



General Conditions of Purchase

The following General Conditions of Purchase (the “Terms and Conditions”) are incorporated in and form part of any Purchase Order(s) (the “Order(s)”) issued by Mercer Celgar Limited Partnership (LP) (the “Purchaser”), whether attached to an Order or used in conjunction with an electronically transmitted Order.

1. ENTIRE AGREEMENT – The Order, including these Terms and Conditions and any specification sheets and attachments attached to or referenced in the Order, constitutes the whole agreement between the Vendor (as defined in the Order) and the Purchaser relating to the purchase and sale of the goods and services specified in the Order and supersedes all other understanding, representations and agreements, whether verbal or written. All previous conversations, correspondence, quotations and negotiations that differ from, conflict with, or are inconsistent with the Order are null and void. No waiver, modification or amendment of any of the provisions of the Order shall be binding unless it is in writing and signed by duly authorized representatives of both parties.

2. ACCEPTANCE OF TERMS AND CONDITIONS – These Terms and Conditions shall apply in priority over all other terms and conditions, including without limitation any term or condition which the Vendor purports to apply under any quotation, invoice, specification, acknowledgment or confirmation of order, or other document. In the absence of any other acceptance by the Vendor of these Terms and Conditions, shipment of any goods or the commencement of any services forming part of the subject matter of the Order by the Vendor shall constitute acceptance of these Terms and Conditions.

3. PROVISION OF GOODS AND SERVICES – The Vendor agrees to provide all goods and services specified or referenced in or required to complete the work as described in the Order. No substitutions shall be made to goods to be furnished by Vendor unless approved in writing by the Purchaser. All goods provided by the Vendor will be new. All goods and services provided by the Vendor will comply in all respects with: (i) the order-specific specifications; and (ii) all applicable legislation, regulations, bylaws, codes, and standards.

4. NOTICES – Each notice, statement and invoice to be given pursuant to the Order shall be in writing and shall be sent by prepaid ordinary or registered mail, or by facsimile, electronic mail or courier to the address for each of the Purchaser and the Vendor noted on the Order. Notices, statements and invoices sent by mail shall be deemed to have been received five (5) days following the mailing thereof and those sent by facsimile, electronic mail or courier shall be deemed to have been received on the first business day following the day on which such was sent by facsimile, electronic mail or courier.

5. TIME – Time is of the essence of the Order.

6. NO WAIVER – Any failure of the Purchaser to insist upon strict performance of any of the terms and conditions herein shall not be deemed a waiver of any rights or remedies that the Purchaser has or shall have. No waiver by a party of any default, misrepresentation or breach of warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent occurrence. No failure or delay by a party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law or equity.

7. DEFAULT BY VENDOR – The Purchaser may provide written notice to the Vendor if the Vendor:

- (a) fails to deliver any goods or services to be provided hereunder in the manner and in strict compliance with the schedule specified in the Order; or
- (b) defaults under the Order in any respect.

If:

- (c) the Vendor fails to remedy its failure or default within 3 days of receipt of such notice; or
- (d) if the Vendor becomes insolvent, a receiver is appointed, or if the Vendor is petitioned or assigned into bankruptcy or otherwise seeks protection under bankruptcy laws,

then without limiting the Purchaser’s other rights and remedies, the Purchaser may terminate the Order or any part of it and the Purchaser may purchase similar goods or services or both elsewhere, or secure the manufacture and delivery of goods or the performance of services by contract or otherwise, and the Vendor shall be liable to the Purchaser for all costs, expenses, losses and damage suffered or incurred by the Purchaser arising or resulting from the Vendor’s failure, default or insolvency. The Purchaser’s remedies hereunder are not exclusive, but are in addition to any other rights and remedies available to the Purchaser as provided by law or equity.

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8. SEVERABILITY – If any portion or portions of the Order shall, for any reason, be declared by court or tribunal of competent jurisdiction to be invalid or unenforceable, the remaining portion or portions of the Order shall remain valid and enforceable.

9. CONFIDENTIALITY – The Vendor agrees that the Vendor shall not, without the prior written consent of the Purchaser, either before or after termination of the Order, directly or indirectly, disclose any Confidential Information (as defined herein) to any third person, except where disclosure is compelled by law or court order, or use any Confidential Information for any purpose other than the performance of its obligations under the Order or those permitted in writing by the Purchaser. "Confidential Information" means any information or knowledge including without limitation any data, designs, drawings, specifications, systems, programs, devices, software, plans, customer information, process, know how, strategy, method, or any other information that: (i) relates to the business and affairs of the Purchaser or any of its subsidiary or affiliated companies, (including with respect to the Order); or (ii) is private or confidential in that it is not generally known or available to the public. All documents, software, records, work papers, notes, memoranda and similar records of or containers of Confidential Information, including any copies thereof, shall be the property of the Purchaser and belong solely to it, and shall be delivered to the Purchaser by the Vendor upon completion of the Vendor's obligations under the Order or at any other time upon request by the Purchaser. Where the Purchaser's Confidential Information is furnished to the Vendor's suppliers in connection with the performance of the Vendor's obligations under these Terms and Conditions, the Vendor shall insert the substance of this provision in its supply contracts and shall ensure compliance with such provision by its suppliers.

10. GOVERNING LAW – The laws of British Columbia and of Canada as applicable therein, shall apply to and govern the interpretation of the Order and any legal action brought in connection with it must be brought in the courts of British Columbia. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to the Order.

11. FORCE MAJEURE – Except as noted in this paragraph 11, neither the Vendor nor the Purchaser shall be deemed in breach of the Order or incur any liability to the other by reason of failure or delay in fulfilling its obligations under the Order where such failure to perform or delay in performing is due to or results from an occurrence or event beyond the control of a party, including without limitation any of the following occurrences or events;

- (a) war, hostilities or warlike operations (whether a state of war to be declared or not), invasion, act of foreign enemy;
- (b) rebellion, revolution, insurrection, mutiny, usurpation of civil or military government or civil war, or any riot, civil commotion or terrorist acts;
- (c) confiscation, nationalization, mobilization, commandeering or requisition by or under the order of any government or de jure or de facto authority or ruler or any other act or failure to act of any local state or national government authority;
- (d) strikes, lock outs or other industrial actions, sabotage, embargo, shipwreck, epidemics, quarantine;
- (e) earthquake, landslide, volcanic activity, fire, flood or inundation, tidal wave, typhoon or cyclone, hurricane, storm, lightning or other natural or physical disaster; or
- (f) shortage of labour, materials or shortage or restriction of utilities where caused by any of the circumstances set forth in Section 10(a) through (e) above,

provided:

- (g) the circumstances of such occurrences or events are not within the reasonable control, directly or indirectly, of the party claiming relief in respect thereof and only if and to the extent that
 - (i) such circumstance, despite the exercise of reasonable diligence, cannot be or be caused to be prevented, avoided or removed by such party,
 - (ii) such occurrence or event or series of such occurrences or events materially adversely affects the ability of such party to perform its obligations under the Order and such party has taken all reasonable precautions, due care, and reasonable alternative measures in order to avoid the effect of such event on such party's ability to perform its obligations under the Order and to mitigate the consequences thereof, and
 - (iii) such event is not the result of the failure of the Vendor to perform any of its obligations under the Order; and
- (h) under no circumstances shall any of the following occurrences or events be considered a force majeure event:
 - (i) late performance or failure to perform by the Vendor caused by the acts or omissions of the Vendor's subcontractors or suppliers (other than acts or omissions caused by a force majeure event), or by the Vendor's failure to hire an adequate number of personnel or labour or by inefficiencies on the part of the Vendor;
 - (ii) delays resulting from reasonably foreseeable unfavourable weather or sea conditions or other similarly reasonably foreseeable adverse conditions;
 - (iii) economic hardship of any party or any of its affiliates or subcontractors or its or their inability to pay debts;
 - (iv) the late payment by the Purchaser of money when otherwise due in accordance with the Order; and
 - (v) infringements by the Vendor or any of its subcontractors or suppliers or any of their affiliates of any intellectual property rights.

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A party claiming to be relieved of its obligations under this paragraph 11 shall give prompt written notice to the other party with an estimate of when the obligations will be performed. Unless the Purchaser and the Vendor otherwise agree, the time for performing the obligations will be extended for a reasonable period of time that shall not be less than the length of the critical path delay. Both the Purchaser and the Vendor shall explore all reasonable alternatives to avoid or mitigate delays under this paragraph and the Purchaser and the Vendor shall each bear their own costs associated with such delays.

12. INDEMNITIES – The Vendor shall indemnify and hold harmless the Purchaser from and against all claims, counterclaims, lawsuits, actions, proceedings, demands, damages, losses, expenses, fees, penalties and costs, including without limitation legal costs on a solicitor-client basis, arising in connection with the carrying out of the Vendor's obligations hereunder or arising as a result of the Vendor's negligence, failure to comply with the Order (including these Terms and Conditions) or willful misconduct.

13. PATENTS – The Vendor warrants and guarantees that all goods supplied under the Order do not infringe any valid patent, copyright, trademark or other intellectual property right owned by any third party and undertakes to defend, indemnify, and hold harmless the Purchaser and its successors and assigns from and against any claim, counterclaim, demand, lawsuit, proceeding or action resulting from any allegation or charge that any goods or services or the use thereof for the purpose for which the goods or services are sold, constitutes an infringement of any patent, copyright, trademark or other intellectual property right and any costs associated therewith. The Purchaser shall promptly notify the Vendor of any claim, counterclaim, demand, lawsuit, proceeding or action and the Vendor shall assume the defence of the Purchaser at the Vendor's expense against same. The Purchaser shall provide, at the Vendor's expense, any assistance in defending any such claim, counterclaim, demand, lawsuit, proceeding or action as the Vendor may reasonably require. In addition, immediately upon receiving notice from the Purchaser of an infringement claim, the Vendor shall, at no expense to the Purchaser, minimize the Purchaser's damage of liability as much as possible by:

- (a) procuring for the Purchaser the right to continue using the goods on a permanent basis, without any restriction on the right of the Purchaser to use the goods for the purpose for which they were intended;
- (b) replacing the goods with non-infringing goods satisfactory to the Purchaser; or
- (c) modifying the goods in a manner satisfactory to the Purchaser so that they are non-infringing.

For greater certainty, the Vendor shall have no liability for any infringement or alleged infringement where the goods are provided based on designs provided by the Purchaser or where the infringement results from the use of goods in combination with the Purchaser's own process or equipment not supplied by the Vendor.

14. WARRANTIES – In addition to all other warranties available to the Purchaser, the Vendor warrants that the goods and services supplied hereunder:

- (a) shall comply with all specifications, quantity and quality as set out in the Order;
- (b) shall conform to any sample provided to the Purchaser;
- (c) are free from all defects and faults in design, manufacture, workmanship and materials;
- (d) are new and of the best quality, unless otherwise specified in writing;
- (e) are of merchantable quality;
- (f) shall perform satisfactorily in accordance with the specifications and drawings contained in the Order and under the conditions made known to the Purchaser or that reasonably may be inferred;
- (g) shall be at least equal to nationally recognized standards or codes; and
- (h) be of the best quality, if no quality is specified.

This general warranty is independent of and without prejudice to any specific warranty or service guarantee offered by the Vendor in connection with the purpose for which the goods and services supplied hereunder were purchased.

No payment or acceptance by the Purchaser hereunder shall constitute a waiver with respect to any provisions of the Order, nor shall anything herein contained be construed to limit any warranties or conditions implied by law.

The Vendor shall repair, correct or replace at the Vendor's sole expense any goods or services that: (1) are defective, deficient, incomplete, or do not comply with the foregoing warranties; and (2) are identified prior to the later of:

- (a) Twenty-four (24) months from the date of delivery of all goods and completion of all services; and
- (b) Twenty-four (24) months from the date of start-up of the goods or start-up of the equipment into which the goods are incorporated.

The Vendor shall further repair or replace any other property damaged by the repair, correction or replacement. The goods or services which are repaired, corrected or replaced shall be warranted for a new period of twenty-four (24) months from the date of completion of such repair, replacement or correction. If, in the opinion of the Purchaser, it is not expedient for the Vendor to correct defective, deficient, incomplete or non-compliant goods or services, the Purchaser may deduct from the amount otherwise due to the Vendor the difference in value between the goods or services as performed and that called for by the Order.

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All warranties shall continue in full force and effect notwithstanding any termination of the Order by the Purchaser and will survive any inspection, delivery or acceptance of, or payment by the Purchaser for, any goods or services supplied hereunder.

15. LAWS – The Vendor shall, and shall require its subcontractors and suppliers to, comply with all laws, regulations, codes and bylaws, including without limitation those relating to the protection of the environment. The Vendor shall assume all liabilities and perform all obligations that result from the contravention of any law by the Vendor, including without limitation the cost of complying with any remediation order or any liability for clean-up of any pollutant resulting from any release arising from the Vendor's operations in providing goods or services, and shall defend and indemnify the Purchaser from and against any and all liability, penalties, costs, expenses, losses, and fines arising out of the contravention by the Vendor or its subcontractors or suppliers of any law, regulation, code or bylaw. The Vendor shall immediately report to the Purchaser all inspections and investigations by governmental officials of any events of non-compliance or potential non-compliance with any law, regulation, code or bylaw. At the request of the Purchaser, the Vendor shall forward to the Purchaser all relevant information with respect to the environmental impact of any goods and services, including without limitation any risks and hazards imposed by such goods and services.

16. PAYMENTS – Unless otherwise specified, the price stated on the face of the Order represents the complete cost to the Purchaser for the goods and services provided and includes every license fee, patent royalty, duty, tax, levy and charge of any description. Payments are to be in Canadian funds unless otherwise stated herein. Unless otherwise specified and subject to the terms of the Order, payment will be made with sixty (60) days from the date of receipt of the goods or performance of the services in question.

17. CHANGES TO QUALITY, QUANTITY OR PRICE– The Purchaser may at any time by written change order to the Vendor make changes in:

- (a) the quality, quantity, or specifications of the goods or services to be supplied pursuant to this Order;
- (b) the time or place of delivery of the goods to be supplied pursuant to this Order; or
- (c) the schedule for completion of services to be supplied pursuant to this Order.

If any such change increases the cost of the goods and services to be provided under the Order, the Vendor shall provide written notice of a claim for a change to the price within 10 days of the Vendor's receipt of the change order. If written notice is not provided received by the Purchaser within 10 days of the Vendor's receipt of the change order, the Vendor will irrevocably be deemed to have waived any and all claims for any increase in price or additional compensation resulting from the change order. If the change reduces the cost of the goods or services, or if the change increases the cost of the goods or services and written notice is provided as required by this paragraph, the change to the price will be calculated as follows:

- (d) as agreed by the Vendor and the Purchaser; or
- (e) if there is no agreement:
 - a. if the change reduces the Vendor's cost of the goods and services, based on the actual amount of such reduction; or
 - b. if the change increases the Vendor's cost of the goods and services, based on the actual increase plus 10% of such increase (for overhead and profit).

No change shall be made by the Vendor without the Purchaser's express written authorization.

18. TAXES – Unless otherwise specifically provided for in the Order, the Vendor assumes exclusive liability for and shall pay before delinquent, all sales, use, excise and other taxes, charges or contributions of any kind with respect to or measured by the goods or the services supplied hereunder and the Vendor shall indemnify and save the Purchaser harmless from any liability and expenses incurred by reason of the Vendor's failure to pay such taxes, charges or contributions. Where the Purchaser has specified in the Order that federal goods and services tax (GST) shall be paid on the goods or services supplied hereunder, the Vendor shall include the Vendor's GST registration number on the invoice.

19. SET-OFF – The Purchaser shall be entitled at all times to set-off any amount owing from the Vendor to the Purchaser or any of its affiliated companies against any amount due or owing to the Vendor under the Order.

20. LIENS – The Vendor shall keep the Purchaser's premises free and clear of any and all liens and charges arising in connection with the performances of its obligations under the Order. In the event that any lien, charge, or other encumbrance is filed, claimed or asserted in respect of any goods or services to be provided pursuant to the Order, the Purchaser may pay and discharge such lien, charge or encumbrance at the expense of the Vendor, and the cost of such discharge, including without limitation legal costs on a solicitor-client basis, are to be borne by the Vendor.

21. DELIVERY – Delivery of goods shall be deemed to have occurred upon the fulfilment of all of the following:

- (a) Arrival of the goods as specified in the Order;
- (b) Acceptance by the Purchaser pursuant to paragraph 23 hereof; and
- (c) Delivery to the Purchaser of a bill of lading or invoice with respect to the goods supplied hereunder.

Unless otherwise stipulated, all risk in goods shall remain with the Vendor until delivery is completed.

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22. TAGGING AND SHIPPING – The Vendor shall place or affix the number of the Order on all invoices, packing slips, packages, containers and correspondence referencing the Order.

- (a) The original bill of lading must be attached to the invoices of the Vendor.
- (b) When freight or express charges are prepaid for the account of the Purchaser, the invoice must be accompanied by a receipted freight or express bill bearing the number of the Order.
- (c) If partial shipments are made, a separate invoice must be rendered for each shipment.
- (d) All invoices sent pursuant to the Order shall be sent to the attention of "Accounts Payable" at the address shown on the face of the Order.
- (e) Damages to any goods resulting from improper packing will be charged to the Vendor's account.
- (f) Whenever possible, the Vendor shall pack goods supplied hereunder using as little plastic material, including but not limited to wrap and packing, as possible. No charges will be allowed for packing or crating unless expressly agreed on the face of the Order.
- (g) The Vendor shall be solely responsible for the shipment and delivery of "dangerous goods", as defined under the *Transportation of Dangerous Goods Act* (Canada) to the destination specified on the face hereof and the Vendor shall indemnify and save the Purchaser harmless from any losses, claims, suits or demands arising from the shipment of such goods to the said destination.

23. INSPECTION AND ACCEPTANCE – Prior to acceptance by the Purchaser and notwithstanding any prior payment, the Purchaser may inspect any goods or services supplied under the Order after they have been delivered or performed within a reasonable time after receipt thereof. Goods or services not in accordance with the description or specifications stipulated in the Order may be deemed unsatisfactory in the sole discretion of the Purchaser, acting reasonably. Neither inspection, failure to make inspection nor acceptance of the goods or services, releases the Vendor from any of the warranties or other provisions contained in the Order nor impairs the Purchaser's right to reject unsatisfactory goods or services in accordance with paragraph 24. The Purchaser reserves the right, prior to delivery of the goods, to inspect the goods specified in the Order at the place where such goods are being stored or manufactured, provided always that such inspection shall be during the usual business hours of the Vendor.

The Vendor shall permit access to the Purchaser at all reasonable times to inspect the services. If the Purchaser is unsatisfied with the services, including without limitation where the Purchaser has concerns with either the goods used in the services or the workmanship in providing the services, in the Purchaser's sole discretion, the Purchaser may provide notice to the Vendor of its concerns and the Vendor shall, within three business days, address the Purchaser's concerns in a manner satisfactory to the Purchaser, at the Vendor's expense.

24. REJECTION BY THE PURCHASER – If the goods are not delivered or services are not performed with this Order or if the Purchaser finds any goods or services to be unsatisfactory in accordance with paragraph 23, the Purchaser may reject the goods or services (the "Rejected Goods and/or Services") in question by providing written notice to the Vendor of its rejection of the goods or services and, in its sole discretion, (i) for goods or services deemed by the Purchaser as unsatisfactory, require the Vendor to provide replacement of such goods or services (the "Replacement Goods and/or Services"), in which case the Vendor shall promptly deliver the Replacement Goods and/or Services to the Purchaser on the original terms and conditions, except that if the price for the Replacement Goods and/or Services at the time they are ordered is less than the price set out in the Order, the Purchaser shall have the benefit of the lower price, or (ii) cancel the Order, in whole or in part, in which case the Purchaser shall have no obligations to the Vendor, other than for that part of the price set out in the Order reasonably corresponding to those goods and services that were accepted by the Purchaser. The Purchaser reserves the right to retain any portions of or all goods and services not strictly in accordance with the specifications set out in the Order and in such case will pay an equitable amount (as determined by the Purchaser, acting reasonably) for such goods and services, which retention shall not preclude the Purchaser from rejecting the remainder of the shipment or any part thereof.

The Vendor shall be responsible for all delivery costs, both to and from the Purchaser, for Rejected Goods and/or Services. Where the Purchaser pays any such delivery costs for Rejected Goods and/or Services, it may deduct such costs from any amount due to the Vendor.

25. CANCELLATION BY PURCHASER – The Purchaser shall be entitled to cancel the Order at any time, whether for cause or not, by giving the Vendor written notice as to all or any part of the goods not delivered or services not performed prior to receipt by the Purchaser of said goods or services. Where goods are standard manufactured items, the Purchaser's only obligation shall be to pay for the goods delivered to the Purchaser and services performed by the Vendor prior to receipt by the Vendor of the notice of cancellation. Where goods are specifically manufactured for the Purchaser, the Vendor, upon receipt of such written notice of cancellation from the Purchaser, shall cease performance under the Order, unless otherwise directed by the Purchaser, and the Purchaser shall pay the Vendor an amount equal to:

- (a) all reasonable costs for materials and labour which the Vendor has actually expended or is irrevocably committed to pay directly connected with the goods in question; plus
- (b) unavoidable actual direct costs reasonably incurred by the Vendor in stopping its performance under the Order; less
- (c) all payments already made to the Vendor by the Purchaser.

The Vendor will provide all documentation necessary to substantiate the amount claimed. If the total of the payments already made to the Vendor by the Purchaser exceeds the amounts claimed and substantiated by the Vendor as approved by the Purchaser, acting reasonably, the Vendor will forthwith return the excess to the Purchaser.

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All warranties provided in respect of the Order with respect to goods which are delivered to and services which are provided to the Purchaser prior to cancellation shall survive the cancellation of the Order.

26. **INSURANCE** – The Vendor shall insure goods delivered hereunder against all risk of loss or damage. The amount of insurance must be sufficient at all times to reimburse the Vendor for the cost of replacing or repairing the goods. Additionally, the Vendor must obtain comprehensive general liability insurance, with minimum coverage of \$5,000,000 CAD per occurrence, which shall at minimum meet the requirements specified in CCDC 41 – CCDC INSURANCE REQUIREMENTS, subject to the following:

The Purchaser shall be identified as an additional insured under the general liability insurance with respect to the operations of Vendor relating to this Order, which insurance shall also contain a cross-liability clause. Unless otherwise agreed in writing, the duration of this policy shall be from the date of the earlier of the first delivery of goods and first performance of services until one year after the later of the final delivery of goods and the final performance of services.

The Vendor must provide certificate(s) of insurance evidencing such insurance to the Purchaser upon request. The requirement to provide insurance will not in any way limit the Vendor's obligations or the Purchaser's rights and remedies in respect of the Order.

27. **OVERAGES** – Upon the Vendor's request, any over shipment of goods provided hereunder shall be returned to the Vendor at the Vendor's cost and, if the Purchaser has incurred any costs in respect of such return of goods, the Vendor shall immediately reimburse the Purchaser for any and all such costs incurred as a result.

28. **CERTIFICATE OF ORIGIN** – The Vendor shall at its own expense, prepare and issue to the Purchaser, Certificate(s) of Origin and Affidavits of Manufacture for goods sold pursuant to the *North American Free Trade Agreement* ("NAFTA") or the *United States-Mexico-Canada Agreement* ("USMCA") or any successor or replacement agreement and shall provide copies of the issued Certificate of Origin to the customs administration of each of the Vendor's and the Purchaser's home country upon request as well as provide all information requested by either customs administration in respect to the issued Certificate(s) of Origin. The Vendor shall notify the Purchaser of any change, which may affect the accuracy, or validity of a Certificate of Origin issued to the Purchaser and shall otherwise comply with the Vendor's obligations under NAFTA or USMCA or any successor or replacement agreement.

29. **WHMIS** – The supply of any and all hazardous goods to the Purchaser must conform to WHMIS legislation. Goods must be properly labeled and accompanied by Material Safety Data Sheets.

30. **ELECTRICAL APPROVAL** – All electrical equipment must be approved by the CSA (Canadian Standards Association) or otherwise be approved for use in British Columbia, and must bear the appropriate approval seal recognized by the British Columbia Safety Authority.

31. **ASSIGNMENT AND SUBCONTRACTORS** – The Vendor shall not, at any time, assign or subcontract the whole or any part of its obligations arising out of the Order without prior written consent of the Purchaser; provided, however, the Vendor shall have the right to subcontract the supply of any part of the goods and services supplied pursuant to the Order. A subcontract shall not operate to relieve the Vendor of any obligations or liability under the Order.

32. **INDEPENDENT CONTRACTOR** – It is mutually agreed and understood by the parties hereto that the Vendor is an independent contractor and not an employee, agent or servant of the Purchaser and nothing contained in the Order or otherwise nor any past relations or course of dealings between the parties shall be construed as establishing a relationship of principal and agent, master and servant, or employer and employee.

33. **PERMITS** – Unless otherwise specifically provided, the Vendor shall, at its expense, obtain and comply with all necessary permits, licenses, certificates and approvals required to provide the goods and services under the Order.

34. **DRAWINGS** – The Vendor agrees that the prompt receipt of approval drawings for review, certified drawings and installation, maintenance and operating manuals, and spare parts list by the Purchaser is of primary importance to the Purchaser to enable the Purchaser to fulfill its schedule commitments, and Vendor must furnish them in strict compliance with any attached schedule, or, if no schedule is attached, within a reasonable time after the date of the Order. Failure to do so constitutes a material breach of the Order by the Vendor. The Purchaser's review of drawings does not constitute approval and shall not relieve the Vendor of responsibility for compliance with all specifications, laws, codes or regulations.

35. **INTERCONNECTION** – "Interconnection" means all telecommunications and data services provided to the Vendor by the Purchaser or any of its agents or representatives. The Vendor must take all due care to ensure any and all end points utilizing the interconnection between the Purchaser and the Vendor have current, managed and monitored anti-malware systems. The Vendor agrees that the interconnection shall not be used by, shared with, published or otherwise disclosed to any legal or natural person in any manner whatsoever, by any means, without the Purchaser's provisioned service and the Vendor shall inform the Purchaser immediately of such an event. It is expected that the recipient will provide a clear, detailed description of the incident to the Purchaser's information technology group.

36. **PROVINCIAL SALES TAX (PST) & FEDERAL GOODS AND SERVICES TAX (GST) TAX CODES DESCRIPTION**

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The following codes represent the Purchaser's internal tax code that shall appear on the face of all Orders.

GST	G (Payable) 5%
PST	E (Exempt)
PST	P (Payable) 7%

37. (USA) FOREIGN SUPPLIERS AND CARRIERS PLEASE NOTE – Carriers are to forward documents on date of shipment to:

Livingston International Customs Broker
Fax (866) LIV-INTL / (866) 548-4685
Email cdnimports@livingstonintl.com

Vendors are to forward documents including CUSMA to:

Livingston International Customs Broker
Email CST78236@livingstonintl.com

Please provide a Certificate of Origin for all items supplied as required under CUSMA. A blanket certificate may be completed and forwarded to our customs broker as noted above.

38. PURCHASER'S RIGHTS – The Vendor agrees that any right, cause of action or remedy under the warranties or undertakings assumed or imposed upon the Vendor under these Terms and Conditions shall extend without exception to any company affiliated with the Purchaser on whose behalf the goods and services are purchased by the Purchaser. The Vendor agrees to assign any warranty entitlements it receives from any of its suppliers in respect of the Order to and in favour of the Purchaser. Nothing in these Terms and Conditions operates to derogate from or abrogate in any right, privilege or remedy the Purchaser has under and by virtue of the provisions of the *Sale of Goods Act* (British Columbia) as amended from time to time or any statute passed in substitution therefore.

39. DISCOUNTS – Discounts shall be calculated from the earlier of (i) the date invoices are received in proper form; and (ii) delivery to the Purchaser of the relevant goods.

40. INVOICE CORRECTION – If any error is discovered in an invoice rendered to the Purchaser, such errors shall be adjusted within thirty (30) days following the date the Purchaser brings such error to the attention of the Vendor, provided however, that there shall be no adjustment made for any error discovered more than twenty-four (24) months after receipt of an invoice by the Purchaser.

41. DAMAGES - Notwithstanding any other provision of the Order, (i) the Purchaser's maximum liability to the Vendor arising out of or in connection with this Order will be limited to the price of the goods and services; and (ii) neither the Purchaser nor any affiliate, agent, director, employee, or officer of the Purchaser will be liable to the Vendor for any indirect, incidental or consequential damages that may be suffered or incurred by any such party, including costs or claims arising from third party contracts, down time, lost production time, or business interruption. Each of these limitations on liability will apply regardless of how caused and under any theory of liability, including negligence (in whole or in part), strict liability, breach of contract, default or otherwise of the Purchaser or any affiliate, agent, director, employee, or officer, of the Purchaser, and will survive termination of the Order.

42. WORK ON SITE – The following condition applies to each Order which includes any services or other work (any of which, "Services") performed by the Vendor at the project site:

- (a) the Vendor shall become familiar with and comply with mill and regulatory safety requirements and other matters, conditions, procedures and mill activities that may affect the delivery of goods or services hereunder. The Vendor recognizes that the Purchaser's mill operations must not be interrupted except as expressly agreed to in writing by the Purchaser. The Vendor shall give advance notice to the Purchaser prior to arrival at the Purchaser's mill sites; and
- (b) the Vendor shall provide all necessary supervision and appoint a competent representative who shall be in attendance at the project site while Services are being performed. The Vendor's representative shall co-ordinate all on-site activities with a person to be assigned by the Purchaser (the "Owner's Representative"). The Vendor's representative shall not be changed except for valid reason and after notice has been given to Purchaser;
- (c) the Purchaser may maintain a holdback from payment in accordance with any lien legislation applicable to the project site. The Vendor will discharge, release or remove all claims of lien that relate to the goods or services to be provide under the Order. If the Vendor fails to discharge, release or remove any such claim of lien within 5 days of notice of a claim of lien, the Purchaser may withhold the full value of the claim of lien plus 15% as security for costs and take such steps as necessary to effect the removal, release or discharge of said claim of lien;

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- (d) the Vendor agrees to make best efforts to settle any claim or potential claim brought by other contractors or service providers on site if the Vendor shall cause damages to such contractors or service providers;
- (e) the Vendor and any of its subcontractors shall use the entrance designated by the Purchaser for the ingress and egress of all personnel, equipment, vehicles, machinery or supplies required to be incorporated in the Services or as required for the project and must follow all rules and regulations set forth by the Purchaser;
- (f) the Vendor shall follow all directions provided by the Purchaser regarding storage of equipment and shall not unreasonably encumber the site and shall enforce the Purchaser's instructions regarding signs, advertisements, fires, smoking and site security regulations;
- (g) the Vendor shall register under and abide by and comply with all provisions of the *Workers Compensation Act* of the Province of British Columbia and all regulations passed thereunder (the "WCA") and any other industrial insurance laws of British Columbia, and will carry compensation insurance insuring against any claims or liability which may arise under said laws; and
- (h) the Vendor shall take all due care to ensure any and all telecommunications, data, computer hardware or software information technology networks or similar systems which are connected to or are granted access to the Purchaser's telecommunications, data, computer hardware or software, information technology networks or similar systems have current, managed and monitored anti-malware systems.

43. PROFESSIONAL DESIGN – The following applies to each Order which includes any design services (“Design Services”) performed by the Vendor:

- (a) all Design Services shall be performed in accordance with all good architectural and engineering practices and with all applicable laws, codes, regulations, and industry standards; and
- (b) without limiting the Vendor’s obligations or the Purchaser’s rights and remedies, the Vendor must obtain Errors & Omissions insurance with limits not less than \$2,000,000 per claim and with an aggregate limit of not less than \$2,000,000. The Vendor agrees to maintain this coverage for six (6) years following after the final delivery of Work. Prior to providing Design Services, the Vendor must provide a certificate of such insurance to the Purchaser.

44. TITLE – The Equipment in all stages of construction and all materials, machinery and equipment from time to time appropriated by the Contractor or its suppliers or sub-contractors for the manufacture of the Equipment, whether located from time to time in the Contractor’s plant or elsewhere, shall be the property of the Owner to the extent that such Equipment has been paid for by the Owner, and the portion of the Equipment for which payment has been received by the Contractor shall not be within the ownership or disposal of the Contractor and the Contractor agrees to perform all acts necessary to perfect and assure such title in the Owner. The Contractor shall certify to the Owner on demand at reasonable intervals, that the amount of the charges which have been paid by the Owner are represented by goods in process and that title to such goods has passed to the Owner. Notwithstanding the above, title to all Equipment for which payment has not yet been received by the Contractor shall pass to the Owner immediately prior to installation by the Contractor at the Mill.

Notwithstanding subsection 6.1, until the Equipment is delivered to the Owner at the Mill, the Contractor shall bear and be subject to, and indemnify and hold harmless the Owner against and from, all risks of loss of or damage to the Equipment or any component thereof arising or resulting from any cause whatsoever except those resulting from the negligence of the Owner.

The foregoing provisions are not intended to affect or influence the Owner’s obligations to pay the Contract Price in accordance with the other provisions of this Agreement.

Date issued:	Revision:	Changes:	Approved by:
24-Apr-2019	Rev. 3	Legal company name change to Mercer Celgar Limited Partnership	S. Duda, Director Procurement
26-Apr-2019	Rev. 4	Update clause 15	S. Duda, Director Procurement
09-Aug-2019	Rev. 5	Updated Software License & Title of Ownership (42 & 43)	B.Price, Senior Purchaser
15-May-2020	Rev. 6	General revision; addition of terms for on-site work.	S. Duda, Director Procurement
14-Jul-2020	Rev. 7	Update #43 Work on Site	S. Duda, Director Procurement
09-Nov-2020	Rev. 8	Update customs broker information (37)	S. Duda, Director Procurement

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