

General Terms and Conditions
Of
HOERBIGER Compression Technology, Hoerbiger (Canada) Ltd.
For
Product Deliveries and Services
Version valid as of March 6, 2015

1. GENERAL

These General Terms and Conditions apply to all purchases of Products from the Contractor and to any Services performed by the Contractor. They shall form an integral part of the Agreement entered into with the Principal. All quotations and order acknowledgements made by the Contractor shall be deemed to incorporate these General Terms and Conditions by reference. All orders shall be deemed to be an offer by the Principal to purchase the Products and/or the Services pursuant to these General Terms and Conditions, to the exclusion of any terms and conditions which may appear on any order or other document submitted by the Principal. Acceptance of the Products delivered and/or Services performed shall be deemed conclusive evidence of the Principal's acceptance of these General Terms and Conditions.

These General Terms and Conditions, as amended or supplemented from time to time, shall also apply to any other product supplied in the frame of the Services and to any subsequent services regardless of any agreement or explicit provision with respect to their applicability to such other products and/or subsequent services. References by the Principal to terms and conditions of the Principal shall be deemed not made. Such references shall not have any effect on the applicability of these General Terms and Conditions. Diverging provisions shall only be applicable if agreed between the Principal and the Contractor in writing.

2. DEFINITIONS

Acceptance Tests: Tests which are carried out before delivery in order to ensure that the Product is in compliance with the Agreement or with any requirements agreed in writing by the Contractor and the Principal.

Agreement: Each mutual agreement between the Contractor and the Principal in any written form for the provision of Products and Services of the Contractor. Each Agreement is deemed to incorporate these General Terms and Conditions. Unless expressly otherwise provided herein, in the case of contradiction between these General Terms and Conditions and any other terms of the Agreement, the other term of the Agreement shall prevail.

Contractor: HOERBIGER (CANADA) LTD. Or its subsidiaries or any other company of the HOERBIGER Group (designated in the Agreement as contracting party) supplying Products and/or performing Services under these General Terms and Conditions.

Equipment: Such plant, machinery or parts of plant or machinery on which or with respect to which the delivered Products shall be used and/or the Services shall be performed.

Place of Manufacture: The place where the final assembly is made before the Product is delivered to the Principal.

Principal: The company (designated in the Agreement) for whom the Contractor supplies Products and/or performs Services.

Product: The object(s) to be supplied by the Contractor under these General Terms and Conditions.

Services: The services to be performed by the Contractor under these General Terms and Conditions.

PROVISION FOR PRODUCT DELIVERIES

3. PRODUCT INFORMATION

All information and data contained in general Product documentation and price lists, whether in electronic or any other form, are binding only to the extent that they are by reference expressly included in the Agreement.

4. DRAWINGS AND DESCRIPTIONS

- a. All drawings and technical documents relating to the Products or manufacture submitted by the Contractor to the Principal, prior or subsequent to the formation of the Agreement, shall remain the property of the Contractor. Drawings, technical documents or other technical information received by the Principal shall not, without the consent of the Contractor, be used for any other purpose than that for which they were provided. They may not, without the consent of the Contractor, otherwise be used or copied, reproduced, transmitted or communicated to a third party.
- b. In support of installation, operation and maintenance of the Products, the Contractor shall provide the Principal with free of charge information and drawings.
- c. Such information and drawings shall be supplied in the number of copies agreed upon or at least one copy of each. The Contractor shall not be obliged to provide manufacturing drawings for the Products or for spare parts.

5. ACCEPTANCE TESTS

- a. Acceptance tests will be carried out only if explicitly agreed in the Agreement.
- b. Acceptance tests provided for in the Agreement shall, unless otherwise agreed, be carried out in conformity with the norms of the Contractor, at the Place of Manufacture during normal working hours. If the Agreement provides for the quality specifications of the Principal to be applicable, the Acceptance Test shall be done in conformity with the regulations set forth in the Agreement; or where applicable or agreed, in conformity with the norms of qualified suppliers, and in the absence of such norms, in accordance with applicable international norms which reflect the recognized international state of the art technology.
- c. The Contractor shall notify the Principal in writing of the Acceptance Tests in due time to permit the Principal to be present or to arrange for a representative. If the Principal is not present or represented the test report, and documented evidence of conformity for the Contractor, shall be sent to the Principal.

- d. If the Acceptance Tests show the Products not to be in accordance with the Agreement, the Contractor shall without delay remedy any deficiencies in order to ensure that the Product complies with the Agreement. New tests shall then be carried out at Principal's request, unless the deficiency was insignificant.
- e. Unless otherwise agreed in the Agreement, the Principal shall bear all costs for Acceptance Tests carried out at the Place of Manufacture. The Principal shall also bear all travelling and living expenses for it or its representative.

6. DELIVERY, PASSING OF RISK

- a. Subject to Section 18, any agreed trade term shall be construed in accordance with the INCOTERMS 2010. If no trade term is specifically agreed, the delivery shall be Ex works (EXW).
- b. Transport insurance coverage shall only be provided by the Contractor upon explicit request by the Principal and at the Principal's cost. The choice of the means and route of transport shall be made by the Contractor according to its best judgment.
- c. Partial shipments shall be permitted unless otherwise agreed.

7. ORDERS

- a. The Contractor shall not be obliged with respect to any order of Products by the Principal until accepted in writing by the Contractor.
- b. Once accepted by the Contractor, orders placed cannot be cancelled or modified by the Principal without the Contractor's written consent.

8. EXPORT CONTROL

- a. The Products may be subject to export and re-export restrictions under some countries' export control laws, orders and regulations, which may require the approval of the respective government or the relevant authorities for any re-export or retransfer ("Export Control Regulations"). Principal hereby acknowledges that the supply of Products and provision of Services may be subject to sanctions, meaning any applicable export controls, trade or economic sanctions, embargoes or similar laws, regulations, rules, licenses, orders or requirements including, without limitation, those of the UN, UK, U.S. and EU (hereinafter "Sanctions").
- b. If the Principal transfers the Products (regardless of the mode of provision) to a third party, the Principal shall comply with all applicable national and international (re-)export control laws, orders and regulations, including embargoes, and shall obtain and renew any necessary governmental export permits or similar authorizations which may be required. Principal is fully responsible for complying with, and shall not do anything which would cause Contractor to be in breach of, applicable Sanctions. In particular, Principal warrants and represents that it: (i) is not, and is not owned or controlled by, a "Sanctioned Party", which is defined as "any party or parties listed on any list of designated or other restricted parties maintained under Sanctions, including but not limited to the, the consolidated list of persons, groups and entities subject to EU financial sanctions maintained by the European Union, the Consolidated List of Financial Sanctions Targets in the UK maintained by HM Treasury and the Specially Designated Nationals and Blocked Persons List maintained by the US Office of Foreign Assets Control; (ii) will not use, sell, resell, export, re-

export, transfer, distribute, dispose of, disclose or otherwise deal with the Products and/or Services, directly or indirectly, to: (a) any territory to which the supply of the Products and/or Services would be restricted or prohibited under Sanctions (subject to the Principal obtaining any and all licenses and/or approvals required); including, but not limited to, under the scope of Art 12g of the EU Council Regulation 833/2014, as amended, as regards the re-export of prohibited goods and technology to Russia or for use in Russia; (b) any country, territory, or destination with which Supplier, as a matter of policy, does not conduct business (including but without limitation to Iran, Syria, Sudan, Cuba, Belarus, Russia, Crimea & Sevastopol, the republics of Donetsk and Luhansk, the territories of Kherson and Zaporizhzhia and North Korea, and any other territory subject to comprehensive Sanctions from time to time); (c) any Sanctioned Party (or any party owned or controlled by a Sanctioned Party); (iii) will obtain and maintain any required export license or other governmental approval and complete such formalities as may be required in order to use, sell, resell, export, re-export, transfer, distribute, dispose of, disclose or otherwise deal with the Products and/or Services; (iv) will not put the Products and/or Services, in their entirety or in part, to any use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or the development, production, maintenance or storage of missiles capable of delivering such weapons or to any military end-use in violation of any applicable embargo (including, but not limited to, embargoes maintained by the EU, UK, US, OSCE and/or UN). In addition, Principal shall not sell, resell, supply, export, re-export, transfer, divert, distribute, or dispose of the Products and/or Services to any third party where Principal knows or has grounds for suspecting that the Products and/or Services are or may be intended for one of the uses specified in this Clause 8.

- c. Prior to any transfer to a third party of the Products, the Principal shall in particular without limitation check and guarantee by appropriate measures that such transfer does not violate embargoes, complies with the rules prohibiting or requiring prior authorisation for use of the Products in connection with some activities or other products or for trading with some entities, persons and organizations. Principal shall, at all times, maintain an adequate monitoring mechanism to detect possible violations of the Sanctions by any third parties, including by possible resellers. If Buyer does not currently maintain such a monitoring mechanism, Principal shall establish one as a condition to entering into this Agreement.
- d. If required to enable authorities or the Contractor to conduct export control checks, the Principal, upon request by the Contractor, shall promptly provide the Contractor with all information pertaining to the particular end customer, the particular destination and the particular intended use of the Products, as well as any export control restrictions existing. Any violation of sub-clauses 1, 2 or 3 of this Section 8 shall constitute a material breach of the agreement between the parties and shall entitle Contractor (i) to terminate any of the pending or future orders / Contracts with the Principal and (ii) to apply any agreed and/or available remedies.
- e. The Principal shall indemnify and hold harmless the Contractor from and against any claim, proceeding, action, fine, loss, administrative or other penalty, cost and damages arising out of or relating to any noncompliance by the Principal or anyone acting on its behalf of (re-)export control laws, orders or regulations, and the Principal shall compensate the Contractor for all losses (whether direct or indirect) and expenses resulting thereof. Principal shall immediately notify Contractor if Principal becomes aware of any actual or threatened violations of sub-clauses 1, 2 or 3.

- f. Principal will keep and maintain complete and accurate records in connection with Contractor's performance under this Agreement and will retain these records for at least three (3) years after the supply of Products and/or Services. Contractor (or its professional advisers) may audit such records during regular business hours upon reasonable advance notice and subject to reasonable confidentiality procedures. Principal agrees to provide Supplier's designated audit or inspection team reasonable access to the Supplier's records and facilities.
- g. Principal agrees furthermore that it shall not engage in any activity that would expose Contractor or any Contractor Affiliates to a risk of penalties under laws and regulations of any relevant jurisdiction prohibiting improper payments, including but not limited to bribes, to officials of any government or of any agency, instrumentality or political subdivision thereof, to political parties, or political party officials or candidates for public office, or to any employee of any customer or Contractor.

PROVISION FOR SERVICES

9. SCOPE OF MAINTENANCE

- a. Preventive maintenance (according to DIN 31051) shall be carried out by the Contractor at the times or with the intervals, and on any other terms, specified in the Agreement. Unless otherwise stipulated in the Agreement, the preventive maintenance shall include:
 - Checking the condition of the Equipment,
 - Functional check
 - Adjustments
 - Provisions and replacement of wear parts
 - Cleaning and necessary lubrication
- b. Corrective maintenance shall be undertaken by the Contractor in order to remedy any functional defects which have arisen in the Equipment. It shall be commenced without undue delay or within the time, and on any other terms, specified in the Agreement. Unless otherwise stipulated in the Agreement, the corrective maintenance shall include:
 - Fault tracing
 - Remediating of the defect
 - Provision and replacement of spare parts
 - Functional check
- c. If corrective maintenance is carried out shortly before preventive maintenance is due, the Contractor may, with the Principal's consent, thereby also carry out the preventive Maintenance. For such co-ordinated maintenance the Contractor may not charge the Principal for any costs which are already covered by the agreed fee for preventive maintenance. If the times for preventive maintenance are specified in the Agreement, they shall not otherwise be changed as a result of this deviation.
- d. Unless otherwise agreed, the maintenance shall be carried out during the Contractor's normal working hours.

10. CUSTOMER'S DAILY CARE, LOG

The Principal shall be responsible for the necessary daily care of the Equipment. The Principal shall further keep a log of the operation and care of the Equipment.

11. CONTRACTOR'S EXCLUSIVE RIGHT

The Principal shall not, except as specified in Section 16, without the Contractor's consent, itself carry out or have others carry out the maintenance, overhaul or upgrading which under the Agreement shall be carried out by the Contractor. If the Principal does so, the Contractor's responsibility for previously performed Maintenance shall cease.

12. ALTERATIONS TO THE EQUIPMENT

- a. The Principal is required to immediately notify the Contractor of any changes in the Location of the Equipment, any changes of the required intervention or required time, to the extent such circumstances are relevant to the performance of the Agreement. Any agreed fees affected by these changes shall be re-determined by the Contractor in accordance with the effected changes.
- b. The Principal shall without undue delay inform the Contractor by notice in writing of any alterations concerning the Equipment or its operation or other measures taken by the Principal which may affect the Contractor's obligations under the Agreement. If such alterations or measures seriously affect the Contractor's obligations, and if the parties fail to agree on how to amend the Agreement in respect thereof, the Contractor may, with immediate effect, terminate the Agreement by notice in writing to the Principal. The Contractor shall in case of such termination also be entitled to reasonable compensation for its losses in connection with such termination.

13. HEALTH AND SAFETY

- a. The Principal shall ensure that the maintenance, overhaul or upgrading is not carried out under dangerous or unhealthy conditions, and shall take all necessary measures to protect the Contractor's personnel from exposure to any safety or health hazard. Moreover the Principal shall ensure that the Contractor's personnel are informed of any safety regulations in force at the place where the Maintenance is carried out.
- b. The Contractor is entitled but not required to communicate to the Principal suggestions with respect to the security of the Equipment and the operation thereof.
- c. The Contractor is entitled to suspend the performance of the Agreement if it is of the opinion that the security conditions at the Location required for the performance of the Agreement are not sufficiently provided and/or guaranteed by the Principal and the Contractor shall in such case be entitled to withdraw its personnel affected thereby or its entire personnel from the Location. The Principal shall be liable for all resulting detriments and disadvantages and indemnify the Contractor accordingly.
- d. Principal agrees to comply with applicable statutory health, environmental, safety, security, ethics, compliance laws and other mandatory requirements and shall hold Supplier harmless from any damage arising due to non-compliance with the above.

JOINT PROVISIONS

14. PAYMENT, DELAY OF PAYMENT

- a. Unless expressly otherwise stipulated in the Agreement, all fees and prices are in Canadian dollars and the offers, prices and fees of the Contractor are without engagement.
- b. Payment shall be made against invoice no later than 30 days after invoice date. Whatever means of payment used, payment shall not be deemed to have been effected before the Contractor's account has been fully irrevocably credited.
- c. Upon a payment default by the Principal in the form of non- payment, incomplete payment or late payment, the Contractor shall be entitled to suspend the delivery of the Products and/or the performance of the Services. Any applicable time periods for the delivery of the Products or the provision of the Services by the Contractor shall be extended by the duration of the suspension as well as by an appropriate time period for the preparation of the continuation of the services. Any additional costs arising in connection with such suspension shall be borne by the Principal.
- d. Furthermore the Contractor is entitled to interest for default from the due payment date. Unless otherwise agreed, interest shall be calculated at an annual rate of interest equal to 5 percentage points above the rate that The Royal Bank of Canada establishes at its principal office in Toronto as the reference rate of interest to determine the interest rates it will charge on the day for commercial loans in Canadian dollars and that it would refer to as its "prime rate of interest".
- e. If the default is not remedied by the Principal within the period set by the Contractor, the Contractor shall be entitled to immediately terminate the Agreement. The Contractor shall in this case be due the entire consideration as well as compensation for the loss incurred less any non-incurred expenses.
- f. In each of the above cases, the Principal shall be liable for any damages incurred by the Contractor as a result of the payment default.

15. WARRANTY

- a. Subject to the exceptions, conditions and limitations set forth in these General Terms and Conditions, the Contractor warrants that the Products shall be free of any material defects or processing defects and that the Services shall be performed by specialised personnel in accordance with the requirements defined in the Agreement and/or confirmed by the Contractor.
- b. The warranty period for each Service rendered will end on the earlier of: (i) 18 months from the date of completion of such Service; and (ii) 12 months from the date the Equipment is put into operation after such Service. The warranty period for each Product (including for assertion of hidden defects) will end on the earlier of: (i) 18 months from the date of delivery of the Product; and (ii) 12 months from the date when the Product has been put into use. These warranty periods are independent of the time when the defect may occur or be discovered.
- c. The Principal is eligible to exercise rights under the Contractor's warranty under the condition that the installation, operating and/or maintenance of the Products and/or Equipment has been in

accordance with the specifications, the operating manual and any other information, instructions, recommendations or documents provided by the Contractor as well as with the good industry practice.

- d. Notwithstanding the foregoing, the Contractor has no responsibility under the warranty and Contractor shall not be liable to the Principal for:
 - (i) delivery of used materials or Products subject to wear and tear;
 - (ii) scheduled maintenance not subject of the Agreement;
 - (iii) defects and damage attributed to usage in accordance with specifications (e.g. wear parts);
 - (iv) defects arising out of materials provided or a design stipulated or specified by the Principal;
 - (v) defects resulting from defective maintenance, deviant operating conditions, faulty installation, incorrect storage, insufficient security, use of inadequate operational materials by the Principal or third parties or other similar circumstances;
 - (vi) defects resulting from unapproved repair, alterations or changes of the Products by the Principal or third parties;
 - (vii) defects resulting from any other actions of the Principal or third parties.
- e. The warranty claim with respect to used Products shall be limited to the repair (improvement) or replacement (exchange) by the Contractor at Contractor's sole discretion. In case of hidden defects or defective Services the warranty claim shall be limited to claim for repair (improvement) only.
- f. The Principal shall only be entitled to a price reduction determined by the Contractor if an improvement by repair or replacement is not possible or advisable for technical or economical reasons and the Contractor states that it will refrain from carrying out any improvement.
- g. Any remedied Product (either by repair or by replacement) which is the subject of a warranty claim is warranted under the same terms and conditions as the originally delivered Product for the remainder of the warranty period.
- h. Any defects on Products or Services shall be notified to the Contractor in writing immediately following their discovery, otherwise the warranty claim shall be lost. The Contractor is entitled to request to have the Product in question sent to it by the Principal. A non compliance of the Principal to this demand releases the Contractor from the performance of the warranty.
- i. All warranty claims shall be subject to audit and approval of the Contractor. The Contractor shall notify the Principal of Contractor's disposition of each warranty claim in writing within a reasonable time period.
- j. Approved warranty claims shall be performed and completed within an appropriate time period.
- k. If the Principal has provided notice to the Contractor of any defect, and no defect is found for which the Contractor is liable, the Principal shall compensate the Contractor for all costs incurred from responding to such notice.
- l. The Principal shall at its own cost arrange for any dismantling and reassembly of Equipment other than the Product, to the extent that this is necessary to remedy the defect.

- m. The Principal shall at its own cost ensure that the services of the Contractor necessary to remedy the defects (improvement) may be performed and that the required Equipment is accessible upon request.
- n. Any additional costs incurred with respect to Products delivered, repaired or replaced in connection with the warranty, including travel expenses, the Principal's costs for installation and removal of the defective Products shall be borne by the Principal.
- o. Title in the defective Products which have been replaced shall be transferred to the Contractor.
- p. The warranty as defined herein is given by the Contractor and accepted by the Principal in place of all other express, implied or statutory terms, representations, warranties and conditions (including in place of any warranty or condition of merchantable quality or fitness for a particular purpose), in connection with any defect in the Products and Services.
- q. The only remedy for breach of representation, warranty or condition is as set out in this Section 15. The Principal shall not have further remedy, warranty claims or any additional rights and any such remedy, rights and claims are hereby expressly excluded, including damage claims for non-fulfilment or faulty performance by the Contractor, except in the case of gross negligence or wrongful intent of the Contractor.

16. DELAYS FOR WHICH THE CONTRACTOR SHALL NOT BE HELD LIABLE

- a. Unless expressly otherwise stipulated in the Agreement, delivery dates and/or dates for the fulfilment of the Services specified by the Contractor are estimates only.
- b. The Contractor shall not be liable for delayed or interrupted Product deliveries or provision of the Services or otherwise delayed performance or partial or total non-fulfilment of the Agreement to the extent such delay or partial or total non-fulfilment is due to reasons which shall not be ascribed to the Contractor, including:
 - Force majeure (pursuant to Section 21);
 - Actions or omissions of the Principal, for which the Principal is liable and which has an effect on the Product deliveries or provision of the Services by the Contractor.
- c. The Contractor shall also notify the Principal within appropriate time periods of any circumstances which will lead to a delay or interruption of the Product deliveries and/or of the performance of the Services. The Contractor shall notify the Principal of the estimated consequences on the time schedule and deadlines.
- d. If the aforementioned delays are not exclusively ascribed to the Contractor, the Contractor shall be entitled to an adequate adjustment of prices. Any further additional costs shall be borne by the Principal.
- e. The Contractor shall be entitled to terminate the Agreement if services to be performed or parts to be provided by the Principal have not been delivered or performed within an adequate remedial period.

- f. In the event that any delays or interruption of the performance of the Agreement for which the Contractor is not liable shall not be remedied within 120 days, each of the parties shall be entitled to terminate the Agreement, provided that the Principal shall only be entitled to terminate the Agreement if it is not responsible in whole or in part for the delay. In such case, any Products already delivered and Services already performed by the Contractor shall be remunerated and all expenses incurred in connection hereto shall be reimbursed to the Contractor by the Principal.
- g. Except as specified in this Section, the Principal shall not be entitled to any compensation for the Contractor's delay.

17. UNLAWFULNESS OF SET-OFF

Any set-off of liabilities of the Principal against accounts receivable of the Contractor resulting from the Agreement or other agreements as well as the withholding of services by the Principal in connection with counter-claims against the Contractor shall be prohibited.

18. RETENTION OF TITLE

Title to and ownership of any Products delivered by the Contractor shall remain with, and is reserved by, the Contractor until all liabilities resulting from the business relationship between the Principal and the Contractor have been settled by the Principal. Irrespective of Section 6 and the stipulations in the Agreement regarding passing of risk, this provision shall apply.

19. INSURANCE

The Contractor has entered into a factory insurance and product liability insurance covering the usual risks and undertakes to maintain this insurance coverage throughout the performance of the Agreement. In excess thereof, the Contractor shall only enter into or maintain any further insurance as agreed in the Agreement.

20. LIMITATION OF LIABILITY

- a. The liability of the Contractor under each Agreement shall be limited to the fees for Products delivered and Services performed under such Agreement. Services outside of the Agreement provided in connection with the performance of the Agreement shall not give rise to any liability of the Contractor.
- b. The Contractor shall not be liable for damages arising in whole or in part from defects in the Equipment, and which arose or showed effects in connection with the provision of Services by the Contractor or with the use of the delivered Products.
- c. The Contractor shall not be liable for parts or services provided by the Principal or any third party. The Contractor shall not be required to examine such parts or services.
- d. The Contractor shall not be liable for the personnel provided by the Principal, notwithstanding the use of the Principal's personnel together with the Contractor's personnel.
- e. In no event shall the Contractor be liable for any indirect, special, incidental, consequential, exemplary or punitive damages, or for any loss of profits, loss of savings or revenue, loss of use, loss of production, loss of business, loss of goodwill, restriction of the use of the Equipment or parts of the Equipment or other installations of the Principal, costs of eventual replacements or other substitutions, costs of energy supply or for any claims made by any third party, in each case

regardless of whether such damages or losses are based on tort, extra-contractual liability, warranty, contract or any other legal theory, and even if advised of the possibility of such damages.

- f. Without limiting the generality of the foregoing, the Contractor's liability to the Customer will not exceed the contractual consideration for the applicable Agreement (including in the case of multiple damage events).

21. FORCE MAJEURE

- a. Either party shall be entitled to suspend performance of its obligations under the Agreement, if impeded by force majeure. "Force majeure" means an event preventing a party from performing its obligations which is beyond its reasonable control, including interruption of operations, strike, official order, war, military mobilization, requisition, riots and insurrection, the cessation of import or export possibilities especially embargo, natural disaster, fire, restrictions in the use of power as well as defects or delays in deliveries or work by sub-contractors caused by any such circumstances referred to in this Section.
- b. An event of force majeure shall give a right to suspension pursuant to Section 21.1 only if it could not be foreseen at the time of entering into the Agreement.
- c. Regardless of what might otherwise result from these General Terms and Conditions, either party shall be entitled to terminate the Agreement by notice in writing to the other party, if performance of the Agreement is suspended for reasons mentioned under this Section for more than 120 days.

22. INTELLECTUAL PROPERTY RIGHTS

- a. The Contractor warrants that to its knowledge the Services and Products as provided by the Contractor shall not infringe the intellectual property rights of third parties.
- b. In the event of any claims by a third party alleging infringement of its intellectual property rights by the Services or Products, the Contractor shall defend such claims at its own costs provided the Principal immediately informs the Contractor of such claims and provided further that the Principal provides reasonable assistance to the Contractor and provides the Contractor with the required powers of attorney and certificates authorizing the Contractor to defend such claims on behalf of the Principal, and permits the Contractor to repair or replace the Product, a component or other item, or make such other changes, as the Principal deems necessary to prevent or limit infringement.
- c. The obligations in Section 22(2) shall not apply to the extent an infringement is caused by:
 - the combination of the Product with other equipment or items not permitted by the Contractor, or not reasonably intended or anticipated to be used in combination with the Product;
 - modification of the Product by the Principal or any third party;
 - the Principal's failure to use a repaired or replaced Product, component or other item supplied by the Contractor; or
 - the Principal's failure to follow the Contractor's standard instructions regarding use of the Product.

23. CONFIDENTIAL INFORMATION

- a. Confidential Information provided by the Contractor and the Principal to each other shall be clearly labelled, stamped, provided with a sign or otherwise evidenced in writing as confidential.
- b. In addition to the provisions of 23.1, the Contractor and the Principal agree to treat all information received directly or indirectly from the other party as confidential and to only use such Confidential Information in connection with the performance of the Agreement. The parties agree not to disclose or provide access to such information to third parties in any form. For the purposes of these General Terms and Conditions, third parties shall be deemed to include any person or entity other than corporate affiliates of the Principal or Contractor.
- c. Confidential Information pursuant to 23.2 shall include in particular:
 - know-how and results of internal processes, organisations etc. of the Principal or Contractor achieved or used in connection with the performance of the Agreement,
 - description of the performance of the Agreement,
 - timetables, goals and ideas for the performance of the Agreement,
 - any other not publicly available information which is obtained by either party on the other party in connection with the performance of the Agreement.
- d. The provisions regarding the Confidential Information shall apply to all employees and agents of the parties regardless of the type and legal form of employment or cooperation. The parties agree to ensure that these persons shall be subject to appropriate confidentiality provisions to the extent not already the case.
- e. The confidentiality provisions shall not apply to the extent that it can be proven that the relevant information is publicly known or has become publicly known without the fault of the party subject to the confidentiality provisions, has been or will be legally obtained from a third party, is already known and available to the receiving party at the time the information is provided.

24. COMPLIANCE

- a. The Principal warrants that it will comply with all applicable laws, regulations and other legal requirements regarding the export, import, sale, distribution, marketing and service of the Products and/or Services, including with the anticorruption laws and anti-bribery laws of any country having jurisdiction over the Principal or the transaction involving the Products or the Services.
- b. The Principal shall not, whether passively or actively, directly or indirectly commit an act which in particular could lead to sanctions for corruption, undue advantage, fraud, infringement of competitions law or insolvency. In case of infringement, the Contractor shall have the right to immediately terminate the Agreement as well as all other agreements, orders or other business relationships with the Principal and to require compensation for the damages suffered; right to other remedy is not waived.
- c. The Principal shall not, directly or indirectly: (i) solicit or hire; or
(ii) accept any services related to the Products or Services, or any similar products and services, from any current or former employee or sub-contractor of the Contractor who was involved in the

performance, supply or management of any of the Products or Services during the two (2) year period preceding such solicitation or offer of employment, without the prior written consent of the Contractor. The Principal will be liable to the Contractor for \$100,000 per occurrence for any breach of this Section 24.3, to be paid to the Contractor within one month after occurrence. The parties acknowledge and agree that such amounts are liquidated damages and represent a reasonable pre-estimate of the costs and damages that the Contractor will suffer in the circumstances in which such damages arise.

25. WRITTEN FORM

Contractual communications, in particular regarding the performance of contractual services and/or notification of defects, damage claims, and notifications in accordance with contractual or legal requirements shall be made in writing.

26. APPLICABLE LAW

Except to the extent otherwise agreed in the Agreement, the contractual relationship between the parties shall be exclusively governed by the laws of Province of Ontario, excluding any laws that implement the United Nations Convention on Contracts for the International Sale of Goods or the Uniform Commercial Code, and excluding any rules of private international law or the conflict of laws that would lead to the application of any other laws.

27. ARBITRAL JURISDICTION

All disputes and claims arising in connection with the Agreement or these General Terms and Conditions will be referred to and finally resolved by binding arbitration under the National Arbitration Rules of the ADR Institute of Canada, Inc., (the "Institute") by one (1) arbitrator appointed in accordance with those rules. The arbitration will be private and confidential, and will be administered by the Institute. The place of arbitration shall be in the City of Toronto, Ontario. If the Institute is not operative, the arbitration will proceed ad hoc and be governed by the Arbitration Act, 1991 (Ontario) or successor laws. The language used in the arbitration will be the English language. An arbitration award is final and binding and judgment thereon may be entered in any court having jurisdiction for its enforcement. Notwithstanding the foregoing in this Section 27, a party may seek preliminary or temporary injunctive relief from the courts of the Province of Ontario sitting in Toronto, Ontario to avoid irreparable harm or to preserve the status quo, and each party hereby irrevocably submits and attorns to the original and exclusive jurisdiction of those courts in respect of all of those matters or any other matter that is not properly subject to arbitration pursuant to this Section 27. Each party irrevocably waives all rights to trial by jury.

28. COURT OF JURISDICTION

If the Agreement excludes the application of Section 27, or for any other reason Section 27 cannot be applied, the exclusive jurisdictional venue shall be the courts of the Province of Ontario sitting in Toronto, Ontario.

29. LANGUAGE

The parties hereto have agreed that these General Terms and Conditions as well as all related documents be drafted in the English language only. Les parties aux présentes ont convenu que ces modalités et conditions ainsi que tous les documents s'y rattachant soient rédigés en langue anglaise seulement.