

# GENERAL TERMS AND CONDITIONS OF PURCHASE

## 1. DEFINITIONS

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The following term wherever used in the Contract Documents shall, unless otherwise requires, have the following definitions assigned to them:

**“Contract”** or **“Purchase Order”** means the legally binding agreement between the Purchaser and the Contractor including these general terms and conditions.

**“Contract Change”** means a document issued by the Purchaser which amends the Contract.

**“Contract Documents”** means Contract Change and Contract.

**“Goods”** or **“Work”** means all materials, commodities, items services and whatever required under Contract Documents. Goods and Work are used as synonyms.

**“Party”** or **“Parties”** means one or both Parties to the Contract, namely the Purchaser and/or the Supplier.

**“Purchaser”** means Nucleom Inc.

**“Request for Proposal”** means documents issued by the Purchaser in response to which quotations are invited for the supply of the Goods or Work.

**“Subcontractor”** means a person, firm or corporation referred to as either supplier, distributor or vendor and having a contract with the Contractor for part of the Work.

**“Supplier”** or **“Contractor”** means a person, firm or corporation having a Contract for providing Goods or Work to the Purchaser. Supplier and Contractor are used as synonyms.

**“Technical Data”** means without limitation, any technical writing, pictorial reproduction, drawing, sketches, design information specifications, notebook, technical and scientific data, photographs, reports, analyses, calculations, finding, recommendations, computer programs descriptions, memorandums, results of testing and data of any description relating to the Work or any part thereof.

## 2. GENERAL

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The Contract shall consist of Contract Change, Contract, Request for Proposal and Supplier’s quotation. These documents, and portion thereof, shall take precedence in the order in which they are named above.

Amendments to Contract Documents shall not be effective unless agreed upon writing by the Purchaser and the Supplier.

References shall be included to the purchase order as per contract requirements.

## 3. SUCCESSORS AND ASSIGNS

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The Contract shall inure to the benefit of and be binding upon the Parties hereto and their executors, administrators, successors, receiver, trustee and permitted assigns.

## 4. ASSIGNMENT OF CONTRACT

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The Contract shall not be assigned without Purchaser’s prior written approval.

## 5. SUBCONTRACTS

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The Supplier shall not subcontract the Work or any portion thereof without Purchaser’s prior written approval.

The Supplier shall be responsible for ensuring that all general terms and conditions herein are applicable to all its Subcontractors, if any.

## 6. NATURE OF RELATIONSHIP

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Supplier acknowledges and agrees that its relationship to the Purchaser is that of independent contractor and not that of agent, employee, director, partner or joint venture of the Purchaser, and the Supplier shall not make any representations otherwise.

Nothing herein shall be construed as to make the Supplier, its sole proprietor, employees or agent, an employee(s) of the Purchaser; impose on the Purchaser any liability which may arise between employer and employee; entitle the Supplier, its sole proprietor, employees or agents to any employment-related benefits, including, without limitation, participation in the Purchaser’s benefits and pension plans.

## 7. CONFLICT OF INTEREST

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The Supplier shall forthwith disclose in writing to the Purchaser, in reasonable detail, the nature and extent of any conflict of interest, apparent or real, which exists, or may appear, as of the date of this Contract or which may subsequently arise. All such disclosures, and any uncertainties in this matter, shall be directed to the Purchaser for clarification and further instruction. In the event of any real or apparent conflict of interest, the Purchaser may, in its sole discretion, terminate the Contract without prior notice.

## 8. APPLICABLE LAWS, REGULATIONS AND PERMITS

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The Supplier shall comply with all federal, provincial, and municipal statutes, regulations, bylaws, standards and codes which are applicable to the Work and shall obtain and pay for all required work permits, if any.

The Contract shall be governed by and interpreted in accordance with the laws of the Province of Québec.

## 9. SUBCONTRACTING

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The Purchase Order cannot be sub-contracted in whole, or in-part, without approval of the Purchaser. Subcontract approval is not required when the Supplier's control of a specific Sub-Contract process was included in the scope of Supplier approval. If approved, ensuring Supplier flows-down technical and quality requirements to their sub-contractor(s).

## 10. HEALTH AND SAFETY

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The Supplier shall comply, at its sole expense, with all relevant safety rules and regulations, including, without limitation, those established by the Purchaser and its clients, which pertain to the Work. Failure to so comply may result in immediate suspension of the work or termination of Contract without prior notice.

The Supplier and each Subcontractor shall provide Purchaser with a copy of all accident reports which it is required to submit, in connection with the Work, under the Occupational Health and Safety Act and Workers' Compensation Act or any similar provincial acts.

Accidents causing critical injuries, as defined in the regulations under the Occupational Health and Safety Act, must be reported to the Purchaser immediately by phone or email.

## 11. DEFAULT BY SUPPLIER

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Without limitations, the following actions by or circumstances relating to the Supplier will constitute default on the part of the Supplier :

- i. Committing any act of bankruptcy;
- ii. Having a receiver appointed on account of insolvency or in respect of any property;
- iii. Marking a general assignment for the benefit of its creditors;
- iv. Finding itself in a real or apparent conflict of interest as mentioned in article 7;
- v. Failing to comply with Health and Safety requirements mentioned at article 9;
- vi. Failing to prosecute the Work with skill and diligence;
- vii. Assigning or subcontracting any portion of the Contract without the required Purchaser's approval;
- viii. Failing or refusing to correct defective or deficient Work of any portion thereof;
- ix. Being otherwise in default in carrying out any of these obligations under the Contract.

If the Supplier is in default under the Contract, then the Purchaser will be entitled to :

- i. Terminate the Contract without prior notice.
- ii. Withhold any further payment to the Supplier until its liability to the Purchaser is ascertained.
- iii. Finish or replace the Work by whatever means it may deem appropriate under the circumstances.

The Supplier will be liable to the Purchaser for :

- i. The extra expense of finishing or replacing the Work, or any portion thereof, including compensation to the Purchaser for additional engineering, managerial and administrative services;
- ii. The cost of correcting defects related to the work performed by the Supplier;
- iii. All other loss, damage and expense occasioned to the Purchaser by reason of the Supplier's default.

Any action by the Purchaser under this clause will be without prejudice to any other rights or remedies of the Purchaser under the Contract or law or under any security held by the Purchaser for the performance of the Contract.

## 12. TERMINATION FOR CONVENIENCE

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The Purchaser may, at its sole discretion, terminate the Contract, the Work or any portion thereof for convenience, in which case the Supplier shall, upon and subject to instruction from Purchaser, commence an orderly wind-down of the Work and make all reasonable

efforts to minimize costs of such wind-down and any third-party cancellation charges. Supplier shall immediately advise Purchaser of all subcontracts and Purchaser may, at its sole discretion, take assignment of same. Supplier sole compensation in the event of a termination under this clause shall be limited to:

- i. Subject to the Contract Documents, payment for Work actually performed and verified up to the date of termination;
- ii. Reasonable third party cancellation charges, provided Purchaser has been advised of and agreed to such charges in writing prior to cancellation;
- iii. Reasonable demobilization charges provided Supplier has been advised of and approved of such charges in writing prior to demobilization.

Purchaser’s maximum liability under this Contract will in no event exceed the total value of the Contract.

### 13. DELIVERY

Time will be material and of the essence to the Contract.

The Supplier shall be responsible for Goods delivery, if not explicitly agreed otherwise in the Contract Documents. The Supplier shall be responsible for arranging its manufacturing and shipping schedules so that the Goods shall arrive at the stipulated destination in accordance with the delivery schedule specified in the Purchase Order.

The packing slip or similar form attached to the package shall include the mandatory verification checkpoints. The following certification shall be enclosed with each shipment: “The good listed herein has been inspected by the Supplier and is in conformance with the Contract requirements and approved for shipment”. Such certification shall be endorsed with the signature, and the title, of an authorized representative of the Supplier’s quality authority, including documentation and instructions required when the items or services are shipped directly to a consignee other than a Nucleom location.

Failure to deliver on-time can result in a financial penalty stated in clause 26.

When applicable, any traceability requirements shall be mentioned in the Purchase Order by Nucleom.

### 14. QUALITY REQUIREMENTS

When conformance to a Quality Program Standard is required, the proof of compliance (i.e., C of C, C of A)

shall be sent to the Purchaser. Failure to do so will result in the termination of the Contract.

All nonconformance shall be reported immediately to the Purchaser in writing via email at [quality@nucleom.ca](mailto:quality@nucleom.ca) if the Purchaser requests a corrective action, the Supplier shall respond in the prescribed delays. When applicable, the Purchase Order documentation shall include requirements for approval or qualification of documentation, items or services, procedures, processes, equipment, and personnel.

When required, design plan or inspection and test planning document(s) shall point to where the supplier will verify conformance to contract requirements.

When applicable, the Purchase Order documentation shall include requirements for the submission, approval, control, or qualification of documentation, including distribution, retention, maintenance, and disposition of documentation and quality records.

The procurement documents shall identify the documentation required to be submitted by the supplier for information, review, or approval by Nucleom, including inspection and test procedures, as required. The time of submittal shall also be established. When Nucleom requires the Supplier to maintain specific records, the retention times and disposition requirements shall be specified in the purchase order.

### 15. CALIBRATION SERVICES

Calibration certification services and report provided by the Supplier shall meet the requirements of NCA-3126 (c) and provide, as applicable, the following:

- i. include identification of the laboratory equipment/standards used and;
- ii. show as-found and as-left values;
- iii. the needed measurement parameters, ranges and uncertainties and the location where the services are conducted;
- iv. the reference to the Supplier’s QA program;
- v. date of calibration and next calibration due date.

Equipment calibrated shall be sealed or otherwise prevented from unauthorized adjustment, where possible.

### 16. INVOICING AND TERM OF PAYMENT

All invoices must be submitted by email at [payables@nucleom.ca](mailto:payables@nucleom.ca) or by mail to the billing address as shown on the Contract. Fax copies of invoices shall not

be processed. Invoices must include the following mandatory information:

- vi. Supplier's name and address;
- vii. Supplier's contact name and phone number;
- viii. Invoice number;
- ix. Description of Goods or Work delivered or performed;
- x. Invoice amount per line item and total;
- xi. Remittance address, if different from mailing address;
- xii. Date;
- xiii. Valid Purchaser's Purchase Order;
- xiv. Quantity delivered, unit price, extended price and total;
- xv. Originally established payable currency;
- xvi. GST, HST or QST registration number;
- xvii. Amount of GST, HST or QST.

Purchaser will pay the amount stipulated in the Contract Documents for each unit/item delivered and accepted by Purchaser, net 60 days after receipt of an acceptable invoice for same.

Alternately, where the nature of the Contract is such that progress payments are appropriate, the Purchaser will pay the amount stipulated in Contract Documents to the Supplier, net 60 days and upon receipt of an acceptable invoice, under the terms stated above, provided that the Supplier is carrying out its obligations under the Contract and the work done justifies such payment.

## 17. INDEMNITY

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The Supplier shall indemnify and save harmless the Purchaser from and against any and all claims, damages, loss and expenses which Purchaser may at any time incur or suffer as a result of or arising out of this Contract, its performance or non-performance.

## 18. REPRESENTATIONS AND WARRANTIES

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Each Purchaser and Supplier represents and warrants to the other that :

- i. it has the capacity and authority to enter this Contract and to perform each of its obligations;
- ii. that this Contract constitutes a legally valid and binding obligation of such party enforceable in accordance with its terms except as such enforcement may be limited by applicable bankruptcy, insolvency and other laws of general application affecting the enforcement of creditors' rights generally and subject to general equitable principles.

The Supplier warrants that it can and will carry out all contractual obligations pursuant to this contract in a diligent, competent and timely manner, in accordance with good business practices and management techniques. The Supplier shall exercise the care, skill and diligence that a reasonably prudent consultant would exercise in comparable circumstances and

## 19. INSURANCE

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The Supplier shall maintain the following in full force and effect with financially responsible insurance carriers acceptable to the Purchaser.

- i. Workplace Safety Insurance Board (WSIB) coverage in accordance with the statutes of the province in which the Work will be performed;
- ii. Automobile Liability Insurance, covering licensed motor vehicles owned, rented or leased and used in connection with the execution of the Work to be performed under this Agreement covering Bodily Injury and Property Damage Liability to a combined inclusive minimum limit of \$2,000,000;
- iii. Professional Liability Insurance covering losses arising out of the actual or alleged negligent act, error or omission with respect to the professional services rendered or that should have been rendered by the Contractor or any entity for which the Supplier is legally responsible. The requirement to provide coverage in the amount of \$ 1 000 000 shall only apply to agreements, which are limited to rendering of engineering and related professional services.

## 20. PREVENTION OF CFSI

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The Supplier shall have means of prevention and detection of counterfeit, fraudulent and suspect items (CFSI) and for ensuring foreign material exclusion (FME).

## 21. PROPRIETARY RIGHTS AND CONFIDENTIALITY

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All right, title and interest in and to the intellectual property rights or Technical Data related to the Contract or the Work shall vest in the Purchaser and remain the property of the Purchaser. The Supplier shall not use the Technical Data or any other information related to the Contract or Work except in performance of this Contract and shall not disclose such information to any third party. All rights, title, Technical data and interest in and to any discovery, invention or process produced or conceived by the Supplier in performance of the Work shall vest in Purchaser and the Supplier agrees to assign the same to Purchaser. The Supplier shall inform Purchaser promptly of and provide Purchaser with full

disclosure of any invention and will treat same as confidential and make no disclosure whatsoever to any third party. In cases where doubt exists about the relationship of an invention related to this Contract or Work, the onus shall be upon the Supplier to furnish proof that the invention is not required to be assigned to Purchaser under this Article. The Supplier agrees to secure appropriate agreements and assignments from any person engaged in activities on its behalf to fulfil the obligations imposed by the foregoing. Title to the original and all copies of documents, Technical Data and all information in tangible form produced by either Purchaser or the Supplier for or while performing the Work shall vest in and remain the property of Purchaser. Upon completion of the Work or termination of this Contract the Supplier shall deliver all such material in its possession into Purchaser custody. The Supplier warrants that it shall disclose to Purchaser all processes, computer software or other background data or information which it or others own which may be required by Purchaser in order to utilize the Work fully and that it will provide all such material to Purchaser and acquire all such rights for the benefit of Purchaser as may be necessary for Purchaser to utilize the Work, without cost or expense in the event that it has failed to make such disclosure.

## **22. ACCOUNTS AND RIGHT TO AUDIT**

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The Supplier shall keep proper accounts and records of the work in form and detail satisfactory to Purchaser. Such accounts and records, including invoices, receipts, time sheets and vouchers shall at all reasonable times be open to audit, inspection and copying by Purchaser. Accounts and records shall be preserved and kept available for audit until the expiration of three years from the date of completion or termination of the Work.

Purchaser and its representatives shall have access to the premises of the Supplier or its Subcontractor to audit, survey and verify compliance with the Contract requirements and to review documentation relating to any code, specifications and standards.

## **23. HAZARDOUS MATERIALS**

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The Supplier, when shipping to, or planning to use at any Purchaser site or its client's site, any product which is categorized as a hazardous material (ie, compressed gas, flammable or combustible material, oxidizing material, poisonous and infectious material, corrosive material or dangerously reactive material), shall conform with relevant Federal and Provincial Legislation and Regulations pertaining to such materials. The Workplace Hazardous Material Information System (WHMIS) shall

apply and all such materials shall be properly identified with WHMIS type warning labels. All shipments of such material to Purchaser sites shall include a Material Safety Data Sheet (MSDS) with a copy to: Nucleom Inc., 3405, rue Pierre-Ardouin, Quebec City (Qc) G1P 0B4 Attn: Safety Officer.

## **24. CONFIDENTIALITY**

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All information or data of any nature whatsoever disclosed to the Supplier by the Purchaser pursuant to this Contract shall be deemed confidential information to be proprietary to the Purchaser. The Supplier agrees that it will, and will ensure that its employees, officers and directors will, hold in confidence all information disclosed related to the Contract or Work, and will not, without Purchaser's prior written consent, disclose the same to any third party. Furthermore, the Supplier shall not, directly or indirectly, use, exploit such information.

The Supplier agrees that such confidential information is the sole property of the Purchaser and must be returned to the Purchaser or destroyed within 48 hours of any termination of the Contract.

## **25. PURCHASER'S POLICIES**

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The supplier must respect the Purchaser's Confidentiality Policy, Policy on workplace psychological or sexual harassment, Quality Policy, Occupational Health, Safety and Environment Policy and Code of Conduct. Failure to comply with the Purchaser's policies may result in termination of contract without prior notice.

## **26. PUBLICITY**

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The Supplier and its Subcontractors (if any) shall not release for publication any information in connection with the Contract without the prior written approval of the Purchaser.

## **27. INDEPENDENT LEGAL ADVICE**

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The Supplier acknowledges that the opportunity to seek independent legal and accounting advice was offered by the Purchaser prior to executing this contract, and the Supplier has either waived such right or has received such advice. The Supplier confirms that the terms of this contract are fully understood.

## **28. SEVERABILITY**

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The Supplier and Purchaser agree that if any of the provisions or a part of a provision of the contract is deemed illegal or unenforceable, such provision(s) or

part provision(s) shall be considered separate and severable from this Contract, and the remaining provisions and part provisions of the Contract shall continue in force and be binding upon the parties as though the severed provision or part provision had never been included.

## 29. FORCE MAJEURE

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Neither the Purchaser nor the Supplier shall be liable to the other for any loss, damage, delay in the Work or non-performance of any contractual obligation if occasioned by war, riot, the act or order of any competent civil or military authority, fire, flood, freight embargo, epidemic, quarantine, labour trouble from whatever cause arising and whether or not the demands of the employees involved are reasonable and within a Party's power to concede, Act of God or any other cause beyond the defaulting Party's reasonable control and which, by the exercise of due diligence, such Party could not avoid or reasonably circumvent through use of alternate sources workaround plan or other means.

The defaulting Party shall:

- i. Notify the other Party in writing within fifteen (15) days after the beginning of the occurrence and immediately at the termination of such occurrence; and at the request of that Party, submit confirmation from competent authorities certifying to the reality of the circumstance, facts and dates contained in the first notification;
- ii. Both Parties shall exercise due diligence in time and effort in order to restore normal conditions and re-establish schedules as soon as the interruptions have ceased;
- iii. Time shall be of the essence to the Purchase Order; subject only to such extensions as may be permitted by this section.

## 30. LIQUIDATED DAMAGES

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Liquidated Damages shall apply where delivery terms are not met, the Supplier shall pay Liquidated Damages to the Purchaser for late delivery, as set out below. All Liquidated Damages shall be deducted by the Purchaser from any outstanding invoices. Late delivery is understood to mean that the delivery of all or any portion of the Goods or Work is delayed beyond Contract's delivery date.

Liquidated damages shall be irrevocable, represent 1% of the total Contract value per day of delay of and limited to 10% of the total Contract value, notwithstanding the value of the Goods or Work that is late.

## 31. HEADING AND TABLE OF CONTENTS

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The division of these terms and conditions into sections, the insertion of headings and the provision of a table of contents are for convenience of reference only and are not to affect the construction or interpretation of the Contract.

## 32. SURVIVAL

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All representations, warranties, covenants, indemnities and limitations of liability in this Contract shall continue in force indefinitely after the termination of the Contract.