

PURCHASE ORDER TERMS AND CONDITIONS**1. Purchase Order****1.1. In these Terms and Conditions:**

- 1.1.1. "Applicable Laws" means all laws, regulations, decrees, orders, codes, standards or other requirements of any level of government, or of any governmental agency, having jurisdiction over any aspect of the Project or the Supply, including without limitation all laws relating to employee health and safety, the environment or hazardous materials, business ethics, and privacy.
- 1.1.2. "CIMS" means CIMS Limited Partnership, the issuer of this Purchase Order.
- 1.1.3. "CIMS' Policies" means policies, procedures, specifications and other requirements adopted by CIMS from time to time in the ordinary course of its business.
- 1.1.4. "Confidential Information" means any information provided by one party to the other that by its nature a reasonable person would in the ordinary course consider to be confidential including without limitation (a) this Purchase Order and all documents or other materials attached to or referred to in this Purchase Order, (b) information that has been provided directly or indirectly by the Owner, or (c) information that is marked as confidential, but excludes any information which, through no act or omission of the receiving party, is or becomes part of the public realm.
- 1.1.5. "Force Majeure" means any circumstance beyond the commercially reasonable control of a party and that is not reasonably foreseeable, but Force Majeure does not include lack of availability of labour, materials, equipment or transportation, unseasonable weather, or insufficient funds.
- 1.1.6. "Owner" means the owner of the Project, a contractor who has contracted directly or indirectly with the owner of the Project, or both as the circumstances require.
- 1.1.7. "Owner's Policies" means policies, procedures, specifications and other requirements adopted by the Owner from time to time in the ordinary course of its business in respect of the administration or performance of any agreement to supply goods or materials, perform services and/or complete work.
- 1.1.8. "Price" means the amount set out in the Purchase Order as being payable for the Supply.
- 1.1.9. "Prime Contract" means the contract between CIMS and the Owner for the Work.
- 1.1.10. "Project" means the project described in the Purchase Order and the Prime Contract.
- 1.1.11. "Purchase Order" means the purchase order to which these "Terms and Conditions" are attached, and "this Purchase Order" means the Purchase Order together with these Terms and Conditions and any Special Conditions.
- 1.1.12. "Schedule" means the schedule for supply, performance and/or completion of the Supply set out in the Purchase Order.
- 1.1.13. "Special Conditions" means any additional provisions forming part of and also attached to the Purchase Order. If there are any Special Conditions, reference is made to them in the Purchase Order.
- 1.1.14. "Specifications" means the specifications set out in the Purchase Order.
- 1.1.15. "Supplier" means the party named as Supplier in the Purchase Order.
- 1.1.16. "Supply" means the supply of goods or materials, the performance of services and/or completion of the work set out in the Purchase Order.
- 1.1.17. "Work" means the goods and materials to be supplied, the services to be performed and/or the work to be completed by CIMS in respect of the Project.

1.2. This Purchase Order is issued in consideration of and subject to the agreements, conditions, covenants, representations, terms, warranties and other provisions set out in this Purchase Order and acknowledged and agreed to by the Supplier by acceptance of the Purchase Order. There are no other agreements, conditions, covenants, representations, warranties or other terms, written or unwritten, except as set out or referred to in this Purchase Order. Without limitation, the parties agree that any and all provisions forming part of or attached to any Supplier's order confirmation, delivery confirmation, LEM, invoice or other document or instrument, whether delivered or made before or after this Purchase Order, are expressly excluded from, and do not form part of, this Purchase Order, and do not in any way amend, modify or supersede the provisions of this Purchase Order.

2. Supply

- 2.1. The Supplier shall be responsible for and supply all necessary management, facilities, plant, machinery, equipment, tools, supervision, labour, goods, materials, shop and as-built drawings, certifications and permits, as the case may be, and any other service or thing, required to complete the Supply and perform its obligations under this Purchase Order, including as may be reasonably necessary and/or customarily furnished in order to achieve the intended result set out in the Specifications. The Supplier confirms that it has undertaken any reviews and completed any due diligence required in order to determine the full nature and scope of the requirements of this paragraph. The Supplier also confirms that it has the resources necessary to complete the Supply and perform its obligations under this Purchase Order.
- 2.2. The Supplier shall diligently complete the Supply and perform its obligations under this Purchase Order: (a) using, as applicable, (i) only new equipment, goods and materials fit for their intended purpose; (ii) quality and workmanship of the highest industry standards; and (iii) qualified personnel; (b) in strict accordance and conformity with the Specifications, all Applicable Laws, all applicable CIMS' Policies, and all applicable Owner's Policies; and (c) in accordance with the Schedule. If the Purchase Order states that the Specifications are attached to the Purchase Order, or if the Specifications are incorporated into the Purchase Order by reference, then in either case the Supplier confirms receipt of the Specifications. The Specifications are understood to be accurate and complete in all respects. Should the Supplier believe there is any error, inconsistency or omission in or from the Specifications, the Supplier shall immediately advise CIMS and shall not undertake any further action in connection with the Supply until CIMS has clarified the Specifications. In addition, and without limitation to the foregoing, if applicable, the Supply: (d) shall be in strict accordance with the latest edition of ASME Section 11 and clearly display specification, grade, size, heat number and (for piping) mill marking; and (e) shall be accompanied by all material test reports, manufacturer's data reports, certificates of conformance, and like documentation. If applicable, the Supplier shall register with the appropriate safety authority the design of all pressure parts, fittings and valves. The Supplier shall at all times exercise good, sound and professional judgment and skill, and cooperate fully with CIMS, the Owner and other contractors in all matters including coordination of all work to complete the Project and ensure labour harmony.
- 2.3. Title to each part of the Supply will transfer to CIMS (or the Owner if required by the Prime Contract) on the earlier of payment for such part, delivery of such part to the Project site, or incorporation of such part into any part of the Project off-site.
- 2.4. The Supplier warrants the Supply shall be in conformance with this Purchase Order and free from any defect or deficiency for a period of 12 months (or such longer period as may be set out in the Purchase Order) from the date the Owner accepts the Work in accordance with the Prime Contract. The Supplier shall promptly correct, remedy or replace any defect or deficiency in the Supply arising during such warranty period, and shall reimburse CIMS for all costs arising directly from such defect or deficiency (such as, but not limited to, removal, transportation and reinstallation costs). All warranties shall be assignable by CIMS to the Owner, and the Supplier shall provide such warranty documentation as is customary for like supplies and/or as is required pursuant to the Specifications.
- 2.5. CIMS may suspend this Purchase Order if the Prime Contract or part thereof affecting the Supply is suspended by the Owner for any reason.
- 2.6. CIMS may terminate this Purchase Order if the Prime Contract or part thereof affecting the Supply is terminated by the Owner for any reason, in which case the Supplier will be entitled to payment for the portion of the Supply completed to the date of termination and for its actual direct costs of such termination after all reasonable mitigation. In no case shall Supplier be entitled to any payment on account of its indirect costs of such termination or for loss of profit on the portion of the Supply terminated.
- 2.7. The Supplier shall keep and maintain at all times during completion of the Supply and the performance of its obligations under this Purchase Order, including during the warranty period: (a) comprehensive general liability insurance and product liability insurance on an occurrence basis in an amount of not less than \$5 million per occurrence in a form and with insurers acceptable to CIMS acting reasonably; and (b) such additional insurance as may be set out in the Purchase Order. Upon

request, CIMS, the Owner, and all contractors who have contracted directly or indirectly with the Owner in respect of the Work, and their respective affiliates, partners, directors, officers, employees, independent contractors, agents and representatives, shall be added as additional insureds to such Supplier's insurance, and the Supplier's insurer shall waive all rights of subrogation against the same, with respect to the Supply. The Supplier's insurance shall be primary in respect of the Supply, and shall not be amended or cancelled except upon 30 days written notice to CIMS. The Supplier shall provide proof of such insurance forthwith upon request. All premiums, deductibles and other amounts whatsoever payable in respect of such insurance shall be the sole expense and responsibility of the Supplier.

- 2.8. The Supplier shall keep and maintain proper accounting and other records of all plant, machinery, equipment, tools, supervision, labour, goods, materials, certifications, tests and test results, permits, and compliance with Applicable Laws, CIMS' Policies and Owner's Policies, as the case may be, and any other service or thing, supplied, performed, or completed in fulfilment of this Purchase Order (collectively, "Records") for seven years after completion of the Supply and expiry of any warranty period. CIMS shall have the right upon reasonable notice and during normal business hours to request proof of compliance with this provision and/or audit, review and copy such Records, but only to the extent necessary to confirm the Supplier has completed the Supply and performed its obligations under this Purchase Order in conformity with this Purchase Order and that all charges are in accordance with this Purchase Order. CIMS shall have the further right to authorize the Owner to undertake such audit and review.
- 2.9. The Supplier may not subcontract all or any part of completion of the Supply or performance of its obligations under this Purchase Order without the written consent of CIMS.
- 2.10. The Supplier represents and warrants to CIMS, with the understanding that CIMS is representing and warranting to the Owner, that no aspect of completing the Supply or performing its obligations under this Purchase Order violates any intellectual property or other proprietary claims or rights of any person. The Supplier acknowledges and agrees that it does not claim or have any intellectual property or other proprietary rights in respect of any aspect of completing the Supply or performing its obligations under this Purchase Order.

3. Payments

- 3.1. CIMS shall pay to the Supplier the Price in accordance with the payment schedule set out in the Purchase Order, subject to lien holdbacks in accordance with applicable laws.
- 3.2. The Supplier will pay when due all amounts owing by it in connection with the Supply including without limitation all wages and benefits, all employment insurance or like premiums, all statutory deductions, all fees and taxes, and all invoices for goods, materials, equipment, and services.
- 3.3. If the Supply is performed on a time and materials basis, then notwithstanding any other provision of this Purchase Order, all labour rates shall be adjusted on an individual person basis as the maximum CPP, EI and WCB (and other statutory, if any) contributions are made for each individual person each year. Any amounts the Supplier collects from CIMS in excess of these maximum contributions will be forthwith repaid to CIMS whether or not demand is made therefor.

4. Default

- 4.1. Should the Supplier be in default of any provision of this Purchase Order, and should such default continue for more than five days (or such shorter or longer period as is reasonable in the circumstances) after CIMS has given written notice that such default must be remedied, then (without limitation to any other provision of this Purchase Order or any other right or remedy CIMS may have under this Purchase Order or in equity, at law or by statute) CIMS may withhold all further payments, upon written notice immediately terminate this Purchase Order, or itself remedy such default in such manner as it determines in its sole discretion (but in no case shall CIMS be under any obligation to remedy such default) and charge back to the Supplier all reasonable costs and expenses it incurs.

5. General

- 5.1. The Supplier is for all purposes an independent contractor. No provision of this Purchase Order shall create or be construed or deemed to create any partnership or joint venture between the parties, or make either party the agent or representative of the other party. Neither party shall at any time act as or hold itself out to be the agent or representative of the other party unless expressly authorized in writing.
- 5.2. No provision of this Purchase Order creates, or shall be construed or deemed to create, any contractual relationship directly between the Owner and the Supplier.
- 5.3. This Purchase Order may not be assigned by either party without the written consent of the other party, except that CIMS may assign this Purchase Order to a purchaser of all or substantially all of its assets, and CIMS may assign this Purchase Order to the Owner. In the event of any such assignment, CIMS shall immediately provide written notice to the Supplier. If such purchaser or the Owner, as the case may be, assumes in writing CIMS' obligations under this Purchase Order, then CIMS shall be released from and have no further obligations under this Purchase Order to the extent such obligations have been assumed by such purchaser or the Owner.
- 5.4. Each party shall protect and keep strictly confidential and not disclose in any manner the Confidential Information of the other party, except that it can disclose Confidential Information (including providing copies) as reasonably necessary to perform its obligations under the Purchase Order (provided any receiving person acknowledges and agrees in writing to this confidentiality provision and provided the Supplier shall be liable for any disclosure by any such person contrary to this provision as if such disclosure had been made by the Supplier itself) or as required by law.
- 5.5. In the event of Force Majeure the affected party shall undertake all commercially reasonable efforts to mitigate the effects of such Force Majeure and shall immediately notify the other party of the nature of the Force Majeure, how long it is expected to continue, and its expected impact on completion of the Supply and/or performance by such party of its obligations under this Purchase Order. Provided the affected party complies with this provision, the affected party shall be granted a reasonable extension to the Schedule, but in no case shall the Price be adjusted. In the event of Force Majeure, if reasonably necessary, CIMS may terminate this Purchase Order, in which case CIMS will pay the Supplier in accordance with Section 2.6.
- 5.6. Each party shall indemnify and hold harmless the other party (and its affiliates, partners, directors, officers, employees, independent contractors, agents and representatives) from and against all actions, claims, costs, damages, demands, expenses, or losses of whatsoever kind it may incur, sustain or be put to arising from a default under this Purchase Order, any breach of any Applicable Law, CIMS' Policy or Owner's Policy, or any negligent act or omission or any willful misconduct by it or any of its affiliates, partners, directors, officers, employees, independent contractors, contractors, subcontractors, agents or representatives, or any person or entity for whom it or any of them is responsible in law.
- 5.7. Each party shall be entitled to set-off against any amount it owes the other party, any amount the other party owes it whether arising under this Purchase Order or otherwise.
- 5.8. Any waiver by either party of any provision of this Purchase Order, or any other right or remedy, must be in writing, and shall not be construed or deemed to be a waiver of any other provision this Purchase Order or any other right or remedy, or of any subsequent default.
- 5.9. Each party shall undertake or execute and deliver all such further acts, assurances, documents or other items as are reasonably necessary to implement this Purchase Order, including without limitation certificates of compliance with Applicable Laws, CIMS' Policies or Owner's Policies or that CIMS is required to provide pursuant to the Prime Contract.
- 5.10. Any notice required to be given by a party under this Purchase Order shall be in writing and delivered or mailed postage prepaid to the contact information of the other party set out in the Purchase Order (with a copy by email if an email address is set out in the Purchase Order). A delivered copy shall be deemed to be received on the day of delivery, if during normal business hours or otherwise on the next following business day. A mailed copy shall be deemed to be received on the fifth day following the date of mailing, unless there is during such delivery period a mail strike or slow-down, in which case delivery shall be when such copy is actually received.
- 5.11. This Purchase Order may only be amended, modified or superseded by an instrument in writing signed by duly authorized representatives of the parties.
- 5.12. This Purchase Order shall be governed by and construed in accordance with the laws of the jurisdiction in which the Project is located without reference to its governing law principles, and the parties irrevocably agree to attorn to the courts of such jurisdiction.
- 5.13. This Purchase Order shall enure to the benefit of and be binding upon the successors and permitted assigns of the parties.