



Additional Terms and Conditions:

1) **OFFER AND ACCEPTANCE:** Unless there is an existing agreement between the parties governing the subject matter of this Order, then these additional terms and conditions shall govern the terms of UPS's offer to Vendor for the sale of goods and/or services. If such an agreement does exist between the parties, then these additional terms and conditions are not applicable, and such existing agreement shall govern the subject matter of this Order. This Order does not constitute acceptance by UPS of any offer by Vendor. Any reference in this Order to an offer by Vendor is for the sole purpose of incorporation of the description and specifications of the goods or services contained therein to the extent that such description and specifications do not conflict with the other documents which constitute this Order. By shipping the goods or by beginning performance of the services called for by this Order, Vendor acknowledges receipt of this Order and agrees to the Terms and Conditions of this Order stated herein. UPS hereby rejects any additional or conflicting terms or conditions contained in any acknowledgment or acceptance of this Order or any terms or conditions which may accompany or be associated with the goods or services (including, without limitation any clickwrap or shrinkwrap agreement) by Vendor. Any such additional or conflicting terms or conditions will be of no effect, nor will any such additional or conflicting terms or conditions be in any circumstances binding upon UPS.

2) **TRANSPORTATION, TITLE, AND RISK OF LOSS:** If this Order includes the purchaser of any goods, materials, or equipment, unless otherwise specified by UPS, Vendor will: (a) make all shipments F.O.B. destination freight prepaid and added at cost to the original invoice; and (b) insure the full replacement value of each shipment until the risk of loss has passed to UPS. UPS shall be the designated carrier unless otherwise specified by UPS, Vendor will use such carrier. If Vendor fails to use such carrier, Vendor will be responsible for any additional costs incurred due to the failure to use such carrier.

3) **INSPECTION & TESTING:** Payment for goods delivered or services performed pursuant to this Order does not constitute acceptance thereof. UPS has the right to inspect the goods or services and to reject any or all of such goods or services which are in UPS's judgment defective, nonconforming, or in excess of the quantity ordered. UPS may return rejected goods to Vendor. In addition to UPS's other rights arising under this Order or otherwise, UPS may charge and Vendor will pay all expenses of repacking, and reshipping rejected goods.

4) **PERFORMANCE OF SERVICES:** Vendor agrees to provide all labor, supervision, materials, supplies, equipment, transportation, and tools for any services to be performed under this Order. Vendor will obtain and pay for all permits, licenses, fees, and certificates of inspection necessary for the performance of any services. Vendor will arrange for all necessary inspections and approvals by governmental officials. Vendor's goods and services will comply with all applicable laws, rules, regulations, ordinances, building codes, decisions, policies, customs or practices, opinions, judgments, orders, and requirements of federal, state, and local courts, governments, or agencies having jurisdiction of the services to be performed. Vendor covenants and agrees that all persons engaged by it to perform the services are and shall be at all times legally able to work in Canada in the specific occupation that such person performs. Vendor warrants that no individual who is ineligible to work in Canada will perform work for UPS under this Agreement.

5) **SAFETY DURING PERFORMANCE OF SERVICES:** Vendor will take all necessary precautions for the safety of persons and the protection of the property upon which services will be performed and adjoining property. Vendor will comply with all applicable provisions of federal, provincial and local health and safety laws and building codes. Prior to the commencement of the performance of services, and as necessary thereafter, Vendor will provide UPS with Material Safety Data Sheets (MSDS) for all products and chemicals to be used by Vendor on site, incorporated into the services, or required for installations. Vendor shall ensure that its employees and subcontractors (as may be permitted under this Agreement) perform in a safe and professional manner. Vendor agrees to abide by all terms, conditions and procedures set out in the *UPS Facility Service Program requirements for Vendors* which is incorporated by reference into this Agreement and to comply with all on-property requirements as may be reasonably requested by UPS to ensure safe and secure operations. Vendor shall take all necessary precautions for the health and safety of persons and the protection of the services and adjoining property. Vendor shall institute and comply with fall protection safety guidelines. Such fall protection safety guidelines shall at a minimum establish procedures and safety requirements that will ensure that Vendor's personnel are adequately protected when performing services at distances of four feet or more from the ground or when working over dangerous equipment and machinery or otherwise required by applicable health and safety laws. Vendor will ensure that all waste generated as a result of services performed will be properly stored, recycled or disposed of in accordance with all waste regulatory requirements. For waste retained on UPS's property, the vendor must conform with the requirements at the UPS's facility. Vendor shall maintain copies of all required "cradle to grave" documentation related to disposal for audit purposes.

6) **INSURANCE:** Vendor shall procure and maintain: (i) any insurance required by federal, provincial or local law (including, without limitation, workers' compensation coverage, as applicable), and; (ii) any other insurance coverage required by UPS with adequate limits of liability, including, without limitation, as follows: Employer Liability limits in the following minimum amounts of liability: \$1,000,000 each accident, \$1,000,000 disease/policy limit, and US.134639836.01

\$1,000,000 disease, each employee; Commercial General Liability insurance with a minimum combined single limit of \$1,000,000 or a minimum combined single limit of \$5,000,000 if services are being performed at an airport gateway facility (unless the airport authority requires a higher limit), and Automobile Liability insurance with a minimum limit of \$1,000,000, or a minimum limit of \$5,000,000 if services are being performed at an airport gateway facility (unless the airport authority requires a higher limit). Before commencing the services, Vendor shall furnish a clearance certification and any other appropriate certificates from its insurance carrier showing the above insurance is in force and, with respect to the Commercial General Liability Insurance only, naming [United Parcel Service Canada Ltd.] and each of its successors, subsidiaries and affiliates as additional insureds bearing the contractual indemnity obligations set forth below. Vendor shall be required to give at least thirty (30) days' notice to UPS of any cancellation, non-renewal or material change to Vendor's insurance. This obligation shall rest with Vendor notwithstanding any reluctance or refusal on the part of Vendor's insurance company to endorse its insurance policies or evidence its certificates of insurance to reflect this contractual obligation. The Commercial General and Automobile Liability policies in this paragraph shall be primary and noncontributory to any coverage carried by the UPS.

7) INDEMNIFICATION: THE TERM UPS AS USED IN THIS SECTION INCLUDES UPS, ITS PARENT COMPANY UNITED PARCEL SERVICE, INC., AND ALL AFFILIATES AND SUBSIDIARIES OF SUCH PARENT COMPANY AND THE AGENTS, DIRECTORS, OFFICERS, SHAREHOLDERS, AND EMPLOYEES OF ANY OF THE FOREGOING. VENDOR HEREBY ASSUMES THE ENTIRE RESPONSIBILITY AND LIABILITY FOR ALL WORK, LABOR AND MATERIALS PROVIDED HEREUNDER TO THE FULLEST EXTENT PERMITTED BY LAW. VENDOR SHALL INDEMNIFY AND HOLD HARMLESS UPS AGAINST ALL COSTS, DAMAGES, OR LIABILITY, INCLUDING REASONABLE LEGAL FEES AND OTHER COSTS OF DEFENSE, ARISING OUT OF: (A) THE PERFORMANCE OR NONPERFORMANCE OF THIS AGREEMENT BY VENDOR OR ITS SUBCONTRACTORS, MATERIALMEN, AGENTS AND EMPLOYEES; OR (B) INJURY TO OR DEATH OF ANY PERSON (INCLUDING VENDOR'S EMPLOYEES), OR FOR DAMAGE TO OR LOSS OF TANGIBLE PROPERTY, CAUSED IN WHOLE OR IN PART BY VENDOR'S NEGLIGENCE OR THAT OF ITS SUBCONTRACTORS, MATERIALMEN, AGENTS, AND EMPLOYEES. IN THE EVENT VENDOR MAKES USE OF ANY EQUIPMENT OWNED OR LEASED BY UPS, VENDOR AGREES TO INDEMNIFY AND HOLD HARMLESS UPS AGAINST ALL COSTS, DAMAGES, OR LIABILITY, INCLUDING REASONABLE LEGAL FEES AND OTHER COSTS OF DEFENSE, ARISING OUT OF INJURY TO OR DEATH OF ANY PERSON (INCLUDING VENDOR'S EMPLOYEES), OR FOR DAMAGE TO OR LOSS OF TANGIBLE PROPERTY, CAUSED IN WHOLE OR IN PART BY VENDOR'S NEGLIGENCE OR THAT OF ITS SUBCONTRACTORS, MATERIALMEN, AGENTS, AND EMPLOYEES, AS IT RELATES TO VENDOR'S USE OF UPS'S EQUIPMENT. VENDOR SHALL ALSO INDEMNIFY UPS FOR ANY LIABILITY ARISING OUT OF VENDOR'S FAILURE TO COMPLY WITH FEDERAL, PROVINCIAL OR INTERNATIONAL IMMIGRATION LAW. THE FOREGOING INDEMNITY SHALL NOT EXTEND TO LIABILITY FOR INJURY TO OR DEATH OF PERSONS OR PROPERTY DAMAGE CAUSED BY UPS'S SOLE NEGLIGENCE. THE FOREGOING INDEMNITY SHALL BE CONSTRUED IN ITS BROADEST SENSE ALLOWED BY APPLICABLE LAW. UPS HAS THE RIGHT, BUT NOT THE OBLIGATION, TO CONTROL THE DEFENSE OR SETTLEMENT OF ANY CLAIM OR LAWSUIT COVERED BY VENDOR'S INDEMNITY HEREUNDER SO LONG AS UPS ACTS REASONABLY AND IN GOOD FAITH AND, AT UPS'S OPTION, VENDOR SHALL, AT VENDOR'S EXPENSE: (A) DEFEND ANY AND ALL ACTIONS BASED THEREON; OR (B) PAY UPS ALL REASONABLE ATTORNEYS' FEES AND COSTS AND OTHER EXPENSES ARISING FROM ITS DEFENSE AND SETTLEMENT THEREOF. THE FOREGOING INDEMNITY OBLIGATIONS DO NOT APPLY TO ANY INJURY TO OR DEATH OF PERSONS OR PROPERTY DAMAGE CAUSED BY UPS'S SOLE NEGLIGENCE.

8) LIMITATION OF LIABILITY: IN NO EVENT WILL UPS BE LIABLE TO VENDOR FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, DELAY, OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF DIRECT OR INDIRECT PROFITS, REVENUE, OR USE, WHETHER ARISING IN CONTRACT, TORT, OR OTHERWISE, EVEN IF VENDOR OR ANY OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9) TAXES: Vendor will charge UPS any applicable federal, provincial or local taxes, including goods and services, harmonized sales, value added, and provincial sales and retail sales taxes, each as a separate line item on its invoices, and Vendor will include all prescribed information on its invoices required by UPS to support its claims for input tax credits and refunds. Where applicable, UPS will provide Vendor with a provincial sales tax exemption certificate or equivalent documentation to support any applicable exemption from sales taxes.

10) CONFIDENTIALITY: Vendor shall hold all Confidential Information of UPS in strict confidence and shall in any case protect such Confidential Information with no less diligence than that with which it protects its own confidential or proprietary information. Confidential Information means any and all confidential company business information of UPS and is treated as confidential or secret by UPS, that is, it is the subject of efforts by UPS that are reasonable under the circumstances to maintain secrecy including, without limitation, the existence and nature of the relationship between the parties, employees of UPS and any and all additional confidential company information of UPS which Vendor becomes aware as a result of Vendor's access to and presence at UPS facilities. Confidential Information includes but is not limited to all specifications, documents, and prototype articles delivered by UPS to Vendor and are the property of UPS.

Such specifications, documents, and prototype articles are delivered for the sole purpose of Vendor's performance of this Order. Such specifications, documents, and prototype articles are delivered on the express condition that Vendor will not, without first obtaining UPS's prior written consent, disclose to others the information contained therein or use such information for any purpose other than in connection with this Order. Vendor must promptly return to UPS such specifications, documents, and prototype articles upon UPS's written request. UPS may make such request at any time during or after completion of Vendor's performance. Confidential Information, however, does not include information that: (i) is now or subsequently becomes generally available to the public through no fault or breach on the part of Vendor; or (ii) is independently developed by Vendor without the use of any Confidential Information. The obligations under this Section 9 shall remain in effect for a period commencing from the time such information was received and for a period of three (3) years thereafter unless such information rises to the level of a trade secret, in which case the obligations under this Section shall remain in effect for as long as such information remains a trade secret as defined under applicable law.

11) **PUBLICITY & USE OF UPS'S MARKS:** Vendor will not, without first obtaining UPS's written consent, in any manner advertise or publish any aspect of this Order or the fact that Vendor has contracted to sell goods or perform services for UPS. Vendor also will not use any of UPS's trademarks or tradenames.

12) **PROPERTY AND PROPRIETARY RIGHTS:** All work produced by Vendor under the terms of this Order, including, without limitation, all inventions, creations, expressions, improvements, computer programs, specifications, operating instructions and all other documentation, whether patentable or unpatentable, which are first conceived or made or first actually or constructively reduced to practice are conceived or made in response to matters related to this Order or based in whole or in part on or derived from information supplied by UPS or its affiliates, whether preliminary or final, and on whatever media rendered (collectively, the "Work Product"), shall be deemed work made for hire and made in the course of services rendered under this Order and shall be the exclusive property of UPS.

13) **CHANGES:** UPS may from time to time, by written instructions issued to Vendor: (i) make changes in the drawings or specifications and issue additional instructions; (ii) require the performance of additional services; or (iii) direct the omission of services previously ordered. In such event Vendor may request an adjustment in price or time of delivery. The provisions of this Order will apply to all such changes, modifications, additions, or omissions with the same effect as if they were embodied in the original Order. No extra or additional services will be compensated unless authorized by prior written change order from UPS's authorized representative.

14) **TERMINATION:** If the delivery of goods or the completion of services is made later than the date specified herein UPS may: (a) terminate all or part of this Order; or (b) refuse to accept delivery of all or part of this Order. If no delivery date is specified, then UPS may terminate all or part of this Order if delivery is not made within 30 days after the date of this Order. If there are defects in workmanship or quality or if the goods or services are nonconforming, UPS may terminate all or part of this Order. UPS may at any time and for any reason terminate all or part of this Order upon written notice to Vendor in which event Vendor will be solely entitled to the following termination charges as its exclusive remedy and damages: (i) the percentage of the Order price reflecting: (a) the percentage of the goods delivered and accepted by UPS prior to termination, or (b) the services performed by Vendor prior to termination, or both; (ii) less the aggregate of prior payments. The following Sections shall survive termination of this Agreement: 7, 8, 11, 12, 13, and 24.

15) **ASSIGNMENTS:** Vendor may not assign any right or interest in, nor delegate any obligation owed, nor subcontract any part of this Order without first obtaining UPS's written approval. Vendor shall remain responsible for the acts or omissions of its subcontractors. UPS may assign to any affiliate, parent, or subsidiary any and/or all of its rights or delegate any of its duties pursuant to this Agreement without the prior written consent of Vendor.

16) **SETOFF:** If Vendor makes a claim against UPS for money due or to become due, such claim will be subject to deduction or setoff by UPS for any claim of UPS arising out of this or any other transaction between UPS and Vendor.

17) **COMPLIANCE WITH LAWS:** Vendor will comply with all federal, state, and local laws, executive orders, rules, regulations, and ordinances which may apply to Vendor's obligations under this Order.

18) **WARRANTY OF GOODS AND SERVICES:** To the extent that the Order includes the purchase of any goods, equipment, and materials, Vendor expressly warrants that all goods furnished under this Order: (i) will conform to all specifications and appropriate standards; (ii) will be new unless otherwise specified; (iii) will be free from defects in material or workmanship; (iv) will be adequately contained, packaged, marked, and labeled; (v) will conform to any statements made on their containers, labels, or advertisements; (vi) will be merchantable; (vii) will be safe and appropriate for the purpose for which goods of that kind are normally used; (viii) will conform in all respects to any samples; and (ix) will not infringe the intellectual property rights of a third party. If Vendor knows or has reason to know the particular purpose for which UPS intends to use goods furnished under this Order, Vendor warrants that such goods will be fit for such particular purpose.

Vendor expressly warrants that all services shall be free from defects and performed in the most workmanlike manner and according to the best standard practices; all materials and equipment shall be new, unless otherwise specified, and
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of first class quality; and all services, materials and equipment shall be unconditionally guaranteed for one (1) year from the date of completion and acceptance or such longer period of time as may be offered by the suppliers and manufacturers of the materials and equipment. Vendor shall arrange for the UPS to have the benefit and right to enforce all extended and additional warranties provided by the suppliers and manufacturers of the materials and equipment incorporated into the services. All services shall be timely performed, time being of the essence of this Agreement.. Without limiting any remedy UPS may be entitled to recover under law or in equity, UPS shall be entitled to receive a full refund of any amounts paid for goods or services impacted by Vendor's breach of this Section 18.

19)INTELLECTUAL PROPERTY LICENSE: If (a) the services furnished under this Order involve the creation of any intellectual property or (b) any goods, equipment, or materials furnished under the Order include any intellectual property (collectively, "Intellectual Property"), Vendor hereby grants to UPS and its Affiliates a perpetual, irrevocable, royalty free, non-exclusive, license to use the Intellectual Property and all references to goods and services herein shall mean and include such Intellectual Property licensed to UPS. If any item ordered hereunder is, or includes, a computer program in the form of embedded firmware, or software embodied in magnetic or other media, or any other intellectual property, Vendor hereby grants to UPS upon delivery to UPS a perpetual, non-exclusive license to use same for its own purposes and those of UPS's affiliates, and all references to goods and services herein shall mean and include such intellectual property licensed to UPS.

20)PRICE WARRANTY: Vendor warrants that at the time UPS accepts this Order the prices for the goods or services or both under this Order are not less favorable than those extended by Vendor to Vendor's other buyers for the same or similar goods or services or both in similar quantities. If at any time during the term of this Order Vendor reduces its prices for the goods or services or both contained in this Order, Vendor agrees to reduce the prices contained in this Order in conformance with such price reduction. Vendor warrants that prices shown on this Order are complete, and no additional charges of any type will be added without UPS's express written consent.

21)BUILDER'S LIEN: To the fullest extent permitted by the law of the province or territory of the location of the services, Vendor waives the right to file a construction or builder's lien. If the law of the province or territory of the location of the services does not prohibit pre-lien waiver of construction or builder's liens, Vendor shall indemnify UPS against all liens filed by Vendor performing the services. Regardless as to whether the law of the province or territory of the location of the services prohibits pre-lien waiver of construction or builder's liens, Vendor agrees and shall indemnify UPS against all claims or liens related to the services made or submitted by any of Vendor's subcontractors, suppliers, material suppliers or any of their respective employees related to the services. Indemnity obligations under this paragraph shall include indemnification of costs and legal fees.

22)SUBCONTRACTORS: Vendor shall provide UPS with a list of all subcontractors performing services with regard to this Agreement. In no event shall Vendor's use of subcontractors relieve Vendor of its obligations under this Agreement. Vendor shall be fully liable to UPS for the acts or omissions of its subcontractors.

23)GOVERNING LAW: The validity and interpretation of this Order and of the rights and obligations of UPS and Vendor shall be governed and construed according to the laws of the Province of Ontario and the federal laws of Canada applicable therein. The courts of Toronto, Ontario shall have exclusive jurisdiction of any dispute arising under the Order.

24)NO-WAIVER: UPS's failure to insist on strict compliance with the Terms and Conditions hereof will not constitute a waiver of its right to thereafter require strict compliance. UPS's failure to exercise its options hereunder will not preclude UPS from fully exercising options not previously exercised.

25)SEVERABILITY: If any provision of this Order is held by a court of competent jurisdiction to be contrary to law or public policy, the remaining provisions of this Order will remain in full force and effect.

26)RIGHTS AND REMEDIES: The rights and remedies of UPS set forth in this Order are not exclusive and are in addition to all other rights and remedies afforded to UPS in law or in equity.

27)ENTIRE ORDER: This Order constitutes the entire Order between UPS and Vendor with respect to the matter contained herein and supersedes any prior oral or written Orders, understandings, commitments, negotiations, representations, or proposals. This Order may be changed in a writing signed by UPS.

28)INDEPENDENT CONTRACTOR: The status of Vendor shall be that of independent contractor and at no time or for any purpose shall Vendor be deemed an employee or agent of UPS. In its capacity as an independent agent, Vendor shall make arrangements, and shall be solely responsible for the payment of income taxes, social security taxes, pension, stock, bonuses, vacation, profit-sharing or any other fringe benefits for Vendor's employees

29)PAYMENT TERMS: All invoices shall (a) reference the assigned project or work location and Appropriation number (if applicable); (b) be itemized and substantiate all charges; and (c) include all delivery, installation, transportation, and freight. Vendor shall submit its invoices to the UPS in electronic form using an electronic invoicing US.134639836.01

system that is required by UPS, at UPS's sole discretion. All invoices will be accumulated for a period commencing on the 14th day of the month and ending on the 13th of the following month ("Accumulation Period"). All invoices that are received and approved for payment in an UPS-approved accounts payable system will be included in the current Accumulation Period. Provided that the invoices conform to the requirements of this Agreement, UPS will pay the invoices collected during the Accumulation Period within ninety (90) days from the end of the Accumulation Period unless otherwise agreed upon in a Master Service Agreement or Rider. Any early payment discounts allowable under this Agreement, a purchase order or Rider will be calculated from the last day of the applicable Accumulation Period. Nothing in this provision will preclude UPS and Vendor from agreeing upon other payment discounts, which may be offered through UPS's e-invoicing and electronic payment systems. Vendor shall maintain complete and accurate accounting records, in a form in accordance with generally accepted accounting practices, to substantiate Vendor's charges and expenses. Payment will be made via electronic transfer of funds utilizing a system that is approved and accepted by UPS.