contract until completion of the Goods, completion or procurement of outstanding Goods by on behalf of the Buyer by whatever method the Buyer considers convenient.

(c) Either the Buyer shall pay to the Supplier such monies as would have been payable had the Supplier completed the Contract in accordance with its terms less the costs to the Buyer of completion and/or procurement and the amount of any damages suffered by the Buyer as a result of the Supplier's breach(es) of the Contract, or, if the amount of such costs and damages exceeds the amount of such monies, the Supplier shall pay such excess to the Buyer on demand.

(d) The Supplier shall remain fully liable for any further damages payable to the buyer under its indemnity given in this contract.

## Buyer's rights of Suspension and Termination

29. The buyer is entitled to suspend or terminate this Contract in whole or in part, on notice at any time at its sole convenience. In the event of suspension the Buyer shall thereafter extend the time for performance of the Contract by such period as is reasonable.

## Quality Assurance

30. The Supplier shall comply with the Buyer procedures and regulations in respect of operations, safety, security and administration details of which have been supplied to the Supplier during performance of this Purchase Order. The Supplier shall maintain a true and correct set of records pertaining to all activities relating to their performance of this Purchase Order. Supplier agrees to retain all such records for a period of not less than 36 months after completion of performance.

## Assignment

31. The Supplier shall not without the consent of the Buyer assign or transfer this Purchase Order or any part of it to any other person.

## Waiver

32. No waiver by either party of any default by the other party shall be construed as a waiver of any future defaults.

## Notices

33. All notices to be given by either party to the other under the terms of this Agreement shall be in writing and addressed to the party to whom it is sent at the address stated herein or to their last known address if different and shall be deemed to be properly served if sent by first class prepaid post.