

# PURCHASE ORDER TERMS AND CONDITIONS

## 1. Acknowledgement

(a) These purchase order terms and conditions (the "Terms and Conditions") shall apply to and shall form part of any Purchase Order (the "Order") between Purchaser and Seller for the supply of Seller's Goods or Services.

(b) If the Order is issued or arises pursuant to an agreement in writing between Purchaser and Seller (the "Agreement") in respect of Goods or Services, the terms of that Agreement shall govern in the event of any inconsistency.

## 2. General

### (a) Definitions:

i. "Goods" means the products, equipment, articles or other materials to be supplied by Seller as more particularly described in the Order;

ii. "Services" means the services to be performed by Seller as more particularly described in the Order.

(b) **Extended Meanings:** Words importing the singular number include the plural and vice versa and words importing gender include all genders.

(c) **Governing Law:** The Order shall be construed and governed in accordance with the laws of Alberta, Canada. Save in respect of matters made subject to arbitration herein, the parties attorn to the exclusive jurisdiction of the Alberta Courts in Edmonton, Alberta in connection with any disputes.

(d) **Severability:** The invalidity or unenforceability of any provision of the Order shall not affect the validity or enforceability of any other provision hereof.

(e) **Relationship:** Seller acts solely as independent contractor in performing Services and providing Goods. Nothing herein shall create an agency, employment, joint-venture, or partnership relationship between Seller and Purchaser.

(f) **Waiver:** Failure by either party to enforce any of its rights under the Order in a particular instance shall neither constitute a waiver of its rights under the Order, nor shall it constitute a continuing waiver or preclude subsequent enforcement thereof.

(g) **Delivery by Facsimile or Email:** The execution of the Order may be communicated by facsimile transmission or email in portable document format and documents executed and delivered by electronic means shall be deemed to be an original document.

(h) **Entire Agreement:** The Agreement (if any), the Order, and the Terms and Conditions are the entire agreement between the parties, and there are no verbal, express, or implied promises, representations, agreements, or terms between Seller and Purchaser for the purchase of Seller's Goods or Services, other than as set out therein. Without limiting the generality of the foregoing, none of Seller's terms and conditions shall apply and Purchaser's acceptance of Seller's Goods or Services shall not be deemed an acceptance of any of Seller's terms. Amendments to the Order (and Agreement, if any) will be made in writing and by mutual agreement only, and must be signed by the parties or their duly authorized representatives.

(i) **Conflict:** Subject to paragraph 1(b) above, in the event there is a conflict between the provisions of a Purchase Order (excluding the Terms and Conditions) and the Terms and Conditions, the provisions of the said Purchase Order shall prevail.

### 3. Prices and Payment

(a) **Canadian Funds:** Unless otherwise stated or agreed, prices are in Canadian funds.

(b) **GST:** Purchaser shall pay Goods and Services Tax on the purchase price as required by the *Excise Tax Act*, Canada.

(c) **Invoices Due:** Subject to the further provisions of these Terms and Conditions: (i) invoices are due for payment within thirty (30) days of receipt of the invoice; and (ii) interest shall accrue on the balance of any invoice that is due and payable and unpaid thereafter at the rate of seven (7%) percent per annum.

(d) **Invoices:** Seller shall deliver invoices to Purchaser for each shipment of Goods or supply of Services and shall:

a. State in the invoice whether the invoice is "Partial" or "Final";

b. Include the Order number in all invoices and in all packing lists, delivery tickets and correspondence relating to the Order;

c. Fully describe the Goods or Services;

d. Show GST and any other charges approved by Purchaser separately on each invoice;

e. If applicable, include serial numbers of Goods on the invoice.

In the event there is any conflict between the seller

(e) **Payment:** Purchaser may withhold payment of invoices until it has received and inspected the Goods or Services and has determined they conform to the Order. In no event, however, shall payment by Purchaser be deemed an acceptance of any Goods or Services supplied. Prompt payment of invoices depends upon Seller carefully complying with the procedures established hereunder. With respect to invoices covering mechanical equipment and similar or other Goods which cannot immediately be put into operation, Purchaser shall have the right to withhold ten (10%) percent of the purchase price of such Goods pending satisfactory confirmation of the operation of the Goods.

(f) **Escalation:** Claims for increases in the purchase price stated in the Order will not be allowed unless an escalator clause has been specifically included in the Order.

(g) **General:** If there is an error in any invoice, the unit price set out in the Order will be used as a basis for correcting the invoice. If the terms of the Order do not appear on or agree with Seller's invoice as rendered, Seller agrees that Purchaser may change Seller's invoice to conform to the Order and may make payments accordingly. Payment under the Order will be subject to deductions of any valid claim of Purchaser against Seller arising from this or any other transaction.

## 4. Shipping of Goods

(a) **Bills of Lading:** Seller shall:

(i) ensure that a signed bill of lading describing the Goods in accordance with freight classification, or express receipt is forwarded to Purchaser immediately upon shipping;

(ii) ensure that a packing list accompanies all shipments; and

(iii) advise Purchaser immediately of any shortage or delay in shipments.

(b) **Packing:** All shipments must be packed, crated, bundled, etc. in accordance with the special conditions shown in the Order. No extra charge will be allowed for packing, crating, bundling, etc. unless agreed to and specified in the Order.

(c) **Marking:** Weights, measurements and other identification shall be clearly stenciled by Seller on each box, crate, bundle, package, piece, etc. as directed by Purchaser prior to shipment. No extra charges for such marking will be allowed unless agreed to and specified in the Order.

## 5. Delivery and Waiting Times

(a) Seller will deliver the Goods and complete the Services within the times specified in the Order.

(b) Seller and Purchaser may agree to designate certain orders as rush orders which will be subject to overtime and expediting charges, if so specified in the Order.

(c) Any arrangement as to insurance, carriage or shipment of Goods shall be made by Seller and shall be at the sole cost and expense of Seller and such arrangements shall not alter the delivery terms applicable to the Order.

(d) Any Goods provided by Seller to Purchaser shall be at the sole risk of Seller until the time of delivery to Purchaser.

6. **Title:** Seller warrants and represents that it has good and marketable title to the Goods, free and clear of any and all claims, charges or other encumbrances and that it has full authority to transfer title to the Goods.

## 7. Warranty:

(a) Subject to any longer warranty Seller provides to other purchasers of Goods, Seller warrants that any Goods manufactured by it will be free from defects in material and workmanship under normal use and proper installation and service for a period of twelve (12) months from the date of delivery. In order to commence a warranty claim, Purchaser will return such Goods or part in question to Seller or to an authorized distributor of Seller within twelve (12) months of the delivery of the Goods to Purchaser. Seller shall at its option either repair or replace the defective Goods.

(b) The above warranty does not apply to Goods normally consumed in operation or which have a normal life inherently shorter than the said twelve (12) month warranty period, nor does the above warranty apply to any service or repair work carried out by Seller.

(c) Seller does not warrant any Goods not manufactured by itself, but agrees to pass on to Purchaser whatever benefit of any warranty Seller received from the supplier (the "Supplier") of the product and takes no further responsibility for such product other than to be Purchaser's primary contact with respect to all warranty claims against the Supplier.

8. **Quality and Design of Product:** Goods furnished hereunder, shall be of new material and Seller's or manufacturer's latest design and current model and Seller warrants all Goods to be free from defects in materials, design and workmanship. No used or second hand material, equipment or component whatsoever shall be furnished or incorporated into any Goods furnished hereunder, unless otherwise specified in writing by Purchaser.

9. **Right of Inspection:** All Goods and Services covered by this transaction shall be subject to inspection at all times and places, both as to progress and material and workmanship, and (in respect of Goods) shall be subject to final inspection and acceptance, prior to shipment, by an authorized representative of Purchaser. In the event inspection prior to shipment of Goods is waived on any or all such Goods, then such Goods shall be subject to inspection and acceptance by Purchaser at final destination. If all or any part of the Goods are found to be non-conforming, Purchaser may reject all or any part of the Goods. Rejected Goods shall promptly be removed by Seller at Seller's cost and the purchase price with respect to such rejected Goods (i) shall be refunded to Purchaser if already paid; or (ii) shall be reduced as required if unpaid.

10. **Patents:** Seller shall hold and save Purchaser, its officers, agents, servants and employees harmless from liability of any nature or kind for or on the account of the use of any patented or unpatented invention, article, device or appliance furnished or used in the performance of Seller's obligations in respect of the Order including, without limitation, their use by Purchaser.

11. **Changes and or Extras:** Except as herein provided, no changes as to quantities, description, prices, F.O.B points, or otherwise, shall be made nor will any charge for extras be allowed unless the same have been authorized in writing by Purchaser and the proper price adjustment stated in such written change order. No charge will be allowed for freight, express, cartage, or other transportation unless agreed to and specified in the Order.

12. **Performance and Default:** Time is of the essence of this transaction and therefore it is understood and agreed that for failure to supply the Goods or perform the Services with promptness and diligence or for failure to make shipment within the time specified, or any extension thereof, Seller shall be declared to be in default; provided that:

(a) Seller shall not be liable for delay in or non-performance of the Order or any part thereof, resulting directly or indirectly from earthquakes; epidemics; act of any governmental authority, domestic or foreign, including but not limited to war, declared or undeclared, priorities, quarantines, embargoes, licensing controls or production or distribution restrictions; accidents and disruptions including but not limited to fires, explosions, breakdowns of essential machinery or equipment and power shortages; labour difficulties including but not limited to strikes, slowdowns, lockouts, sabotage and labour shortages; failure or delay in its source of supply; or any cause beyond its reasonable control whether similar or dissimilar to those above mentioned; and

(b) Dates of delivery of Goods or completion of Services shall be extended for a period equal to the time lost by reason of any cause set forth above even though such cause may occur after Seller's performance has been delayed for other causes. If any such delay lasts for more than ninety (90) days, the parties shall immediately consult with one another for the purpose of agreeing on the basis upon which Seller shall resume production at the end of the delay. If they do not agree upon a solution of the problems involved, including adjustment of the price, within 150 days from the beginning of such delay, then notwithstanding any other provision of the Order, either party may, by written notice, cancel that portion of the Order which is delayed and in such event the purchase price shall be adjusted accordingly.

13. **Remedy for Delays and Defaults:** If Seller is declared to be in default, Purchaser may, by written notice, terminate the entire Order, or

terminate Seller's right to proceed with deliveries of such parts thereof as to which there has been delay; in either event the buyer may procure the Goods or Services from other sources in such manner as it deems necessary in its absolute discretion, and Seller shall be liable to Purchaser for any excess cost occasioned thereby.

14. **Compliance with Law:** Seller shall comply with all applicable Municipal, Provincial and Laws and Regulations including specifically all statutory requirements as to production and labor standards and further, Seller shall not discriminate against any employee or applicant for employment because of race, creed, color or national origin.

15. **Liability and Insurance:** In the event Seller, under the terms of the Order, shall be required to perform Services at Purchaser's premises:

(a) **WCB:** Seller shall procure and maintain at its own expense, coverage for its employees, agents and representatives from the Workers' Compensation Board of Alberta and provide certification from the Workers' Compensation Board (WCB) proving such coverage and that its registration is in good standing;

(b) **Liability Insurance:** Seller shall maintain comprehensive commercial general liability insurance in an amount of not less than two million dollars (\$2,000,000) per occurrence. The insurance coverage must include, without limitation, coverage in respect of claims arising from bodily or personal injury (including death) and property damage, including loss of use. Such insurance shall name Purchaser as an additional insured. Seller shall provide a Certificate of Insurance to Purchaser. Notwithstanding anything to the contrary contained herein, Seller shall assume and be liable for all losses, damages, expenses, claims and coverage for property insurance for damage or loss to tools, inventory, equipment and vehicles of its officials, employees, agents and representatives.

16. **Product Liability Insurance:** Seller shall maintain, in a form acceptable to Purchaser, Commercial General Liability insurance in an amount not less than \$2,000,000 per occurrence, covering liability for bodily injury, personal injury, death and third party property damage including products and completed operations liability. Purchaser shall have the right to suspend or cancel any Order, without any liability to Purchaser, if Seller fails to provide, upon request, such evidence as Purchaser deems necessary in its absolute discretion, of compliance with all insurance obligations under this provision.

17. **Termination:** Any Order:

(a) with respect to Goods may be terminated or cancelled by Purchaser upon written notice to Seller prior to completion and/or acceptance, in which event fair compensation will be agreed upon by Seller and Purchaser, or, if agreement cannot be reached by the parties in respect of fair compensation, it shall be determined by arbitration;

(b) with respect to Services may be terminated or cancelled by Purchaser upon thirty (30) days' written notice to Seller.

18. **Assignment by Seller:** Seller shall not assign the Order without Purchaser's prior written consent which may be refused in the absolute discretion of Purchaser. Any attempted assignment without Purchaser's consent shall render the Order null and void.

19. **Purchaser's Confidential Information:** Seller agrees to keep in confidence all information of Purchaser that may be disclosed to it or that may be developed in connection with the Order and to require a similar obligation on the part of any subcontractors and agents of Seller to whom any work or duty in relation to the Order may be allotted, with the written permission of Purchaser.

## 20. Arbitration

(a) Subject to paragraph 20(b) below, either party to this Agreement may by notice in writing to the other party submit any dispute arising in connection with this Agreement to arbitration for resolution. The arbitration shall be carried out in Edmonton, Alberta by a single arbitrator and the parties shall, within 10 days of service of such notice, appoint the arbitrator, failing which either party may, upon 2 business days' notice to the other party, apply to the Court of Queen's Bench of Alberta for the appointment of the arbitrator. The cost of the arbitration shall be shared equally by the parties hereto, except where the arbitrator is of the opinion that the dispute was the result of frivolous or unreasonable demands on the part of one of the parties, in which case the arbitrator may make an award as to costs. The decision of the arbitrator shall be final.

(b) This paragraph 20 shall not apply to any dispute or disagreement arising from the failure by one party to pay a sum of money to the other party, nor to any dispute arising from the insolvency of any party.

(c) Subject to the above specific provisions, the arbitration shall otherwise proceed pursuant to the provisions of the *Arbitration Act*, R.S.A. 2000, c.A-43 as amended.

21. **Indemnification:** Notwithstanding anything to the contrary contained herein, Purchaser and Seller further agree as follows, Seller shall indemnify, defend, and hold Purchaser, its employees, agents, subcontractors, officers, directors and shareholders (the "Purchaser's Parties") harmless from and against any and all liabilities, losses and damages, claims, demands, causes of actions, suits, and associated expenses (including all legal fees on a solicitor and his own client basis) arising directly or indirectly in connection with Seller's supply of Goods and/or performance of Services under the Order and in any way occurring, incidental to, arising out of, or in connection with:

(a) Personal injury, including illness, bodily injury or death;

(b) Services provided by Seller; or

(c) Any and all claims, liabilities, costs and expenses arising out of or based upon any misstatement or omission in any material, information or representation supplied or approved by Seller;

(Items referred to in this paragraph 21 being hereinafter called the "Events"). Seller hereby releases Purchaser and Purchaser's Parties from all liability in any way occurring, incidental to, arising out of (directly or indirectly), or in connection with the Events.



- St. Michael's Extended Care Centre Society
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- (b) If the Order is issued or arises pursuant to an agreement in writing between Purchaser and Seller (the "Agreement") in respect of Goods or Services, the terms of that Agreement shall govern in the event of any inconsistency.

### **2. General**

#### **(a) Definitions:**

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- (b) **Extended Meanings:** Words importing the singular number include the plural and vice versa and words importing gender include all genders.

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- (f) **Waiver:** Failure by either party to enforce any of its rights under the Order in a particular instance shall neither constitute a waiver of its rights under the Order, nor shall it constitute a continuing waiver or preclude subsequent enforcement thereof.
- (g) **Delivery by Facsimile or Email:** The execution of the Order may be communicated by facsimile transmission or email in portable document format and documents executed and delivered by electronic means shall be deemed to be an original document.
- (h) **Entire Agreement:** The Agreement (if any), the Order, and the Terms and Conditions are the entire agreement between the parties, and there are no verbal, express, or implied promises, representations, agreements, or terms between Seller and Purchaser for the purchase of Seller's Goods or Services, other than as set out therein. Without limiting the generality of the foregoing, none of Seller's terms and conditions shall apply and Purchaser's acceptance of Seller's Goods or Services shall not be deemed an acceptance of any of Seller's terms. Amendments to the Order (and Agreement, if any) will be made in writing and by mutual agreement only, and must be signed by the parties or their duly authorized representatives.
- (i) **Conflict:** Subject to paragraph 1(b) above, in the event there is a conflict between the provisions of a Purchase Order (excluding the Terms and Conditions) and the Terms and Conditions, the provisions of the said Purchase Order shall prevail.

#### **3. Prices and Payment**

- (a) **Canadian Funds:** Unless otherwise stated or agreed, prices are in Canadian funds.
- (b) **GST:** Purchaser shall pay Goods and Services Tax on the purchase price as required by the *Excise Tax Act*, Canada.
- (c) **Invoices Due:** Subject to the further provisions of these Terms and Conditions: (i) invoices are due for payment within thirty (30) days of receipt of the invoice; and (ii) interest shall accrue on the balance of any invoice that is due and payable and unpaid thereafter at the rate of seven (7%) percent per annum.
- (d) **Invoices:** Seller shall deliver invoices to Purchaser for each shipment of Goods or supply of Services and shall:
- a. State in the invoice whether the invoice is "Partial" or "Final";
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- c. Fully describe the Goods or Services;
- d. Show GST and any other charges approved by Purchaser separately on each invoice;
- e. If applicable, include serial numbers of Goods on the invoice.

In the event there is any conflict between the seller

- (e) **Payment:** Purchaser may withhold payment of invoices until it has received and inspected the Goods or Services and has determined they conform to the Order. In no event, however, shall payment by Purchaser be deemed an acceptance of any Goods or Services supplied. Prompt payment of invoices depends upon Seller carefully complying with the procedures established hereunder. With respect to invoices covering mechanical equipment and similar or other Goods which cannot immediately be put into operation, Purchaser shall have the right to withhold ten (10%) percent of the purchase price of such Goods pending satisfactory confirmation of the operation of the Goods.
- (f) **Escalation:** Claims for increases in the purchase price stated in the Order will not be allowed unless an escalator clause has been specifically included in the Order.
- (g) **General:** If there is an error in any invoice, the unit price set out in the Order will be used as a basis for correcting the invoice. If the terms of the Order do not appear on or agree with Seller's invoice as rendered, Seller agrees that Purchaser may change Seller's invoice to conform to the Order and may make payments accordingly. Payment under the Order will be subject to deductions of any valid claim of Purchaser against Seller arising from this or any other transaction.

#### **4. Shipping of Goods**

- (a) **Bills of Lading:** Seller shall:
  - (i) ensure that a signed bill of lading describing the Goods in accordance with freight classification, or express receipt is forwarded to Purchaser immediately upon shipping;
  - (ii) ensure that a packing list accompanies all shipments; and
  - (iii) advise Purchaser immediately of any shortage or delay in shipments.
- (b) **Packing:** All shipments must be packed, crated, bundled, etc. in accordance with the special conditions shown in the Order. No extra charge will be allowed for packing, crating, bundling, etc. unless agreed to and specified in the Order.



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- (c) **Marking:** Weights, measurements and other identification shall be clearly stenciled by Seller on each box, crate, bundle, package, piece, etc. as directed by Purchaser prior to shipment. No extra charges for such marking will be allowed unless agreed to and specified in the Order.
5. **Delivery and Waiting Times**
- (a) Seller will deliver the Goods and complete the Services within the times specified in the Order.
- (b) Seller and Purchaser may agree to designate certain orders as rush orders which will be subject to overtime and expediting charges, if so specified in the Order.
- (c) Any arrangement as to insurance, carriage or shipment of Goods shall be made by Seller and shall be at the sole cost and expense of Seller and such arrangements shall not alter the delivery terms applicable to the Order.
- (d) Any Goods provided by Seller to Purchaser shall be at the sole risk of Seller until the time of delivery to Purchaser.
6. **Title:** Seller warrants and represents that it has good and marketable title to the Goods, free and clear of any and all claims, charges or other encumbrances and that it has full authority to transfer title to the Goods.
7. **Warranty:**
- (a) Subject to any longer warranty Seller provides to other purchasers of Goods, Seller warrants that any Goods manufactured by it will be free from defects in material and workmanship under normal use and proper installation and service for a period of twelve (12) months from the date of delivery. In order to commence a warranty claim, Purchaser will return such Goods or part in question to Seller or to an authorized distributor of Seller within twelve (12) months of the delivery of the Goods to Purchaser. Seller shall at its option either repair or replace the defective Goods.
- (b) The above warranty does not apply to Goods normally consumed in operation or which have a normal life inherently shorter than the said twelve (12) month warranty period, nor does the above warranty apply to any service or repair work carried out by Seller.
- (c) Seller does not warrant any Goods not manufactured by itself, but agrees to pass on to Purchaser whatever benefit of any warranty Seller received from the supplier (the "Supplier") of



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the product and takes no further responsibility for such product other than to be Purchaser's primary contact with respect to all warranty claims against the Supplier.

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9. **Right of Inspection:** All Goods and Services covered by this transaction shall be subject to inspection at all times and places, both as to progress and material and workmanship, and (in respect of Goods) shall be subject to final inspection and acceptance, prior to shipment, by an authorized representative of Purchaser. In the event inspection prior to shipment of Goods is waived on any or all such Goods, then such Goods shall be subject to inspection and acceptance by Purchaser at final destination. If all or any part of the Goods are found to be non-conforming, Purchaser may reject all or any part of the Goods. Rejected Goods shall promptly be removed by Seller at Seller's cost and the purchase price with respect to such rejected Goods (i) shall be refunded to Purchaser if already paid; or (ii) shall be reduced as required if unpaid.
10. **Patents:** Seller shall hold and save Purchaser, its officers, agents, servants and employees harmless from liability of any nature or kind for or on the account of the use of any patented or unpatented invention, article, device or appliance furnished or used in the performance of Seller's obligations in respect of the Order including, without limitation, their use by Purchaser.
11. **Changes and or Extras:** Except as herein provided, no changes as to quantities, description, prices, F.O.B points, or otherwise, shall be made nor will any charge for extras be allowed unless the same have been authorized in writing by Purchaser and the proper price adjustment stated in such written change order. No charge will be allowed for freight, express, cartage, or other transportation unless agreed to and specified in the Order.
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  - (a) Seller shall not be liable for delay in or non-performance of the Order or any part thereof, resulting directly or indirectly from earthquakes; epidemics; act of any governmental authority, domestic or foreign, including but not limited to war, declared or undeclared, priorities, quarantines, embargoes, licensing controls or production or distribution restrictions; accidents

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and disruptions including but not limited to fires, explosions, breakdowns of essential machinery or equipment and power shortages; labour difficulties including but not limited to strikes, slowdowns, lockouts, sabotage and labour shortages; failure or delay in its source of supply; or any cause beyond its reasonable control whether similar or dissimilar to those above mentioned; and

- (b) Dates of delivery of Goods or completion of Services shall be extended for a period equal to the time lost by reason of any cause set forth above even though such cause may occur after Seller's performance has been delayed for other causes. If any such delay lasts for more than ninety (90) days, the parties shall immediately consult with one another for the purpose of agreeing on the basis upon which Seller shall resume production at the end of the delay. If they do not agree upon a solution of the problems involved, including adjustment of the price, within 150 days from the beginning of such delay, then notwithstanding any other provision of the Order, either party may, by written notice, cancel that portion of the Order which is delayed and in such event the purchase price shall be adjusted accordingly.
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15. **Liability and Insurance:** In the event Seller, under the terms of the Order, shall be required to perform Services at Purchaser's premises:
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shall name Purchaser as an additional insured. Seller shall provide a Certificate of Insurance to Purchaser. Notwithstanding anything to the contrary contained herein, Seller shall assume and be liable for all losses, damages, expenses, claims and coverage for property insurance for damage or loss to tools, inventory, equipment and vehicles of its officials, employees, agents and representatives.

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17. **Termination:** Any Order:
  - (a) with respect to Goods may be terminated or cancelled by Purchaser upon written notice to Seller prior to completion and/or acceptance, in which event fair compensation will be agreed upon by Seller and Purchaser, or, if agreement cannot be reached by the parties in respect of fair compensation, it shall be determined by arbitration;
  - (b) with respect to Services may be terminated or cancelled by Purchaser upon thirty (30) days' written notice to Seller.
18. **Assignment by Seller:** Seller shall not assign the Order without Purchaser's prior written consent which may be refused in the absolute discretion of Purchaser. Any attempted assignment without Purchaser's consent shall render the Order null and void.
19. **Purchaser's Confidential Information:** Seller agrees to keep in confidence all information of Purchaser that may be disclosed to it or that may be developed in connection with the Order and to require a similar obligation on the part of any subcontractors and agents of Seller to whom any work or duty in relation to the Order may be allotted, with the written permission of Purchaser.
20. **Arbitration**
  - (a) Subject to paragraph 20(b) below, either party to this Agreement may by notice in writing to the other party submit any dispute arising in connection with this Agreement to arbitration for resolution. The arbitration shall be carried out in Edmonton, Alberta by a single arbitrator and





- St. Michael's Extended Care Centre Society
- St. Michael's Long Term Care Centre
- St. Michael's HealthCare Services
- Millennium Pavilion Seniors' Lodge
- St. Michael's Grove Manor
- St. Michael's Manor Vegreville

#### **PURCHASE ORDER TERMS AND CONDITIONS**

the parties shall, within 10 days of service of such notice, appoint the arbitrator, failing which either party may, upon 2 business days' notice to the other party, apply to the Court of Queen's Bench of Alberta for the appointment of the arbitrator. The cost of the arbitration shall be shared equally by the parties hereto, except where the arbitrator is of the opinion that the dispute was the result of frivolous or unreasonable demands on the part of one of the parties, in which case the arbitrator may make an award as to costs. The decision of the arbitrator shall be final.

- (b) This paragraph 20 shall not apply to any dispute or disagreement arising from the failure by one party to pay a sum of money to the other party, nor to any dispute arising from the insolvency of any party.
  - (c) Subject to the above specific provisions, the arbitration shall otherwise proceed pursuant to the provisions of the *Arbitration Act*, R.S.A 2000, c.A-43 as amended.
21. **Indemnification:** Notwithstanding anything to the contrary contained herein, Purchaser and Seller further agree as follows, Seller shall indemnify, defend, and hold Purchaser, its employees, agents, subcontractors, officers, directors and shareholders (the "Purchaser's Parties") harmless from and against any and all liabilities, losses and damages, claims, demands, causes of actions, suits, and associated expenses (including all legal fees on a solicitor and his own client basis) arising directly or indirectly in connection with Seller's supply of Goods and/or performance of Services under the Order and in any way occurring, incident to, arising out of, or in connection with:
- (a) Personal injury, including illness, bodily injury or death;
  - (b) Services provided by Seller; or
  - (c) Any and all claims, liabilities, costs and expenses arising out of or based upon any misstatement or omission in any material, information or representation supplied or approved by Seller;

(items referred to in this paragraph 21 being hereinafter called the "Events"). Seller hereby releases Purchaser and Purchaser's Parties from all liability in any way occurring, incident to, arising out of (directly or indirectly), or in connection with the Events.