

## **FLUID ENERGY GROUP LTD. GENERAL TERMS AND CONDITIONS**

**A. INTRODUCTION:** As consideration in part for any supply of products, goods, materials, tools and/or equipment ("**Products**") and/or performance of services ("**Services**") by Fluid Energy Group Ltd. or any of its affiliates (the applicable supplying or performing entity or entities, "**FLUID**") to customer ("**Customer**") pursuant to any accepted quote, work order, purchase order, service order, field ticket or other document or written or verbal communication (the "**Order**"), Customer agrees that such supply and/or performance is subject to the following terms and conditions (these "**General Terms and Conditions**"). Any offer or acceptance by Customer to purchase or receive Products or Services shall constitute Customer's agreement to these General Terms and Conditions.

### **B. AGREEMENT**

1. **Entire Agreement:** The combination of: (a) the applicable Order, (b) these General Terms and Conditions, and (c) any confidentiality agreement, non-disclosure agreement or other agreement of a similar nature between the parties and/or their affiliates, however titled (a "**CA**"), constitute the entire agreement (together, the "**Agreement**") between FLUID and Customer with respect to the supply of Products and the performance of Services stipulated in the Order, and there are no other agreements, express or implied, with respect to the subject matter of the Agreement.

2. **Precedence:** In the event of conflict or inconsistency between these General Terms and Conditions and the Order, these General Terms and Conditions will take priority, except to the extent the parties may specifically and explicitly agree in the Order or otherwise in writing that specific provisions of the Order or other provisions will override specific provisions of these General Terms and Conditions. No Customer form or proposal shall otherwise modify these General Terms and Conditions, and FLUID expressly rejects any additional or different terms otherwise proposed by Customer. Nor shall any course of performance, course of dealing, or usage of trade operate as a modification or waiver of these General Terms and Conditions. In the event of conflict between these General Terms and Conditions or the Order and any CA, the most restrictive provisions and the highest standards of protection of information will apply.

### **C. PRICING AND PAYMENT**

1. **Price:** The prices to be paid by Customer for Products and/or Services will be as established by FLUID in connection with the applicable Order, or, in the absence thereof, FLUID's standard prices then in effect at such time.

2. **Credit and Payment Terms:** Unless FLUID otherwise agrees to extend credit to Customer, Customer will pay for all Products and Services by cash in advance. If FLUID otherwise agrees to extend credit to Customer, Customer will pay all invoices within 30 days of the date of receipt of FLUID's invoice. All amounts unpaid at the end of such 30 day period will bear interest at a rate of 1.5% per month (18% per annum) until paid in full. Customer will be responsible for all costs incurred by FLUID related to collection of overdue amounts, including all legal fees on a solicitor and client basis.

3. **Taxes:** All prices are exclusive of taxes imposed on the sale or use of the Products and Services. All invoices issued to Customer will identify applicable taxes (including GST, HST and provincial sales tax, as applicable) as a separate line item. Payment of all taxes will be on the same terms and conditions as all other payments for Products and Services.

4. **No Set-Off:** Customer may not set-off any past or future claims of Customer against FLUID, under any agreement or otherwise, against any amounts due to FLUID pursuant to the Agreement.

### **D. SUPPLY OF PRODUCTS**

1. **Delivery and Title:** The Products will be delivered and received and title will be transferred, and the parties' associated rights and obligations will be determined, in accordance with Incoterms<sup>®</sup> 2020, EXW (Ex Works), at the location designated in the Order, unless otherwise stipulated in the Order. Subject to Section E. below titled "**Warranties and Remedies**", Customer may return Products only with the prior written authorization of FLUID and then only at Customer's sole cost and risk, and subject to a restocking fee as determined by FLUID. No returns of special, custom, or made-to-order Products will be authorized.

2. **Products Packaging:** FLUID will properly package and label the Products in accordance with all applicable laws, regulations and rules. Customer acknowledges receipt of FLUID's Material Safety Data Sheet ("**SDS**") for all supplied Products, or will immediately notify FLUID if at any time Customer does not have an SDS for any supplied Products.

3. **Products Stewardship:** FLUID will manufacture, transport and deliver the Products in a safe and environmentally responsible manner and in compliance with all applicable laws, regulations and rules. Customer will promptly and carefully inspect the Products upon receiving them and will handle and use the Products in a safe and environmentally responsible manner and in compliance with all applicable laws, regulations and rules. In the event of FLUID's approval of resale of Products, Customer will comply with all laws, rules and regulations applicable to such resale and apprise its customers of the hazards, proper use and handling requirements of the Products.

4. **No Resale:** Unless otherwise stipulated in the Order, (a) Customer may not resell all or any portion of the Products sold under the Agreement without the prior written consent of FLUID, which consent may be withheld in the sole and absolute discretion of FLUID, and (b) Customer may not repackage all or any portion of the Products for any such permitted resale without the prior written consent of FLUID, which consent may be withheld in the sole and absolute discretion of FLUID.

5. **Intellectual Property Rights:** Customer will not obtain or acquire any right, title or interest, in any of FLUID's intellectual property, except to use those quantities of Products supplied by FLUID. Customer will not, and will not facilitate, permit or authorize any third party to, directly or indirectly, copy, reproduce, reverse engineer, or modify the Products. Customer will promptly inform FLUID of the full particulars of the discovery by it of any mishandling, misappropriation and/or misuse of the Products or FLUID's intellectual property.

### **E. WARRANTIES AND REMEDIES**

1. **Exclusive Warranties:** FLUID warrants that, at the time of their delivery: (a) the Products will conform to the specifications set forth by FLUID in the Order (if any) and comply with all applicable laws, regulations and rules; (b) FLUID will convey to Customer good title to the Products, free from all encumbrances; and (c) the Products will not infringe on any third party's valid intellectual property rights, including without limitation any patent, copyright, trademark or trade secret.



**2. Limitations of Warranty:** The warranties expressly stated above are FLUID's sole warranties with respect to the Products and Services, and FLUID makes no other representations, warranties, specifications or conditions, express or implied, with respect to the Products or Services. In particular, but without limitation, (a) FLUID makes no warranty of merchantability of Products or Services or that any Products or Services will be fit for any particular purpose, even if FLUID is advised of such purpose; and (b) FLUID makes no representations or warranties in relation any instructions or recommendations, whether written or oral, as to the type of Products or Services to be furnished or the manner of performance, or in predicting results to be obtained therefrom, including as to their use alone or in combination with other products, apparatus or processes.

**3. Acceptance of Product:** Customer will be deemed to have waived all claims as to the Products failing to conform to any specifications set forth by FLUID in the Order or the quantity of any Products delivered failing to satisfy the quantity contracted for, except for those claims of which Customer gives notice to FLUID within 10 days of delivery or non-delivery.

**4. Exclusive Remedies and Limitation of Liability:** FLUID'S sole and exclusive liability to Customer and Customer's sole and exclusive remedies for breach of the warranties above are, at FLUID's option (but subject to section E.3. above titled "**Acceptance of Product**"): (i) replacement of such Products upon their return to FLUID (at FLUID's expense) and reperformance of any associated Services; or (ii) refund to Customer of the price paid by Customer for such Products and Services. FLUID's liability in relation to any claims made by Customer pursuant to the Agreement will under no circumstances exceed the price paid by Customer to FLUID for the Products and Services contracted to be supplied plus expenses reasonably incurred by Customer for the return delivery to FLUID of any non-conforming Products.

#### **F. LIABILITY AND INDEMNITY OBLIGATIONS AND EXCLUSIONS**

**1. Liability and Indemnity:** Customer will be liable to, and will indemnify and save harmless, FLUID, and FLUID's affiliates, and each of its and their directors, officers, employees, contractors and other agents (collectively, "**FLUID Group**"), for all actions, claims (including third party claims), losses, costs, damages and expenses (collectively, "**Losses**") which may be brought against FLUID Group or which FLUID Group may suffer or incur, arising out of or in conjunction with use or handling of Products after delivery by or on behalf of FLUID, including use alone or in combination with other products, apparatus or processes, and even if caused, in whole or in part, by the negligence, gross negligence, wilful misconduct, strict liability, breach of the Agreement, or other fault, whether active or passive, of any person or entity, including, but not limited to, FLUID Group.

**2. Additional Exclusions:** FLUID Group will have no liability to Customer for any Losses which may be brought against Customer, or which Customer may suffer or incur arising out of the Agreement:

- (a) if caused by the negligence, gross negligence, wilful misconduct, or breach of the Agreement by Customer, Customer's affiliates, or any of its or their directors, officers, employees, contractors or other agents; or
- (b) to the extent FLUID's liability is expressly limited elsewhere in the Agreement or an indemnity is provided in favour of FLUID or FLUID Group.

**3. Indirect and Consequential Damages:** Neither FLUID nor Customer will be liable to the other for any of the other's special, indirect or consequential damages resulting from or arising out of the Agreement, including for loss of revenue or profit or for business interruptions, however the same may be caused (including if caused by the negligence, gross negligence, wilful misconduct or breach of the Agreement by a party), except to the extent resulting from or arising out of breach of confidentiality or misappropriation of the intellectual property of a party to the Agreement.

#### **G. TERMINATION AND FORCE MAJEURE**

**1. Major Deficiencies:** If a Major Deficiency (as defined below) attributable to either party is identified by the other party, the other party, upon written notice to the responsible party, may suspend delivery or receipt of the Products until the deficiency is corrected. If the responsible party is unwilling or unable to correct the deficiency, the other party will have the right to terminate the Agreement by serving written notice of termination on the responsible party. A "**Major Deficiency**" is defined as being a breach of the principles established in section D.3. above titled "**Products Stewardship**" by the responsible party which, if not corrected, has a material probability of leading to environmental damage or injury to any person.

**2. Other Termination for Cause:** Either party may terminate an Order and the supply of Products and/or the performance of Services thereunder by written notice if the other party materially breaches an obligation under the Agreement (other than a Major Deficiency) and fails to remedy such material breach within 7 days of written notice of such breach, or upon the occurrence of any of the following events: (a) a receiver is appointed for either the other party or its property; (b) the other party makes a general assignment for the benefit of its creditors; (c) the other party commences, or has commenced against it, proceedings under any bankruptcy, insolvency or debtor's relief law, which proceedings are not dismissed within 60 days; or (d) the other party is liquidated or dissolved.

**3. Force Majeure:** If, as a result of any cause beyond the reasonable control of a party, which such party could not have avoided by the exercise of reasonable diligence and at reasonable cost and which does not result from such party's inability to pay or other financial circumstances, such party is prevented from carrying out any of its obligations under the Agreement ("**Force Majeure**"), the obligations of such party that are affected will be suspended insofar and for so long as they are affected by the Force Majeure. Force Majeure will include FLUID's inability after the exercise of reasonable commercial efforts to procure necessary materials or supplies on reasonable commercial terms. The party claiming Force Majeure will promptly notify the other party of the event causing the Force Majeure and will, if it is reasonably able to do so at a reasonable cost, promptly and diligently remedy the cause and effect of such event. The foregoing obligation to remedy will not apply to a Force Majeure caused by a labour dispute. If a Force Majeure event continues for a period that is longer than 60 days, either Customer or FLUID will have the right to terminate the Agreement.

**4. Following Termination or Cancellation:** Neither party may terminate or cancel an Order or the Agreement except as stipulated above. In the event of termination by either party as stipulated above, Customer will be charged for, and will pay FLUID for, all Products and Services delivered or provided until the termination date in accordance with the prices established by FLUID in connection with the applicable Order or, in the absence thereof, in accordance with FLUID's standard prices then in effect at such time.

#### H. **GENERAL PROVISIONS**

1. **Confidentiality:** Any non-public specifications, compositions, designs, samples or other similar items or other technical, commercial or financial information relating to FLUID, the Products or the Services (the "**Information**") which Customer may obtain in connection with the Agreement will be deemed to be strictly confidential. All Information is proprietary and confidential to FLUID and will be used solely by Customer for the purposes of the Agreement. Any and all Information will be treated and protected by Customer as strictly confidential and will not be disclosed to any third party without the prior written consent of FLUID. Upon termination of the Agreement, Customer will return to FLUID or destroy all Information.
2. **Notices:** All notices and other communications required or permitted to be given pursuant to the Agreement will be deemed properly given if in writing and delivered personally or sent by registered mail or electronic mail to a party at its address as shown on the Order. A notice sent by registered mail will be deemed received 3 business days after such mailing. Notices and other communications given by way of personal delivery or electronic mail will be deemed to be received the day delivered or transmitted, or if such day is not a business day in Calgary, Alberta, then on the next occurring business day in Calgary, Alberta.
3. **Non-waiver:** Except as expressly stated in the Agreement, any failure or delay to enforce any act or omission contrary to the Agreement, or to notify the other party of such act or omission, will not constitute waiver of any right with respect to such act or omission or any subsequent act or omissions. All waivers must be in writing, and the giving of a waiver in one instance will not constitute waiver in future instances.
4. **Amendments:** These General Terms and Conditions may only be amended by written agreement between the parties.
5. **Assignment:** Neither party may assign all or any part of its rights and obligations under the Agreement without prior written approval from the other party, provided however, that FLUID may assign its rights and obligations under the Agreement to any of its affiliates without Customer's consent. The Agreement will be binding upon and will inure to the benefit of the successors and permitted assigns of the parties.
6. **Survival:** Termination, cancellation or expiration of the Agreement for any reason shall not release either party from any provisions set forth in the Agreement which by their nature would be intended to be applicable following termination, cancellation or expiration, including as contained in any terms relating to liability, indemnity, and exclusions or limitations thereof.
7. **Governing Laws:** The Agreement will be governed by the laws of the Province of Alberta and the federal laws of Canada, without regard to conflicts of law principles that would require application of any other law. The parties attorn to the exclusive jurisdiction of the Courts of the Province of Alberta for any disputes arising in connection with the Agreement.

