Standard Purchase Order Terms and Conditions

These terms and conditions (the "Terms and Conditions") are incorporated into and form part of the purchase order entered into between Vendor and Purchaser (together with the Terms and Conditions and any appendices, exhibits, riders, or supplemental conditions the "Purchase Order"). By accepting the Purchase Order, acknowledging the Purchase Order, commencing performance, shipping or delivering any Goods, issuing an invoice, accepting payment, or otherwise acting pursuant to the Purchase Order, Vendor agrees to and accepts the Purchase Order and these Terms and Conditions.

1. Agreement and Acceptance: The Purchase Order is the entire agreement between Purchaser and Vendor and replaces and cancels all previous agreements in connection with the Purchase Order whether oral or in writing and whether contained in Vendor's proposal, quotation or otherwise (except as otherwise set out herein). In order for any waiver or change in the terms and conditions contained in this Purchase Order to be valid and effective, such waiver or change must be specifically agreed to in writing by both Purchaser and Vendor. In the event there is a pre-existing, binding, master supply agreement (or similar) between the parties (the "MSA") that governs the subject matter of this Purchase Order (either in whole or in part), the terms of that MSA shall govern in the event of any conflict or inconsistency. Vendor shall provide the material, equipment and/or labor or services (the "Goods") in accordance with the Purchase Order and the schedule and destination specified therein.

2. Price, Invoicing and Payment: Vendor shall invoice Purchaser in accordance with the milestone invoicing schedule agreed by Purchaser. Each invoice shall include:

(i) the Purchase Order number;

(ii) line-item detail clearly identifying all charges, including without limitation transportation, taxes, and packaging;

(iii) any amounts previously paid by Purchaser;

(iv) identification of amounts payable to Vendor's subcontractors and/ or Vendor's; and

(v) where applicable, a duly executed waiver of subsequent action.

Purchaser shall have no obligation to pay any invoice where:

a) the invoiced amounts do not correspond to the Purchase Order; or

b) Vendor has failed to comply with the requirements of the Purchase Order.

Unless otherwise specified in the Purchase Order, Purchaser's standard payment terms are net sixty (60) days from the later of acceptance of Vendor's invoice or receipt of the Goods. This is a firm fixed-price Purchaser Order in Canadian dollars (unless stated otherwise on the face of this Purchase Order). The price includes all charges, including, but not limited to, charges related to packaging, preservation, transportation, delivery (as applicable), taxes, costs relating to customs and duties, and shall not be subject to adjustment due to changes in rates. Any amount payable or refundable by the Vendor to the Purchaser may be taken by the Purchaser as a cash refund or may be offset by the Purchaser against payment due, or to become due, to the Vendor under this or any other Purchase Order between the Purchaser and the Vendor, as the Purchaser in its sole discretion may decide. Credits in favour of the Purchaser shall not expire. Vendor shall promptly pay all subcontractors, suppliers and other parties providing labour, materials, equipment or services relating to the Goods. If Vendor fails to do so, Purchaser may, but shall not be obligated to, make such payments directly and deduct such amounts from any monies due or becoming due to Vendor. Purchaser may withhold payment to the extent reasonably necessary to protect itself against any loss, damage, deficiency, lien, claim or Vendor default. Payment by Purchaser shall not constitute acceptance of the Goods nor relieve Vendor of any obligations under the Purchase Order.

3. **Title and Risk of Loss:** Title to the Goods, in whole or in part, shall be vested in Purchaser at the earlier of: (i) delivery to such other location as may be directed by Purchaser; or (ii) payment for such Goods. Vendor warrants that all Goods shall be delivered free and clear of all liens, security interests, encumbrances and competing claims.

4. **Intellectual Property:** Vendor warrants that the Goods, and Purchaser's use, operation, maintenance, repair, replacement and resale of the Goods, do not and will not infringe any patent, copyright, trademark, industrial design, trade secret or other intellectual property rights of any third party. Vendor shall defend, indemnify and hold harmless Purchaser, its affiliates, and their respective directors, officers, employees and agents from and against all claims, demands, actions, damages, losses, costs and expenses (including legal fees on a solicitor-and-client basis) arising out of any actual or alleged infringement of any intellectual property rights relating to the Goods. If any Goods are alleged or determined to infringe the intellectual property rights of a third party, Vendor shall, at its sole cost and expense and at Purchaser's option: (a) procure the right for Purchaser to continue using the Goods; (b) replace the Goods with non-infringing Goods of equivalent functionality and performance; or (c) modify the Goods to render them non-infringing without materially diminishing their functionality or performance. To the extent any intellectual property is required for Purchaser's use, operation, maintenance, repair, replacement or modification of the Goods, Vendor grants Purchaser a perpetual, irrevocable, worldwide, royalty-free license to use such intellectual property in connection with the Goods.

5. **Delivery Requirements:** Time is of the essence. No transportation, delivery, customs, duties or other charges shall be payable by Purchaser or reimbursed to Vendor unless expressly agreed to by Purchaser in writing. Each shipment shall be accompanied by a packing slip identifying the Purchase Order number, description of the Goods, quantities shipped, applicable part numbers and all required transportation, safety and compliance documentation. Vendor shall properly pack, mark, and ship all Goods in accordance with Purchaser’s instructions or, in the absence of such instructions, in accordance with good industry practice. If Vendor fails, or in Purchaser's reasonable opinion is likely to fail, to meet any required delivery date, Purchaser may require Vendor to expedite performance and delivery, including through overtime, additional shifts, expedited transportation or additional resources. Any resulting costs shall be borne by Vendor to the extent the delay is caused by Vendor. At Purchaser's request, Vendor shall store completed Goods for up to sixty (60) days pending delivery. Vendor shall properly preserve, protect and insure the Goods during such storage period. Purchaser may postpone delivery of any Goods for a reasonable period of time and Vendor shall not be entitled to any additional compensation arising solely from such postponement.

6. **Site Delivery Requirements:** Vendor shall comply with all site access requirements, safety rules, security requirements, and instructions of Purchaser, and shall ensure that its personnel, subcontractors and vehicles use only designated routes, staging areas and delivery locations. Vendor shall coordinate all deliveries with Purchaser and shall not interfere with ongoing site operations.

Unless otherwise specified in the Purchase Order, Vendor shall be responsible for all delivery, handling and unloading activities and shall perform such activities in a safe and controlled manner. Vendor shall be responsible for any loss, damage, cost, expense, injury or death arising out of or relating to its delivery activities, including damage to the site, structures, utilities, equipment, the work of others, or third-party property.

Where Vendor personnel attend the site, Vendor shall maintain workers' compensation coverage as required by applicable law and shall provide valid clearance certificates upon request. Vendor shall maintain all insurance required under the Purchase Order and all insurance reasonably required for its delivery operations.

Delivery to the site shall not constitute installation of the Goods or acceptance by Purchaser. The Goods shall remain subject to inspection and acceptance in accordance with the Purchase Order. Risk of loss of or damage to the Goods shall remain with Vendor until the Goods have been delivered, inspected and accepted by Purchaser.

7. Delay: Vendor shall promptly, and in any event within twenty-four (24) hours, notify Purchaser of any event or circumstance that may affect the delivery schedule, price, or Vendor’s performance under the Purchase Order. Vendor shall be entitled to an extension of time, equal to the period of delay, where performance is delayed by Purchaser or by an event beyond Vendor’s reasonable control, including an act of God, labour dispute, fire, war, riot, epidemic, or severe and unusual weather, provided that Vendor has used commercially reasonable efforts to mitigate such delay. If Vendor fails to deliver the Goods in accordance with the required delivery schedule, Purchaser shall be entitled to liquidated damages in the amount stipulated in the Purchase Order. Payment of liquidated damages shall not limit Purchaser’s right to recover its direct damages in excess of such amount. The parties agree that such liquidated damages constitute a genuine pre-estimate of damages and are not a penalty. If Vendor fails to deliver the Goods in accordance with the Purchase Order, Purchaser may procure substitute goods from alternate sources and Vendor shall be liable for all additional costs, expenses, losses and damages incurred by Purchaser as a result.

8. Inspection, Acceptance and Rejection: Purchaser and its representatives may, upon reasonable notice, inspect the Goods and Vendor's manufacturing, fabrication, testing and storage facilities, and any records relating to the Goods, at any reasonable time. No such inspection shall relieve Vendor of any obligation or liability under the Purchase Order. Vendor shall not substitute any Goods, materials, components, manufacturers, suppliers or sources of supply specified in the Purchase Order without Purchaser's prior written approval. Any unauthorized substitution shall constitute a non-conformance and Purchaser may reject the affected Goods. Delivery of the Goods shall be deemed complete only upon receipt, inspection and acceptance by Purchaser at the delivery address specified in the Purchase Order (the “Delivery Address”). Neither delivery of the Goods, nor inspection, acceptance or payment by Purchaser shall relieve Vendor of any obligation, warranty or liability under the Purchase Order. Purchaser may reject, in whole or in part and at Vendor's cost, any Goods that are defective, non-conforming, damaged, incomplete, delivered in excess of the quantities ordered, delivered in advance of the required delivery date without Purchaser's approval, or otherwise fail to comply with the requirements of the Purchase Order or Vendor's representations, warranties and covenants. Purchaser shall have no obligation to pay for rejected Goods. Rejected Goods shall be held at Vendor's risk and expense for a reasonable period pending Vendor's disposition instructions. Vendor shall promptly remove or replace rejected Goods upon Purchaser's request. All costs incurred by Purchaser relating to the inspection, handling, storage, return, removal or replacement of rejected Goods may be charged to Vendor or deducted from amounts otherwise due to Vendor.

9. **Warranty:** Vendor warrants that the goods: (i) are free from defects in design, materials and workmanship; (ii) conform with all specifications attached or contained in the Purchaser Order and all documentation and information provided by Purchaser for the goods; (iii) are fit for their intended purpose as specified in the Purchaser Order; and (iv) are new, unused (unless otherwise specified in this Purchaser Order) and merchantable. Vendor shall replace or repair, as mutually agreeable between the Vendor and Purchaser, all Defective Goods, as defined below, without cost to Purchaser, if, within a period of twelve (12) months following installation of goods, or eighteen months (18) from acceptance of goods, whichever occurs later, the Goods are determined to be defective in material, performance, workmanship, are not new or unused or are otherwise not in accordance with the requirements of the Purchaser Order ("Defective Goods").The warranty for fraud and latent defects shall be perpetual. Repaired or replaced Defective Goods shall be re-warranted for the period as set out herein. The express warranties set forth in this contract are not exclusive and this contract shall include all other warranties available at law or equity, whether statutory, written, oral, express or implied (including warranties of fitness for a particular purpose or merchantability and implied warranties of custom or usage. The warranty shall not extend to (i) any repairs or replacements which may be required as a result of normal wear and tear in the operation of the goods, (ii) normal degradation in the performance of equipment, (iii) resulting damage, provided that the Vendor shall be responsible for paying to Purchaser the amount of any insurance deductible applicable to any insurance claim in respect of such resulting damage, or (iv) as a result of Purchaser's failure to operate or maintain the Goods in accordance with the Vendor's recommendations. Vendor hereby assigns to Purchaser all manufacturer's warranties applicable to the Goods and shall take all steps necessary to effect such assignment. If Vendor fails to promptly repair, replace or correct defective Goods, Purchaser may perform or procure such repair, replacement or correction and Vendor shall reimburse Purchaser for all resulting costs.

10. **Compliance with Laws:** Vendor shall not engage, actively or passively, not directly or indirectly in any form of bribery, in any violation of basic human rights of employees or any child labor. Moreover, Vendor shall take responsibility for the health and safety of its employees. Vendor shall comply with all applicable provincial, federal and municipal laws, rules and regulations arising out of or connected with the performance of the goods in the applicable jurisdiction(s) by Vendor, its employees, directors, officers or agents, including, as appropriate, obtaining and maintaining any required work permits and visas for a project. Vendor explicitly undertakes and guarantees that neither it, nor its employees, or any other parties it commissions will perform any unlawful acts or incite or aid and encourage any third parties to perform such acts. Unlawful acts include offering, granting, requesting or accepting illegal payments, benefits or other advantages for oneself or a third party. Purchaser's Business Conduct and Ethics Expectations for Supplier ad Subcontractors can be found at Governance & https://www.bird.ca/who-we-are/governance-whistleblower (the "Purchaser's Expectations"). Purchaser confirms that it has reviewed the Purchaser's Expectations and acknowledges and agrees that it and its shareholders, officers, directors, employees, subcontractors, suppliers, and affiliates shall at all times comply with applicable law, the Purchaser's Expectations and/or Vendor's own business conduct guidelines and policies.

11. **Insurance:** Prior to providing any Goods under the Purchase Order, Vendor shall, at its own expense, obtain and maintain throughout the performance of the Purchase Order:

(a) Commercial General Liability Insurance with limits of not less than $5,000,000 per occurrence, including coverage for bodily injury, property damage, products liability, completed operations, contractual liability and broad form property damage. Such policy shall name Purchaser as an additional insured with respect to liability arising from the Goods supplied under the Purchase Order;

(b) Automobile Liability Insurance with limits of not less than $2,000,000 per occurrence covering all owned, leased, hired and non-owned vehicles used in connection with the Purchase Order;

(c) Workers' compensation insurance or similar statutory coverage as required by applicable law for all employees engaged in the performance of the Purchase Order;

(d) Where the Goods include engineering, design, inspection, certification or other professional services, Professional Liability (Errors and Omissions) Insurance with limits of not less than $2,000,000 per claim;

(e) Where the Goods include hazardous materials, hazardous waste handling, environmental remediation or similar activities, Pollution Liability Insurance with limits of not less than $2,000,000 per occurrence.

Vendor shall provide certificates of insurance, or certified copies acceptable to Purchaser, evidencing that the required insurance is in force prior to commencing performance and at any time upon Purchaser's request.

All required insurance policies shall:

(i) be issued by insurers licensed in the jurisdiction of the project;

(ii) be primary and non-contributory to any insurance maintained by Purchaser;

(iii) include a waiver of subrogation in favour of Purchaser;

(iv) provide not less than thirty (30) days' prior written notice of cancellation, non-renewal or material change;

(v) require that subcontractors and suppliers engaged by Vendor maintain comparable insurance appropriate to their scope of work; and

(vi) remain in effect for the duration of the Purchase Order.

Vendor shall be responsible for all deductibles under its insurance policies. Neither the provision nor maintenance of insurance shall limit Vendor's obligations, liabilities or indemnities under the Purchase Order. If Vendor fails to maintain the required insurance, Purchaser may, but is not obligated to, obtain such insurance and recover the cost from Vendor.

12. **Default:** If Vendor fails to make satisfactory progress in performing its obligations hereunder, as may reasonably be determined by Purchaser, or if Vendor is in default of performing any obligation under the Purchase Order and fails to take steps satisfactory to Purchaser to remedy the default within two (2) days of receipt of written notice from Purchaser, Purchaser may at any time by notice terminate all or any part of this Purchase Order. Purchaser may terminate this Purchase Order forthwith with written notice to Vendor: becomes insolvent or bankrupt or commits another act of bankruptcy, including taking any action for its own benefit or protection under any bankruptcy or insolvency laws, or makes a proposal, or makes a general assignment for the benefit of its creditors, or if a receiver or trustee is appointed for Subcontractor’s business or assets, or a part thereof, or Contractor receives written notice from a certified public accountant that Subcontractor may be unable to continue as a going concern or may otherwise be unable to remain in business;

13. Termination: Purchaser may, in its sole discretion, terminate this Purchase Order at any time or for any reason by providing two (2) days written notice of such termination, in which case Purchaser shall pay for any Goods delivered and accepted prior to termination. Purchaser may, in its sole discretion, terminate this Purchase Order immediately if the Vendor becomes insolvent or bankrupt or commits another act of bankruptcy. Purchaser may, in its sole discretion, reject all or any portion of the Goods, or terminate this Purchase Order in whole or part, without prejudice to any other rights it may have, if the Vendor: is late or anticipated to be late delivering Goods, fails to correct or replace any defective or deficient Goods in a timely manner, or fails to perform any of its other obligations under this Purchase Order after notice and a reasonable opportunity to cure such failure.

14. Limitation Of Liability: Notwithstanding any other provision of this Purchase Order, Purchaser's total liability resulting from or in connection with this Purchase Order shall not exceed the Purchase Order price. Notwithstanding any other provision herein, in no event shall either party be liable to the other, or their respective directors, officers or employees, for any consequential, incidental, special, punitive, exemplary or indirect damages which may include without limitation loss of actual or anticipated revenue or profits, business interruption, loss of use of property, loss of business opportunity, increased capital or operating costs or increased financing costs arising out of or related to any causes of action, whether in tort, contract or otherwise (including but not limited to claims and liability under or for breach of contract, negligence, professional errors or omissions, strict liability and breach of express or implied warranty). The limitations and exclusions of liability contained in this Purchase Order do not apply to Vendor's indemnity obligations, warranty obligations, intellectual property infringement claims, confidentiality obligations, fraud, gross negligence, wilful misconduct or amounts recoverable under insurance maintained by Vendor.

15. Indemnity: The Vendor shall be liable to and shall indemnify and hold harmless the Purchaser from all claims, actions, causes of action, judgments, fines, costs, losses, penalties, expenses, fees, damages (whether liquidated or otherwise), reasonable attorneys' fees and legal costs, cost of compliance with regulatory orders and any other liabilities arising from safety infractions, environmental damage, violation of any applicable law, infringement or alleged infringement of intellectual property rights, injuries, damage to property, injuries to persons including death, Vendor's negligence, breach of this Purchase Order, or any event caused or contributed to by the Vendor for which Purchaser is required to indemnify or pay damages, or any other acts or omissions of the Vendor or any of its directors, officers, agents, employees, servants, material Vendors, affiliates, sub-Vendors or assignees with respect to this Purchase Order. Without abrogating or waiving Purchaser's other rights, in the event Vendor fails to promptly honor the terms of this provision upon demand by Purchaser, the Purchaser or its affiliates may set-off against any monies otherwise due to Vendor by the Purchaser. Vendor's liability and indemnity obligations shall survive delivery, inspection, acceptance, payment, completion and termination of the Purchase Order.

16. Confidentiality: Purchaser's proprietary information delivered to the Vendor under this Purchase Order, shall be used solely by Vendor and solely for the purpose of performing the obligations contained in this Purchase Order as it is confidential information. The Vendor covenants that Purchaser's Proprietary Information will not be copied or disclosed, and the existence of this Purchase Order or Vendor's relationship with Purchaser shall not be disclosed to any affiliate, subsidiary company or third parties except as specifically authorized in advance by Purchaser.

17. Changes: Purchaser may direct changes to the Goods by written instruction. Any resulting adjustment to the Purchase Order price or delivery schedule shall be documented through a written amendment or change order. Vendor shall provide written notice of any requested adjustment to the Purchase Order price or delivery schedule within five (5) days of receipt of the change direction, failing which the requested adjustment shall be deemed waived. Vendor shall continue performance of the Purchase Order pending agreement of any adjustment.

18. Dispute resolution: Vendor shall continue performance of the Purchase Order pending resolution of any dispute, claim or disagreement between the parties.

19. Notice: Any notice required under this Purchase Order shall be in writing and may be delivered by email, courier or personal delivery to the addresses set out in the Purchase Order.

20. Publicity: Vendor shall not use Purchaser's name, trademarks, logos, project information or the existence of this Purchase Order in any advertising, publicity, media release, promotional materials or social media communications without Purchaser's prior written consent.

21. Independent Contractors: The parties to this Agreement are independent contractors and nothing will be construed to create any partnership, joint venture, or relationship of principal and agent or employee and employer between the Purchaser and Vendor/its personnel.

22. Assignment: Vendor may not assign the Purchase Order without the prior written consent of the Purchasers.

23. Cumulative Remedies: All remedies set out in this Purchase Order are cumulative and in addition to any and all other statutory, common law and equitable remedies available to Purchaser.

24. Language: The parties acknowledge and agree that this Agreement be prepared in the English language.

25. Governing Law: This Purchase Order and all matters arising out of or relating to it shall be governed by and interpreted in accordance with the laws of the province or territory in which the Delivery Address is located and the federal laws of Canada applicable therein. The parties attorn to the exclusive jurisdiction of the courts of such province or territory. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Purchase Order.

26. Severability and Waiver: If any provision of this Purchase Order is found to be invalid or unenforceable, neither the validity nor enforceability of any other provision of this Purchase Order shall be affected or impaired. The delay or failure of Purchaser to exercise a right or remedy under this Purchase Order shall not operate as a waiver of that right or remedy. No single or partial waiver of any right or remedy precludes subsequent exercise of that or any other right or remedy, nor shall it be construed or deemed to be a waiver of any subsequent right or remedy.

27. Survival of Terms: All indemnities, hold-harmless obligations, warranties, representations, covenants, and other provisions of this Purchase that by their terms or by their nature are intended to survive termination, expiry, or completion shall remain in full force and effect. Without limiting the generality of the foregoing, all obligations of the Purchase Order relating to indemnification, insurance, confidentiality, audit, records retention, dispute resolution, payment, taxes, and compliance with law shall continue as valid and enforceable obligations after termination, expiry, or completion of the Purchase Order.