

PURCHASE ORDER TERMS AND CONDITIONS

1. ACCEPTANCE AND ENTIRETY

- (a) These terms and conditions shall form part of any agreement or purchase order to which they are attached (and these terms and conditions, the agreement or purchase order to which they are attached, and the specifications, drawings and documents attached hereto or thereto shall hereinafter be referred to collectively as the "**Purchase Order**"). Maxfield's written acceptance of this Purchase Order or the shipment of any Goods or performance of any Work shall constitute acceptance by Maxfield of this Purchase Order.
- (b) This Purchase Order constitutes the entire agreement between Owner and Maxfield with respect to the subject matter of this Purchase Order and supersedes all prior communications, negotiations, representations, understandings and agreements (whether oral or written) which are made prior to the date of this Purchase Order. For greater certainty: (i) any invoice, acknowledgement or other communication issued by Maxfield in connection with this Purchase Order shall be construed to be for record and accounting purposes only; (ii) any terms and conditions stated in such communication shall not be applicable to this Purchase Order and shall not be considered to be Maxfield's exceptions to the provisions of this Purchase Order; and (iii) trade custom and/or trade usage is superseded by this Purchase Order and shall not be applicable in the interpretation of this Purchase Order.

2. GOVERNING LAW

This Purchase Order shall be interpreted in accordance with, and shall be governed by, the laws of the Province of Alberta and the federal laws of Canada applicable therein, without regard to any conflicts of laws principles that could require application of any other law, and the Maxfield and the Owner irrevocably attorn to the exclusive jurisdiction of the courts of the Province of Alberta and all courts of appeal therefrom with respect to any matters set forth herein. For greater certainty, the United Nations Convention on Contracts for the International Sale of Goods does not apply to this Purchase Order.

3. DEFINITIONS

For purposes of this Purchase Order, capitalized words or expressions which are not defined in this Section 3 shall have the meanings given to them elsewhere in this Purchase Order and capitalized words or expressions which are defined in this Section 3 shall have the meanings hereby assigned to them below:

- (a) "**Buyer**" means the party identified as Buyer in the agreement or purchase order to which these terms and conditions are attached, or any party subsequently appointed as a replacement Buyer pursuant to Section 4(b) of these terms and conditions.
- (b) "**Claim**" means any claim or action and the resulting losses, liabilities, costs (including legal costs on a solicitor and his own client basis), expenses and damages, whether incurred through settlement or otherwise.
- (c) "**Goods**" means the goods, materials, supplies, equipment, methods, processes, designs, information, and any other items or things (whether tangible or intangible) to be supplied and delivered by Maxfield to Owner pursuant to the terms and conditions of this Purchase Order.
- (d) "**GST**" means any and all taxes payable under Part IX of the *Excise Tax Act* (Canada), or any tax enacted in replacement thereof of substitution therefor.
- (e) "**including**" means including without limitation, and "**includes**" or other derivatives thereof shall have corresponding meanings;
- (f) "**Owner**" means the party, identified as the "Owner" in the agreement or purchase order to which these terms and conditions are attached and its respective successors and permitted assigns;
- (g) "**Owner Related Party**" means Owner, its affiliates, and each of their directors, officers, employees, contractors (other than Maxfield), subcontractors (other than Subcontractors), agents and representatives.
- (h) "**Purchase Order**" has the meaning given such term in Section 1(a) of these terms and conditions.
- (i) "**Maxfield**" means the party, identified as the "Seller" or more specifically Maxfield Inc. in the agreement or purchase order to which these terms and conditions are attached, which is providing Goods or performing Work pursuant to the terms and conditions of this Purchase Order, and its respective successors and permitted assigns.
- (j) "**Maxfield Related Party**" means Maxfield, its affiliates, each of the Subcontractors, and each of their directors, officers, employees, subcontractors, agents and representatives.
- (k) "**Subcontractor**" means any entity to whom execution of any part of the Maxfield's obligations hereunder, including the supply of any Goods or

performance of any Work, is subcontracted directly or indirectly by Maxfield or any of its subcontractors, and includes such entity's successors and permitted assigns.

- (l) "**Work**" means all the work and services the Maxfield is required to carry out for Owner pursuant to this Purchase Order.

4. STATUS OF THE PARTIES

- (a) The Maxfield is an independent contractor and is solely responsible for all persons employed or subcontracted in the performance of Maxfield's responsibilities pursuant to this Purchase Order.
- (b) Owner has authorized Buyer to, and Buyer shall, represent and act for Owner at all times during the term of this Purchase Order, except as otherwise expressly provided in this Purchase Order. Owner may from time to time appoint another party as Buyer in place of the party previously so appointed and shall give notice of the name of such other party to Maxfield without delay.

5. AMENDMENT AND WAIVER

No amendment, waiver, or other modification of or exception to any of the terms, conditions and provisions contained in this Purchase Order shall be valid unless specifically agreed to in writing by Maxfield. .

6. CHANGES, ADDITIONS AND CANCELLATION

Where cancellation of this Agreement or any work ordered under this Agreement is for the Customer's sole convenience, the Customer shall ratably reimburse Maxfield for all work performed prior to Maxfield's receipt of Customer's cancellation notice and all reasonable costs incurred in effecting cancellation.

7. OPTION TO TERMINATE OR CANCEL

Owner shall have the right to terminate or cancel this Purchase Order in whole or in part at any time by giving written notice to Maxfield. On the date of such termination or cancellation stated in the notice, Maxfield shall discontinue the performance of all Work, shall place no additional orders, and shall, pending Owner's instructions, preserve and protect all Goods which it has on hand (which were purchased for or committed to this Purchase Order), work in progress, and completed work product (whether located in Maxfield's or its supplier's plant or facility), and shall make the same available to Owner or dispose of same in accordance with Owner's instructions. In the event of any such termination or cancellation, Maxfield shall receive as payment the full value of the Purchase Order and any changes.

8. WARRANTIES

- (a) Maxfield warrants the goods supplied under this order are new and fit for the particular purpose or use for which they are purchased by the Purchaser and that the said goods will perform in accordance with the specifications, however no process guarantee is supplied or given, unless specifically agreed to in the terms of the contract, and, in addition, Maxfield guarantees and warrants the goods against any and all defects in material, workmanship and design for a period of twelve (12) months from the date of first operation, not to exceed eighteen months after shipment or offer to ship. If any defect in any part of the goods appears during such warranty period, Maxfield Inc. shall, at times acceptable to Purchaser, and, as expeditiously as possible after notification by Purchaser, repair or replace, at Maxfield's option, such defective parts of the goods, F.O.B. point of origin. If the defect is such that the defective parts cannot be readily removed and replaced, Maxfield will charge travel time and expenses from the nearest service center to the jobsite and return, plus time on site, at current published rates.
- (b) Maxfield's warranty is conditional upon the equipment being properly installed and maintained in accordance with industry standard practice. Maxfield's warranty does not apply to expendable items, ordinary wear and tear, alterations or repairs by persons not expressly approved by Maxfield Inc., damage caused after delivery by accident, the elements, abuse, misuse, overloading, erosion or corrosion.
- (c) Maxfield's. sole liability hereunder shall be said repair or replacement. Maxfield Inc. accepts no liability for consequential damages of any kind, including, but not limited to, loss of production, loss of potential profits, damage or increased expense of operation of other equipment.
- (d) THE WARRANTIES EXPRESSLY SET FORTH IN THIS PURCHASE ORDER ARE THE EXCLUSIVE WARRANTIES WITH RESPECT TO THE GOODS AND THE WORK, AND THE PARTIES AGREE THAT NO ADDITIONAL WARRANTIES SHALL APPLY WITH RESPECT TO EITHER THE GOODS OR THE WORK WHETHER IMPLIED, STATUTORY OR OTHERWISE, INCLUDING IMPLIED WARRANTIES OR IMPLIED CONDITIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

9. INTELLECTUAL PROPERTY INFRINGEMENT

Owner shall indemnify and hold harmless Maxfield from and against any and all loss, liability or expense by reason of any claim or suit for alleged infringement of any copyright, industrial design, trademark or patent resulting from or arising in connection with the manufacture, sale, normal use or other normal disposition of any Goods furnished, or the performance of any Work, and shall defend any such claim or suit and pay all costs and expenses incidental thereto; provided, however, Maxfield shall have the right, at its option, to participate in the defense of any such claim or suit without relieving Owner of any obligation.

10. ALLOCATION OF LIABILITY AND INDEMNIFICATION

(a) Owner shall:

- (i) be liable to Maxfield and each Maxfield Related Party for any and all losses, costs, damages and expenses whatsoever which Maxfield or any Maxfield Related Party may suffer, sustain, pay or incur; and
- (ii) indemnify Maxfield and each Maxfield Related Party from and against all actions, proceedings, claims, demands, losses, costs, (including solicitor and its own client's costs), damages and expenses whatsoever which may be brought against or suffered by Maxfield or any Maxfield Related Party or which Maxfield or any Maxfield Related Party may sustain, pay or incur,

by reason of any matter or thing arising out of or in any way attributable to any acts or omissions by Owner or any Owner Related Party in relation to this Purchase Order that constitute negligence, gross negligence or willful or wanton misconduct.

(b) Maxfield shall:

- (i) be liable to Owner and each Owner Related Party for any and all losses, costs, damages and expenses whatsoever which Owner or any Owner Related Party may suffer, sustain, pay or incur; and
- (ii) indemnify Owner and each Owner Related Party from and against all actions, proceedings, claims, demands, losses, costs, (including solicitor and its own client's costs), damages and expenses whatsoever which may be brought against or suffered by Owner or any Owner Related Party or which Owner or any Owner Related Party may sustain, pay or incur,

by reason of any matter or thing arising out of or in any way attributable to any acts or omissions by Maxfield or any Maxfield Related Party in relation to this Agreement that constitute negligence, gross negligence or willful or wanton misconduct.

- (c) If the actions, proceedings, claims, demands, losses, costs, damages or expenses for which a party is liable hereunder pursuant to subsection 16(a) or 16(b) is attributable to the acts or omissions of both Owner (or any Owner Related Party) and Maxfield (or any Maxfield Related Party), the parties shall share liability in respect thereof in the proportions that their respective acts or omissions contributed to such liability, provided, however, that if one party's acts or omissions constitute gross negligence or willful or wanton misconduct, there shall be no sharing of liability on the part of the other party.
- (d) Notwithstanding any other provision of this Purchase Order, neither Maxfield nor any Maxfield Related Party shall be liable to Owner, and neither Owner nor any Owner Related Party shall be liable to Maxfield, for any indirect, economic, consequential, incidental or special damages which may be suffered or incurred by Owner or by Maxfield, as the case may be, and which arise out of or in connection with the performance of the Work, the supply of Goods, or out of or in connection with this Purchase Order or the Project, including loss of profits and overhead, loss of product, loss of production, loss of business, or mineral rights or business interruptions; provided that this Section 16(d) shall not apply in respect of any breach of, or liability arising pursuant to, Section 15, 24 or 25.
- (e) Owner shall be solely responsible for any indirect, economic, consequential, incidental or special damages which may be suffered or incurred by any Owner Related Party and which arise out of or in connection with this Purchase Order or the Project, and hereby waives all rights of recourse against and indemnifies, defends and holds harmless Maxfield and each Maxfield Related Party from and against any and all Claims with respect to any such damages, regardless of the cause thereof, except and to the extent that such damages are of the type that would be indemnified by Maxfield pursuant to Section 15 or result from a breach of any confidentiality obligations and were caused by Maxfield or any Maxfield Related Party.
- (f) Notwithstanding any of the above in Section 10; the total aggregate liability of Maxfield shall be limited to ½ of the Purchase order value.

11. INSURANCE

Maxfield furnish such insurance as is necessary to cover any possible claims under the Workman's Compensation Act, or any other claims resulting from

personal injury or property damage which might result from operation under this agreement.

12. SET-OFF

Owner shall not be entitled at all times to set off any amount owing from Maxfield to Owner or any of its affiliated companies against any amount due or owing to Maxfield with respect to this Purchase Order.

13. FORCE MAJEURE

Neither party to this Purchase Order shall be in default by reason of any delay or failure in the performance of its obligations hereunder to the extent that such delay or failure is due to acts, delays or failures which are caused by reason of matters not within such party's reasonable control ("**Force Majeure**"), provided that lack of finances shall not excuse default. Should Maxfield be delayed in the supply of the Goods or the prosecution and completion of the Work because of any event of Force Majeure, the time herein fixed for completion shall be extended for a period equivalent to the time so lost, which extended period shall be determined and fixed by Owner, but no such extension shall be made unless a claim for such an extension is presented in writing to Owner within forty-eight (48) hours after commencement of the delay. Maxfield shall not, due to an event of Force Majeure, be excused from performance hereunder where alternate sources of supply of goods, materials, supplies, equipment or service are available, or be entitled to claim any additional amounts from Owner.

14. VALIDITY OF PROVISIONS

In the event any provision, or any part or portion of any provision of this Purchase Order shall be held to be invalid, void or otherwise unenforceable, such holding shall not affect the remaining part or portions of that provision, or any other provision hereof.

15. SURVIVAL

The provisions of this Purchase Order which by their nature are intended to survive the termination, cancellation, completion or expiration of this Purchase Order shall continue as valid and enforceable obligations of the parties notwithstanding any such termination, cancellation, completion or expiration.

16. ANTI-CORRUPTION PRACTICES

Owner acknowledges that Maxfield is subject to laws strictly prohibiting Maxfield from making any payments or offers to pay money or anything else of value in order to obtain or retain business or a commercial advantage – including gifts, entertainment, meals, hospitality, employment opportunities, loans, or charitable or political contributions – that are made or given to a 'government official' – a term that includes (i) a legislative, administrative or judicial officer; (ii) an employee of a government agency; (iii) an official or agent of a public international organization such as the United Nations; (iv) an employee of a government owned or controlled company; (v) a candidate for political office; or (vi) a person who acts in an official capacity by or on behalf of a government, agency or public international organization, even if the person is not an employee of such an entity (collectively, the "Anti-Corruption Restrictions"). This prohibition applies whether the payment, gift or other thing of value is paid directly or indirectly to the government official. Violations of these laws may result in criminal charges being brought which could subject Maxfield to significant fines and penalties and the individuals involved to possible imprisonment and fines. The Owner hereby agrees that it shall not take or permit any action which will either constitute a violation under, or cause Maxfield or its affiliates to be in violation of the Anti-Corruption Restrictions.