



GENERAL CONDITIONS

1. ENTIRE AGREEMENT: These General Conditions ("GCs"), together with any Purchase Order or Contract Order and any document or attachment referred to on same (collectively the "Order"), shall, when accepted by the supplier named on the Order ("Contractor"), constitute the entire contract (the "Contract") between University of Victoria ("UVic") and Contractor for the supply of the goods and/or performance of the services specified on the Order ("Goods" and "Services", respectively) to UVic at the destination specified on the Order (the "Delivery Point"). The Contract supersedes any and all prior agreements, letters of intent, promises, warranties, terms, conditions, representations, communications, negotiations, and understandings (whether oral or written, express or implied) with respect to its subject matter. Where these General Conditions are used as part of a Request for Tenders or Request for Proposals, the Contract shall be formed in accordance with the applicable Tender or RFP documents and any reference herein to the Order shall be interpreted as a reference to the Contract.

2. ACCEPTANCE: The delivery of any of the Goods or the commencement of the performance of any of the Services is deemed to constitute Contractor's acceptance of the entire Contract. No additional term, including any term attached to Contractor's invoice, nor any change to the Contract, including to the quantity, class or type of Goods or to the Services, is binding unless in writing and signed by an authorized representative of each party (in the case of UVic, the Purchasing Contact).

3. RISK AND PASSAGE OF TITLE: All Goods shall remain under the care, custody and control, and at the risk, of Contractor until title passes to UVic. Title shall pass to UVic free and clear of any liens, charges and encumbrances when the Goods are delivered to UVic at the Delivery Point, unless the Goods are rejected by UVic in accordance with the Contract.

4. DELIVERY AND SHIPPING INSTRUCTIONS: Contractor shall ensure that (i) Goods supplied are suitably packaged for shipment, that each package, bundle and/or shipment, is clearly identified with UVic's Order number, description and quantity of contents, Contractor's name, and, when applicable, UVic Catalogue Identification Number; (ii) all shipments of the Goods are made in accordance with all relevant laws, including those relating to dangerous goods and Workplace Hazardous Material Information Systems, and, without limitation, that all shipments are made with all labels and accompanying documentation required by law, including where applicable a duly completed Material Safety Data Sheet; and (iii) all packing materials used in connection with the Goods are non-toxic and otherwise safe to use and handle, are constructed of the most "environmentally friendly" materials reasonably available. A packing slip that includes specifics of the Goods shipped, UVic's Order number or Release number, if applicable, is to be provided. Customs invoices, certified in accordance with Canadian Customs regulations, or a copy of Contractor's invoice, must accompany all shipments made from outside Canada.

5. DELAY: Delivery of Goods and performance of Services shall be made in accordance with the time frames specified on the Order, provided that neither party shall be liable for any delays caused by events outside of its reasonable control. A party anticipating a delay in the supply of the Goods or performance of the Services shall notify the other party as soon as possible with full particulars. Both parties shall make every commercially reasonable effort to mitigate or overcome the effects of any delay. Upon receipt of such a notice from Contractor, UVic may, at its option, terminate this Contract without any further obligation, save for payments for conforming Goods or Services delivered prior to such termination. In addition, upon such termination, Contractor shall immediately repay to UVic all sums of money, including deposits, paid by UVic net of the purchase price of conforming Goods or Services delivered prior to termination.

6. INVOICING: Invoices shall be sent to UVic Accounts Payable, either via e-mail to: payments@uvic.ca or in hard copy via Canada Post to: The University of Victoria, Accounts Payable, PO Box 3040, STN CSC, Victoria, BC, V8W 3N7, and include: invoice number, Order number, Order release number (if applicable), Order line item, quantity, unit and total price, number of packages or boxes, method and date of shipment, and applicable taxes. If Contractor is required to collect the GST from UVic, Contractor shall provide Contractor's GST registration number on all invoices as required under the *Excise Tax Act* (Canada). If the Contractor is a non-resident of Canada and is not registered for GST and provides evidence, satisfactory to the Minister of National Revenue, to establish that the GST has been paid on importation of the Goods supplied under the Contract, UVic will refund the amount of tax paid by the Contractor.

7. PAYMENT: Subject to any qualifications or requirements specified in the Contract including retention of holdbacks, UVic will pay Contractor the amount of each invoice prepared and submitted in accordance with the Contract 30 days after receipt of the invoice, provided the Goods are accepted by UVic and/or the Services are rendered to the full satisfaction of UVic. Any payments made before the delivery and inspection of the Goods or completion of performance of the Services shall not constitute acceptance by UVic of the Goods and/or the Services invoiced.

8. QUALITY AND INSPECTION: All Goods supplied and Services performed shall meet the requirements of the Contract. Contractor shall cooperate fully to enable UVic to conduct inspections or testing of the Goods as required. UVic, by notice to Contractor, may reject any Goods not conforming to the requirements of the Contract. Rejected Goods that have been delivered to UVic will be held by UVic for disposition by Contractor at Contractor's sole risk and expense. Such Goods must be removed and replaced forthwith by Contractor with Goods that conform to the requirements of the Contract, unless UVic approves on-site repair or modification.

9. REPRESENTATIONS, WARRANTIES AND GUARANTEES: Contractor represents, warrants and covenants (and acknowledges that UVic is relying on such representations, warranties and covenants in entering into this Contract), that: (i) Contractor has the capacity and is authorized to enter into this Contract and perform its obligations under it; (ii) Contractor has good title to the Goods, the right to sell the Goods, and all required permits and approvals in respect of the import, sale and shipping of the Goods; (iii) the Goods are free from any lien or encumbrance in favour of any third party not declared in writing to UVic; (iv) the Goods will conform to all specifications, drawings, samples or descriptions, and are and will be, free from all defects arising from faulty materials, workmanship or design which for a period of 12 months from the date the Goods are delivered or put into use, whichever is later, or such other period as may be specified on the Order; (v) the Goods do not infringe any intellectual property rights of third parties; (vi) it has experience in providing the Services and will provide the Services in a safe, efficient and professional manner in accordance with the terms of this Contract; (vii) it has and will maintain all applicable licenses and permits to perform the Services; and (viii) it shall provide fully trained and qualified individuals to perform the Services. Contractor shall, at UVic's request and without limiting any other rights and remedies of UVic, at its own expense promptly repair or replace non-compliant Goods and correct or cause to be corrected, by repair, replacement or re-performance, any Services that fail to comply with the requirements of the Contract.

10. SUBCONTRACT/ASSIGNMENT: Contractor shall not subcontract the supply of any part of the Goods or Services or assign any part of the Contract without the prior written consent of UVic.

11. TERMINATION: UVic may terminate this Contract, in whole or in part, at any time for any reason by delivering written notice of termination to Contractor at the email address stated on the Order, in which case Contractor shall immediately cease delivery of all Goods and/or performance of all Services under the Contract except that expressly authorized by UVic in writing. Unless termination is for cause, Contractor shall be entitled to compensation for the actual, reasonable out-of-pocket expenses incurred as a direct result of the termination. Contractor, or its receiver or liquidator, shall remove from the site any materials specified for removal in a written notice from UVic.

12. LIMITS ON LIABILITY: Neither party is liable to the other for any special, indirect, incidental, consequential, punitive or exemplary damages of any nature whatsoever, or for any loss of revenues or profits.

13. INDEMNITY: Contractor shall indemnify and save harmless UVic, its governors, officers, employees and agents (collectively the "Indemnitee") from any losses, claims, damages, actions, causes of action, costs and expenses ("Claims") that the Indemnitee, may sustain, incur, suffer or be put to at any



GENERAL CONDITIONS

time, either before or after this Contract ends, including any claim of bodily injury (including death), damage to property or infringement of third party intellectual property rights, which are based upon, arise out of or occur, directly or indirectly, by reason of, any act or omission by you or by any of Contractor, its agents, employees, officers, directors, or subcontractors in providing the Services or in connection with this Contractor. The foregoing indemnity shall not apply to the extent that Claims are caused or contributed to by the independent acts or omissions of the Indemnitee.

14. INSURANCE: Contractor shall, at its own expense, obtain and maintain during the term of this Agreement, in a form and with insurance companies satisfactory to UVic, policies of: (i) Commercial General Liability Insurance with a limit of not less than \$2,000,000 inclusive per occurrence for bodily injury (including death), personal injury and damage to property including loss of use thereof. Such insurance shall include coverage for broad form property damage, contractual liability, products and completed operations. UVic shall be named as an additional insured on the policy, but only with respect to the operations of the Contractor in the performance of this Agreement; (ii) Automobile Liability Insurance for a limit of not less than \$2,000,000 for all owned, non-owned, leased or rented licensed vehicles used in the performance of the Agreement; and (iii) if required by UVic, Professional Liability Insurance in an amount not less than \$1,000,000 insuring the Contractor's liability resulting from errors and omission in the performance of professional services under this Contract. If the policy is written on a claims-made basis, coverage must be in place for a minimum of 12 months after the completion or termination of the Contract.

The Contractor shall obtain, maintain and pay for any additional insurance which the Contractor is required by law to carry, or which the Contractor considers necessary to cover risks not otherwise covered by insurance specified in this Schedule. The Contractor shall provide to UVic, a Certificate(s) of Insurance evidencing the required insurances are in force and effect and that all coverage shall provide for 30 days prior written notice to be given to UVic in the event of cancellation or material changes. With the prior consent of UVic, should any portion of the Services performed be sub-contracted, the Contractor will ensure that each sub-contractor also maintains during the course of this Agreement insurance coverage which are in like form and with limits as those to be carried by the Contractor.

15. NOT USED

16. NON-APPLICATION OF U.N. CONVENTION: The United Nations Convention on Contracts for the International Sale of Goods set out in the schedule to the *International Sale of Goods Act* (British Columbia) does not apply to the Contract.

17. SAFETY AND WORKERS COMPENSATION: Contractor shall comply with all applicable fire, safety and health laws and regulations and with all applicable safety regulations issued by UVic of which it is advised, and shall ensure that its personnel are properly trained in applicable safety procedures. Contractor shall be solely responsible for ensuring the safety and health of its agents, employees and subcontractors and for ensuring that its activities do not compromise the safety of UVic's operations. Within 7 days of issuance of the Order (if Services are included) and, in any event, before commencing any Services on any UVic site, and thereafter at any time upon request, Contractor shall deliver to UVic proof satisfactory to UVic of workers compensation coverage for Contractor's personnel.

18. ENVIRONMENT: Contractor shall comply with all applicable environmental legislation and regulations and, when delivering any Goods and/or performing any Services on a UVic site, shall follow all applicable policies, practices and procedures established by UVic with respect to the environment of which it is advised, be observant for, and immediately notify UVic of, any environmental problems that develop in connection with performance of the Contract, and take all reasonable and necessary measures to avoid causing negative impacts to the environment. Where negative impacts occur, Contractor must immediately advise UVic's Representative or the Purchasing Contact and shall undertake all reasonable and necessary measures to minimize the effect of such negative impacts.

19. NO LIENS: Contractor must keep all of UVic's property and premises free from liens and similar claims and encumbrances. If Contractor fails to release and discharge any claim of lien of others against UVic's property or premises within 5 working days of receiving notice from UVic, UVic may discharge or release the claim of lien or otherwise deal with the lien claimant, and Contractor shall pay to UVic any and all costs and expenses (including legal fees) that it incurs in so doing.

20. INDEPENDENT CONTRACTOR: Contractor is an independent contractor and not UVic's employee, agent, or partner. Without UVic's prior written consent, Contractor will not carry on any activity that could be construed as being on behalf of UVic.

21. LAW: The Contract shall be governed by the laws of the Province of British Columbia and the laws of Canada applicable therein. Contractors are advised that, without limitation, the *Freedom of Information and Protection of Privacy Act* (British Columbia) applies to UVic.

22. MISCELLANEOUS: The division of this Contract into sections and the insertions of headings are for convenience and does not affect the interpretation of this Contract. In this Contract "includes and "Including"" are not intended to be limiting. Time is of the essence in this Contract. UVic shall be entitled at all times to set off at law and/or in equity any amount owing from Contractor to UVic against any amount due or owing to Supplier with respect to this Contract. All rights, obligations and remedies accrued prior to completion or termination of this Contract or which are by their nature continuing shall survive the completion or termination of this Contract.

SPECIAL CONDITIONS

23. CSA CERTIFICATION: All quoted electrical equipment must have a certificate of compliance to all the applicable national standards and must bear evidence of either a mark or a label of a certification agency accredited by the Standards Council of Canada (SCC) or an approval label issued by the British Columbia Safety Authority under section 10 of the Safety Standards Act. A complete listing of accredited certification bodies is available at the Standards Council of Canada website (www.scc.ca). A copy of the certificate(s) outlining all national standards, to which the device has been certified, must be provided upon request.