

# CATAPULT ENVIRONMENTAL INC.

## TERMS & CONDITIONS SERVICES PURCHASE ORDER

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### 1. Application of Conditions

These Conditions are the only conditions upon which Catapult is prepared to deal with Contractor and they shall govern the Contract to the entire exclusion of all other terms or conditions. Each Purchase Order shall be deemed to be an offer by Catapult to purchase Services subject to these Conditions and no Purchase Order shall be accepted until Contractor accepts the offer either expressly by giving notice of acceptance or impliedly by fulfilling the Purchase Order, in whole or in part. If any provision of these Conditions is inconsistent with a provision of the Purchase Order, the Purchase Order shall prevail.

### 2. Definitions

- a) **“Affiliate”** means in reference to a Person, any other Person that directly or indirectly controls, is controlled by, or is under common control with, the first Person; a Person shall control another Person if such Person has the power to direct the management and policies of the other Person, whether directly or indirectly;
- b) **“Catapult”** means the party identified in the Purchase Order, which is Catapult Environmental Inc.;
- c) **“Catapult’s Group”** means Catapult and co-venturers, members, and its and their directors, officers, employees, and agents;
- d) **“Catapult Policies”** means the current version of all of Catapult’s standards, procedures, policies and guidelines, relating to the performance of the Services, as updated from time to time or as may be provided by Catapult from time to time or upon request by Contractor;
- e) **“Claim”** or **“Claims”** means, as the case may be, any one or more of: loss, damage, cost, expense, disbursement, penalty, fine, claim, demand, action, proceeding, lien (whether builders’, mechanic’s, construction or other type of lien), legal hypothec, suit, liability, judgment, award, decree, determination, adjudication, unpaid tax of any kind (including withholding tax), cost of investigation and any type of fee (including legal fees, on a solicitor-and-own-client basis), together with any interest in relation thereto at the applicable rate;
- f) **“Completion”** means that the Services have been fully completed in accordance with the Purchase Order;
- g) **“Conditions”** means Catapult’s Service Terms and Conditions for the Purchase of Goods and Related Services;
- h) **“Confidential Information”** means all information of a confidential nature which the Contractor or Catapult, directly or indirectly, acquires from the other party to the Purchase Order, including any information concerning or relating to the Contractor or Catapult, including such party’s business, affairs, financial position, assets, operations, activities, prospects or trade secrets, together with all analyses, evaluations, compilations, notes, studies or other documents prepared by the Contractor or Catapult, as the case may be, or their respective Personnel, containing or based upon such information;
- i) **“Contract”** means the Purchase Order and Supplier’s acceptance of the Purchase Order;
- j) **“Contractor”** means the party named in the Purchase Order as the Contractor of the Services to Catapult;
- k) **“Documents”** includes, without limitation, diagrams, illustrations, specifications or drawings supplied directly or indirectly by Catapult to the Contractor, or produced by the Contractor or its Subcontractors in connection with the supply of the Services;
- l) **“Event of Force Majeure”** means any of the following events:
  - a. riot, war, invasion, act of foreign enemies, hostilities (whether war be declared or not), acts of terrorism, civil war, rebellion, revolution, insurrection of military or usurped power;
  - b. ionizing radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel or radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;
  - c. pressure waves caused by aircraft or other aerial devices traveling at sonic or supersonic speeds;
  - d. earthquake, flood, fire, named cyclone/hurricane/typhoon, tidal wave, explosion and/or other natural physical disaster, but excluding weather conditions expected at the Site;
  - e. strikes at a national or regional level or industrial disputes at a national or regional level, or strikes or industrial disputes by labour not

- employed by the affected party, its subcontractors or its contractors and which affect a substantial or essential portion of the provision of the Services;
- f. maritime or aviation disasters;
  - g. changes to the Law; and
  - h. financial difficulties shall be excluded as an event beyond the control of a party;
- m) **“Hazardous Substance”** means any substance, mixture of substances, product, waste, organism, pollutant, material, chemical, contaminant, dangerous good, constituent or other material which is or becomes listed, regulated or addressed under any Law or applicable regulation respecting the use, manufacture, importation, handling, transportation, storage, disposal and treatment of the substance, mixture of substances, product, waste, organism, pollutant, material, chemical, contaminant, dangerous good, constituent or other material;
  - n) **“Law”** or **“Laws”** means collectively all valid applicable common law, federal, provincial, state and municipal and other local laws, orders, rules, regulations and decisions of regulatory bodies, including, occupational health and safety, fire, employment insurance, workers’ compensation, Hazardous Substance, transportation of dangerous goods and handling, environmental protection legislation, building codes, anti-bribery law or international convention, as may apply now or in the future, and any other governmental requirements, work practices and procedures prescribed by law and related to the Contractor, the Site or the Services;
  - o) **“Other Contractors”** means contractors or Contractors engaged by Catapult to provide labour, materials, products or services, other than the Contractor or Subcontractors;
  - p) **“Person”** means any individual, entity, partnership, limited partnership, firm, trust, body corporate, company, corporation, government, governmental body, agency or instrumentality, unincorporated body of persons or association;
  - q) **“Personnel”** means a party’s directors, officers, employees, contract personnel, representatives, advisors and agents, and, in respect of the Contractor, includes direct field labour (as applicable), which meaning shall, mutatis mutandis, apply to Affiliates of a party and Subcontractors;
  - r) **“Purchase Order”** means the written instructions issued by Catapult’s for the performance of the Services (including a purchase order or blanket order) and which incorporates these Conditions;
  - s) **“Safety Plan”** means the Contractor’s environmental, health and safety plan described in Section 22.4 Safety Plan;
  - t) **“Services”** means all labour, supervision, administration, supplies, tools, equipment and such other work and materials to be supplied or performed by the Contractor at the Site in accordance with the Purchase Order;
  - u) **“Site”** means all the lands, waters, facilities, properties and any other places including, but not limited to, storage facilities, offices, workshops, on, under, or in connection with the Services being performed under this Agreement by Contractor and Contractor Personnel, which are owned and/or operated by Catapult and identified in the Purchase Order; and
  - v) **“Subcontractor”** or **“Subcontractors”**, as the case may be, means a Person engaged by the Contractor, directly or indirectly, to execute any part of the Services, other than an employee, or the Contractor, or its Affiliates.
- 3. Precedence**
- The Conditions shall govern if inconsistent with the terms and conditions on the face of the Purchase Order.
- 4. Provision of the Services**
- 4.1 The Contractor and Subcontractors shall supply the Services, in accordance with the Purchase Order.
- 4.2 The Services shall be performed efficiently, diligently and carefully in a good and workmanlike manner and in strict conformance with the Purchase Order and any specification, drawing or other description supplied or advised by Catapult to Contractor, and shall furnish all skills, labour, supervision, equipment, materials and supplies required for such Services.
- 4.3 Contractor confirms that it has obtained all requisite information for the performance of the Services, in particular, but not limited to, as to the Site, access and transportation thereto, local conditions and facilities and any other relevant matters of whatever nature. Any failure by the Contractor to discover matters at the Site which affect or could affect the Services shall not relieve the Contractor from its obligations under the Purchase Order.
- 4.4 If the Contractor discovers any errors, omissions or inconsistencies in the Documents, or any inconsistencies between the Documents and the Law, it shall resolve all such errors, omissions or inconsistencies with Catapult before proceeding with the affected portion of the Services.

4.5 The Contractor shall not deviate from the specifications or requirements stated in the Purchase Order.

4.6 Contractor and Contractor's Personnel shall perform the Services hereunder without interfering with the operations of Catapult and that of any other contractors at the Site. Contractor shall take, and cause Contractor's Personnel, any agents of Contractor and of Contractor Personnel to take all necessary precautions to protect the Site.

4.7 The Contractor shall protect the Services and Catapult's property and property adjacent to the Site from damage which may arise as a result of the Contractor's operations or the operations of its Subcontractors. Should the Contractor's operations or the operations of its Subcontractors cause damage to the Services or Catapult's property, the Contractor shall be responsible for making good such damage at the Contractor's expense.

#### **5. Title to the Services**

Title to the Services shall pass immediately upon commencement of the Services being provided, and clear of any and all liens, claims, charges, security interests, encumbrances and rights of other Persons. Transfer of title will be without prejudice of Catapult's right to refuse or reject the Services in case of defect. The Contractor shall be responsible for and have the care, custody and control of the Services prior to this being accepted by Catapult. If the Services, or any part thereof is lost, damaged or destroyed prior to acceptance by Catapult, then the Services, or portion thereof, as applicable, shall be promptly redone and replaced by the Contractor, at its expense, unless the loss, damage, or destruction was caused by Catapult or persons for whom in law it is responsible.

#### **6. Data Developed in Connection with the Services**

All drawings, specifications, documents and data developed, prepared or compiled by Contractor relating to any of the services, including the information contained therein and all rights relating thereto, shall be Catapult's exclusive property for use by Catapult without limitation.

#### **7. Contractor's Equipment**

Contractor shall ensure that all equipment supplied or used in connection with the performance of its obligations under the Contract is at all times inspected, calibrated and maintained in accordance with manufacturers' guidelines, applicable government regulations, industry recommended practices and, where applicable, good oilfield practices.

#### **8. Permits**

Contractor and Contractor Personnel shall comply with all applicable Laws, including Catapult's Safety Manual. Contractor shall obtain, at its own cost, the required permits and shall provide Catapult all information reasonably requested by Catapult in relation thereto. Contractor must, to the maximum extent permitted by Law, defend, hold harmless and indemnify Catapult's Group from and against any Claims filed or any costs or expenses incurred or suffered as a result of non-compliance with the Law or failure to obtain permits by Contractor or Contractor Personnel.

#### **9. Changes to Services**

9.1 Contractor shall not, without Catapult's prior written authorization, alter, substitute or add to the Services specified in the Purchase Order. Contractor is not entitled to payment for unauthorized services performed. Catapult, by the issuance of a written change order may alter, substitute or add to the Services at any time. Upon acceptance (as contemplated in Article 1 each change order will amend the Purchase Order and take precedence over the original Purchase Order in the event of an inconsistency.

9.2 In the event a change directly or indirectly causes an increase or decrease in the time or cost to perform its obligations under the Purchase Order, the Contractor shall, within ten (10) days of receiving such notice of the change, submit to Catapult detailed information, substantiating its impact. An equitable adjustment shall be made to schedule or compensation, or both, and the Purchase Order shall be modified in writing accordingly.

#### **10. Quality Assurance and Inspection**

10.1 *Services.* Contractor warrants to Catapult that any Services provided shall be free from defects and deficiencies in workmanship and materials, will be performed with all the skill, care and diligence to be expected of appropriately qualified and experienced professional with experience in carrying out works of a similar, type, nature and complexity to the Services. Contractor and Subcontractors have the personnel, financing, equipment, systems and materials to complete the Services in accordance with the terms and conditions of this Contract, including timely Completion of the Services in accordance with the standards required by this Contract. Contractor's warranty for Services shall apply throughout the term of the Contract and for a period ending the later of (a) twelve (12) months after Completion of the Services; and (b) the end of Contractor's standard warranty

period. If any Services are re-performed within warranty, this Section shall apply to such re-performed Services.

#### **11. Price**

In consideration of the performance and Completion of the Services in accordance with the terms of the Purchase Order, Catapult will pay, or cause to be paid, to Contractor the price. The price outlined in the Purchase Order is all-inclusive (save for value-added tax) and is deemed to compensate Contractor for Completion of the Services in accordance with the Purchase Order. The price will be calculated and set on the date of the Purchase Order.

#### **12. Payment Terms**

Contractor will not deliver an invoice to Catapult for the Services until acceptance by Catapult of such Services. Catapult shall pay the price within forty-five (45) days of the invoice date of an adequately supported invoice for the Services completed and accepted by Catapult. Contractor's invoices shall conform to Catapult's invoicing requirements as conveyed to Contractor from time to time and shall contain the information prescribed by the Input Tax Credit Information Regulations under the Excise Tax Act (Canada) or any other information prescribed for a similar value added tax. Payment made by Catapult shall not be considered as acceptance that the Services has been performed or conducted to Catapult's satisfaction and in accordance with the Purchase Order and Documents.

#### **13. Taxes**

13.1 Contractor is exclusively liable for, and shall pay before delinquency, all taxes, duties and assessments imposed or levied in respect of the Services (other than Goods and Services Tax, sales tax or value added tax payable by Catapult as the purchaser of the Services) and Contractor shall be liable for and indemnify and hold harmless Catapult's Group from and against all Claims that may be asserted or brought against, or suffered or incurred by Catapult's Group owing to Contractor's failure to do so.

13.2 If required by applicable Laws, Catapult may withhold amounts from payments due to Contractor at the withholding rate specified by such applicable Laws. Contractor shall facilitate the withholding and payment of any withholding tax as requested by Catapult. Without limiting the generality of the foregoing, if Contractor is non-resident in Canada, Catapult is required by Law to collect and remit to the Canada Revenue Agency a withholding tax in respect of services rendered in Canada by Contractor to Catapult, unless such requirement is waived directly by the Canada Revenue Agency. If the Canada Revenue

Agency provides such a waiver to Contractor, Contractor shall forward a copy of the same to Catapult for its records. Contractor shall facilitate the withholding and payment of any withholding tax as requested by Catapult.

#### **14. Payment Set-Off**

Catapult may withhold any sum due to Contractor under the Contract and apply such sum against Contractor's obligations to third parties connected with the Purchase Order or as a set-off against Contractor's indebtedness to Catapult either under this Contract or under any other contract.

#### **15. Liens**

15.1 If a lien or legal hypothec in respect of the Services is filed against the Site or Catapult's property, including leases (excluding any valid liens of the Contractor), Catapult may immediately withhold payment of any monies owing to the Contractor until the Contractor discharges the lien or legal hypothec.

15.2 The Contractor shall promptly discharge or release or cause to be discharged or released any and all builders', construction, mechanic's, material, warehousemen's or similar liens or legal hypothecs which are registered, filed, recorded or brought by any party and which are in any way related to the Services, against the Site or any property of Catapult forming part of or connected in any way with the Services.

15.3 The Contractor shall indemnify Catapult's Group from all Claims brought against or suffered, sustained, paid or incurred by Catapult's Group in connection with any liens or legal hypothecs (excluding any valid liens or legal hypothecs of the Contractor) contemplated in this Article 15.

#### **16. Insurance**

During the performance of the Contract, unless otherwise agreed to in writing by Catapult, Contractor shall maintain and cause any Subcontractor to maintain at least the following insurance coverage:

- a) Workers' Compensation coverage as required by applicable Law;
- b) "*Employer's Liability Insurance*" covering each worker to the extent of two million dollars (\$2,000,000) where such worker is not covered by Workers' Compensation or where Workers' Compensation is not an exclusive remedy;
- c) "*Commercial General Liability Insurance*" written on an "occurrence" basis including coverage for all non-owned vehicles, products, completed operations liability, manufacturers and contractors liability, cross liability and pollution liability, and to the extent that any watercraft are used in

performing the Services, non-owned watercraft, with a combined single limit of no less than two million dollars (\$2,000,000.00) for each occurrence involving bodily injury, death or property damage, and Catapult shall be named as an additional insured under this policy; and

- d) "Automobile Public Liability and Property Damage Insurance" covering all vehicles owned, leased, operated or licensed by Contractor with a combined single limit of no less than two million dollars (\$2,000,000.00) for each occurrence involving bodily injury, death or property damage;

Contractor shall ensure that the insurance policies pursuant to sub-sections (b) and (c) of this provision include a waiver of the insurer's right to subrogate against Catapult, and that the insurance policies pursuant to sub-sections (b), (c) and (d) include a provision requiring the insurer to give Catapult not less than thirty (30) days' prior written notice of cancellation or material change. At Catapult's request, Contractor shall provide certificates of insurance evidencing that such policies are in effect. Neither the requirement of Contractor to carry and maintain insurance nor Catapult's acceptance of evidence of insurance will in any manner limit or qualify the liabilities and obligations assumed by Contractor under the Contract. Contractor shall be solely liable to pay any deductible associated with any claim by Contractor or Catapult under the foregoing insurance policies. Contractor, at Catapult's cost, shall obtain such other insurance coverage with insurance carriers satisfactory to Catapult as Catapult may require.

## 17. Indemnity

17.1 Contractor shall be liable for; and as a separate and independent covenant, shall indemnify and save Catapult's Group harmless from and against, any and all Claims that may be brought against Catapult's Group, or that Catapult's Group may suffer, sustain, pay or incur, arising out of or connected with the performance or negligent performance or non-performance by the Contractor of any of the obligations of Contractor under this Contract and resulting in: (i) personal or bodily injury to, sickness, disease or death of any member of Catapult's Group; and (ii) damage to or loss of, or loss of use of, any real or personal property owned, leased, rented, or hired by any member of Catapult's Group, except to the extent caused by the negligence or willful misconduct of any member of Catapult's Group.

17.2 Subject to and without limiting Contractor's warranty obligations set forth in Article 10, Catapult shall be liable for; and as a separate and independent

covenant, shall indemnify and save Contractor harmless from and against, any and all Claims that may be brought against the Contractor, or any of them, or that the Contractor, or any of them, may suffer, sustain, pay or incur, arising out of or connected with the performance or negligent performance or non-performance by Catapult of any of the obligations of Catapult under this Contract and resulting in: (i) personal or bodily injury to, sickness, disease or death of any member of the Contractor; and (ii) damage to or loss of, or loss of use of, any real or personal property owned, leased, rented, or hired by any member of the Contractor, except to the extent caused by the negligence or willful misconduct of any member of the Contractor.

17.3 Contractor shall be liable for shall and shall indemnify and hold harmless Catapult's Group from and against all Claims of any third party (other than Contractor or Contractor's representatives) even if any such Claim arises out of any negligence, act or omission of Catapult's Group in performance of the Contract.

17.4 Except as provided otherwise in this Article 17, Catapult shall be liable for and shall indemnify and hold harmless Contractor from and against all Claims in respect of environmental pollution on or caused by tangible assets, including premises, used by or in the operation of Catapult other than such ones caused by the Services. In turn, Contractor shall be responsible for and shall indemnify and hold harmless Catapult's Group against all Claims in respect of environmental pollution on or caused by tangible assets, including premises, used by or in the operation of Contractor or Contractor's representatives, including, but not limited to the Services. For the purpose of this Section, environmental pollution shall mean any deterioration of water, ground or air by harmful substances which causes a risk for human health, water, ground or air and has to be remedied according to Law, act of public authorities or contracts.

## 18. Consequential Damages

Neither party shall be liable to the other party for: (i) loss of actual or anticipated profit; (ii) losses caused by business interruption; (iii) loss of goodwill or reputation; (iv) any indirect, special or consequential cost, expense, loss or damage even if such cost, expense, loss or damage was reasonably foreseeable or might reasonably have been contemplated by the parties and whether arising from breach of contract, tort, negligence, breach of statutory duty or otherwise.

## 19. Catapult's Proprietary Marks

Contractor shall not use or display Catapult's name, trademarks, logos or any other of Catapult's proprietary marks or designations for any purpose or in any medium (including internet or other means of electronic or wireless communications).

## 20. Intellectual Property Infringement

Contractor shall be liable for and indemnify and hold harmless Catapult's Group from and against all Claims that may be asserted or brought against, or suffered or incurred by, Catapult's Group attributable to any claim for alleged infringement of patent, copyright, trade mark or trade secret arising out of the performance of Services, and Contractor at its sole expense shall defend such Claims, provided that Catapult may participate in the defense without relieving Contractor of its obligations under the Contract.

## 21. Confidentiality / Publicity

21.1 Any and all Confidential Information of Catapult or Contractor received by the other party to the Purchase Order shall be received in the strictest confidence. Without limitation and in addition to any other rights or remedies Catapult may have, the Contractor acknowledges that it shall be liable to and shall indemnify and hold harmless Catapult's Group from all Claims brought against or suffered, sustained, paid or incurred by Catapult's Group arising out of or resulting from a breach of this Article 21.1 by the Contractor.

21.2 Contractor shall not make any announcement (or publish any photograph, article or press release) in connection with the Contract without the prior written approval of Catapult except as required by Law or by any legal or regulatory authority.

## 22. Catapult's Policies and Procedures

22.1 The Contractor shall and shall ensure that its Subcontractors and their respective Personnel, prior to providing the Services, read and understand the most current copies of Catapult's Policies including those available on Catapult's website at the expense of the Contractor. The Contractor shall and shall ensure that its Subcontractors and their respective Personnel comply with Catapult's Policies at the expense of the Contractor. In the case of any difference between the requirements of Catapult's Policies and the Law, the stricter or higher standard shall apply.

22.2 *Alcohol and Drugs.* Contractor represents and warrants that it has in place, and will continue to keep in effect and enforce during the term of this Contract, an alcohol and drug policy prohibiting and dealing with the use and/or abuse (including after effects) of alcohol and illegal drugs, and the misuse (and potentially disabling effects) of medications, by any of

its Personnel or Subcontractors in the performance of the Services ("**Contractor's A&D policy**"). Contractor shall ensure that the Services are performed in strict compliance with Contractor's A&D Policy and shall ensure that all Personnel and Subcontractors of Contractor are informed of and comply therewith. Without limiting the generality of the foregoing, Contractor shall institute, and shall require its Subcontractors to institute, post-incident and reasonable cause alcohol and drug testing for Personnel and Subcontractors performing safety sensitive Services and shall properly address deteriorating performance by any of its Personnel or Subcontractors involved in the performance of safety sensitive Services, apparently related to the use, after effects, or abuse of alcohol and/or drugs.

22.3 *Safety Manual.* In addition to the requirements of any applicable Law concerning occupational health and safety, Contractor shall strictly comply with the Safety Manual and requirements provided to Contractor by Catapult from time to time. The Contractor shall ensure that its Personnel, as well as the Personnel of its Subcontractors, observe and comply with the Safety Manual. Contractor shall take, and cause Contractor's and every Subcontractor's Personnel and agents to take, all necessary precautions (including those required by Catapult's safety standards) to protect the worksite and all persons and property thereon from damage or injury. Contractor shall leave the worksite clear of its tools, equipment and waste. Contractor shall notify Catapult immediately of any accident in connection with the provision of the Services and confirm such notice in writing within twenty-four (24) hours of its occurrence. Contractor shall investigate such accidents (or cooperate with Catapult in conducting investigations of accidents, or both) that arise out of Contractor's Services under the Contract and provide copies to Catapult of accident reports Contractor produces in response to any such investigations.

22.4 *Safety Plan.* The Contractor shall at all times while performing the Services maintain an environment, health and safety plan that meets or exceeds Catapult's safety requirements.

22.5 *Right to Suspend.* Catapult, acting reasonably, shall have the right to suspend performance of the Services for as long as it is necessary to prevent or stop any unsafe work practice or any violation of any of the Safety Manual, Safety Plan or Contractor's A&D Policy, without compensating the Contractor for any loss or damages the Contractor may suffer, and without any time extension for Completion of performance of the Services. Catapult shall have no liability for suspending

the Services, or failing to suspend the Services, pursuant to this Section. Any suspension of the Services pursuant to this Section shall not relieve the Contractor of any of its responsibilities pursuant to the Purchase Order, or otherwise.

22.6 *Termination.* Without limiting other rights or remedies, if Contractor fails to strictly comply with this section, Catapult may, by notice with immediate effect, terminate this Contract. If this Contract is so terminated, Catapult shall only be obliged to pay Contractor for the Services performed in accordance with this Contract to the effective date of such notice of termination.

### **23. Security**

Contractor shall abide by all security arrangements put in place at Catapult's places of business. At Catapult's request, Contractor shall permit and facilitate criminal background checks and driver record checks for individuals employed by or contracted to Contractor in accordance with Catapult policy. If Contractor is granted access to any part of Catapult's computer systems, Contractor undertakes to enter into confidentiality and user agreements in the form prescribed by Catapult. Contractor warrants that all software and document files provided by Contractor and used in the performance of the Services are virus free.

### **24. Waste and Hazardous Waste**

24.1 In addition to the requirements of Section 24.2, no waste materials shall be allowed to accumulate in or around the Site, and the Contractor shall remove, or cause its Subcontractors to remove, debris or waste materials at periodic intervals or as often as Catapult may direct and shall ensure disposal of such debris and waste materials in accordance with applicable environmental Laws. The Contractor shall ensure that the Site is kept clean and free of debris and waste materials at all times. Before Completion of the Services, the Contractor shall remove or cause to be removed all temporary structures, superfluous and waste materials of whatever kind resulting from the Services.

24.2 The Contractor shall not, and the Contractor shall ensure that its Subcontractors shall not, use, store, transport, remove, dispose of or destroy any Hazardous Substances on Site, except with Catapult's prior approval. All Hazardous Substances used, stored, transported, removed, disposed of or destroyed shall be dealt with in accordance with the Law.

### **25. Assignment and Subcontracts**

25.1 Contractor shall not, without Catapult's prior written consent, assign the Contract. Catapult's consent to any

assignment shall not relieve Contractor from its primary obligations for performance of the Contract.

25.2 Contractor shall not, without Catapult's prior written consent, subcontract all or any part of the Services to be performed under the Contract. Catapult's consent to any subcontract shall not (a) constitute a waiver of any right of Catapult to reject Services; (b) create any contractual relationship between Catapult and any Subcontractor; or (c) relieve Contractor of its responsibility for all acts or omissions of its Subcontractors.

25.3 Catapult may assign the Contract, including any or all of its rights and obligations under the Contract, at any time without the prior consent of Contractor. As an alternative to assignment, Catapult may perform any or all of its obligations under the Contract through another party designated in writing by Catapult to Contractor.

### **26. Independent Contractor**

Contractor is an independent contractor and, unless authorized by Catapult in writing, shall not hold itself out as Catapult's agent or representative.

### **27. Other Contractors**

If any part of the Services depends upon the Services of Other Contractors for its proper execution or result and the Contractor becomes aware of any defects, deficiencies or conflicts in the Services or in the timing of the Services of the Other Contractors as may interfere with the proper execution of the Services, the Contractor shall as soon as practicable provide a notice to Catapult of such defects, deficiencies or conflicts. Should the Contractor fail to provide a notice to Catapult as required by this Section, the Contractor shall: (i) have no Claim against Catapult by reason of defective, deficient or unfinished Services of any Other Contractors; and (ii) reimburse Catapult for all costs, expenses and losses suffered, sustained, paid or incurred by Catapult relating to any Services that require re-performance as a result of any defects, deficiencies or conflicts in the Services or in the timing of the Services of Other Contractors.

### **28. Force Majeure**

Each party is relieved of its obligations under the Contract to the extent and for the time that its performance is delayed or prevented by an Event of Force Majeure. Catapult may defer the date of delivery or terminate the Contract or reduce the quantity, nature or extent of the Services ordered if it is prevented from or delayed in the carrying on of that part of its business relating to the Purchase Order due to an Event of Force Majeure. A party whose performance of its obligations is delayed or prevented by an Event of Force Majeure shall immediately notify

the other party of the nature, extent, effect and likely duration of Event.

## 29. Audit

Contractor shall keep at its usual place of business proper and detailed books, accounts, records and documentation complete in every material respect in respect of the Services. Catapult may, during normal business hours at Contractor's place of business, audit all books, accounts, records and documentation of Contractor for the purpose of verifying the proper performance by Contractor of its obligations under the Contract. Catapult's audit rights shall exist at all times during the Contract and for two (2) years after the last day of the calendar year in which Services are completed. Contractor shall facilitate any such audit as requested by Catapult.

## 30. Termination

Catapult may at any time terminate the Contract in whole or in part by giving Contractor written notice whereupon Catapult shall be relieved of all further obligations under the Contract except for the payment of the balance outstanding for the Services performed to the effective date of termination. In no event shall Catapult be liable for Contractor's loss of anticipated profits or any consequential losses or indirect damages. The termination of the Contract shall be without prejudice to the rights and remedies of Catapult accrued prior to termination.

## 31. Remedies

31.1 Without prejudice to any other right or remedy which Catapult may have, if any Services are not supplied in accordance with, or Contractor fails to comply with, any of the provisions of the Contract, Catapult may avail itself of any one or more of the following remedies at its discretion, whether or not any part of the Services have been accepted by Catapult:

- a) rescind the Purchase Order;
- b) reject the Services;
- c) provide Contractor the opportunity at Contractor's expense either to remedy any deficiency or defect in the Services or carry out any other necessary Services to ensure that the terms of the Contract are fulfilled;
- d) refuse to accept any further performance of the Services without any liability to Contractor;
- e) take any action at Contractor's expense to make the Services comply with the Contract and Contractor shall add, as applicable, Goods and Services Tax or similar value added tax to any reimbursements made by Contractor to Catapult for any such action taken by Catapult;

- f) claim such damages as may have been sustained in consequence of Contractor's breach of the Contract; and
- g) if, in Catapult's sole discretion, a defect or deficiency in the Services, or in any portion of the Services, affects safety, the environment or operations, and the Contractor is not immediately available to remedy such defect or deficiency in the Services, Catapult may proceed with any activities necessary to remedy such defect or deficiency in the Services, and any resultant impact of such defect or deficiency, and the Contractor shall reimburse Catapult for all reasonable costs incurred by Catapult as a result of such remediation.

## 32. Laws

The Contract shall be governed by and construed in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein. Catapult and Contractor each irrevocably submits to the exclusive jurisdiction of the courts of the Province of Alberta over any claim or matter arising under or in connection with the Contract.

## 33. Miscellaneous

- 33.1 Time is of the essence, other than in respect of time for payment.
- 33.2 Prices stated in the Purchase Order shall be in Canadian currency.
- 33.3 The terms "including" and "includes" mean "including without limitation".
- 33.4 Catapult's right to require strict performance shall not be affected by any previous waiver or course of dealing.
- 33.5 Notices shall be in writing and may be delivered personally or by facsimile, courier or registered mail.
- 33.6 The invalidity or unenforceability of any provision of the Contract shall not affect the validity or enforceability of any other provision of the Contract.
- 33.7 The rights and remedies provided by the Contract are cumulative and are not exclusive of any rights or remedies provided in Law, equity or otherwise and shall extend to Catapult, its successors and assigns.
- 33.8 The covenants, conditions and provisions contained in the Contract, including confidentiality obligations, audit rights, warranties and indemnities survive termination and expiry of the Contract for the benefit of the party to whom they are given. In addition, the expiry or termination of the Contract does not discharge or release either party from any liability or obligation accrued at the time of such expiry or termination or continuing beyond or arising out of such expiry or termination.



34. The Contract may be executed and delivered by the parties in counterparts (each of which shall be considered for all purposes an original) and by facsimile and when a counterpart has been executed and delivered by each of the parties, by facsimile or otherwise, all such counterparts and facsimiles shall together constitute one agreement.

**END OF DOCUMENT**