TERMS AND CONDITIONS OF PURCHASE ORDER

Definitions:

For the purpose of this Purchase Order, each of these expressions has the following meanings:

1. “Purchase Order” is the form of agreement issued by the University and accepted by the Supplier in response to the Request for Bid or Request for Proposal, as may be applicable, and includes all of the documents outlining the respective obligations of the Supplier and the University, in relation to the Purchased Goods/Services, such as the Supplier's Bid or Proposal, all associated drawings, specifications, descriptions and the documentation listed on the face of the Purchase Order, if any;

2. “Purchased Goods/Services” means the good and/or services which are the subject matter of this Purchase Order, as more specifically described in this Purchase Order.

3. “Supplier” means the corporation, sole proprietorship, partnership or joint venture listed on the face of this Purchase Order, as the supplier of the Purchased Goods/Services;

4. “University” means The Governors of the University of Alberta.

Terms and Conditions:

1. Agreement: This Purchase Order shall, when accepted by the Supplier, constitute the agreement between the Supplier and the University and no alteration, amendment or supplementary clauses shall be binding on the University without the University's prior written approval. Either the Supplier's written acceptance of this Purchase Order or the shipment of any article or the commencement of performance hereunder shall constitute unqualified acceptance of this Purchase Order and no contrary or additional terms or conditions shall apply.

2. Supplier Compliance: In accepting this Purchase Order, the Supplier undertakes and agrees to provide the Purchased Goods/Services in strict compliance with this Purchase Order.

3. All Inclusive Purchase Price: The purchase price specified in the Purchase Order is the complete cost to the University and includes all fees, royalties, licenses, taxes, levies and charges of every description (including charges for crating, boxing and cartage) for delivery (and installation if applicable) of the Purchased Goods/Services at the premises designated by the university.

4. Right to Audit

4.1 The Supplier shall maintain, at its cost, complete and accurate records of the Goods and Services provided to the University under this Purchase Order and all charges made to the University, including financial records, timesheets, out of pocket expenses (if applicable) and related records, for two years following the acceptance of the Goods or performance of the Services (whichever is applicable).

4.2 The University and any person designated by the University shall have access to the Supplier's records relating to the Goods and Services at all reasonable times for the purpose of auditing and verifying the cost of the Goods and the performance of Services. The Supplier shall cooperate with the University to undertake an inspection and audit of the records and shall, at its own expense, make such records available for inspection by the University. Upon request, the
Supplier shall provide to the university copies of any sub-contracts entered into by the Supplier in relating to the Goods and Services.

5. **Shipment**

5.1 All packages, packing slips, invoices, correspondence, customs documentation and freight bills of lading relating to the Purchased Goods/Services shall have the University's complete Purchase Order number prominently displayed and packing slips shall accompany all shipments. Invoices will not be processed by the University for payment until all items invoiced are received and accepted by the University.

5.2 For all Purchased Goods/Services subject to “Workplace Hazardous Material Information System” legislation, “Material Safety Data Sheets” shall accompany the items and shipping documents. The Material Safety Data Sheets shall be included on any items being shipped which are regulated substances and which require precautions by employees prior to handling and usage in the workplace. All items that are regulated under the Transportation of Dangerous Goods Act, 49 CFR U.S. or the International Air Transport Association shall be accompanied by “dangerous goods” shipping documents and appropriate labelling on the package(s).

5.3 All shipments entering into Canada must be cleared through Canada Customs prior to their delivery to the University, and are subject to payment of duties and taxes (GST). For customs purposes, a Canada Customs invoice or commercial invoice is to be attached to the shipment. The information provided on the invoice must include complete and accurate details about the items being imported in order to comply with Canada Customs and Revenue Agency legislation. In addition, in order for the University to qualify for the lower rate of duty, a completed NAFTA Certificate of Origin should accompany the shipment.

6. **Shipment in Transit:** Unless otherwise agreed, all shipments are to be made prepaid. It is the Supplier’s responsibility to arrange full and complete protection and insurance of shipment while in transit to the University.

7. **CSA Approval:** All electrical material, equipment and assemblies constituting part of the Purchased Goods/Services shall be fully CSA approved and shall bear appropriate approval stickers in accordance with the requirement of the Canadian Electric Code and the applicable legislation and regulations.

8. **Pressure Equipment**

8.1 Subject to Alberta’s Safety Codes Act and adopted Pressure Equipment Safety Regulation (AR-49/2006), and the University’s Pressure Equipment Integrity Management (PEIM) program, all pressure equipment, components, material and/or fittings shall satisfy the following:

8.1.1 **CANADIAN REGISTRATION NUMBER:** provide evidence of CRN registration in Alberta. For fittings the proof of CRN is demonstrated by copy of a Statutory Declaration. For pressure vessels the CRN will be stamped on the nameplate and will appear on the vessel data report.

8.1.2 **MATERIAL:** pipe and plate shall be supplied in accordance to the applicable ASME specification, including all Mill Test Reports (MTR) and markings traceable to the MTR.

8.1.3 **FITTINGS GENERAL:** Fittings will be marked as per MSS SP-25 including Manufacturers Name or Trademark and designation of rating, size, material and melt. Trim designation will be included where applicable. Assembled fittings such as Valves, Pressure Relief Devices, Traps etc. shall have a certificate of compliance containing material details. Category “G” fittings, i.e. Pressure Relief Devices, require the CRN to be stamped on the nameplate.
8.1.4 PIPE FITTINGS: Manufacturer's name or logo, size, weight or schedule, Heat Code or Number, American Society of Mechanical Engineers, Boiler and Pressure Vessel Code, Section II Specifications including Grade (type or class). CRN does not have to be marked on each pipe fitting.

9. **Services Manuals:** Service manuals complete with circuit diagrams will be provided for all components of the Purchased Goods/Services, if requested. A nominal fee (if applicable) will be considered by the University.

10. **Title:** The Supplier warrants to the University that it is the legal and beneficial owner, and has good and valid title to all Purchased Goods/Services sold or to be sold by the Supplier to the University under this Purchase Order, free and clear of all charges and encumbrances. Title to Purchased Goods/Services shall pass to the University upon receipt of the Purchased Goods/Services at the premises designated by the University. Until such time as title to the Purchased Goods/Services passes to the University, the Purchased Goods/Services shall remain in all respects at the risk of the Supplier.

11. **Acceptance:** All Purchased Goods shall be delivered to the University subject to University's inspection and acceptance. Payment in whole or in part by the University shall not constitute acceptance or approval. The University may reject and return any Purchased Goods at the Supplier's sole expense if the Purchased Goods are not delivered as specified or if the Purchased Goods are not delivered in the quantity or quality as specified or warranted. Upon the rejection and return of Purchased Goods, the University, at its sole option, may request either the replacement of some or all of the Purchased Goods or the refund of part or all of the purchase price.

12. **Timing:** Time of performance, delivery and/or installation of the Purchased Goods/Services shall be as specified in the Purchase Order. The specified timing is important to the University and time is of the essence of this Purchase Order.

13. **Payment:** Payment for Purchased Goods/Services satisfactory to the University shall be net thirty (30) days from date of delivery or invoice (whichever is later), unless otherwise agreed in writing by both parties. Cash discounts are to be calculated from date of receipt of acceptable invoice by the University.

14. **Equipment Warranty:** The Supplier warrants to the University the material, equipment, products and assemblies provided as part of the Purchased Goods/Services against defective design, goods and workmanship for a period of twelve (12) months from date of acceptance by the University. The University will give the Supplier written notice of observed defects promptly.

15. **Standards Warranty:** The Supplier warrants to the University that the duties, work and services to be performed by the Supplier as part of the Purchased Goods/Services shall be performed to the level of the standards acceptable to the University.

16. **Patent Warranty:** The Supplier warrants to the University that the Purchased Goods/Services furnished hereunder and the use thereof, do not infringe any patent rights, copyrights, trademark rights or other intellectual or industrial property rights, that the Supplier will defend at its own expense any suit that may arise in respect thereof, and that the Supplier will indemnify and save harmless the University from all costs, damages, expenses and claims of any nature relating thereto.

17. **Use of Trademarks:** The Supplier is advised the Registrar of Trade-marks has given public notice of adoption by the University of certain designs, names, marks and symbols that are the property of and have come to be associated with the University. Use of these designs, names,
18. **Indemnity:** The Supplier shall indemnify and hold harmless the University, its employees and agents, from any and all claims, demands, actions and costs that may arise, directly or indirectly, out of any act or omission of the Supplier, its employees or agents, in the performance by the Supplier of its obligations under this Purchase Order.

19. **Insurance**

19.1 For the duration of this Purchase Order, the Supplier shall maintain the following insurance coverage:

19.1.1 General liability insurance insuring against third party bodily injury, personal injury and property damage and including products and completed operations liability and blanket contractual liability for an amount of not less than five million dollars ($5,000,000.00) per occurrence;

19.1.2 Professional liability insurance for an amount of not less than one million dollars ($1,000,000.00) per occurrence, if applicable to the type of Purchased Goods/Services offered under this Purchase Order;

19.1.3 Standard automobile insurance for all vehicles owned, licensed or leased by the Supplier and non-owned automobile insurance, where required, for an amount of not less than two million dollars ($2,000,000.00) per occurrence for each type of coverage. Where the non-owned automobile insurance coverage is provided within a general liability policy as required in 17.1, a separate policy is not required;

19.1.4 All risks property insurance for all material, equipment, products and assemblies included in the Purchased Goods/Services for an amount not less than the amount of the purchase price;

If required by the University of Alberta, the Supplier shall provide certificates of insurance confirming such coverage.

20. **Compliance with Laws:** The Supplier will comply with all applicable statutes, laws, regulations and by-laws including, without limitation, any applicable workers’ compensation, employment standards and occupational health and safety laws. The Supplier shall have proof of an account in good standing with the Workers’ Compensation Board (Alberta) and shall supply the University with proof of coverage if requested and such account shall remain in good standing for so long as the Supplier is providing the Purchased Goods/Services. Coverage shall include all employees of the Supplier as well as personal coverage for any employers, proprietors, partners and directors performing work at the University.

Prior to the commencement of the provision of the Purchased Goods/Services, and at any time thereafter at the University’s request, the Supplier shall arrange to have the Workers’ Compensation Board of Alberta send a clearance letter to the University, verifying that all required assessments and contributions have been paid, or other confirmation that coverage has been obtained by the Supplier.

21. **University Policies:** The Supplier, its employees and its sub-contractors shall comply with all applicable policies of the University, including the University’s Discrimination and Harassment policy, in carrying out activities under this Purchase Order.

22. **Default/Termination**
22.1 If the Supplier:

22.1.1 breaches or fails to perform its obligations in this Purchase Order, including its obligation to perform, deliver and/or install the Purchased Goods/Services on a timely basis and in compliance with this Purchase Order and thereafter fails to correct the deficiency by repair, replacement or re-performance within five (5) days after receipt of written notice from the University to the address of the Supplier as specified on the face of the Purchase Order;

22.1.2 becomes bankrupt or insolvent, makes a general assignment for the benefit or creditors, or has a receiver appointed to hold its assets and/or operations;

22.1.3 has its insurance coverage cancelled, threatened to be cancelled, reduced or adversely changed;

22.1.4 is involved in circumstances which the University, in its sole discretion, deems to be a conflict of interest;

then the University may immediately, upon written notice to the Supplier, cancel any portion of the Purchased Goods/Services, cancel this Purchase Order or perform the obligations of the Supplier, without any prejudice to the rights of the University against the Supplier and without any liability or costs being incurred by the University. The University shall be entitled to set-off against any amounts it owes to the Supplier the costs of the University (including the costs of its own staff) in performing the obligations of the Supplier.

23. **FOIPP**

23.1 The Supplier acknowledges that the University is a public body subject to the Freedom of Information and Protection of Privacy Act ("FOIPP"). Confidentiality for any documents submitted by the Supplier and accepted in this Purchase Order cannot be ensured. Provisions exist under FOIPP to allow disclosure of personal or business information where disclosure would not be harmful to the Supplier’s business interests or not be deemed an unreasonable invasion of personal privacy as defined within FOIPP.

23.2 If the University receives a request for information under FOIPP that includes information provided by the Supplier, the University will give the Supplier notice of such request. The Supplier will respond to such notice in accordance with FOIPP, failing which, the University will proceed to process the request for information in accordance with FOIPP.

23.3 If the University’s response to a request under FOIPP is appealed to the Office of the Information and Privacy Commissioner, the Supplier shall have the burden of proof as to exception from disclosure as defined under FOIPP. The Supplier shall be responsible for all costs related to its confidentiality requirements.

23.4 As applicable for University records and information under its care, the Supplier shall bear the burden and associated costs of records management practices required under FOIPP. As well, the Supplier shall be responsible to provide for the protection of confidential University records and information as required by FOIPP.

24. **Conflict of Interest**

24.1 The Supplier shall exercise reasonable care and diligence to prevent any actions or conditions, which could result in a conflict with the University’s best interests. This obligation shall apply to the activities of the Supplier and its Sub-Contractors and Suppliers, and their respective
employees and agents, in their relations or dealings with the employees of the University and their families, and other third parties arising from its obligations under the Agreement.

24.2 Immediately upon becoming aware of the circumstances, the Supplier shall disclose to Supply Management Services any facts which may or do constitute a conflict of interest relating to this Agreement, including details of any University employee or immediate family member who may receive a financial or other benefit or who holds an interest or directorship in the Supplier or its Sub-Contractors or Suppliers. If the University deems the particular circumstances or any other circumstances disclosed to or discovered by the University to constitute a conflict of interest, the University may, at its sole discretion determine that the Supplier is in default of its obligations under this Agreement and may give notice of default to the Supplier. If the Supplier does not remove the conflict in accordance with such notice of default, the University may, at its sole discretion, terminate the Agreement.

24.3 To preserve the image and integrity of the University and its employees and agents, business gifts other than items of minor value shall not be offered. Reasonable hospitality is an accepted courtesy of a business relationship. The frequency and nature of gifts or hospitality shall not be allowed whereby the recipient might be or might be deemed by others to have been influenced in making a business decision as a consequence of accepting such hospitality or gifts.

25. **Enurement:** These presents are binding upon the parties hereto and shall enure to the benefit of and be binding upon the successors of each of such parties.

26. **Assignment/Survival:** The Supplier shall not assign this Purchase Order without the prior written consent of the University. The warranties, covenants and obligations of the Supplier in this Purchase Order shall survive and continue after the performance, delivery and/or installation of the Purchased Goods/Services by the Supplier, payment by the University and the expiry or termination of this Purchase Order.

27. **No Authority:** Nothing in this document or in any subsequent document or written agreement shall be construed as authority for the Supplier to make commitments which shall bind the University or to otherwise act on behalf of the University, except as the University may expressly authorize in writing.

28. **Applicable Law:** The laws in force in the Province of Alberta apply to this Purchase Order. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Purchase Order.