

TERMS AND CONDITIONS OF SALE

1. Offer and Acceptance.

Purchaser has offered to purchase from Diamond Process Solutions Inc. ("Seller") the Products and Services described on the face hereof. Seller's acceptance of the offer is expressly conditioned upon Purchaser's assent to the terms and conditions set forth herein. Acceptance may be made by Seller either by written acknowledgement, shipment of the Products, or performance of the Services. If this contract is submitted in response to a purchase order or other written or oral offer of Purchaser to purchase the Products or Services, to the extent that there are any material differences or additions in the terms contained in Purchaser's offer, this contract shall be considered a counter offer to sell the Products or provide the Services to Purchaser under the terms and conditions herein contained. Purchaser's acceptance of any such counter offer is limited to the terms and conditions set forth herein which may be accepted by Purchaser's failure to make written objection within five (5) days or by accepting shipment of the Products or performance of the Services. Quotations by Seller are subject to change without notice and expire at Seller's option thirty (30) days from the date made. Seller's Product specifications are subject to change without notice.

2. Terms and Conditions Applicable.

The terms and conditions set forth herein, as modified by the terms of any written quotation or proposal made by Seller, are the only terms and conditions applicable to the purchase of the Products or performance of the Services and apply to all quotations, purchase orders, or other documents concerning the Products to be sold or Services to be rendered. Any changes or modifications in the terms and conditions must be specifically agreed to in writing by an authorized Seller representative. The use of a purchase order or other instrument by Purchaser in the course of dealing with Seller shall be considered to be for the convenience of Purchaser, and any printed provisions thereon shall not modify or supplement this contract. Seller objects to the inclusion of any different or additional terms that may be contained in any such instrument. Purchaser's acceptance of the Products or Services without objection shall constitute a waiver of any such different or additional terms.

3. Prices; Taxes; Payment Terms.

(a) Purchaser shall pay the price quoted. Prices are for delivery in Canada, F.O.B. Seller's plant. If any price is omitted, the price shall be Seller's list price in effect at the date of shipment. Prices do not include charges for extra work not included in any quotation, or in Purchaser's order, design, blueprint, or specifications, or due to any change in design or specifications.

(b) Any taxes or fees imposed by any federal, provincial, municipal, or other governmental authority that may be applicable to the sale, use, delivery, or transportation of the Products or the Services provided, together with all duties, tariffs, and brokerage charges, shall be added to the price and paid by Purchaser, except where Purchaser shall have provided a proper certificate of exemption therefrom. Purchaser shall be responsible for the payment of such taxes and fees even if all or any part thereof has not been added to the invoice price.

(c) Unless otherwise set forth, payment is due upon the date of delivery of the Products or the Services provided. Seller reserves the right to request and obtain progress payment when noted specifically in quotations.

4. Specifications.

All specifications and designs for Services and/or Products shall be as provided by Seller, unless specifically agreed to otherwise by Seller in writing.

5. Changes; Cancellations and Requests by Purchaser for Delays.

(a) Any changes requested by Purchaser after acceptance by Seller will be reviewed by Seller and a quotation indicating changes in pricing and delivery, if any, will be submitted to Purchaser. Upon acceptance by Purchaser, a change order will be prepared authorizing the change. Seller reserves the right to make changes in materials or design which it determines to be necessary for proper operation of the Products.

(b) Once accepted by Seller, this contract may be cancelled or delayed by Purchaser only upon written consent of Seller. If Seller consents to any such cancellation or delay, Purchaser may be required to pay any such amount as Seller, in its sole discretion, shall determine will fully indemnify Seller against any and all loss and provide Seller with a reasonable profit.

6. Shipment; Packaging; Title; Risk of Loss.

(a) All shipping dates are approximate and represent Seller's estimate at the time of the contract, based upon the prompt receipt from Purchaser of all necessary materials and information, and are also subject to receipt of other orders. Seller does not guarantee the date of shipment. Time shall not be considered of the essence. Seller shall not be liable for any delay in delivery or any other default due to occurrences or contingencies, including, but not limited to, fire, flood, embargo, strike, shut down, lockouts, failure to secure materials or labor from usual sources of supply, governmental restrictions, conditions considered "force majeure", delays occasioned by any subcontractors, misrouting, or any other circumstances beyond Seller's control which shall prevent Seller from performing in the normal and usual course of its business. Any delays resulting from the foregoing shall automatically extend the time for performance by Seller.

(b) Unless otherwise specified on the face hereof, all shipments shall be F.O.B. Diamond Process Solutions, Edmonton, Alberta. In the event that any other method of shipment shall be specified, the price shall be adjusted to reflect any increase or decrease in the price to the extent that the cost of shipment is or will be included therein.

(c) The cost of normal packaging for the Products for domestic shipment is included in the total price, the method of packaging being determined solely by Seller. If Purchaser shall specify any special packaging or handling or if the Products are to be exported, the additional cost thereof shall be added to the total price, unless it is specifically stated herein that such costs were included in calculating the total price quoted.

(d) Title and risk of loss shall pass to Purchaser as soon as the Products have been delivered to the carrier for shipment to Purchaser. Passage of title and/or risk of loss shall not be affected by delivery terms, shipping instructions, or storage on Purchaser's behalf by Seller at its facilities.

(e) Partial deliveries may be made without notice and payment there for shall be due in accordance with the terms hereof as such deliveries are made and invoices rendered.

(f) If shipment is delayed at Purchaser's request, Products shall be deemed stored at Purchaser's risk and expense. Purchaser shall be liable to Seller for all costs and charges related to such storage and shall pay Seller within ten (10) days of invoice thereof.

7. Inspection and Rejection.

Purchaser acknowledges that, prior to use, it will fully inspect all Products delivered. In the event that such inspection and testing reveals any damage, deficiency, or non-conformity, Purchaser shall notify Seller within fifteen (15) days of the date of delivery. If Purchaser fails to make any claim within such time or uses the Products, such failure or such use, as the case may be, shall constitute irrevocable acceptance of the Products and the waiver of any and all claims except warranty claims. If Purchaser properly, within the terms of this contract, rejects or revokes acceptance of any of the Products, Purchaser shall immediately notify Seller in writing, specifying all claimed defects and non-conformities. No Products shall be returned by Purchaser unless authorized in writing by Seller.

8. Limited Warranty.

Seller warrants to the original purchaser that its Products, under normal use, shall be free from defects in material or workmanship, and shall conform substantially to any specifications provided, or agreed to in writing, by Seller, for a period of one (1) year from the date of delivery by Seller, provided that the Product has not been tampered with or repaired by any person other than Seller or its authorized agents, and provided further that Purchaser notifies Seller in writing of any such defects within ten (10) days after discovery thereof, and Seller confirms that the Product is defective upon its examination. Seller warrants that any Services provided by it shall be performed in a workmanlike manner and consistent with industry standards and warrants against defective Services for a period of thirty (30) days following completion of the Services provided. Seller shall not be liable for any damage to any Product resulting from the misuse or negligence or if any alterations or repairs have been made to the Product which have not been performed by or authorized in writing by Seller. The sole and exclusive obligation of Seller under this warranty is limited, at Seller's option, to the replacement or reworking of the defective Products or Services or the return of that portion of the purchase price applicable to the defective Products or Services. This warranty does not cover defects, damage, or deterioration due to normal use, wear and tear, or exposure; normal maintenance services; replacement of service items; damage or defect due to misuse, alteration, negligence, or accident; or any Product modified or operated contrary to any instructions or specifications provided by Seller. Any and all performance figures provided by Seller are estimates only and not guarantees and may vary for numerous reasons including, without limitation, the ability of the operator and actual operating conditions. Seller makes no warranty with respect to goods, parts, accessories, or peripherals not manufactured by it which shall be subject only to whatever warranty may be issued by the manufacturer thereof. No person, agent, distributor, dealer, or company is authorized to change, modify, or amend the terms of this limited warranty in any manner. THE ABOVE WARRANTIES ARE GIVEN IN LIEU OF ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AND INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. 9. Limitation of Liabilities. THE SOLE AND EXCLUSIVE REMEDIES OF PURCHASER SHALL BE THOSE SPECIFICALLY SET FORTH IN THE WARRANTIES SECTION HEREOF. SELLER'S MAXIMUM LIABILITY FOR ANY AND ALL CLAIMS ARISING DIRECTLY OR INDIRECTLY FROM THE PERFORMANCE OF ITS OBLIGATIONS HEREUNDER SHALL NOT IN THE AGGREGATE EXCEED THE PURCHASE PRICE OF THE PRODUCTS OR SERVICES INVOLVED. UNDER NO

CIRCUMSTANCES SHALL SELLER BE LIABLE TO PURCHASER OR ANY THIRD PARTY FOR LOSS OF BUSINESS OR PROFIT OR ANY OTHER ECONOMIC LOSS, OR ANY INCIDENTAL, INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES. THE FOREGOING CONSTITUTES THE SOLE LIABILITY OF SELLER AND THE EXCLUSIVE REMEDY OF PURCHASER WHETHER OR NOT BASED UPON NEGLIGENCE, BREACH OF CONTRACT, BREACH OF WARRANTY, STRICT LIABILITY, TORT, OR ANY OTHER COURSE OF ACTION. NO CLAIM AGAINST SELLER FOR ANY DEFECT IN THE PRODUCTS OR SERVICES SHALL BE VALID OR ENFORCEABLE UNLESS PURCHASER'S WRITTEN NOTICE THEREOF IS RECEIVED BY SELLER WITHIN ONE YEAR FROM THE DATE OF SHIPMENT OR PERFORMANCE.

10. Product Liability.

Purchaser acknowledges that Seller has no control over, and is not responsible for, the manner in which the Products will be used or otherwise dealt with by Purchaser. Purchaser shall not, nor permit others to, remove any safety equipment or warning labels and signs unless suitable alternatives are provided by Purchaser. Purchaser shall, and shall cause others to, comply and operate the Products with all directions and instructions and to comply with all existing applicable laws, rules, and regulations. Purchaser shall indemnify, hold Seller harmless from and against, and agrees to assume all responsibility for any and all actions, claims, or demands arising out of or in any way connected with, any and all sums which Seller and/or Purchaser becomes obligated to pay because of bodily injury or property damage caused by or resulting directly or indirectly from the use or operation of the Products.

11. Infringement.

In the event Purchaser provides material, specifications, designs, drawings, instructions, or the like, Purchaser agrees to defend, protect, and hold harmless Seller from and against any and all suits at law or in equity, and from all damages, claims, and demands for actual or alleged infringement of the rights of a third party, and to defend any suit or actions and reimburse all attorneys' fees incurred by Seller in defense of such suits or actions which may be brought against Seller for such alleged infringement because of the manufacture and/or sale of the Products in accordance therewith, or by reason of the incorporation of said Product in a more comprehensive assembly than sold by Seller. Further, Purchaser will hold Seller free and harmless from, and release and not make claim or suit against Seller because of, any suits, claims, losses, or other liability made against, or suffered by, Purchaser arising from any claim or infringement or claim of unfair trade or of unfair competition resulting from, or occasioned by, Purchaser's use, possession, sale, manufacture, or delivery of Products made by Seller to Purchaser's instructions, specifications, designs, drawings, or the like. Purchaser will promptly notify Seller in writing of the commencement of any suit against Purchaser covered by this paragraph.

12. Proprietary Rights.

Any and all models, drawings, sketches, plans, tools, dies, parts, patterns, prints, designs, specifications, materials, and any other items supplied by Seller shall remain the property of Seller and are proprietary to Seller. Such items have been developed at great expense to Seller and may contain trade secrets of Seller. Purchaser may not reproduce or distribute such items except to its employees who may use them in connection with their duties. All such items are received by Purchaser in confidence and Purchaser shall exercise reasonable care to hold such items in confidence. Any Product sold hereunder shall not constitute a license to use any of the proprietary rights of Seller.

13. Security Interest.

Until full payment of the purchase price for any Products ordered, Seller shall retain a security interest in the Products and may, at its option and without further agreement or signature by Purchaser, file evidence of such security interest pursuant to the Uniform Commercial Code. So long as Seller has a security interest, Purchaser shall keep the Products in good condition and free from any other liens or encumbrances. In the event of nonpayment by Purchaser, in addition to any other rights and remedies it may have at law or by this agreement, Seller shall have the right to enter the location where the Products are located and repossess the Product.

14. Assurances of Performance.

If, in the judgment of Seller, the financial condition of Purchaser at any time does not justify continuation of production or shipment on the terms of payment originally specified, Seller may require full or partial payment in advance or additional security from Purchaser before shipment, accelerate the date of any payment, withhold any shipment or further shipments, and cancel any unfilled orders. In the event of the bankruptcy or insolvency of Purchaser or in the event any proceeding is brought by or against Purchaser under the bankruptcy or insolvency laws, Seller may be entitled to cancel any order then outstanding, without liability whatsoever, and shall receive reimbursement for its cancellation charges.

15. Nonpayment.

(a) If the purchase price is not paid when due, Purchaser shall pay interest at the maximum legal rate on all such sums from the date due until paid.

(b) In the event of nonpayment, Seller shall have and may exercise all rights and remedies under the Uniform Commercial Code. Purchaser shall also be liable to Seller for all costs of collection, including reasonable attorneys' fees and costs, incurred by Seller upon the default by Purchaser.

16. Additional Terms and Conditions.

(a) Errors.

Seller reserves the right to correct any inadvertent errors made in specifications and prices quoted.

(b) Assignment.

Purchaser may not assign this contract without the prior written consent of Seller, and any attempted assignment or delegation by Purchaser shall be void and ineffective for all purposes. Seller reserves the right to transfer or assign, in whole or in part and without recourse by Purchaser against Seller, its rights, liabilities, and obligations herein arising to a third party without prior written notice, and such assignment shall operate to release Seller from its obligations hereunder. Such transfer or assignment shall not create a right in Purchaser to demand assurances from the assignee.

(c) Set-Off.

Seller shall have the right to credit toward the payment of any monies that may become due Seller hereunder any sums which may now or hereafter be owed to Purchaser by Seller.

(d) Waiver.

Waiver by Seller of any breach of any of the terms and conditions set forth herein shall not be construed as a waiver of any other breach, and the failure of Seller to exercise any right arising from any default of Purchaser hereunder shall not be deemed to be a waiver of such right, which may be exercised at any subsequent time.

(e) Invalidity.

If any of the provisions or portions hereof are invalid under any applicable statute or rule of law, they are to that extent to be deemed omitted, and the remainder shall continue in full force and effect.

(f) Survival of Certain Terms.

Any provisions contained herein which by their nature would continue beyond the termination, cancellation, or expiration of this contract will survive such termination, cancellation, or expiration.

(g) Governing Law and Jurisdiction.

This contract shall be governed by and construed under the laws of the Province of Alberta without reference to provisions of conflict of laws. The federal and provincial courts of the City of Edmonton, Alberta, shall have exclusive jurisdiction to adjudicate any dispute arising out of this contract. The parties hereto each consent to:

(i) the personal jurisdiction of the courts in the city of Edmonton, Alberta, and

(ii) service of process being effected upon it by registered mail sent to the address set forth in this contract.

(h) Entire Order. Purchaser acknowledges that it has read this contract, understands it, and agrees to be bound by its terms, and further agrees that it is the complete and exclusive statement of the agreement between the parties, which supersedes and merges all prior proposals, understandings, and all other agreements, oral and written, between the parties relating to the subject matter of this contract.