

A. GENERAL PROVISIONS (APPLIES TO ALL PURCHASES)**1. DEFINITIONS: The following expressions have these meanings:**

- (a) "Agreement" means this Agreement between the University and the Contractor/Supplier including the within Terms and Conditions, the provisions on the attached Purchase Order and any additional document specifically referred to on the attached Purchase Order;
- (b) "Confidential Information" means concepts, ideas, plans, data, trade secrets, methods, processes or procedures, or any other financial or business information marked as confidential by either party, except information that:
- becomes available in the public domain;
 - is disclosed in good faith by a third party having legitimate possession and the right to make such disclosures;
 - was already known without any obligation of confidence prior to disclosure; or
 - was developed independently prior to disclosure of any Confidential Information, or by employees who have not had access to the Confidential Information.

The University's Confidential Information also includes all Personal Information.

- (c) "Contractor/Supplier" means the proprietorship, partnership, corporation or individual that has accepted the attached Purchase Order;
- (d) "Fees and/or Price" means the monetary amounts referred to on the attached Purchase Order;
- (e) "FOIP" means the *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, as amended from time to time;
- (f) "Goods/Services" means the good(s) and/or service(s) including construction services purchased by the University, the particulars of which are described on the attached Purchase Order;
- (g) "Personal Information" means recorded information about an identifiable individual, as defined in more detail in FOIP, that is disclosed to the Contractor/Supplier or collected, created, maintained, or stored by the Contractor/Supplier in the performance of its duties under the terms of this Agreement, excluding the Contractor's/Supplier's own accounting and human resources records;
- (h) "Purchase Order" is the form of agreement issued by the University and accepted by the Contractor/Supplier in response to a competitive bid process, as may be applicable, and includes all of the documents outlining the respective obligations of the Contractor/Supplier and the University, in relation to the Goods/Services, such as the Contractor's/Supplier's bid submission, all associated drawings, specifications, descriptions and the documentation listed on the face of the Purchase Order, if any;
- (i) "Subcontractor" is any corporation, person or entity having a contract with the Contractor to supply or perform part or parts of the Goods/Services;
- (j) "Term" means, where applicable, the period commencing on the Commencement Date and ending on the End Date as specified on the attached Purchase Order;
- (k) "University" means The Governors of the University of Alberta.
- (l) "Work Site (OHSA)", for the purpose of the Occupational Health and Safety Act, means the designated site or location where construction services are to be performed, including any laydown and storage areas identified in the Agreement and shall include other areas at such times as it may impact safety of the those areas.

- 2. Payment Terms:** Invoices shall contain such information and details as the University may reasonably require. Payment terms are net 30 days from receipt of invoice by the University; PROVIDED THAT the University may withhold payment of any portion of the invoice which is in dispute and the University and the Contractor/Supplier shall act reasonably to resolve such dispute in a timely manner.

3. **Contractor/Supplier to Provide:** The Contractor/Supplier shall provide all personnel, labour, materials, supplies, equipment, tools, transportation and other requirements for the timely and proper provision of the Good/Services, except as otherwise expressly set forth in this Agreement.
4. **Contractor/Supplier Compliance:** In accepting this Purchase Order, the Contractor/Supplier undertakes and agrees to provide the Goods/Services in strict compliance with this Agreement.
5. **Applicable Laws:** The Contractor/Supplier will comply with all applicable policies of the University and all statutes, laws and regulations relating to the Goods/Services, including FOIP, the *Lobbying Act*, and any applicable worker's compensation, employment standards and occupational health and safety laws. If the Goods/Services require the Contractor/Supplier to lobby any level of government, the Contractor/Supplier shall notify the University's Government and Stakeholder Relations office by email to government.relations@ualberta.ca prior to providing the Goods/Services in order to register with that office.
6. **Confidentiality:** Except as required by law, neither the University nor the Contractor/Supplier shall disclose, nor permit any person employed or engaged by it to disclose (except to the extent necessary to perform the obligations set out in this Agreement) Confidential Information gained by it as a result of the performance of this Agreement. The Contractor/Supplier shall bear the costs of records management practices required by FOIP in relation to Confidential Information of the University under the care of the Contractor/Supplier. All such Confidential Information and records shall be returned to the University by the Contractor/Supplier upon the expiry or earlier termination of the Term or alternatively, upon the request of the University, deleted or destroyed. The Contractor/Supplier shall immediately give written notice to the University of any request from another party for release of any Confidential Information of the University, and will cooperate if the University uses any remedies available at law to protect the Confidential Information from such disclosure.
7. **Conflict of Interest:** The Contractor/Supplier shall exercise reasonable care and diligence to prevent any actions or conditions which could result in a conflict with the University's best interests. Upon becoming aware of a conflict relating to this Agreement the Contractor/Supplier shall immediately disclose the relevant information pertaining to the conflict to the University.
8. **Business Gifts and Hospitality:** To preserve the image and integrity of the University and its employees and agents, business gifts other than items of minor value shall not be offered. Reasonable hospitality is an accepted courtesy of a business relationship. The frequency and nature of gifts or hospitality shall not be allowed whereby the recipient might be or might be deemed by others to have been influenced in making a business decision as a consequence of accepting such hospitality or gifts.
9. **Insurance:** During the Term, the Contractor/Supplier shall maintain the minimum insurance coverage specified below and shall provide satisfactory certificates of insurance confirming such coverages on request by the University.
 - (a) general liability insurance against third party bodily injury, personal injury and property damage, including products and completed operations liability and blanket contractual liability for an amount of not less than two million dollars (\$2,000,000) per occurrence or five million dollars (\$5,000,000) per occurrence for construction services;
 - (b) professional liability insurance for an amount of not less than one million dollars (\$1,000,000) if applicable to the Goods/Services;
 - (c) standard automobile insurance for all vehicles owned, licensed or leased by the Contractor/Supplier and non-owned automobile insurance, if required, for an amount of not less than two million dollars (\$2,000,000) per occurrence for each type of coverage;
 - (d) all risks property insurance for all material equipment and products included in or required for the Good/Service for an amount not less than the amount of the purchase price;
 - (e) worker's compensation coverage or employer's liability coverage for employees of the Contractor/Supplier as well as personal coverage for any directors, partners and agents of the Contractor/Supplier involved in the purchase of the Goods/Services.
10. **Audit and Records Retention:** The Contractor/Supplier shall maintain, at its cost, complete and accurate records of the Goods/Services provided for the University and all Fees charged to the University, for a period of two (2) years after provision of the Goods/Services or early termination of this Agreement. During the Term, the University and any person designated by the University shall have access to the Contractor's/Supplier's records and documentation relating to the Goods/ Services, at all reasonable times, for the purpose of auditing and verifying the performance and cost of the Goods/Services.

- 11. Exclusion of Liability:** Notwithstanding anything to the contrary expressed or implied in this Agreement, the University shall not be liable to the Contractor/Supplier for any general, indirect or consequential damages or any economic losses of any kind, regardless of whether the liability to which such damages relate arises in contract, tort or otherwise in law, or for any bodily injury, loss or damage sustained by the Contractor/Supplier, its employees, agents or sub-contractors arising from any cause whatsoever.
- 12. Indemnity:** The Contractor/Supplier holds harmless and indemnifies the University (including its Board members, officers, employees and agents), from and against any costs, losses, damages, actions and liabilities incurred by the University arising directly or indirectly in connection with or as a result of any breach, default, negligent act or omission or wilful misconduct by the Contractor/Supplier, its employees or agents in the performance of its obligations under this Agreement or as a result of any misrepresentation in this Agreement. This indemnity shall survive the expiration or termination of this Agreement.
- 13. Termination:** The University may terminate this Agreement immediately if any of the following events occur, as determined by the University, in its sole discretion:
- (a) any material breach or non-performance by the Contractor/Supplier of its obligations under this Agreement, including but not limited to:
 - (i) failure of the Contractor/Supplier to devote the necessary time, resources, staff and skill to the performance of any Services provided under this Agreement; or
 - (ii) failure to perform, deliver and/or install any Goods purchased under this Agreement in a timely manner and in compliance with the terms of the attached Purchase Order.
 - (b) the Contractor/Supplier becomes insolvent, is adjudged bankrupt or takes the benefits of any legislation relating to bankrupt or insolvent debtors;
 - (c) the Contractor/Supplier voluntarily or by court order is wound-up, dissolved or liquidated;
 - (d) any adverse change in circumstance or conduct of the Contractor/Supplier which may affect or harm the status or reputation of the University.

The University may, at any time, upon thirty (30) days prior written notice, terminate this Agreement.

- 14. Consequences of Termination:** As of the effective date of termination, the rights and obligations of the parties shall cease (except to the extent such rights and obligations apply to that portion of the Term occurring prior to the effective date of termination and except as outlined in section 16(g)) and the parties shall co-operate in the return of records and information, payments and related matters.
- 15. Notice:** Any notice to be given by either party to the other pursuant to this Agreement shall be in writing and delivered by hand during the University's normal business hours to the address specified on the execution page of this Agreement (or such other address as notified by a party by notice given under this clause).
- 16. Miscellaneous: General Covenants:**
- (a) This Agreement constitutes the entire understanding between the parties relating to the Goods/Services. There are no agreements, representations or warranties except as set forth in this Agreement. No modification or amendment to this Agreement shall be binding unless executed in writing by the parties.
 - (b) The rights and obligations of the parties hereunder shall not be assigned or assignable, in whole or in part, by either party. The terms of this Agreement shall enure to the benefit and be binding upon the successors of each of the parties.
 - (c) In any provision of this Agreement containing words denoting inclusion (e.g. "including") followed by a list of specific matters or items, such lists will not restrict the generality of such provision.
 - (d) If any provision of this Agreement or the application thereof is held invalid or unenforceable to any extent, the remainder of this Agreement or the application thereof shall not be affected thereby.
 - (e) This Agreement shall be interpreted under and governed by the laws in force in the Province of Alberta, the courts of the Province of Alberta have exclusive jurisdiction over any legal proceedings arising from this Agreement and the parties attorn to the jurisdiction of such courts.
 - (f) The Contractor/Supplier will not use, nor shall it permit any person employed by it to use, identifying marks of the University other than with the prior written consent of the University, which may be arbitrarily withheld.
 - (g) Terms, provisions, covenants and conditions contained in this Agreement which, by their nature or the terms thereof, require their performance by the parties after the expiration or termination of this Agreement shall continue in full force and effect following such expiry or termination, including but not limited to sections 6 and

- (h) The Contractor/Supplier is responsible for arranging all of its own parking for its personnel and equipment, as well as that of its sub-contractors, with University Parking Services including payment thereof.
- (i) The Contractor/Supplier is fully responsible for any of the University's keys in its possession and shall be charged for any and all costs resulting from lost or stolen keys. The Contractor/Supplier will sign out keys in accordance with the University's current key sign-out policy.

B. GOODS (PRODUCT & EQUIPMENT)

1. All Inclusive Purchase Price: The purchase price specified in the Purchase Order is the complete cost to the University. The University agrees to pay the Contractor/Supplier for the sum total of all items listed on the Purchase Order. Fees or charges invoiced that are not detailed on the Purchase Order will not be paid without prior written authorization from the University.
2. **Shipment**
 - a) All packages, packing slips, invoices, correspondence, customs documentation and freight bills of lading relating to the Goods shall have the University's complete Purchase Order number prominently displayed and packing slips shall accompany all shipments. Invoices will not be processed by the University for payment until all items invoiced are received and accepted by the University.
 - b) For all products subject to "Workplace Hazardous Material Information System" (WHMIS) legislation, "Material Safety Data Sheets" (MSDS) shall accompany the items and shipping documents. The MSDS shall be included on any items being shipped which are regulated substances and which require precautions by employees prior to handling and usage in the workplace. All items that are regulated under the Transportation of Dangerous Goods Act, 49 CFR U.S. or the International Air Transport Association shall be accompanied by "dangerous goods" shipping documents and appropriate labelling on the package(s). <https://www.tc.gc.ca/eng/tdg/training-us-276.htm>
 - c) All shipments entering into Canada must be cleared through Canada Customs prior to their delivery to the University, and are subject to payment of duties and taxes (excluding GST). For customs purposes, a Canada Customs invoice or commercial invoice is to be attached to the shipment. The information provided on the invoice must include complete and accurate details about the items being imported in order to comply with Canada Border Services Agency legislation. In addition, in order for the University to qualify for the lower rate of duty, a completed NAFTA Certificate of Origin should accompany the shipment.
3. **Canadian Suppliers:** The Price specified in this Purchase Order is the complete cost to the University. Subsequent Canadian Customs Clearance and associated import costs for orders shipped directly to the University from locations outside of Canada are the responsibility of the Contractor/Supplier. It is the Contractor/Supplier's responsibility to ensure your customs documentation states:
 - Importer of Record in Canada is (name of Canadian Contractor/Supplier)
 - Purchase Order Number
 - Name of your Customs Broker
4. **Foreign Suppliers:** The University is the Importer of Record for all items purchased from foreign suppliers. A commercial invoice containing ALL the following information must accompany every order destined for the University:
 - University Custom Broker: Thompson Ahern Acct 16208230
 - Purchase Order Number
 - Full and complete description of each item
 - Country of manufacture of each item
 - Value (price payable) of each item, excluding shipping/freight
5. **Customs Radioisotopes/Import Permits:** The Contractor/Supplier is responsible for emailing a pre-alert of the arrival date and waybill number to the University of Alberta, Thompson Ahern at ualberta@taco.ca. A copy of the Agriculture or Health Canada import permit should be attached to the outside of the shipment for customs clearance at point of entry.
6. **Shipment in Transit:** Unless otherwise agreed, all shipments are to be prepaid by the Contractor/Supplier. It is the Contractor's/Supplier's responsibility to arrange full and complete protection and insurance of shipment while in transit to the University.
7. **CSA Approval:** All electrical Goods shall be fully CSA approved and shall bear appropriate approval stickers in accordance with the requirement of the Canadian Electric Code and the applicable legislation and regulations. The Contractor/Supplier shall be responsible for all associated costs in obtaining CSA approval and completing any

necessary modifications required.

8. **Pressure Equipment:** All pressure equipment shall conform to the Alberta *Safety Codes Act* and its *Pressure Equipment Safety Regulation* (AB Reg. 49/2006), and Pressure Equipment Exemption Order (AB Reg. 56/2006). All pressure equipment, piping, components, fittings and pressure relief devices shall comply with the following:
 - a) **CANADIAN REGISTRATION NUMBER (CRN):** All pressure vessels and fittings shall be registered in Canada and have a valid CRN for Alberta as prescribed by the Safety Codes Act (Alberta) and its Regulations, as amended. Fittings shall be provided with a copy of a Statutory Declaration indicating a valid CRN for Alberta. Pressure vessels shall come with a manufacturer's data displaying a valid CRN for Alberta. Pressure vessels shall be provided with a Form U-1 Manufacturer's Data Report displaying a valid CRN for Alberta matching the manufacturer's nameplate on the vessel.
 - b) **MATERIAL:** All pressure piping, fittings, bolting, welding consumables, and other materials used for pressure piping fabrication shall be supplied in conformance with the engineering design drawings and specifications. They shall be supplied with Material Test Reports (MTR) and shall have identification on the material itself that allow it to be traced to its MTR. Fittings shall be marked in accordance with MSS-SP25.
 - c) **ASSEMBLED FITTINGS:** Assembled fittings such as valves, steam traps, strainers, check valves, etc. shall have a certificate of conformance. The certificate will state material details, pressure and temperature rating, sizing, trim details, etc. & list a valid CRN for Alberta
 - d) **PRESSURE RELIEF DEVICES:** Pressure relief devices shall be supplied in conformance with the engineering design drawings and/or specifications. They shall be supplied with the manufacturer's performance test reports and a manufacturer's nameplate affixed to the body. They shall be supplied with a valid CRN for Alberta stamped on its nameplate.
9. **Service Manuals:** Service manuals complete with circuit diagrams will be provided for all components of the Purchase Order, if requested. A nominal fee (if applicable) will be considered by the University.
10. **Equipment Warranty:** The Contractor/Supplier warrants to the University the material, equipment, products and assemblies provided as part of the Purchase Order against defective design, goods and workmanship for a period of twelve (12) months from date of final acceptance by the University. The University will give the Contractor/Supplier written notice of observed defects promptly.
11. **Standards Warranty:** The Contractor/Supplier warrants to the University that the duties, work and services to be performed by the Contractor/Supplier as part of the Purchase Order shall be performed to the level of the standards acceptable to the University.
12. **Patent Warranty:** The Contractor/Supplier warrants to the University that the Goods furnished hereunder and the use thereof, do not infringe any patent rights, copyrights, trademark rights or other intellectual or industrial property rights, that the Contractor/Supplier will defend at its own expense any suit that may arise in respect thereof, and that the Contractor/Supplier will indemnify and save harmless the University from all costs, damages, expenses and claims of any nature relating thereto.

C. SERVICES (INCLUDING CONSTRUCTION SERVICES)

1. **Services:** The University hereby retains the Contractor/Supplier, as an independent contractor, for the purpose of performing the Services during the Term and the Contractor/Supplier hereby accepts the retainer. The Contractor/Supplier will perform the Services during the Term in a timely and competent manner in accordance with the terms and conditions of this Agreement and in accordance with applicable professional and industry standards for the Services. The Contractor/Supplier shall obtain information and direction from the University on a regular basis in the performance of the Services.
2. **Fees:** As payment for the Services, the University will pay to the Contractor the Fees as set out on the attached Purchase Order. Except as otherwise specified, no amount in addition to the Fees will be payable by the University on account of expenses or disbursements of the Contractor. The Contractor will render invoices for the Fees to the University monthly, unless otherwise specified, and the University will pay to the Contractor the Fees or such portion thereof as is properly due, together with GST (if applicable).
3. **Warranty (applicable to Construction Services only):** The Contractor/Supplier warrants that the Services shall be free from any defects and deficiencies in workmanship performed and product and material supplied by the Contractor/Supplier and its sub-contractors for a period of twelve (12) months from the date of final acceptance by the University. The University will give the Contractor/Supplier written notice of observed defects and deficiencies promptly.

4. **Health and Safety (applicable to Construction Services only):** Unless otherwise stated in the Agreement, the Contractor/Supplier shall have and maintain a valid University Health and Safety Pre-Qualification Registration Number at all times while performing the Services. Failure to maintain a valid University Health and Safety Pre-Qualification Registration Number while performing the Services may (at the University's sole discretion) constitute a default by the Contractor/Supplier of the terms, conditions, covenants and obligations of the Agreement, which will entitle the University to pursue all rights and remedies it has under the Agreement and at Law against the Contractor/Supplier including, without limitation, termination of the Agreement.

Unless otherwise stated in the Agreement, the Contractor/Supplier shall assume the role of Prime Contractor while performing the Services for the purposes of the Occupational Health and Safety Act and its Regulations for the duration of the work and the Contractor/Supplier is to establish and maintain a system or process that ensures compliance with the Act at the Work Site (OHSA). Accordingly, the system or process shall take into account, and encompass the employees and agents of the University, consultants, the Contractor/Supplier, sub-contractors, other contractors/suppliers and the general public.

Work Site (OHSA) access while performing construction Services will be restricted and only persons completing the Contractor/Supplier's safety orientation program, following proper sign-in procedure, and wearing all required personal protective equipment shall be allowed on the Work Site (OHSA).

5. **Miscellaneous: General Covenants:**

- a) Any intellectual property developed by the Contractor/Supplier in the performance of the Services, including copyright to any materials produced by the Contractor/Supplier, belongs to the University and the Contractor/Supplier hereby waives in entirety its moral rights relating thereto and will obtain a similar waiver from its employees and other persons involved in the performance of the Services. This Agreement does not transfer to the Contractor/Supplier any rights whatsoever (including ownership or usage rights) to any intellectual property developed by the Contractor/Supplier in the delivery of the Services.
- b) Nothing in this Agreement shall make the relationship between the University and the Contractor/Supplier one of partnership, joint venture or employment. The Contractor/supplier is an independent contractor. Nothing in this Agreement constitutes authority for the Contractor/Supplier to make commitments which bind the University or to otherwise act on behalf of the University.
- c) The Contractor/Supplier represents and warrants that the Services contracted for are directly related to the business of the Contractor/Supplier and that the Contractor/Supplier is a resident of Canada. The Contractor/Supplier acknowledges that the foregoing declaration has no binding effect on Canada Revenue Agency but will be relied on by the University in determining its obligations under the *Income Tax Act* (Canada) and regulations thereunder.

or

The Contractor/Supplier represents and warrants that the Services contracted for are directly related to the business of the Contractor/Supplier and that the Contractor/Supplier is a non-resident of Canada. In accordance with the provisions of the *Income Tax Act* (Canada), the University will withhold and submit 15% of the Fees charged on each invoice for services performed in Canada unless the Contractor/Supplier obtains from Canada Revenue Agency a waiver or reduction in the amount to be withheld.