Appendix "A": Construction work

Supplemental terms and conditions
Annex to purchase order

1. **Definitions and interpretation.** In this Appendix, the following words shall have the following meanings:

   "Agreement" means this purchase order and the appendix hereto, as same may be amended or supplemented from time to time; and the expressions "hereof", "herein", "hereto", "hereunder", "hereby" and similar expressions refer to this Agreement and not any particular section or other portion of this Agreement.

   "Business Day" means any day of the year other than a Saturday, Sunday or any days on which financial institutions are generally not opened for business in Ottawa (Ontario).

   "Parties" means the Company, the Vendor, and any other person who may become a party to this Agreement, and includes their respective successors and permitted assigns, and "Party" means any one of them.

   "Company" means the Company identified on the purchase order.

   "Vendor" means the vendor identified on the purchase order.

   "Work" means, as the case may be, standards, specifications, dimensions or other characteristics of "Deliverables" as defined in the purchase order.

   Governing Laws: The purchase order shall be interpreted and executed in accordance with applicable laws of the province of Ontario.

   Gender: Unless otherwise required by context, words importing the singular include the plural and vice versa; words importing gender include all genders.

   Headings: The headings used in the Appendix have no interpretative value. Their sole purpose is for convenience of reference.

   Precedence: The purchase order reflects the entire understanding between the Parties. It supersedes all other written or verbal promises or covenants made prior to its execution date, in addition to any appendixes hereto attached and all amendments agreed upon by the Parties.

2. **Permits.** The Vendor certifies that it possesses all operating permits required by the public authorities in connection with the performance of Work and that such permits will be maintained in effect while performing its obligations under this Agreement.

3. **Payment.** Upon the total performance of the Work and acceptance thereof by the Company, the Company agrees to pay the Vendor the amounts due within 30 Business Days of receipt of invoice, unless otherwise agreed, subject to any holdback monies, shall become due the Business Day after the expiration of the period for retaining such holdbacks stipulated in the appropriate legislation, provided the Vendor shall submit a statutory declaration to the Company indicating that all indebtedness incurred by the Vendor in the total performance of the Work for which the Company might be held responsible has been discharged, except holdback monies properly retained. All payments requested of the Company shall be inclusive of applicable sales taxes and customs duties, if any.

4. **a) Workers' Compensation.** Prior to commencing the Work and before receiving payment on total performance of the Work, the Vendor shall obtain and maintain in effect, at its cost, for the full duration of the Agreement, the necessary insurance coverage protection against work accidents, covering all the employees of the Vendor bound in the execution of the Agreement in conformity with the statutory regulations of the province or the territory having jurisdiction over such employees, and provide evidence that its account is in good standing with the Workers' Compensation Board in the province or the territory where the Work is performed.

   b) If a part of the execution of the present agreement is given to a sub-contractor, the Vendor shall ensure that each sub-contractor complies with all the insurance provisions and worker's compensation of the Agreement.

5. **Insurance.** Without restricting the indemnification set forth in the purchase order, the Vendor shall provide and maintain an endorsement to its existing

Comprehensive General Liability Insurance Policy in an amount acceptable to the Company per occurrence for bodily injury, death and damage to property, including loss of use thereof, it being understood that it is an insurance contracted to cover the risks incurred during the delivery of Work on the property of the Company, such amount to be two million dollars ($2,000,000) unless the Company specifies a lesser or greater amount.

The Vendor agrees to provide and maintain property insurance acceptable to the Company, insuring the Work for the amount of the purchase order price herein, in the joint names of the Vendor and the Company and others with an insurable interest in the Work, which insurance shall preclude subrogation claims by the insurer against anyone insured thereunder. The Vendor shall provide a copy of its insurance certificate, naming the Company as an additional insured.

In the event a performance bond is required by the Company from the Vendor until the fulfillment of the Agreement and covering the warranty requirements, such bond shall be in a form approved by the Company.

6. **Security.** The Vendor, Vendor's personnel and all of whom for which the Vendor is responsible at law shall abide by the Company's security regulations, in force from time to time. The Vendor will ensure that all keys, access badges and other items, entrusted to the Vendor, to enable the Vendor and the Vendor's personnel to perform its duties, are protected from copying or loss and are returned to the appropriate security station at the end of the contract. The Vendor shall be liable to the Company for all costs resulting form the Vendor's failure to comply with this term.

   The Vendor shall submit to the Company the names and addresses of personnel who will be employed on the Company's premises, forty-eight hours prior to their commencing work. Only the Vendor person appearing on the list provided in accordance with this term will be admitted to the Company's buildings. The Company reserves the right to reject any Vendor personnel and to require the Vendor to remove any employee of the Vendor, its agents or subcontractors performing at premises, and have the Vendor replace such individual with an employee acceptable to the Company.

7. **Liability.** The Vendor agrees and acknowledges that the Company is at no time liable for any damages caused to persons due to the performance of Work by the Vendor. The Vendor exonerates and guarantees, in advance, the Company against any claim and execution for damages, except if the Company or those for whom it is legally liable have been grossly negligent.

8. **Delays.** The Vendor covenants to fully complete the Work in accordance with the construction schedule. The Vendor shall not be deemed to be in default of the performance of the Work hereunder if such performance is delayed, hindered or prevented as a consequence of the occurrence of an act of force majeure. An act of force majeure means any cause beyond the control of the Vendor, which it could not reasonably have foreseen and against which it could not have protected itself. Such delay in the performance of the Work shall extend the total performance due date by the number of Business Days such delay is incurred, provided the Vendor notifies the Company within 24 hours of the occurrence of such delay. In no event shall any such delay exceed three (3) months from the date of the event causing the delay. In such event, either Party may terminate this agreement subject to each Party carrying out its obligations hereunder to the effective state of termination.

9. **Equipment.** All equipment used under this Agreement shall be provided and maintained in a safe and serviceable condition by the Vendor. The Company shall not be liable, in any event, for loss or damage to the Vendor's equipment or materials.

10. **Warranty.** The Vendor hereby agrees and covenants to repair and make good any damages or fault in the Work that may appear within one year after its completion and is acceptance by the Company, as the result of imperfect or defective work done or material furnished by the Vendor, but nothing contained herein shall be construed as in any way restricting or limiting the liability of the Vendor under the laws of the province in which the Work is being done. The Vendor indemnifies and saves harmless the Company against loss or damage arising form any defects in material or workmanship furnished by the Vendor under this Agreement for such period as the Company is liable under law, or under the terms of this Agreement.

    The decision of the Company as to the nature, extent and cause of such imperfection or defects and the necessity for remedying the same shall be final. Should the Vendor fail to comply with the directions of the Company, the latter may, after giving the Vendor twelve (12) hours written notice, perform the necessary work and charge the cost of such work to the Vendor.

    If the Company notifies the Vendor in writing of imperfection or defects prior to the termination of the warranty period, the Vendor shall make good the imperfection or defects as specified above, notwithstanding that the Work of making good may commence after or extend beyond the end of the twelve-month period.

11. **Protection of Work.** The Vendor shall protect the work site and property adjacent to the work site from damage and shall be responsible for any damage caused as the result of the Vendor's performance under this Agreement, except where such damage is the result of errors or omissions by the Company.

12. **Confidentiality.** The Vendor acknowledges that the Company's business is subject to and must comply with certain privacy legislation, and accordingly the Company must maintain confidential information pertaining to its business. The Vendor shall use reasonable efforts to ensure that its authorized agents, employees, contractors and consultants or other persons for whom the Vendor is responsible at law ("Third Party") and who may have access to confidential information or may be exposed to such confidential information, shall not disclose such confidential information.

    For the purposes of this clause, confidential information shall mean any commercial, technical, scientific, financial, legal, personal or other information relating to the Company's business activities, strategies or opportunities, intellectual property, other Vendors, customers, finances or employees, and is designated as confidential, and is disclosed in circumstances of confidence, and may be understood by the Third Party exposed to such confidential information, exercising reasonable business judgment, to be confidential, but excludes;

    (a) information previously known by the Third Party;

    (b) information known by the public or available to the public or that becomes known to the public or becomes available to the public;

    (c) information produced independently by the Third Party.

13. **Assignment.** The Vendor agrees and acknowledges that the Agreement is inalienable. None of the rights, duties or obligations of the Vendor hereunder may be assigned or transferred by the Vendor hereto (except if the assignee is a company or a person related to the assignor), without the prior written authorization of the Company, which authorization shall not be withheld unreasonably. Any assignment or any other forms of transfer of rights, duties and commitments pursuant hereto contravening this section is null and non-opposable to the Company.

14. **Independent contractor.** The Vendor shall provide the Work as an independent contractor, not as a partner, agent, servant or employee of the Company. The Vendor has no power to bind the Company or its affiliated companies nor shall the Vendor represent to anyone that the Vendor has such power.

15. **Termination.** Should the Vendor voluntarily institute proceedings pursuant to any bankruptcy or insolvency act, or if any proceedings are instituted against the Vendor pursuant to such act, or should a trustee, a receiver or any other person having similar powers is nominated in order to take charge of all or a part of the assets or business of the Vendor, or if the Vendor institutes proceedings pursuant to the winding-up or liquidation, voluntary or forced, of the Vendor, or if the Vendor should at any time refuse or neglect to supply a sufficient number of skilled workmen or sufficient materials of the proper quality, or fail in any respect to prosecute the Work with promptness or diligence, or fail in the performance of any agreement or obligations herein contained, the Company may terminate this Agreement upon giving notice in writing.

16. **Completion of Work.** Should the agreement terminate as per section 15 of this agreement, the Company may enter upon the site and take possession of and use, without cost to the Company, for the purpose of completing the work under this Agreement, and provide all labour, materials, tools and appliances thereon, and employ any other person or persons to finish the Work therefore. In case of such termination of Agreement, the Vendor shall not be entitled to receive any further payment under this Agreement until the said Work shall be wholly finished, at which time, if the unpaid balance of the amount paid under this Agreement shall exceed the expenses incurred by the Company in finishing the Work, such expenses shall be paid by the Company to the Vendor, but, if such balance is unpaid, the Vendor shall pay the difference to the Company.

17. **Appendix.** This schedule to the purchase order, initialled by the Parties for identification purposes, constitutes an integral part thereof.

18. **Interpretation.** In the event that the terms of this Appendix are inconsistent with the terms of the purchase order, the terms of this Appendix shall prevail solely to the extent of the inconsistency.

19. **Scope of application.** This Agreement shall be binding upon the Parties as well as their legal representatives.

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