



CONVOY SUPPLY TERMS AND CONDITIONS OF SALE

1. **Applicability**

- (a) **These Terms.** These terms and conditions (“**Terms**”) apply exclusively to the sale of the goods (“**Goods**”) or services (“**Services**”) by CONVOY Supply Ltd., CONVOY Supply Inc. and their affiliates (collectively, “**CONVOY**”) to a purchaser of those Goods or Services (“**Buyer**”) identified in the applicable Order (defined below).
- (b) **Orders.** A Buyer may request CONVOY to supply Goods or Services in an email, quote, purchase order, online order or other request (including in-person or via telephone). Upon acceptance of a Buyer’s request by CONVOY, the request will become an “**Order**” which, together with these Terms and CONVOY’s Privacy Policy, will be the “**Agreement**”. By submitting an Order to CONVOY, Buyer agrees to be bound by the terms and conditions of the Agreement. Each Order from a Buyer will be a separate and independent agreement between CONVOY and Buyer for the sale of the Goods and Services expressly described in the Order.
- (c) **Additional Terms.** Any additional or different terms and conditions proposed or submitted by the Buyer (including terms and conditions attached to a Buyer purchase order or other documentation) are hereby rejected and will not be binding upon CONVOY unless those terms and conditions are expressly agreed to in writing in a separate addendum to this Agreement signed by an authorized representative of CONVOY.
- (d) **Privacy Policy.** In connection with this Agreement, CONVOY may collect, use, store, disclose, process, or otherwise handle personal information. CONVOY’s Privacy Policy, which can be found at www.convoy-supply.com/privacy-policy and which forms part of this Agreement, sets out how CONVOY collects and manages personal information.

2. **Prices and Expenses**

- (a) **Pricing.** Unless otherwise agreed to by CONVOY in writing, CONVOY’s prices for the Goods and Services will be the prices set out in the Order or, if not set out, CONVOY’s standard prices for such Goods and Services as of the Order date, provided that, where standard prices for Goods in the quantities ordered as calculated by CONVOY extend beyond two decimal places, CONVOY shall round such prices for Goods to the nearest two decimal places for purposes of determining Buyer’s payment obligation with respect to such Goods. Notwithstanding the foregoing, CONVOY may change the price for the Goods and Services in accordance with any change to the standard pricing for such Goods and Services prior to the date of shipment of Goods or performance of Services, as the case may be.
- (b) **Expenses.** Buyer will reimburse CONVOY for all reasonable out-of-pocket expenses incurred by CONVOY in connection with the performance of the Services. Upon request, CONVOY will provide Buyer with reasonable supporting documentation in respect of all expenses incurred.

3. **Payment**



- (a) **Payment Terms.** Payment for Goods and Services is due within 30 days from the date of CONVOY's statement; provided, however that CONVOY reserves the right, in its sole discretion, to require payment in a method acceptable to CONVOY before order entry, shipment, or delivery. Payments for Goods and Services will be made by such means as CONVOY may specify, such as by cheque or wire transfer. CONVOY may refuse, in its sole discretion, payment by any means, including, without limitation, credit cards.
- (b) **Taxes.** The purchase price of the Goods and Services does not include transportation taxes or sales, goods and services, use, excise, import or any similar tax or other governmental charge arising pursuant to or in connection with the sale, purchase, processing, delivery, storage, use consumption, performance or transportation of the Goods and Services. Buyer is responsible for payment of any transportation taxes, and any present or future sales, goods and services, use, excise, import or any similar tax or other governmental charge applicable to the Agreement and to the sale and/or furnishing of the Goods and Services.
- (c) **Currency.** All payments for Goods and Services must be made in Canadian or US currency or in its equivalent (i) as specified in the applicable Order or invoice, (ii) as otherwise specified in writing by CONVOY, or (iii) if not specified, based on the country your purchases are made in.
- (d) **Set-off.** CONVOY shall have the right to set-off any and all amounts due and owing from CONVOY to Buyer under this Agreement, including, without limitation, any chargebacks or rebates, against any amounts due and owing from Buyer to CONVOY under this Agreement. Buyer will not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with CONVOY, whether relating to CONVOY's breach, bankruptcy or otherwise.
- (e) **Late Payment and Interest.** If any amounts are not paid by Buyer within 30 days of the applicable invoice date, CONVOY may: (i) charge interest starting on the day after the due date at the rate of 18% per annum or the maximum percentage rate permitted by law, whichever is less, calculated daily and payable monthly; (ii) suspend or cancel any undelivered Order; and (iii) refer the matter to a lawyer or collection agency, in which case Buyer will be liable for all collection costs incurred by CONVOY including, but not limited to, legal and collection agency fees, and all related disbursements.

4. Shipment of Goods; Performance of Services

- (a) **Shipment of Goods and Transfer of Title and Risk.** All shipments of Goods shall be made F.O.B. point of shipment (Ex Works CONVOY's facility per INCOTERMS 2010 for international shipments). Title and the risk of loss or damage to Goods will transfer to the Buyer: (i) where the Goods are picked up by Buyer from the applicable CONVOY facility, upon receipt of the Goods at the CONVOY facility; (ii) where the Goods are delivered directly by CONVOY (and not by a third party), upon delivery to the destination; and (iii) where the Goods are shipped using a third party logistics provider, at the point of shipment (CONVOY's facility).
- (b) **Shipping and Performance Dates Estimated.** Any shipping dates for Goods or performance dates for Services given in advance of actual shipment of Goods or performance of Services are CONVOY's best estimates and provided for informational purposes only, and deliveries of Goods and



performance of Services will be made subject to prior orders on file with CONVOY. Unless otherwise agreed by CONVOY in writing, CONVOY may, in its sole discretion, use any commercial carriers for shipment of the Goods. CONVOY will use its reasonable efforts to comply with Buyer's requests as to method and route of transportation, but CONVOY reserves the right to use an alternate method or route of transportation, whether or not at a higher rate.

- (c) **Insurance.** Unless otherwise agreed to by CONVOY in writing, Buyer will pay all insurance costs in connection with delivery of the Goods, if any, and be responsible for filing and pursuing claims with carriers for loss of, or damage to, Goods in transit.
- (d) **Services.** CONVOY will provide the Services described in the Order (if any) at the location agreed by the parties in writing. CONVOY will provide the Services in accordance with the terms and conditions of this Agreement.
- (e) **Buyer Responsibilities.** Buyer is responsible for obtaining and maintaining at its sole cost and expense any and all necessary licenses, permissions, authorizations, consents and permits for the Goods and Services and to otherwise carry out its obligations under this Agreement, including, without limitation, any licenses and permits for transportation. If Buyer is unable to receive the Goods and/or Services when they are tendered, Buyer will be liable to CONVOY for any costs, losses, damages, or additional expenses incurred or suffered by CONVOY as a result of Buyer's inability to receive the Goods and/or Services.
- (f) **Grant of Security Interest.** As collateral security for the payment of the purchase price of the Goods, Buyer hereby grants to CONVOY a lien on and security interest in and to all of the right, title and interest of Buyer in, to and under the Goods, wherever located and whether now existing or hereafter arising or acquired from time to time and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. It is the further intent of Convoy and Buyer that the Goods purchased, as more fully described in the applicable Order, constitute purchase-money collateral and secure the purchase-money obligation incurred by Buyer for the payment of the Goods. Where applicable, it is the intent of Convoy and Buyer that the purchase price for the Goods constitutes a purchase-money obligation as that term is defined in the Uniform Commercial Code. For the avoidance of doubt, to secure payment of the Goods evidenced by the purchase-money obligation, Buyer hereby grants Convoy a purchase-money security interest, as that term is defined in the Uniform Commercial Code or any similar statute any applicable jurisdiction, in and to all of the Goods as more fully described in the applicable Order, which Buyer intends to purchase from Seller, together with all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) therefrom.

5. Inspection and Acceptance of Goods

- (a) Buyer will immediately inspect all Goods upon receipt, including to confirm that all Goods have been delivered and the specifications and quantities are correct. Buyer will be deemed to have accepted the Goods unless it notifies CONVOY in writing of any Non-Conforming Goods within 2 business days of receipt ("**Notice Period**") and provides such written evidence and other documentation as required by CONVOY. "**Non-Conforming Goods**" means only the following: (i)



the product received is different from the Goods identified in Buyer's Order; (ii) the product's label or packaging incorrectly identifies its contents; or (iii) Goods delivered by CONVOY (and not by a third party) that are damaged at the time of delivery. Further, any claims for shortages or discrepancies will be waived by Buyer unless made in writing to CONVOY within five days of receipt of the Goods.

- (b) If Buyer notifies CONVOY of any Non-Conforming Goods within the Notice Period, CONVOY will, in its sole discretion: (i) replace such Non-Conforming Goods with conforming Goods, or (ii) credit or refund the price for such Non-Conforming Goods, together with any reasonable shipping and handling expenses incurred by Buyer in connection therewith. Buyer will ship, at its expense and risk of loss, the Non-Conforming Goods to a facility directed by CONVOY. If CONVOY exercises its option to replace Non-Conforming Goods, CONVOY will, after receiving Buyer's shipment of Non-Conforming Goods, ship to Buyer, at Buyer's expense and risk of loss, the replacement Goods to the agreed delivery point.
- (c) Buyer acknowledges and agrees that the remedies set forth in Section 5(b) are Buyer's exclusive remedies for the delivery of Non-Conforming Goods. Except as provided under Section 5(b), all sales of Goods to Buyer are made on a one-way basis and Buyer has no right to return Goods purchased under this Agreement to CONVOY.

6. Returns

- (a) **Returns.** If the Buyer wishes to return any Goods, Buyer must notify CONVOY in writing within 30 days of the invoice date with details of the Goods to be returned, the invoice number and the date of purchase. Where the return is authorized by CONVOY in writing, which authorization shall be in CONVOY's sole discretion unless otherwise specified in this Agreement, Buyer may return the authorized Goods, freight prepaid, in accordance with CONVOY's shipping instructions. CONVOY will not accept any returned Goods which are damaged, not in the original packaging or package quantity, shipped freight collect or COD. Further, CONVOY will not authorize a return for any special order or custom Goods.
- (b) **Restocking Fee.** If Buyer returns any Goods, other than Non-Conforming Goods returned pursuant to Section 5, Buyer will pay a restocking fee of 20% of the price of the Goods. Buyer will pay the restocking fee upon demand. CONVOY may deduct the amount of the restocking fee from any payments CONVOY makes to Buyer.

7. Term and Cancellation

- (a) **Term.** This Agreement will commence on the date set out in the Order and will continue until the delivery and acceptance of the Goods by the Buyer or completion of the Services, as the case may be, unless cancelled earlier in accordance with Section 7(b) below.
- (b) **Cancellation.** Buyer may cancel its Order for Goods and/or Services, but only if CONVOY agrees to such cancellation in writing and only after Buyer pays reasonable charges for costs and expenses already incurred and commitments made by CONVOY in connection with the placement of such



Order. CONVOY may cancel, in whole or in part, any Order for Goods or Services at any time upon notice to Buyer.

8. Disclaimer of Warranties

CONVOY HEREBY EXPRESSLY DISCLAIMS AND EXCLUDES ANY AND ALL REPRESENTATIONS AND WARRANTIES, WHETHER WRITTEN OR ORAL, WHETHER EXPRESS OR IMPLIED, WHETHER ARISING BY CONTRACT, AT LAW, IN EQUITY, BY STRICT LIABILITY OR OTHERWISE, WITH RESPECT TO THE GOODS AND SERVICES, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY, ANY WARRANTY AGAINST DEFECTS IN DESIGN, MATERIALS AND WORKMANSHIP, ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, ANY WARRANTY AGAINST LATENT DEFECTS, ANY WARRANTY OF GOOD TITLE, AND ANY WARRANTY AGAINST INFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY, INCLUDING, WITHOUT LIMITATION, ANY PATENTS, TRADEMARKS, OR COPYRIGHTS. FURTHER, CONVOY HEREBY EXPRESSLY DISCLAIMS ANY AND ALL REPRESENTATIONS AND WARRANTIES THAT GOODS AND SERVICES CONFORM TO ANY SPECIFICATIONS, DRAWINGS, DESIGNS, OR SAMPLES.

9. Exclusive Remedies

All claims for non-conforming or defective Good not addressed under Section 5 above must be made in writing within 30 business days after delivery to Buyer, and any claims not made within that period shall be deemed waived and released. Seller's sole responsibility and Buyer's EXCLUSIVE remedy with respect to such claims shall be for CONVOY to assist Buyer with the processing of available Manufacturer's Warranty Claims. In no event shall CONVOY be liable for any labor incurred to repair, remedy or install any replacement GOODS provided by the Manufacturer. Buyer's EXCLUSIVE remedy against CONVOY arising out of any defect in or in connection with any Service provided hereunder is the re-performance of that Service or, at CONVOY's sole election, a credit of the fees paid for the Service. These Service remedies will only be available to Buyer for 30 business days after the relevant Service is provided to Buyer

10. Limitation of Liability

NOTWITHSTANDING ANYTHING ELSE CONTAINED HEREIN TO THE CONTRARY, IN NO EVENT WILL: (A) CONVOY BE LIABLE TO BUYER FOR ANY CIRCUMSTANTIAL, CONSEQUENTIAL, CONTINGENT, EXEMPLARY, INCIDENTAL, INDIRECT, LIQUIDATED, MATERIAL, PUNITIVE, SPECIAL, SPECULATIVE OR OTHER DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, SALES OR REVENUES, COST OF REPLACEMENT GOODS, LOST BUSINESS OR BUSINESS INTERRUPTIONS, OR ATTORNEYS FEES OR COURT COSTS ARISING IN ANY MANNER PURSUANT TO OR IN CONNECTION WITH THE AGREEMENT, THE GOODS OR THE SERVICES (EVEN IF CONVOY IS MADE AWARE OF THE POTENTIAL FOR SUCH DAMAGES); AND (B) CONVOY'S TOTAL LIABILITY RELATED TO ANY GOOD OR SERVICE EXCEED THE PURCHASE PRICE OF SUCH GOOD OR SERVICE. No suit or action shall be brought against CONVOY more than one year after any related cause of action has accrued.

11. Indemnification

- (a) **Infringement Claim.** Upon prompt notice by Buyer of any claim of patent, copyright, industrial design, trademark or other intellectual property infringement with respect to any Goods or Services, CONVOY will use its reasonable efforts to secure for Buyer such indemnity rights as the



manufacturer may customarily give with respect to such Goods. This Section 11(a) sets forth Buyer's sole and exclusive remedy against CONVOY regarding the infringement by any Goods or Services of any third party intellectual property rights, including, without limitation, any patents, industrial designs or trademarks.

- (b) **Buyer Indemnity.** Buyer will indemnify, defend and hold harmless CONVOY, its shareholders, officers, directors, employees, agents and representatives from and against all losses, damages, liabilities, costs, and expenses including, but not limited to, property damage, loss of profits or revenue, loss of use of any property, cost of capital, cost of purchased or replacement power or temporary equipment, personal or bodily injury, or death ("**Losses**"), that may arise pursuant to or in connection with the Agreement, the Goods, or the Services (including, without limitation, Losses arising in connection with the performance of Services on Buyer's premises by CONVOY's employees, representatives, agents, or subcontractors), regardless of whether such Losses are suffered directly by Buyer or arise pursuant to or in connection with a third-party suit, claim, counterclaim, demand, judgment or other action (each a "**Claim**") and regardless of whether or not CONVOY or any third party is proportionately negligent with respect to such Losses and/or Claim, provided that Buyer need not indemnify CONVOY for CONVOY's obligation, if any, to Buyer under Section 9 above. For the avoidance of doubt and without limitation, this indemnification obligation requires Buyer to pay any judgments against CONVOY or any other indemnified party resulting from any Claim, any court costs of CONVOY or any other indemnified party in connection with any Claim, and any reasonable attorneys' fees and disbursements incurred by CONVOY or any other indemnified party in CONVOY's defense of any Claim. CONVOY will have the sole and exclusive right to conduct the defense of any Claim at Buyer's sole and exclusive cost and expense. Buyer's indemnification obligation does not depend on the truth or accuracy of any allegations made against CONVOY, Buyer or any third party.

12. Product Suitability

Goods sold by CONVOY are designed and produced by their manufacturers to meet stated safety standards and regulations. Where applicable, further details about the Goods can be found in the Material Safety Data Sheets or other documentation relating to the Goods, which Buyer can request from the Goods manufacturer. Because local safety standards and regulations may vary significantly, CONVOY cannot guarantee, and makes no representations or warranties, that the Goods meet any or all applicable requirements in each locality. Buyer assumes responsibility for ensuring compliance of the Goods with such safety standards and regulations in the localities in which the Goods will be shipped, sold and used. Before purchase and use of any Goods, Buyer should review the product documentation and specifications, and provincial and local codes and regulations, and verify that the use and installation of the Goods will comply with them.

13. Confidentiality

- (a) **Confidential Information.** All non-public, confidential or proprietary information of CONVOY, including but not limited to specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, the prices of any and all Goods and Services (including any discounts or rebates) (collectively, "**Confidential Information**"), disclosed by CONVOY to Buyer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media and



whether or not marked, designated or otherwise identified as "confidential" in connection with this Agreement, shall be confidential, solely for the use of performing this Agreement, and Buyer shall not disclose such Confidential Information to any third party unless authorized in advance by CONVOY in writing, Buyer may disclose Confidential Information solely to the employees and/or non-employee service providers and contractors who have a need to know such Confidential Information and who are bound to maintain the confidentiality of, and not misuse, such Confidential Information. Upon CONVOY's request, Buyer will promptly return or, at CONVOY's option, destroy all documents and other materials containing Confidential Information.

- (b) **Remedies.** CONVOY and Buyer acknowledge and agree that monetary damages for any and all breaches of Buyer's obligation not to disclose the Confidential Information is both incalculable and insufficient and that any such breach would irreparably harm CONVOY. Therefore, in the event of an actual or prospective breach of the obligation of Buyer not to disclose the Confidential Information, CONVOY shall be entitled to a permanent and/or a preliminary injunction to prevent or remedy such breach and shall have the right to specific enforcement of this Agreement against Buyer in addition to any other remedies to which CONVOY may be entitled at law or in equity.

14. Ownership

As between the parties, CONVOY shall have and retain all right, title, and interest in and to any and all trade secrets, technical data, sales service and product plans, methodologies, techniques, designs, molds, tools, samples, systems, know-how, expertise and other proprietary information that it may use pursuant to or in connection with any Goods or Services, and Buyer shall not obtain a license to, or any other property rights in, any such CONVOY property pursuant to or in connection with this Agreement.

15. General

- (a) **Export Controls.** Certain Goods may be subject to export controls under the laws, regulations and/or directives of Canada, the United States and various other countries. Buyer must comply with such laws and regulations and not export, reexport or transfer these Goods to any country to which such export, re-export, or transfer is forbidden or without first obtaining all required authorizations or licenses.
- (b) **Availability.** Due to government regulations and product availability, not all Goods sold by CONVOY may be available in every area.
- (c) **Compliance with Laws.** Buyer hereby warrants and represents that it will comply with any and all Laws with respect to the purchase, use, and operation of any and all Goods and Services. For purposes hereof, "**Laws**" means any international, multinational, national, foreign, provincial, federal, state, municipal, local (or other political subdivision) or administrative laws, constitutions, statutes, codes, ordinances, rules, regulations, requirements, standards, and policies.
- (d) **Entire Agreement.** This Agreement, which is comprised of these Terms, CONVOY's Privacy Policy and the applicable Order, constitutes the sole and entire agreement between the parties regarding the subject matter set out in this Agreement, and supersedes all prior and contemporaneous negotiations, understandings, representations and warranties and agreements between the parties



(both written and oral) with respect to such subject matters. No provision of this Agreement may be amended, modified, waived or changed unless made in writing and signed by the parties.

- (e) **Severability.** If any provision of this Agreement is at any time held to be unenforceable or invalid for any reason, it will be severable from the remainder of this Agreement and, in its application at that time, this Agreement will be construed as though such provision was not contained herein and the remainder will continue in full force and effect and be construed as if this Agreement had been executed without the invalid or unenforceable provision.
- (f) **Waiver.** No waiver by CONVOY of any of the provisions of this Agreement is effective unless explicitly set out in writing and signed by CONVOY. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.
- (g) **Force Majeure.** In the event of an inability or failure by either of the parties to perform its covenants or obligations under this Agreement by reason of any fire, explosion, war, terrorist attack, civil commotion, embargo, insurrection, sabotage, civil unrest, riot, flood, or other natural disaster, epidemic, pandemic (including a resurgence of the coronavirus pandemic (COVID-19)) or other public health emergency, accident or breakdown of machinery, availability of fuel, labour, containers or transportation facilities, strike or other labour disturbances, Act of God or public enemy, any law, act or order of any court, board, government or other authority of competent jurisdiction, or any other cause (whether or not of the same character as the foregoing) beyond the reasonable control of such party, then such party will not be liable to the other party during the period and to the extent of such inability or failure to perform its covenants and obligations herein. If performance by either party is prevented as aforesaid for a period exceeding 30 days then, notwithstanding any other provision of this Agreement, the other party will have the right upon written notice to said party to immediately terminate this Agreement.
- (h) **Assignment.** Buyer will not assign any of its rights or delegate or subcontract any of its obligations under this Agreement without the prior written consent of CONVOY. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Buyer of any of its obligations under this Agreement. CONVOY may assign this Agreement to another company or entity, or subcontract any of its obligations under this Agreement, without notice to Buyer, and such assignment or subcontracting will not constitute a termination of this Agreement.
- (i) **Relationship of the Parties.** The relationship between the parties is that of independent contractors. Nothing contained in this Agreement will be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties and neither party will have authority to contract for or bind the other party in any manner whatsoever.
- (j) **No Third-Party Beneficiaries.** This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to



or will confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.

- (k) **Governing Law.** This Agreement will be governed by and construed in accordance with the laws applicable in the Province or State in which the CONVOY location that received the Order is located (the "**Jurisdiction**"), without any reference to any rule of conflict of laws in that Jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. The parties irrevocably submit to the exclusive jurisdiction of the courts of the Jurisdiction for any actions or proceedings arising out of or relating to the enforcement of this Agreement, provided that either party may seek injunctive relief in any court of competent jurisdiction.
- (l) **Survival.** Notwithstanding the expiration or termination of this Agreement for any reason, Sections 3, 8, 9, 10, 11, 12, 13, 14 and 15 and all other provisions that are expressly or impliedly intended to survive, will survive any such expiration or termination and will remain in force