



## 1. DEFINITIONS

- i. **"Buyer"** means the entity or firm listed as issuing the PO.
- ii. **"Change"** means any revision, amendments, modification or other change to the PO, including but not limited to a change in the Work, or parts thereof, an adjustment to the Price, the Delivery Date, or the Delivery.
- iii. **"Defect"** means a potential or actual defect, deficiency, or non-conformity with the PO, including any discrepancies or inconsistencies in quantities, as listed under **"UOM"** in the PO or otherwise directed by Buyer, or safety hazard, or other issue in or with the Work, or any portions thereof.
- iv. **"Delivery Date"** means the date listed under **"Required By Date"** in the PO.
- v. **"Delivery Location"** means the address listed under **"Ship To"** in the PO.
- vi. **"Delivery"** or **"Delivered"** means Supplier's provision of physical possession of the Work, or portions thereof, to Buyer to the Delivery Location by the Delivery Date and means set out in the PO and these T&C.
- vii. **"PO"** means the Purchase Order issued by Buyer to Supplier for the Work to be performed and provided by Supplier and corresponding Price to be paid for the Work by Buyer to Supplier. The PO includes these T&C, all amendments to the PO pursuant to these T&C, and all related documents, specifications, drawings, schedules, addenda, and other information and/or documentation reasonably required for Supplier's performance of Work, all of which are hereby incorporated by reference into and form part of the PO as if fully set forth therein.
- viii. **"Quote"** means any and all quotes, estimates, or other documentation issued by Supplier to Buyer regarding the Work.
- ix. **"Price"** means the **"Total"** in the PO for the Work included in the PO.
- x. **"Supplier"** means the entity, individual, or firm listed under **"Supplier"** in the PO.
- xi. **"T&C"** means these Terms and Conditions that apply to and form part of the PO, are binding on the Parties upon the issuance of the PO and govern and prevail in the event of disputes regarding the interpretation, or conflicts between portions, of the PO.
- xii. **"Term"** means the date of Buyer's issuance of PO to Supplier until the date Supplier fulfills all obligations under the PO.
- xiii. **"Warranty Period"** means the earlier of either: (a) twenty-four (24) months after Delivery of the Work; or (b) twelve (12) months after the Work is put into service, commissioned, or otherwise operational.
- xiv. **"Work"** means all items listed under **"Description"** in the PO, including all other reasonably required equipment, parts, or materials and engineering, technical, and/or mechanical services.

## 2. SUPPLIER'S REPRESENTATIONS & INSURANCE

- i. Supplier represents and warrants that:
  - a. all Work shall be new and of the best quality, sourced from reputable manufacturers or suppliers with established quality control standards in accordance with applicable labor laws, be free from infringement of any intellectual rights of any kind and be of merchantable quality, fit for the use(s) intended, and free from any and all Defects and deficiencies;
  - b. it has good and marketable title to all Work and all Work is free and clear of any liens, encumbrances, and any adverse claims, demands, or interests;
  - c. it shall comply with and abide by all intellectual property requirements in the PO and all applicable laws, regulations, codes, orders, and guidelines, as may be amended, at its sole expense; and
  - d. it is legally authorized to enter into the PO, perform the Work, and has, and upon request shall promptly provide, all applicable certification(s) and/or qualification document(s) respecting the PO and the Work to Buyer.
- ii. Throughout the Term, Supplier shall obtain and maintain the following insurance policies (collectively, the **"Policies"**):
  - a. commercial general liability policy covering bodily injury and property damage, including products liability and operations hazards, with limits of not less than \$2,000,000.00 USD per occurrence. Supplier's Commercial General Policy shall:
    - 1. include Buyer as an additional named insured;
    - 2. include a waiver of subrogation in favor of Buyer;
    - 3. be the sole insurance policy of Supplier applicable to the Work and PO; and
    - 4. be the sole insurance policy of Supplier under which any and all losses or damages relating to the Work or the PO may be claimed or pursued;
  - b. automobile liability insurance for loss or damage involving all vehicles operated, with limits of not less than \$2,000,000.00 USD per occurrence;
  - c. workers' compensation insurance or such other applicable coverage for all employees performing Work in accordance with the applicable legal requirements of the jurisdiction where Work is performed; and
  - d. where design or engineering services are included in the Work, professional liability, including errors and omissions, insurance of not less than \$2,000,000.00 USD.
- iii. Supplier shall provide Buyer thirty (30) days' written notice of any cancellation or amendment of any of the Policies or any of the above requirements and shall provide Certificates of Insurance confirming the Policies and Supplier's compliance promptly upon request of Buyer.

## 3. BUYER'S REPRESENTATIONS

- i. Buyer represents and warrants that:
  - a. subject to applicable legal, equitable, and contractual obligations, it shall provide Supplier all reasonably necessary documentation and information required for Supplier's performance of the Work; and
  - b. it is legally authorized to enter into the PO, has and shall maintain, at all times during the PO, all applicable certification(s) and/or qualification document(s), and, at all times, shall comply with and abide by all applicable laws, regulations, codes, orders, and guidelines, as may be amended, at its sole expense.

## 4. THE WORK

- i. Supplier shall take all means required to perform and provide all Work in strict compliance with the PO. For certainty, unless agreed as set out in these T&C, Supplier shall ensure there are no substitutions or quantity discrepancies.
- ii. During the Term, Buyer may request, direct, or otherwise instruct a Change to Supplier by issuing a revised PO. Upon issuance of revised PO, Supplier may accept by advising Buyer or by its performance in any form and shall be deemed accepted if not expressly rejected within five (5) days of receipt.



- iii. Supplier may submit a written request for a Change with all applicable supporting information and documentation. No Supplier requested Change shall be binding unless and until Buyer provides written approval by way of issuing a revised PO to Supplier.
- iv. In the event of any dispute(s) relating to a Change or a revised PO, Supplier shall proceed with the Change set out in the revised PO issued by Buyer and any dispute(s) shall be resolved as set out in these T&C.

**5. DELIVERY**

- i. The Supplier shall complete Delivery of the Work, or portions thereof, in strict accordance with the PO and the requirements set out at: [www.awcwater.com/deliveringtoAWC](http://www.awcwater.com/deliveringtoAWC), as may be amended, which are hereby incorporated by reference into and form part of these T&C as if fully set forth herein.
- ii. Buyer shall have a reasonable opportunity to inspect Delivered Work for Defects and may, at any time after Delivery, reject Work or portions thereof, by issuance of written notice.
- iii. At all times prior to Delivery of the Work, Supplier shall bear all risk of loss and damage to the Work, or portions thereof. Upon Delivery, title of the Work, or portions thereof, shall vest with Buyer. Delivery of the Work, or portions thereof, shall in no way waive or otherwise amend the PO or these T&C.
- iv. Despite the foregoing, all risk of loss or damage to the Work, or portions thereof, whether prior to or following Delivery, shall remain with Supplier until Buyer has inspected and formally accepted the Work as conforming with the PO and these T&C. For certainty, Supplier shall remain at risk for any Work, or portions thereof, rejected by Buyer until any non-conformance or other reason for rejection is addressed as required by the PO and these T&C.

**6. PRICE & PAYMENT**

- i. All Quotes, including all costs set out for the Work, shall remain in effect, and Supplier shall be bound thereby, for thirty (30) days, or such other time agreed. The Price may be based on the Quote if issued within the thirty (30) day period or at such other time and upon such other terms as agreed between the Parties respecting the Work.
- ii. The Price set out in the PO shall be binding upon the Supplier and may not be amended without the express written approval of the Buyer in accordance with these T&C. For clarity, the Price shall be the total costs for the Work, including all applicable taxes, tariffs, import fees, or other costs.
- iii. With the exception of goods and services tax, tax / harmonized sales tax, used taxes or otherwise on amounts due or payable to Supplier as may be set out in any applicable laws, payment of all applicable taxes, duties, tariffs, levies, and other charges relating to the Work or the PO, including all federal, state, and local taxes, duties, tariffs, and other charges, shall be the sole responsibility of Supplier and Supplier shall indemnify and save harmless Buyer from any and all claims, actions, demands, suits, or proceedings which may be made or assessed against in respect of Supplier's tax-related obligations.
- iv. Supplier shall submit invoices in strict accordance with the invoice requirements set out at: [www.awcwater.com/invoicingAWC](http://www.awcwater.com/invoicingAWC), as may be amended, which are hereby incorporated by reference into, and form part of these T&C as if fully set forth herein.
- v. Subject to Buyer's contractual, legal and equitable rights, including its right of set-off, Buyer shall pay Supplier the Price invoiced by Supplier for Work Delivered within thirty (30) days of the later date of either: a) Buyer's receipt of Supplier's invoice for the Work, or portions thereof; or b) Delivery of the Work, or portions thereof. In no event shall Buyer be liable to Supplier for any interest, penalties, direct or indirect costs incurred, or other charges arising in any way from Buyer's late payment of any amounts due under T&C, PO, or any revised PO.

**7. WARRANTY**

- i. Supplier shall promptly provide, and upon request, assign as directed by, Buyer all applicable warranties, operation and maintenance manuals, commissioning and testing reports, and other operating documents.
- ii. Buyer shall, immediately upon becoming aware, and by no later than five (5) days, including after Delivery, notify Supplier in writing of any Defect(s) in the Work, or portions thereof.
- iii. During the Warranty Period, Buyer may provide written notice of any Defect(s) in the Work, or portions thereof, to Supplier. Upon receipt of a notice of Defect(s) in the Work, Supplier shall promptly, at its sole cost, risk and expense, attend to any and all remediation required to address the Defect(s).
- iv. In the event that the Supplier fails to promptly and reasonably address any Defect(s) notified by Buyer within the Warranty Period, Buyer may proceed without further notice and Supplier shall be responsible for all costs incurred by Buyer, plus fifteen percent (15%) for administration and other fees. In no event shall Buyer be responsible or liable to Supplier in any way respecting Defect(s) in the Work or remediation efforts, including for certainty any storage, restocking fee, or indirect costs.

**8. LIABILITY AND INDEMNIFICATION**

- i. Supplier shall indemnify and hold harmless Buyer, its agents, employees, affiliates, directors, and officers, from and against all claims, demands, losses, costs, damages, suits, or proceedings Buyer may suffer that arise out of or are attributable to Supplier's performance of the PO and are caused by Supplier's acts(s) or omission(s), or anyone Supplier is responsible for at law, including respecting any infringement or alleged infringement of any intellectual property rights of Buyer or any third parties respecting the Work or the PO.
- ii. In no event shall Buyer be liable to Supplier for any indirect, incidental, special, exemplary, or consequential damages, including, but not limited to, loss of profits, loss of use, loss of business opportunity, loss of production, or loss of goodwill, arising out of or relating to the PO or the Work, regardless of the cause and even if Buyer has been advised of the possibility of such damages.
- iii. Neither Parties shall be responsible for any delay or failure of the performance of their obligations under the PO in the event of circumstances outside of the control of the Parties, including but not limited to acts of God, war, riots, fire, explosion, flood, strike, lock-out, injunction, or governmental laws or regulations. In the event a circumstance(s) or any other cause(s) beyond the control either Party that prevents, or is reasonably likely to prevent, delay, or in any way negatively impact the performance of the PO, the Party affected or threatened by such an event shall immediately notify the other Party in writing.

**9. DEFAULT AND TERMINATION**

- i. If, in the opinion of Buyer, Supplier has:
  - a. breached any of its contractual or legal obligations under or relating to the PO or the Work;
  - b. failed to take all steps reasonably available to promptly attend to remediation of any Defect(s) as required; or
  - c. been adjudged bankrupt, makes an assignment for the benefit of its creditors, has a receiver appointed, or otherwise becomes insolvent,



Buyer may, at its sole discretion, and in addition to any and all other rights of any kind, take any necessary steps required to mitigate all losses, all of which costs incurred shall be the sole liability of Buyer, and terminate the PO or Supplier's right to perform the Work. In the event Buyer elects to terminate the PO, Buyer shall provide Supplier with written notice of termination and may at its sole discretion require Supplier assign to Buyer the PO and withhold any amounts of the Price that may otherwise be due and owing to Supplier.

- ii. Buyer may, at any time and in its sole discretion, terminate the PO for convenience and without cause, by way of written notice, in which case the Supplier shall be entitled to payment only for Work without Defect(s) that has been Delivered as set out in these T&C.

### 10. DISPUTES

- i. In the event of a dispute respecting the PO or a revised PO, including the Work, a Change, or the Price, the Parties shall make reasonable efforts to resolve the dispute amicably through without prejudice negotiations with candid disclosure of relevant facts, information and documents.
- ii. If, after ten (10) days, the Parties are not able to resolve a dispute, either Party may issue the other Party a written notice of dispute with particulars. Upon the issuance of a written notice of dispute, Buyer shall have the sole and exclusive election to require any such dispute(s) be resolved in the forum of its choosing, including arbitration, in which case it shall have the sole right to appoint an arbitrator(s) and applicable rules of arbitration or other alternative dispute resolution procedure, and shall advise Supplier of same within ten (10) days of receipt of a written notice of dispute.
- iii. If requested by Buyer, Supplier shall fully cooperate with all requests, demands, and inquiries related to any actual or potential dispute(s) it may be involved in respecting the PO or the Work, including by promptly providing any records, documents, or information required. Supplier further agrees to joinder of any dispute(s) and to be bound by any resulting decisions, findings, determinations or awards and expressly waives any argument or defense against joinder of dispute proceeds.

### 11. GENERAL PROVISIONS

- i. The PO and these T&C constitute and represent the complete and entire agreement between Buyer and Supplier and supersede all previous communications in any form, verbal or written, including any Quotes or other documents.
- ii. In the event that any provisions of the PO or these T&C are deemed to be invalid or of no force or effect it shall not affect the validity or continuing force of all other provisions.
- iii. The PO and these T&C are formed and shall be construed, performed and enforced under the laws of British Columbia, Canada.
- iv. Supplier shall not assign its rights or obligations under the PO, without Buyer's prior written consent.
- v. Any notices, including notices in writing, issued by either Party under the PO or these T&C shall be sent by email with read receipt to Buyer at: [supplychain@awcsolutions.com](mailto:supplychain@awcsolutions.com); and to Supplier at the email address listed in PO or Quote and deemed received on the date of the read receipt or, if no read receipt issued, the date following it being sent.