

NAL TERMS & CONDITIONS FOR THE PURCHASE OF GOODS AND SERVICES

1. Application of Terms and Conditions

- 1.1 **NAL RESOURCES LTD. ("NAL") OBJECTS IN ADVANCE TO ANY TERMS OR CONDITIONS THAT PURPORT TO MODIFY OR ADD TO THESE TERMS AND CONDITIONS, WHETHER CONTAINED IN ANY INVOICE, ACCEPTANCE OR ANY SIMILAR OR OTHER DOCUMENT FURNISHED BY THE SUPPLIER OR OTHERWISE. ANY SUCH MODIFICATIONS OR ADDITIONS WILL BE VOID AND OF NO FORCE OR EFFECT, UNLESS ACCEPTED BY NAL IN A WRITTEN DOCUMENT THAT EXPRESSLY REFERENCES SUCH MODIFICATIONS OR ADDITIONS AND CLEARLY MANIFESTS AN INTENTION ON THE PART OF NAL TO BE BOUND THEREBY.**
- 1.2 **IF SUPPLIER ALREADY HAS A CURRENT MASTER SERVICES AGREEMENT (MSA) WITH NAL THEN THE TERMS OF THAT MSA GOVERN THE ORDER AND NOT THESE TERMS AND CONDITIONS.**
- 1.3 Except as provided in Section 1.2, these Terms and Conditions are the only terms and conditions upon which NAL is prepared to deal with Supplier and they shall govern the Contract to the entire exclusion of all other terms or conditions.
- 1.4 Each Order shall be deemed to be an offer by NAL to purchase applicable Goods and /or Services subject to this Contract and no Order shall be accepted until Supplier accepts the offer either expressly by giving notice of acceptance or impliedly by fulfilling the Order, in whole or in part. In the case of a Blanket Order details such as pricing, quantity and delivery may be provided subsequently by NAL and the Supplier shall only supply Goods and/or Services as specifically requested by NAL.
- 1.5 If any provision of this Contract is inconsistent with an express provision of the Order, the Order shall prevail to the extent of that inconsistency.

2. Performance

Supplier shall supply the Goods to NAL, and/or, perform the Services for NAL, as described in the Order.

3. Changes to the Order by NAL

NAL may, at any time, in writing direct Supplier to make any changes to the Order, including changes pertaining to quantity (increases or decreases), quality, nature, timing, delivery and terms of the Goods and/or Services as well as authorization levels in the case of Blanket Orders. In the case of a Blanket Order NAL may advise of Goods and/or Services to be provided as well as details of price, schedule and quantity, as applicable. If any change increases or decreases the cost or time required for Supplier's performance then, as soon as practicable, the Parties shall agree to an equitable adjustment to the agreed to price and performance schedule, as applicable. In no event unless advised in

writing by NAL may Supplier delay initial Goods and/or Services while the Parties settle issues of price or performance schedule for the Goods and/or Services proposed by the NAL initiated change.

4. Changes to Goods or Services by Supplier

Supplier shall not, without NAL's prior written authorization, alter, substitute or add to the Goods and/or Services specified in the Order. Supplier is not entitled to payment for unauthorized goods supplied or services performed. NAL, by the issuance of a written change order may alter, substitute or add to the Goods and/or Services. Upon acceptance (as contemplated in Section 1.4) each change order will amend the Order and take precedence over the original Order in the event of an inconsistency.

5. Delivery, Measurement, Title and Risk of Goods

- 5.1 Supplier shall deliver the Goods and related documentation in the manner as specified in the Order or as otherwise instructed by NAL to NAL's place of business or to such other place of delivery stated in the Order. The date for delivery shall be specified in the Order; if no date is specified, delivery shall take place with thirty (30) days of the Order. In the case of a Blanket Order NAL may advise of Goods and/or Services to be provided as well as details of price, schedule and quantity, as applicable, and the price, quantity and time for delivery shall be as so advised by NAL. If Goods are delivered in installments, failure by Supplier to deliver anyone installment shall entitle NAL to treat the whole Contract as repudiated.
- 5.2 All measurements or tests used to determine the quantity or quality of Goods delivered to NAL shall comply with the *Weights and Measures Act* (Canada), as amended from time to time, or with the latest international standards and guidelines as published by ASTM International, or both.
- 5.3 The Goods shall remain at the risk of Supplier until delivery to NAL and acceptance by NAL is complete (including off-loading and stacking) at which time title in the Goods shall pass to NAL.

6. Hazardous Goods

Supplier shall notify NAL in writing if Goods furnished are subject to laws or regulations relating to hazardous or toxic substances, or when disposed of, to regulations governing hazardous wastes, or to any other environmental or safety and health regulations. Supplier shall furnish all appropriate shipping certification and instructions for shipping, safety, handling, storage, exposure and disposal in a form sufficiently clear for use by NAL's non-technical personnel and sufficiently specific to identify all action which the user must take concerning the Goods. Where applicable, Supplier shall ensure that the Goods are properly classified in accordance with the Workplace Hazardous Materials Information System legislation and shall provide health and safety data for such goods.

7. GENERAL CAUTION

HAZARDOUS, TOXIC OR OTHER SUBSTANCES WHICH MAY CAUSE HARM TO THE ENVIRONMENT OR MAY ENDANGER HUMAN HEALTH AND SAFETY MAY BE PRESENT IN THE GOODS PROVIDED BY SUPPLIER OR IN THE EQUIPMENT, TANKS OR WORKSITE WHERE THE SERVICES ARE TO BE PERFORMED. SUPPLIER IS SOLELY RESPONSIBLE FOR DETERMINING THE NATURE AND SCOPE OF THE RISKS ASSOCIATED WITH SUCH DANGERS AND FOR ENSURING COMPLIANCE WITH ALL APPLICABLE LAWS, ORDERS, RULES, REGULATIONS, STANDARDS AND GUIDELINES. SUPPLIER ASSUMES ALL RESPONSIBILITY AND LIABILITY FOR SUCH RISKS AND FOR SUCH COMPLIANCE AND MAKES THE INDEMNITY SET OUT BELOW.

8. Provision of Services

Supplier shall perform all Services efficiently, diligently and carefully in a good and skillful manner and in strict conformance with the Order and any specification, drawing or other description supplied or advised by NAL to Supplier, and shall furnish all skills, labour, supervision, equipment, materials and supplies required for such services. In the case of a Blanket Order NAL may advise of details of Services to be provided subsequent to issue of the Blanket Order. Supplier shall ensure that all its Personnel are properly qualified, trained and experienced in their respective capacities, roles and responsibilities as required to perform and complete the Services pursuant to the terms of this Contract. Supplier shall cooperate fully with NAL and, if necessary, take all necessary steps to coordinate the performance of the Services with other work performed by NAL employees, contractors or third parties.

9. Suspension of Services

- 9.1 NAL may, from time to time, by written notice to Supplier, suspend the provision of Services in whole or in part for any reason whatsoever. Upon receipt of such notice, Supplier shall discontinue the Services to the extent specified in the notice and take such steps as are necessary to minimize costs associated with such suspension. During the suspension, Supplier shall store, preserve and maintain Services in accordance with industry practice, any applicable specifications and as stipulated in the applicable notice of suspension. Subject to section 9.2, if the Order is suspended in accordance with this section 9.1, NAL shall pay Supplier for any reasonable and substantiated costs (if any) directly related to the suspension for which Supplier has submitted to NAL all supporting documentation. Upon receipt of notice to resume Services, Supplier will promptly resume performance to the extent required in the notice.
- 9.2 If NAL has suspended the Services due to a material breach of any of Supplier's obligations hereunder, or for as long as necessary to prevent or stop any unsafe practice or any violation of, Supplier's obligations hereunder with respect to environment, health and safety, then Supplier shall not be compensated for any loss or damage as a result of such suspension and the time for performing the Services shall not be extended.

- 9.3 NAL shall have no liability for suspending or failing to suspend any Services and any suspension or failure to do so shall not relieve Supplier of any of its responsibilities hereunder.

10. Services on NAL Worksite

For any Services conducted on a NAL worksite, Supplier shall participate in any orientation that may be offered, carefully examine all worksites and surrounding areas and all particulars relating to Services, make all reasonable investigations necessary for a full understanding of all difficulties, risks and hazards which may be encountered in the performance of Services, including, if necessary, a visual inspection of the site, and ensure all identified difficulties, risks and hazards are suitably addressed prior to commencement of Services. NAL shall accept no responsibility for the failure of Supplier to gain a full understanding of any difficulties, risks and hazards and shall not be liable for any increase in the consideration to Supplier for Supplier's failure to reasonably anticipate difficulties and hazards that may be encountered. Supplier shall adequately protect all persons and property of NAL and others from injury, damage or loss arising out of the provision of Services. Supplier shall provide all necessary safeguards for the protection of the public in connection with the Services, including the furnishing and maintenance of appropriate warning signs. Except as stipulated in the applicable Order, Supplier shall interfere minimally with the worksite operations of NAL and other contractors. On completion of Services, Supplier shall leave the worksite clear of all tools, equipment, waste material and rubbish resulting from the Services. Supplier shall immediately report to NAL all written or verbal communications, including inspections, infractions, violations, orders, notifications, advice from government or regulatory bodies and all incidents, injuries, damage and losses arising out of the provision of Services.

11. Work Product, Materials in Connection with the Services

- 11.1 Title to, including all Intellectual Property Rights in items NAL that has expressly requested to be developed in an Order, and risk in all equipment, materials and supplies provided by Supplier for incorporation into the project on which Supplier performs the Services shall pass to NAL upon delivery thereof at NAL's place of business or such other place of delivery stated in the Order. However, Supplier shall remain responsible for, and at its sole cost shall promptly repair, restore or replace all such equipment, materials and supplies, lost, damaged or destroyed before Supplier completes the applicable Services.
- 11.2 All drawings, specifications, documents, software, Geo-Data, data or other work product developed, prepared or compiled by Supplier relating to or arising under any of the Services, including the information contained therein and all rights relating thereto including all Intellectual Property Rights, shall be NAL's exclusive property for use by NAL without limitation and Supplier does hereby assign and shall upon NAL's request assign or sign such document as NAL may request to obtain or perfect its title therein.

12. Compliance with Laws

- 12.1 Supplier shall be fully responsible for all acts or omissions of its Personnel in connection with Supplier's obligations hereunder. Supplier shall ensure that its Personnel are aware of and conform to all of Supplier's obligations in this Contract (including compliance with all Laws and NAL Policies) and assume obligations identical in principle thereto. At NAL's request, Supplier shall provide proof satisfactory to NAL of compliance with the terms of this Contract.
- 12.2 Supplier shall provide prompt notice to NAL of any subpoena, appointment or other legal document obligating Supplier to testify regarding any matter relating to the Goods and/or Services before any regulatory agency, governmental body or court of law and cooperate fully with NAL in the course of providing such testimony.

13. Personal Information

The Parties agree to conduct their activities with respect to the Personal Information that may be collected, used, disclosed or transferred as a result of or in accordance with the terms of this Contract in accordance with law. Where Personal Information is received by one Party from the other Party, then the receiving Party shall: use and disclose such Personal Information only for the purposes of performing this Contract and at the request and option of the disclosing Party, return or cause to be returned, or destroy or cause to be destroyed, such Personal Information (provided that the receiving Party shall be permitted to retain such copies of the Personal Information as they may be required to retain by law or for reasonable record retention purposes), as may be specifically requested from time to time; use all commercially reasonable efforts to protect and safeguard the Personal Information, including protecting the Personal Information from loss or theft, or unauthorized access, disclosure, copying, use, modification, disposal or destruction. Where Personal Information is disclosed by one Party to the other Party, then the disclosing Party shall only provide such Personal Information to the receiving Party where the disclosing Party has the legal right to do so, having complied with their own privacy policies and all applicable law. Notwithstanding the termination of this Contract, each Party shall keep any Personal Information provided by the other Party confidential and not use such information for any purpose other than as expressly permitted hereunder and shall destroy such Personal Information once the purpose for collecting it has expired.

14. Conflict of Interests

Supplier shall, and shall cause its Personnel to, avoid situations where any of its interests conflict, could potentially conflict or could appear to conflict with its obligations and duties to NAL or its Affiliates. Supplier shall immediately advise its NAL supervisor of any actual, potential or perceived conflict of interest situation of which it becomes aware.

15. Supplier's Equipment

Supplier shall ensure that all equipment supplied or used in connection with the performance of its obligations under the Contract is at all times inspected, calibrated and maintained in accordance with manufacturers' guidelines, applicable laws and government regulations, industry recommended practices and, where applicable, good oilfield practices.

16. Permits/Export Control

Supplier shall obtain and maintain all permits and licenses required to authorize it to supply the Goods or perform the Services, and shall inform NAL of any applicable export control measures applicable to the Goods or Services. Subject to any applicable laws of Canada specifically providing otherwise, Supplier agrees to conduct its operations under this Contract and perform any services in full compliance with export and other foreign trade controls under any applicable laws in the U.S. restricting sales or transfers to other countries or parties of commodities, software or technical data. Any violation of this section, as determined solely by NAL, shall be deemed a material breach of this Contract.

17. Quality Assurance and Inspection

17.1 *Goods.* Supplier represents and warrants to NAL that, for the period commencing on the date that NAL accepts physical possession of the Goods, or if installed by Supplier, the date of such installation, and ending twelve (12) months thereafter, the Goods shall: (a) be without fault, defect or deficiency; (b) be of best design, materials and workmanship; (c) be new, unless specified in the Order; (d) be fit for use for their ordinary intended purpose as well as any special purpose specified in the Order; (e) not constitute an infringement or contributory infringement of any Intellectual Property Right of a third party or misuse or disclosure of third party confidential information when sold or used for their ordinary intended purpose or any special purpose specified in the Order; and (f) be in strict conformance with the Order and any specification, drawing or other description supplied or advised by NAL to Supplier.

17.2 *Services.* Supplier represents and warrants to NAL that any Services provided shall be free from defects and deficiencies in workmanship and materials and NAL's use of the Services for their ordinary intended purpose or any special purpose specified in the Order shall not constitute an infringement or contributory infringement of any Intellectual Property Right of a third party or misuse or disclosure of third party confidential information. Supplier's warranty for services in respect of being free from defects or deficiencies shall apply throughout the term of the Contract and for a period the period commencing the date NAL accepts the Services as complete in writing, and ending twelve (12) months thereafter.

17.3 *Inspection / Acceptance.* The Goods and Services shall at all times be subject to NAL's inspection and acceptance. Neither NAL's inspection nor failure to inspect Goods supplied or Services performed shall relieve Supplier of any obligation under the Contract. No acceptance or payment by NAL shall constitute a waiver of the foregoing.

18. Purchase Price

The purchase price of the Goods and/or Services shall be as stated in the Order. In the case of a Blanket Order the price of the Goods and/or Services to be provided shall be as stated in the Blanket Order or by NAL, as applicable. The price shall exclude all taxes, duties and assessments of any kind, and shall separately list such charges where applicable, but shall include all charges and expenses in connection with the packing of the goods, materials, supplies or equipment, and their carriage to the place of delivery. No variation in the price or extra charges shall be accepted by NAL.

19. Payment Terms

- 19.1 Except for any holdbacks, deductions (including withholding taxes), or setoffs that NAL is entitled to make under this Contract or at law, NAL shall pay the purchase price within the time period, set out in the Order, from receipt by NAL of an invoice for the Goods delivered or Services completed and accepted. Supplier shall submit its invoices through NAL's B2B Portal for after inspection and approval of Services by NAL, and for Goods after they have been delivered and accepted by NAL. Invoices shall contain proper coding, originator and location. Invoice must be accompanied by all work tickets, third party invoices and any other supporting documentation and billing information as requested by NAL.
- 19.2 From time to time, the Parties agree that NAL may offer the Supplier arrangements or other proposals that permit the Supplier to receive payment for goods or services transacted through the business-to-business purchase and sale system provided by NAL through a B2B Portal on expedited basis in exchange for a processing fee or other discount (a "**Fee Arrangement**"). The Supplier agrees that any person authorized by the Supplier to use the B2B Portal in accordance with the agreement entered into between the Parties for that purpose (the "**User Agreement**"), including any Administrator or User as defined in the User Agreement, shall act as an agent of the Supplier when choosing whether to accept a Fee Arrangement, and shall be authorized by the Supplier to bind the Supplier into any Fee Arrangement.

20. Taxes

- 20.1 Supplier is exclusively liable for, and shall pay before delinquency, all taxes, duties and assessments imposed or levied in respect of Goods or Services (other than GST/HST payable by NAL as the purchaser of the goods or services) and Supplier shall be liable for and indemnify and hold harmless NAL from and against all actions, injury, claims, liabilities, loss, damages, demands, penalties, fines, expenses (including legal expenses), costs, obligations and causes of action of every kind and nature whatsoever that may be asserted or brought against, or suffered or incurred by, NAL owing to Supplier's failure to do so.
- 20.2 If Supplier is non-resident in Canada, NAL may be required by law to collect and remit to the Canada Revenue Agency a withholding tax in respect of Services rendered in Canada by Supplier to NAL, unless such requirement is waived directly by the Canada

Revenue Agency. Any such withholding tax shall be reimbursed to NAL by Supplier or deducted from the payment amount due to Supplier. If the Canada Revenue Agency provides such a waiver to Supplier, Supplier shall forward a copy of the same to NAL for its records. Supplier shall facilitate the withholding and payment of any withholding tax as requested by NAL.

21. Payment Set-Off

NAL may withhold any sum due to Supplier under the Contract and apply such sum against Supplier's obligations to third parties connected with the Order or as a set-off against Supplier's indebtedness to NAL either under this Contract or under any other contract.

22. Liens

All Goods supplied shall be free and clear of liens and other encumbrances. Supplier shall promptly pay all debts incurred by Supplier for labour, services, equipment, materials and supplies used in the supply of Goods. Supplier shall not be entitled to receive payment from NAL, until Supplier furnishes evidence satisfactory to NAL of full payment of such indebtedness. Supplier shall pay promptly all amounts due for labour, materials, tools, supplies, equipment and services used in connection with the performance of any of the Services or provision of Goods and shall not permit any lien or charge pertaining to the Services or Goods attach to any property whatsoever. If any such lien or charge attaches then Supplier shall promptly procure its release and hold NAL harmless from all Claims and damages incidental thereto.

23. Insurance

During the performance of any services, unless otherwise agreed to in writing by NAL, Supplier shall maintain and cause any subcontractor to maintain at least the following insurance coverage:

- (a) Workers' Compensation coverage as required by applicable law;
- (b) "**Employer's Liability Insurance**" covering Contractor and all its Personnel engaged in performing the Services with limits of not less than two million dollars (\$2,000,000.00) per occurrence where not covered by statutorily imposed workers' compensation;
- (c) "**Commercial General Liability Insurance**" written on an "occurrence" basis including coverage for all non-owned vehicles, products, completed operations liability, contractual liability, cross liability and personal injury with a combined single limit of two million dollars (\$2,000,000) for each occurrence involving bodily injury, death or property damage. The insurance shall also provide coverage for contractual liability, tortuous liability, personal injury, contractor's protective liability, products liability, completed operations liability, cross liability, severability of interest, non-owned automobile liability and occurrence

basis property damage. NAL shall be added as an "additional insured" under this policy with respect to incidents arising in connection with the Contract; and

- (d) **"Automobile Public Liability Insurance"** covering all vehicles owned, leased, used, operated or licensed by Supplier with a combined single limit of two million dollars (\$2,000,000) for each occurrence involving bodily injury, death or property damage;

Supplier shall ensure that the insurance policies pursuant to sub-sections and (c) of this Section 23 include a waiver of the insurer's right to subrogate against NAL and a provision requiring the insurer to give NAL not less than thirty (30) days' prior written notice of cancellation or material change. At NAL's request, Supplier shall provide certificates of insurance evidencing that such policies are in effect. Neither the requirement of Supplier to carry and maintain insurance nor NAL's acceptance of evidence of insurance will in any manner limit or qualify the liabilities and obligations assumed by Supplier under the Contract. Supplier shall be solely liable to pay any deductible associated with any claim by Supplier or NAL under the foregoing insurance policies. Supplier, at NAL's cost, shall obtain such other insurance coverage with insurance carriers satisfactory to NAL as NAL may require.

24. Indemnity

Supplier shall be liable for and indemnify and hold harmless NAL, its directors, officers, employees, representatives, agents, and contractors and their respective representatives, agents and employees (collectively, the "indemnified parties") from and against all Claims, including:

- (a) injury to, disease or illness suffered by, or the death of, any person whomsoever;
- (b) loss, damage or destruction (including environmental damage) of any property (including NAL's property or the property of Supplier or any third party);
- (c) non-conformance or defect or deficiency in the design, workmanship or quality of the documents, materials, Goods or Services; and
- (d) failure by Supplier to comply with any applicable law, or any term or condition of this Contract,

that may be asserted or brought against, or suffered or incurred by, the indemnified parties for or in respect of, or arising in any way whatsoever, out of the acts or omissions of, or the breach of this Contract by, Supplier, its employees, agents, representatives, subcontractors or suppliers, or their respective employees, agents, representatives, subcontractors or suppliers.

25. Intellectual Property Infringement

Supplier shall be liable for and indemnify and hold harmless NAL from and against all Claims that may be asserted or incurred by, NAL attributable to any claim for alleged

infringement or contributory infringement of any Intellectual Property Right of a third party or misuse or disclosure of third party confidential information arising out of the purchase of the Goods or their normal use or out of the performance of Services or use of the results of the Services (such as work product), and Supplier at its sole expense shall defend such claims, provided that NAL may participate in the defense without relieving Supplier of its obligations under the Contract. Notwithstanding the foregoing, Supplier shall not be liable for any alleged infringement arising solely from the manufacture, sale and use of Goods made in accordance with NAL's designs and instructions, unless Supplier had prior knowledge of such infringement.

26. No Consequential Liability

Except in respect of third party claims, claims of Intellectual Property Rights infringement or misuse or disclosure of Confidential Information, for which Supplier shall be liable, neither Party shall be liable to compensate or indemnify the other Party nor its Affiliates for any indirect, consequential losses or damages, including loss of revenue, profits or goodwill.

27. NAL's Proprietary Marks / Publicity

- 27.1 Supplier shall not use or display NAL's name, trademarks, logos or any other of NAL's proprietary marks or designations for any purpose or in any medium (including internet or other means of electronic or wireless communications).
- 27.2 Supplier shall not make any announcement (or publish any photograph, article or press release) in connection with the Contract without the prior written approval of NAL except as required by law or by any legal or regulatory authority.

28. Confidentiality

- 28.1 Supplier shall maintain in strict confidence all Confidential Information received from NAL and shall not disclose it to any third party nor use such information for any purpose other than solely the performance of the Contract without the prior written consent of NAL, except for specific information: (a) known to Supplier prior to obtaining it from NAL; (b) which, at the time of disclosure by Supplier, is in the public domain; or (c) obtained by Supplier from a third party who did not receive it in confidence directly or indirectly from NAL. Information generated by Supplier or its Personnel in the course of the provision of Services shall be Confidential Information of NAL.

29. Conduct of Business/HSE

Supplier acknowledges receipt of NAL's Operations Management System and undertakes to perform its obligations under the Contract in strict compliance with such standards, policies, practices and principles. In addition to the requirements of any Applicable Law concerning occupational health and safety, Supplier shall strictly comply with safety procedures, policies and requirements provided to Supplier by NAL from time to time.

30. Security

30.1 Supplier shall abide by all security arrangements put in place at NAL's places of business. At NAL's request, Supplier shall permit and facilitate criminal background checks and driver record checks for individuals employed by or contracted to Supplier in accordance with NAL policy. If Supplier is granted access to any part of NAL's computer systems, Supplier undertakes to enter into confidentiality and user agreements in the form prescribed by NAL. Supplier warrants that all software and document files provided by Supplier and used in the performance of the services are virus free and do not have any functions permitting control of the software by third parties in a manner not known or controlled by NAL.

31. Assignment and Subcontracts

31.1 Supplier shall not, without NAL's prior written consent, assign the Contract or any Order, or any monies due thereunder or any claim arising in connection therewith. NAL's consent to any assignment shall not relieve Supplier from its primary obligations for performance of the Contract.

31.2 Supplier shall not, without NAL's prior written consent, subcontract all or any part of the services to be performed under the Contract. NAL's consent to any subcontract shall not (a) constitute a waiver of any right of NAL to reject goods or services; (b) create any contractual relationship between NAL and any subcontractor; or (c) relieve Supplier of its responsibility for all acts or omissions of its subcontractors.

31.3 NAL may assign the Contract, including any or all of its rights and obligations under the Contract, at any time without the prior consent of Supplier. If NAL assigns the Contract or any or all of its rights and obligations thereunder, the Contract shall be conclusively considered to be novated from NAL to the assignee to the extent of the assignment, and NAL is not responsible for the performance of the assigned obligations that accrue or come due on or after the effective date of the assignment. As an alternative to assignment, NAL may perform any or all of its obligations under the Contract through another party designated in writing by NAL to Supplier and at the cost of Supplier.

32. Independent Contractor

Supplier is an independent contractor and, unless expressly authorized by NAL in writing, shall not hold itself out as NAL's agent or representative. Supplier shall obtain and maintain, at its own expense, all permits, licenses and other documents required to perform Services or provide the Goods unless the Parties otherwise expressly agree in writing. Supplier shall furnish all skill, labour, supervision, transportation, equipment, tools, machinery, materials, supplies and whatever else is required to provide the Services at its own cost and expense, unless otherwise expressly agreed to in writing by NAL.

33. Excused Non-Performance

Each Party is relieved of its obligations under the Contract to the extent and for the time that its performance is delayed or prevented by any cause (except financial or labour-

related) beyond its reasonable control. NAL may, at its sole option, defer the date of delivery or terminate the Contract or reduce the quantity, nature or extent of the Goods or Services ordered if it is prevented from or delayed in the carrying on of that part of its business relating to the Order due to circumstances beyond its reasonable control. A Party whose performance of its obligations is delayed or prevented by circumstances beyond its reasonable control shall immediately notify the other Party of the nature, extent, effect and likely duration of such circumstances. If NAL is of the reasonable opinion that as a result of an event beyond the reasonable control of Supplier the performance of services will be delayed for seven (7) or more days, or the performance of services is in fact delayed for seven (7) days or more, then NAL shall be entitled, without cost or liability to NAL, to cancel all or a portion of the Order or authorize any necessary delays and adjustments.

34. Audit

- 34.1 Supplier shall keep at its usual place of business proper and detailed Records complete in every material respect in respect of the Goods and Services. NAL may, during normal business hours at Supplier's place of business, audit all Records for the purpose of verifying the proper performance by Supplier of its obligations under the Contract.
- 34.2 NAL's audit rights shall exist at all times during the Contract and for thirty six (36) months after the last day of the calendar year in which goods are delivered or services are completed. Supplier shall facilitate any such audit as requested by NAL. Supplier must refund to NAL any overpayment disclosed by such audit, and NAL must pay Supplier the amount of any underpayment discovered by the audit, both within thirty (30) days of such finding.

35. Termination

- 35.1 NAL may at any time terminate the Contract or any Order in whole or in part by giving Supplier written notice, either for cause or without requirement of showing cause, whereupon NAL shall be relieved of all further obligations under the Contract except for the payment of the balance outstanding for the acceptable Goods delivered to NAL and Services performed and accepted to the effective date of termination. In no event shall NAL be liable for Supplier's loss of anticipated profits or any consequential losses or indirect damages. The termination of the Contract shall be without prejudice to the rights and remedies of NAL accrued prior to termination. If NAL terminates this Contract because Supplier breached any of its obligations or became insolvent, bankrupt, made an assignment to creditors or a similar event occurred and NAL's cost for substitute Goods and/or Services exceeds the total purchase price under the Contract, Supplier shall promptly reimburse NAL for the amount of the difference. Upon termination NAL may remove from Supplier's possession all Goods, materials, supplies and equipment for which NAL has paid (whether fabricated or not) without hindrance by Supplier or anyone claiming through Supplier.

35.2 Supplier may terminate this Contract upon thirty (30) days' notice to NAL if NAL:

- (a) commits a material breach under the Contract and fails to commence to remedy the breach within thirty (30) days from the date of notice;
- (b) becomes bankrupt or goes into liquidation (except for the purpose of amalgamation); or
- (c) ceases to carry on business.

36. Remedies

Without prejudice to any other right or remedy which NAL may have, if any Goods or Services are not supplied in accordance with, or Supplier fails to comply with, any of the provisions of the Contract, NAL may avail itself of anyone or more of the following remedies at its discretion, whether or not any part of the goods or services have been accepted by NAL:

- (a) rescind the Order;
- (b) reject the Goods (in whole or in part, and return them to Supplier at the risk and cost of Supplier on the basis that a full refund for the Goods so returned shall be paid forthwith by Supplier) or Services;
- (c) provide Supplier the opportunity at Supplier's expense either to remedy any deficiency or defect in the Goods or Services or to supply replacement Goods or carry out any other necessary Services to ensure that the terms of the Contract are fulfilled;
- (d) refuse to accept any further deliveries of the Goods or performance of the Services without any liability to Supplier;
- (e) take any action at Supplier's expense to make the Goods or Services comply with the Contract; and
- (f) claim such damages as may have been sustained in consequence of Supplier's breach of the Contract.

37. Laws and Applicable Policies

37.1 Supplier warrants that all goods and services supplied pursuant to the Contract shall comply with all applicable Laws (including, without limitation, the *Occupational Health and Safety Act* or its equivalent). NAL reserves the right to remove any of Supplier's personnel from any of NAL's worksites for violation of any Laws, this Contract or NAL Policies relating to safety or environment or for otherwise endangering other workers or individuals on or near the worksite. Supplier will cause these terms to be imposed on any entity from which products or services are procured for this Contract, including any of its suppliers or subcontractors. The Contract shall be governed by and construed in

accordance with the laws of the Province of Alberta and the laws of Canada applicable therein. NAL and Supplier each irrevocably submits to the exclusive jurisdiction of the courts of the Province of Alberta over any claim or matter arising under or in connection with the Contract.

- 37.2 Supplier shall strictly comply with all NAL Policies, including as posted on NAL's B2B Portal or provided in other form, and, upon entering into this Contract, Supplier shall review the NAL Policies. Supplier shall ensure that all of its Personnel (and those of any subcontractors or third party suppliers) that are involved in the provision of Goods and/or Services are made aware of the NAL Policies.
- 37.3 For any Services conducted on a NAL worksite, Supplier shall have in place a health, safety and environmental management system which is in full compliance with all Laws, NAL Policies and industry standards. Such management systems shall be made available to NAL upon request and which NAL may audit them from time to time. NAL requires an alcohol and drug free workplace and reserves the right to conduct safety-sensitive, pre-assignment, post-incident and reasonable cause testing to verify this requirement.

38. Miscellaneous

- 38.1 In this Contract the following words shall have the following meanings unless the context dictates otherwise:

"Affiliate" means any Person directly or indirectly controlling, controlled by, or under common control of a Party, or is, directly or indirectly, controlled by the same Person that controls the said Party. A corporation shall be deemed to be controlled by those Persons who own or effectively control, other than by way of security only, sufficient voting shares of the corporation (whether directly through the ownership of shares of the corporation or indirectly through the ownership of shares of another corporation that owns the shares of the corporation) to elect the majority of its board of directors; and a partnership or trust shall be deemed to be controlled by those Persons that are able to determine policies or material decisions of that partnership or trust; and a partnership that is composed solely of corporations that are Affiliates as described above shall be deemed to be an Affiliate of each such corporation and their respective Affiliates. For the purposes of this Contract NAL's Affiliates includes those entities for whom NAL or its Affiliates provides management services.

"B2B Portal" means NAL's portal for posting policies, invoices and Orders, the specifics of which NAL may advise Supplier from time to time.

"Blanket Order" means an Order there NAL authorizes the Supplier to provide Services and/or Goods up to a specified level of authority with details such as pricing, quantity and delivery may be provided subsequently by NAL.

"Claims" means any and all actions, proceedings, claims, demands, losses, costs, damages, penalties, fines, remedial obligations, interest, legal and other expenses of whatever nature, including legal fees on a solicitor-client basis.

"Conditions" means these NAL Standard Terms & Conditions for the Purchase of Goods and Services;

"Contract" means the Order and Supplier's acceptance of the Order; subject to these Conditions;

"Confidential Information" means any information, regardless of its form or medium, whether conveyed orally, visually, electronically or in writing, and whether or not it is designated as "confidential", that: (i) is provided by or on behalf of NAL, or is derived from or comes to the knowledge of the Supplier, its Personnel, directly or indirectly in the course of performing the Services or otherwise obtained; and (ii) is or may be either applicable to or related in any way to the assets, business or affairs of NAL.

"Geo-Data" means all data, documentation, digital media, drawings, sketches, calculations, analysis and correspondence that has been incorporated, developed, published or produced in the course of performing geophysical services under this Contract.

"Goods" means all goods, materials, components, parts, supplies, products, equipment, software, data and information to be provided to NAL under the Contract as specified in an Order.

"GST/HST" means Goods and Services/Harmonized Sales Tax as provided for in the *Excise Tax Act* (Canada), as amended, or any other successor or parallel provincial or federal or provincial legislation that imposes tax on the recipient of goods and services under this Contract or any other sales or similar taxes.

"Herein" and **"Hereunder"** means, respectively, in or under this Contract.

"Includes" or **"Including"** means include(s) or including without limitation.

"Intellectual Property Rights" means any right or protection existing from time to time in a specific jurisdiction, whether registered or not, under any patent law or other invention or discovery law, copyright law, performance or moral rights law, trade-secret law, confidential information law (including breach of confidence), trade-mark law, trade-name law, passing off, unfair competition law or other similar laws and includes legislation by competent governmental authorities and judicial decisions under common law or equity, and for greater certainty includes the right to file any applications, and the right to claim for the same the priority rights derived from any applications filed under any treaty convention or any domestic laws of a country in which a prior application is filed.

"Laws" means all applicable federal, provincial, state, territorial and municipal laws, statutes, by-laws, regulations, rules, orders, ordinances, directives, standards, codes, permits and licenses.

"NAL Policies" means all of the standards, policies and practices set out in NAL's or its Affiliates' Safety Orientation Management System (SOMS) in effect. Access to the

current information has been or shall be provided to Supplier through the Safety Orientation Management System (SOMS) and includes any other policies and/or practices that NAL may put in place from time to time and provide written notice thereof to Supplier and which Supplier shall comply with in accordance with the terms of this Contract, together with all amendments thereto, all of which are hereby incorporated by reference into this Contract.

"Order" means an agreement, including in written or electronic form, as may be amended from time to time, between NAL and Supplier intended to be and governed by this Contract, pursuant to which the Supplier will provide Goods and/or Services and all ancillary items agreed to by the Parties thereunder, including specifications, pricing, rates, delivery requirements, schedules and attachments whether provided with the order or thereafter by NAL.

"Parties" means Supplier and NAL and **"Party"** means one them.

"Personal Information" means information about an identifiable individual other than that person's business title or business contact information (such as business phone and fax number, business address and business email) when used or disclosed for the purpose of communicating with such person in their capacity as a representative of an organization.

"Personnel" means a Party's employees, subcontractors of any tier, suppliers, agents, representatives, invitees, and any other persons directed by a Party in the performance of its obligations hereunder.

"Records" means a true and correct set of books and records pertaining to Goods and Services, including original payroll records, invoices issued to Supplier by its Personnel, documents required to support claims pertaining to duty and tax payments (including invoices, customs documents, returns and product literature), documentation for all items for which NAL has agreed to reimburse Supplier, and all other relevant records and information, whether in writing or in electronic form or reproduced by any other means.

"Services" means all tasks, activities, work, services, jobs, projects and related activities to be provided to or performed for NAL under the Contract as described in the Order.

"Supplier" means the person, firm or company who accepts NAL's Order.

- 38.2 In such cases as Contractor agrees to provide Services or accept any Order from any NAL Affiliate, NAL shall cause such Affiliate to enter into an agreement with terms and conditions identical to the terms and conditions herein.
- 38.3 Time is of the essence, other than in respect of time for payment.
- 38.4 Prices stated in the Order shall be in Canadian currency.
- 38.5 NAL's right to require strict performance shall not be affected by any previous waiver or course of dealing.

- 38.6 Notices shall be in writing and may be delivered personally or by facsimile, courier or registered mail.
- 38.7 The invalidity or unenforceability of any provision of the Contract shall not affect the validity or enforceability of any other provision of the Contract.
- 38.8 The rights and remedies provided by the Contract are cumulative and are not exclusive of any rights or remedies provided in law, equity or otherwise and shall extend to NAL, its successors and assigns.
- 38.9 The covenants, conditions and provisions contained in the Contract, including confidentiality obligations, audit rights, warranties and indemnities survive termination and expiry of the Contract for the benefit of the Party to whom they are given. In addition, the expiry or termination of the Contract does not discharge or release either Party from any liability or obligation accrued at the time of such expiry or termination or continuing beyond or arising out of such expiry or termination.
- 38.10 The Contract may be executed and delivered by the parties in counterparts (each of which shall be considered for all purposes an original) and by facsimile and when a counterpart has been executed and delivered by each of the parties, by facsimile or otherwise, all such counterparts and facsimiles shall together constitute one agreement.