

P.D. INDUSTRIES LTD.
SUPPLY OF GOODS AND/OR SERVICES TERMS AND CONDITIONS

1. **Applicability:** The following terms and conditions (the “**PDI Terms**”) apply to P.D. Industries and its subsidiary and affiliated companies, hereinafter jointly referred to as (“**PDI**”). These General Terms and Conditions apply to all legal relationships of PDI arising out of or related to any supply of goods (“**Goods**”) or form of service to be performed by PDI (“**Services**”, the Goods and Services collectively, the “**Work**”) regardless of whether this is effected pursuant to orders or other grounds. The customer (“**Customer**”) is the party which concludes an agreement with PDI; the Customer includes the third party which becomes party to the agreement between PDI and the customer. To the extent that the PDI Terms apply to any single agreement, they shall continue to apply without exception to any and all future Work to be performed by PDI and to future agreements concluded with PDI.
2. **Precedence:** These PDI Terms supersede and control over any terms of customer which may be communicated to PDI at any time before, concurrently with or after the date of the agreement, and regardless of whether the customer terms form part of any other prior or current contract with PDI unless specifically accepted by PDI in writing. These PDI Terms supersede any prior offers, negotiations, and agreements between the parties concerning the subject matter. No deletion, modifications, alterations of, or additions to the PDI Terms shall be binding unless in writing and specified by PDI.
3. **Sectoral terms and conditions applied by PDI:** Save as specifically and in writing provided otherwise, the most recent version of the following general sectoral terms and conditions, with the exception of any choice of forum clause or arbitration clauses included in such general sectoral terms and conditions, shall apply in addition to these PDI Terms:
 - (i) **Towing / Vessel Escort.** All towing and vessel escort services shall be subject to the Standard towing and insuring conditions (2015) of the Eastern Canadian Tug Owners' Association (“**ECTOA Conditions**”) it being understood that PDI is the “Tugowner” under the ECTOA Conditions and ‘towing’ shall include any operations as described in clause 1(b)(l) of the ECTOA Conditions. The ECTOA Conditions are also available online at: <http://www.ectoa.ca/standard.html>.
4. **Applicability of the following provisions.** Where PDI is performing Work which is not covered by the scope of application of the sectoral terms and conditions listed in Article 2, or where, for any reason whatsoever, the provisions of the aforesaid sectoral terms and conditions are not applicable and/or are annulled, the provisions set out in the Articles below of these PDI Terms shall apply to Work.
5. **Offers and Agreement.** Offers made by PDI and orders made to PDI are non-binding until an agreement with PDI has been concluded in writing. An agreement with PDI is only concluded by written confirmation of PDI or if PDI has started the performance of an order. Any amendment to the agreement by PDI shall be deemed accepted by the customer if the customer does not reject such amendment within fourteen days after notification of such amendment.
6. **General provisions regarding the Work.**
 - (i) The customer shall ensure that all necessary permits are obtained and kept as well as that all the regulations falling under the obligations of the customer are complied with. To enable PDI to perform the Work, the customer shall timely provide PDI with all relevant information and instructions necessary to carry out the Work.
 - (ii) PDI is entitled to have the Work carried out in whole or in part by staff and equipment of third parties as well as, at the discretion of PDI and free of charge. PDI shall be entitled to rely on customers equipment and personnel in accordance with ordinary industry practice.
 - (iii) Save where specific agreements are made, PDI shall be free to determine the manner of executing the agreement. The customer shall comply with all general directives and specific instructions given by PDI, relating to the execution of the agreement.
 - (iv) The Customer shall take out and maintain adequate insurance, including but not limited to cargo insurance and insurance covering damage that can be caused by the Work.
7. **Indemnity.** Each Party shall be liable for and shall indemnify the other Party for all claims resulting from the first Party's negligence or breach of contract, subject to the following:
 - (i) Under no circumstances will PDI, its directors, officers and employees be liable to Customer or any other person or entity for special, incidental, consequential, punitive, exemplary or indirect damages, loss profits, revenues, goodwill or business, work stoppage, downtime costs, loss of use of equipment or facilities, cost of capital, data loss, or any and all other commercial damages or loss (even if PDI has been advised of the possibility of such damages or loss) regardless of cause including breach of contract, non-performance, breach of warranty, tort, negligence, or gross negligence.
 - (ii) In no event will PDI's liability exceed the amount paid or payable by the Customer to PDI.
8. **Title and Risk of Loss.** Title to the Goods (including documents, designs, drawings, specifications, plans, reports, information and other deliverables to be provided under the Services) and risk of loss transfers to Customer upon delivery. Where the Goods include licences, rights granted under licences, or other intangible property, title means the interests and rights that PDI has in such Goods and transfers to Customer upon payment of the Customer therefor, subject to commercially reasonable conditions or restrictions in

the underlying agreements with third party owners (or licensors) of such Goods.

9. **Payment and Invoicing:** Unless otherwise agreed, all rates quoted by PDI are in Canadian dollars. Payment for the Work will be due on the later of (i) thirty (30) days after the completion of the Work, or (ii) thirty (30) days after issuance of any invoice by PDI. Interest shall be due on all overdue payments at the rate of 2% per month (24% per annum).
10. **Taxes and Other Amounts.** Unless agreed otherwise, Customer shall pay all contributions, taxes, premiums and insurance required under federal, provincial/state or local laws in relation to its employees engaged in the furnishing of the Work, and all sales, use, excise, transportation, occupation and other taxes and duties applicable to Work furnished hereunder which Customer is required by law to pay.
11. **Termination.** PDI may terminate the Work immediately and/or suspend the Work without prejudice to any other right PDI may have if: (i) Customer makes an assignment in or is petitioned into bankruptcy, or if a receiver is appointed to administer the affairs of Customer, (ii) Customer breaches any of the terms or conditions of the Agreement and refuses or is unable to rectify any breach to PDI's satisfaction within five (5) days following receipt of notice of the breach, or (iii) PDI reasonably believes that Customer will be unable to satisfactorily perform its obligations under the Agreement. PDI may without penalty terminate the Work or suspend the Work for a reasonable period of time without cause subject to the payment to Customer of reasonable direct costs (excluding overhead expenses and lost profits) incurred by Customer as a result of the termination or suspension.
12. **Governing Law.** This Agreement is to be governed by and construed under the laws of the Province of Newfoundland and Labrador, Canada and laws of Canada applicable therein without regard to conflicts of law principles. The parties hereby attorn to the exclusive jurisdiction of the Supreme court of Newfoundland and Labrador and the Federal Court of Canada. The parties expressly exclude the application of the *United Nations Convention on Agreements for the International Sale of Goods* and further exclude the application of the *International Sale of Goods Agreements Convention Act* (Canada) and the *International Sale of Goods Act* (Nova Scotia).
13. **Additional.**
 - (i) The parties shall each perform their obligations pursuant to this Agreement in compliance with applicable law.
 - (ii) Any failure by PDI at any time, or from time to time, to enforce or require the strict keeping and performance by Customer of any of the terms or conditions of the Agreement, will not constitute a waiver by PDI or a breach of any terms or conditions, and will not affect or impair the terms or conditions in any way, or the right of PDI at any time to avail itself of the remedies as it may have for any breach or breaches of the terms or conditions.
 - (iii) Time is of the essence in the performance of Customers obligations under the Agreement.
 - (iv) Each paragraph and provision of the Agreement is severable, and if one or more paragraphs or provisions are declared invalid, the remaining provisions of the Agreement will remain in full force and effect.
 - (v) The headings used herein are for convenience of reference only and will not be considered part or affect the interpretation of the Agreement.
 - (vi) Words expressed in the singular include the plural and vice-versa and words of one gender include all genders. "Including" means including without limitation and "include" and "includes" have a corresponding meaning.