

CKF INCORPORATED

TERMS OF PURCHASE

1. Applicability.

(a) These terms and conditions of purchase (these "**Terms**") are the only terms which govern the purchase of the goods ("**Goods**") and services ("**Services**") by CKF Incorporated ("**Buyer**") from the seller named in the Purchase Order which refers to these terms ("**Seller**"). Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the Goods and Services covered hereby, the terms and conditions of such contract shall prevail to the extent they are inconsistent with these Terms.

(b) The purchase order referring to these Terms (the "**Purchase Order**") and these Terms (collectively, this "**Agreement**") comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral, with respect to the subject matter hereof. These Terms prevail over all of Seller's general terms and conditions of sale regardless whether or when Seller has submitted its sales confirmation or such terms. This Agreement expressly limits Seller's acceptance to the terms of this Agreement. Fulfilment of this Purchase Order constitutes acceptance of these Terms.

2. Delivery of Goods and Performance of Services.

(a) Seller shall deliver the Goods in the quantities and on the date(s) specified in the Purchase Order or as otherwise agreed in writing by the parties (the "**Delivery Date**"). If Seller fails to deliver the Goods in full on the Delivery Date, Buyer may terminate this Agreement immediately by providing written notice to Seller and Seller shall indemnify Buyer against any losses, claims, damages, and reasonable costs and expenses attributable to Seller's failure to deliver the Goods on the Delivery Date.

(b) Seller shall deliver all Goods to the address specified in the Purchase Order (the "**Delivery Point**") during Buyer's normal business hours or as otherwise instructed by Buyer. Seller shall pack all goods for shipment according to Buyer's instructions or, if there are no instructions, in a manner sufficient to ensure that the Goods are delivered in undamaged condition. Buyer is not required to return any packaging material.

(c) Seller shall provide the Services to Buyer as described in and in accordance with the schedule set forth or incorporated by reference in the Purchase Order, and in accordance with the terms and conditions set forth in these Terms.

(d) Seller acknowledges that time is of the essence with respect to Seller's obligations hereunder and the timely delivery of the Goods and Services, including (which as used in these Terms means "including without limitation") all performance dates, timetables, project milestones and other requirements in this Agreement.

3. Quantity. If Seller delivers more than 110% or less than 90% of the quantity of Goods ordered, Buyer may, in its discretion, reject all, or any excess, Goods. Any such rejected Goods shall be returned to Seller at Seller's sole risk and expense. If Buyer does not reject the Goods and instead accepts the delivery of Goods at the increased or reduced quantity, the Price for the Goods shall be adjusted on a pro-rata basis.

4. Shipping Terms, Title and Risk of Loss. Delivery shall be made in accordance with the shipping, delivery and related terms specified on the Purchase Order (the "**Shipping Terms**"). Title and risk of loss shall pass to Buyer in accordance with the Shipping Terms. The Purchase Order number must appear on all shipping documents, shipping labels, bills of lading, air waybills, invoices, correspondence, and all other documents pertaining to the Purchase Order.

5. Inspection and Rejection of Non-Conforming Goods. Buyer has the right to inspect the Goods on or after the Delivery Date. Buyer, at its sole option, may inspect all or a sample of the Goods, and may reject all or any portion of the Goods if it determines the Goods are non-conforming or defective. If Buyer rejects any portion of the Goods, Buyer has the right, effective upon written notice to Seller, to: (a) rescind this Agreement in its entirety; (b) accept the Goods at a reasonably reduced price; or (c) reject the Goods and require replacement of the rejected Goods. If Buyer requires replacement of the Goods, Seller shall, at its expense, promptly, and in any event within ten days or as otherwise approved by Buyer, replace the non-conforming or defective Goods and pay for all related expenses, including transportation charges for the return of the defective goods and the delivery of replacement Goods. If Seller fails to timely deliver replacement Goods, Buyer may replace them with goods from a third party and charge Seller the cost thereof and terminate this Agreement for cause pursuant to Section 17. Any inspection or other action by Buyer under this Section shall not reduce or otherwise affect Seller's obligations under the Agreement, and Buyer shall have the right to conduct further inspections after Seller has carried out its remedial actions.

6. Price. The price of the Goods and Services is the price stated in the Purchase Order (the "**Price**"). If no price is included in the Purchase Order, the Price shall be the price set out in Seller's published price list in force as of the date of the Purchase Order. Unless otherwise specified in the Purchase Order (including by reference to the Shipping Terms), the Price includes all packaging, transportation costs to the Delivery Location, insurance, customs duties and fees and applicable taxes, including all harmonized sales tax, goods and services tax, provincial sales tax, value added

tax, use, excise and similar taxes. No increase in the Price is effective, whether due to increased material, labour, or transportation costs or otherwise, without the prior written consent of Buyer.

7. Payment Terms.

(a) Seller shall issue an invoice to Buyer on or any time after the completion of delivery and only in accordance with these Terms. Buyer shall pay all properly invoiced amounts due to Seller within 60 days (provided however that any other payment terms specified in the Purchase Order will prevail) after Buyer's receipt of such invoice, except for any amounts disputed by Buyer in good faith. Without prejudice to any other right or remedy it may have, Buyer reserves the right to set off at any time any amount owing to it by Seller against any amount payable by Buyer to Seller. The parties shall seek to resolve all payment disputes expeditiously and in good faith. Seller shall continue performing its obligations under this Agreement notwithstanding any such dispute.

(b) If Seller is providing an onsite service and is or becomes a non-resident of Canada for purposes of the *Income Tax Act* (Canada) or for any other reason is or becomes subject to non-resident withholding tax, Seller shall notify Buyer in writing and Buyer shall then withhold all amounts required by applicable laws and regulations; provided that Buyer shall not withhold on any payments to the extent that Seller has obtained an exemption from the Canada Revenue Agency and provided Buyer with a copy of such exemption. Seller shall reimburse Buyer for any and all losses, damages, liabilities, costs, expenses, interest and penalties incurred by Buyer in respect of any such required withholdings. Unless Seller provides Buyer with written notice within ten days of the effective date of a Purchase Order that it is a non-resident of Canada for purposes of the *Income Tax Act* (Canada), Seller shall be deemed to have represented and warranted to Buyer that it is not a non-resident for such purposes.

8. Seller's Obligations Regarding Services. Seller shall:

(a) before the date on which the Services are to start, obtain, and at all times during the period the Services are provided, maintain, all necessary licenses and consents and comply with all relevant laws applicable to the provision of the Services;

(b) comply with all rules, regulations and policies of Buyer, including security procedures concerning systems and data and remote access thereto, building security procedures, including the restriction of access by Buyer to certain areas of its premises or systems for security reasons, and general health and safety practices and procedures;

(c) maintain complete and accurate records relating to the provision of the Services under this Agreement, including records of the time spent and materials used by Seller in providing the Services in such form as Buyer shall approve. During the period the services are provided and for a period of two years thereafter, upon Buyer's written request, Seller shall allow Buyer to inspect and make copies of such records and interview Seller personnel in connection with the provision of the Services;

(d) obtain Buyer's written consent prior to entering into agreements with or otherwise engaging any person or entity, including all subcontractors and affiliates of Seller, other than Seller's employees, to provide any Services to Buyer (each such approved subcontractor or other third party, a "**Permitted Subcontractor**"). Buyer's approval shall not relieve Seller of its obligations under the Agreement, and Seller shall remain fully responsible for the performance of each such Permitted Subcontractor and its employees and for their compliance with all of the terms and conditions of this Agreement as if they were Seller's own employees. Nothing contained in this Agreement shall create any contractual relationship between Buyer and any Seller subcontractor or supplier;

(e) require each Permitted Subcontractor to be bound in writing by the confidentiality provisions of this Agreement, and, upon Buyer's written request, to enter into a non-disclosure or intellectual property assignment or license agreement in a form that is reasonably satisfactory to Buyer;

(f) ensure that all persons, whether employees, agents, subcontractors, or anyone acting for or on behalf of Seller, are properly licensed, certified, or accredited as required by applicable law and are suitably skilled, experienced, and qualified to perform the Services;

(g) ensure that all of its equipment used in the provision of the Services is in good working order and suitable for the purposes for which it is used, and conforms to all relevant legal standards and standards specified by Buyer; and

(h) keep and maintain any Buyer equipment in its possession in good working order and shall not dispose of or use such equipment other than in accordance with Buyer's written instructions or authorization.

9. Lien Protection.

(a) Seller shall not file or permit (and shall ensure its subcontractors do not file or permit) any claims, liens, encumbrances or charges of any nature (collectively, "**Liens**") against Buyer's property, or any other property on a project site or otherwise connected with the Services (collectively "**Protected Property**") without Buyer's prior written approval. Seller shall indemnify Buyer from and against any Liens made, exercised or asserted against Buyer or any Protected Property by Seller, any subcontractor and its or their respective employees or by any other person whomsoever, whether by judicial action and/or other proceeding and arising from or in respect of Seller's performance of the Services.

(b) If a payment becomes due under this Agreement and either (i) Buyer is aware of or reasonably suspects that Seller is indebted to one or more subcontractors or employees in relation to activities performed in connection with the Services, (ii) there remains a Lien undischarged or unvacated, or any other encumbrances attached to Protected Property, or (iii) Buyer reasonably suspects that any person has or may in the future have the right to assert a Lien over Protected Property, Buyer shall have the right to retain out of any monies due to Seller, sufficient sums to indemnify Buyer against any such Lien, including any attorney's solicitor-client fees Buyer may expend in connection therewith, and such funds may be used in any way Buyer deems appropriate in order to discharge or prevent the creation of any Lien.

(c) Seller shall provide Buyer on request from time to time with a statutory declaration in a form acceptable to Buyer with respect to payment of amounts up to the latest progress payment received. Buyer may furnish forms to be used for partial and final releases/waivers of Liens and require that these forms be completed by Seller and submitted with invoices pertinent to the Services.

10. Change Orders. Buyer may at any time, by written instructions and/or drawings issued to Seller (each a "**Change Order**"), order changes to the Services. Seller shall within two days of receipt of a Change Order submit to Buyer a firm cost proposal for the Change Order. If Buyer accepts such cost proposal in writing (which includes by email), Seller shall proceed with the changed Services subject to the cost proposal and the terms and conditions of this Agreement. Seller acknowledges that a Change Order may or may not entitle Seller to an adjustment in Seller's compensation or the performance deadlines under this Agreement.

11. Conditions and Warranties.

(a) Seller covenants and warrants to Buyer that for a period of 24 months from the Delivery Date, all Goods will:

- (i) be free from any defects in workmanship, material, and design;
- (ii) conform to the applicable specifications specified by Buyer;
- (iii) comply with all applicable laws and regulations; be fit for their intended purpose and operate as intended;
- (iv) be merchantable;
- (v) be free and clear of all liens, security interests, or other encumbrances; and
- (vi) not infringe or misappropriate any third party's patent or other intellectual property rights.

These warranties survive any delivery, inspection, acceptance, or payment of or for the Goods by Buyer;

(b) Seller warrants to Buyer that it shall perform the Services using personnel of required skill, experience, and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services, on a timely basis and shall devote adequate resources to meet its obligations under this Agreement; and

(c) the warranties set forth in this Section 11 are cumulative and in addition to any other warranty provided by law or equity. Any applicable statute of limitations runs from the date of Buyer's discovery of the noncompliance of the Goods or Services with the foregoing conditions and warranties. If Buyer gives Seller notice of noncompliance pursuant to this Section, Seller shall, at its own cost and expense, promptly (i) replace or repair the defective or non-conforming Goods and pay for all related expenses, including transportation charges for the return of the defective or non-conforming goods to Seller and the delivery of repaired or replacement Goods to Buyer, and, if applicable, (ii) repair or re-perform the applicable Services.

12. General Indemnification. Seller shall defend, indemnify, and hold harmless Buyer, Scotia Investments Limited, their direct and indirect parents, subsidiaries and affiliates, their successors and assigns and their respective directors, officers, shareholders and employees] (collectively, "**Indemnitees**") against any and all loss, injury, death, damage, liability, claim, deficiency, action, judgment, interest, award, penalty, fine, cost, or expense, including reasonable legal fees and professional fees and costs, and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers (collectively, "**Losses**") arising out of or occurring in connection with the Goods and Services purchased from Seller or Seller's negligence, willful misconduct, or breach of this Agreement. Seller shall not enter into any settlement without Buyer's prior written consent.

13. Intellectual Property Indemnification. Seller shall, at its expense, defend, indemnify, and hold harmless the Indemnitees against any and all Losses arising out of or in connection with any claim that any Indemnitee's use or possession of the Goods or use of the Services infringes or misappropriates the patent, copyright, trademark, trade secret or other intellectual property right of any third party. . Seller shall not enter into any settlement without Buyer's prior written consent.

14. Limitation of Liability. Nothing in this Agreement shall exclude or limit (a) Seller's liability under Sections 12, 13 or 19 hereof, or (b) Seller's liability for fraud, personal injury, or death caused by its negligence or willful misconduct.

15. **Insurance.** During the performance of each Purchase Order and throughout the duration of any warranty period, Seller shall, at its own expense, maintain, and carry insurance with financially sound and reputable insurers which includes:

- (a) commercial general liability insurance (including product liability), on a per occurrence basis, with a limit of loss of not less than \$2,000,000 inclusive for bodily injury including death and/or property damage (including loss of or loss of use of property) per occurrence and otherwise on terms consistent with industry practice have regard to the nature of the obligations hereunder. This insurance shall include a waiver of subrogation in favour of Buyer, be endorsed to include Buyer as an additional insured, and contain cross-liability and severability of interest clauses; and
- (b) workers compensation insurance or coverage covering all personnel engaged in the performance of the obligations hereunder in accordance with all applicable laws.

Each policy providing coverage shall specify that it is primary coverage and not contributory with or in excess of any other insurance that may be maintained by Buyer and contain provisions that no cancellation, non-renewal or material changes in the policy shall become effective, except on 30 days' prior written notice to Buyer. Upon request, Seller shall furnish to Buyer certificate(s) of insurance evidencing the coverage required hereunder.

16. **Compliance with Law.** Seller is in compliance with and shall comply with all applicable laws, regulations, and ordinances. Seller shall maintain in effect all the licenses, permissions, authorizations, consents, and permits that it needs to carry out its obligations under this Agreement. Seller shall comply with all export and import laws of all countries involved in the sale of the Goods under this Agreement or any resale of the Goods by Seller. Seller assumes all responsibility for shipments of Goods requiring any government import clearance. Buyer may terminate this Agreement if any governmental authority imposes antidumping or countervailing or any retaliatory duties or any other penalties on Goods.

17. **Termination.** In addition to any remedies that may be provided under these Terms, Buyer may terminate this Agreement with immediate effect upon written notice to Seller, either before or after the acceptance of the Goods or the Seller's delivery of the Services, if Seller has not performed or complied with any of these Terms, in whole or in part. If Seller becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization, or assignment for the benefit of creditors, then Buyer may terminate this Agreement upon written notice to Seller. If Buyer terminates the Agreement for any reason, Seller's sole and exclusive remedy is payment for the Goods received and accepted and Services accepted by Buyer prior to the termination.

18. **Waiver.** No waiver by Buyer of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Buyer. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Agreement operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power, or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

19. **Confidential Information.** All non-public, confidential, or proprietary information of Buyer, including specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts, or rebates, disclosed by Buyer to Seller, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated, or otherwise identified as "confidential" in connection with this Agreement, is confidential, solely for the purpose of performing this Agreement and may not be disclosed or copied by Seller unless authorized in advance by Buyer in writing. Upon Buyer's request, Seller shall promptly return all documents and other materials received from Buyer. Buyer shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain; (b) known to Seller at the time of disclosure; or (c) rightfully obtained by Seller on a non-confidential basis from a third party.

20. **Force Majeure.** Neither party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations to make payments to the other party hereunder), when and to the extent such party's ("Impacted Party") failure or delay is caused by or results from the following force majeure events ("Force Majeure Event(s)": (a) acts of God; (b) flood, tsunami, fire, earthquake, explosion; (c) epidemics, pandemics, including the 2019 novel coronavirus pandemic (COVID-19), (d) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest; (e) government order, law or actions; (f) embargoes or blockades in effect on or after the date of this Agreement; (g) national or regional emergency; (h) strikes, lockouts, labour stoppages or slowdowns, labour disputes, or other industrial disturbances; and (i) other events beyond the reasonable control of the Impacted Party. The Impacted Party shall give notice within ten days of the Force Majeure Event to the other party, stating the period of time the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. If the Impacted Party's failure or delay remains uncured for a period of 60 consecutive days following written notice given by it under this Section 20, the other party may thereafter terminate this Agreement upon written notice. If Buyer is under an obligation requiring it to purchase one or more Goods and/or Services exclusively from Seller (an "Exclusive Purchase Arrangement") and Seller's ability to supply any Goods and/or Services under an Exclusive Purchase Arrangement is impaired by a Force Majeure Event, Buyer may in its sole discretion acquire the affected Goods and/or Services from one or more other Suppliers notwithstanding the applicable Exclusive Purchase Arrangement, during the course of the applicable Force Majeure Event and for a period of 90 days thereafter.

21. **Assignment.** Seller shall not assign, transfer, delegate, or subcontract any of its rights or obligations under this Agreement without the prior written consent of Buyer. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation

shall relieve Seller of any of its obligations hereunder. Buyer may at any time assign or transfer any or all of its rights or obligations under this Agreement without Seller's prior written consent.

22. Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever. No relationship of exclusivity shall be construed from this Agreement.

23. No Third-Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

24. Governing Law. All matters arising out of or relating to this Agreement are governed by and construed in accordance with the laws of the Province of Nova Scotia and the federal laws of Canada applicable therein without giving effect to any choice or conflict of law provision or rule (whether of the Province of Nova Scotia or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the Province of Nova Scotia. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement.

25. Choice of Forum. Any legal suit, action, litigation or proceeding of any kind whatsoever in any way arising out of, from or relating to this Agreement, including all exhibits, schedules, attachments, and appendices attached to this Agreement, and all contemplated transactions, shall be instituted in the courts of the Province of Nova Scotia, and each Party irrevocably submits to the non-exclusive jurisdiction of such courts in any such suit, action, litigation or proceeding. Service of process, summons, notice, or other document by mail to such Party's address set forth herein shall be effective service of process for any suit, action, litigation, or other proceeding brought in any such court. Each Party agrees that a final judgment in any such suit, action, litigation, or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. The Parties irrevocably and unconditionally waive any objection to the venue of any action or proceeding in such courts and irrevocably waive and agree not to plead or claim in any such court that any such action or proceeding brought in any such court has been brought in an inconvenient forum.

26. Notices. All notices, request, consents, claims, demands, waivers, and other communications hereunder (each, a "Notice") shall be in writing and addressed to the parties at the addresses set forth on the face of the Sales Confirmation or to such other address that may be designated by the receiving party in writing. Notices sent in accordance with this Section will be deemed effectively given: (a) when received, if delivered by hand, with signed confirmation of receipt; (b) when received, if sent by a nationally recognized overnight courier, signature required; (c) when sent, if by facsimile or email if sent during the addressee's normal business hours, and on the next business day if sent after the addressee's normal business hours; and (d) on the fifth day after the date mailed by certified or registered mail by the Canada Post Corporation, return receipt requested, postage prepaid.

27. Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

28. Survival. Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of these Terms, including without limitation the following provisions: Sections 9, 11-16, 18-19, and 22-29.

29. Amendments and Modifications. These Terms may only be amended or modified in a writing stating specifically that it amends these Terms and is signed by an authorized representative of each party.