

Atlantic Mining NS Inc

Conditions for the supply of goods and/or services in Canada

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

Agreement means:

- (a) these Conditions;
- (b) the Purchase Order;
- (c) the Specification; and
- (d) any other document attached to, or incorporated by reference in, the Purchase Order or these Conditions.

Atlantic's Policies and Procedures includes any policy, procedure, publication or guideline of Atlantic, St Barbara Limited or their affiliates (as amended from time to time) that is specifically provided by Atlantic to the Supplier or publicly available on St Barbara Limited's website (www.stbarbara.com.au) and relevant to the provision of the Goods or Services, including the Supplier Code of Conduct and the Rules to Live By.

Conditions means these conditions for the supply of Goods and/or Services, as located at <https://stbarbara.com.au/contact/suppliers/>.

Customs Duties means any tax or tariff imposed, claimed, levied or assessed by, or payable to, any Government Agency regarding the import or export of Goods and/or Services.

Delivery Date means the date for Delivery of the Goods, as stated in the Purchase Order.

Deliver means packaging, transporting and unloading the Goods.

Delivery Point means the place for Delivery of the Goods, as stated in the Purchase Order.

Excise Duties means any tax imposed by, or payable to, any Government Agency in relation to the production or manufacture of Goods and/or Services.

Force Majeure Event means an event beyond the reasonable control of the party affected by that event which causes the non-performance by the affected party of any of its obligations under the Agreement and could not have been prevented or remedied by the exercise by the affected party of a standard of care and diligence consistent with that of a mine owner or a competent supplier (as the case may be).

Goods means the goods stated or described in the Purchase Order.

Government Agency means a government or government department or a court, port, transport or local authority or a person (whether autonomous or not) responsible for the administration of an applicable law, in Canada or elsewhere.

GST/PST means the tax, if any, payable by Atlantic to the extent imposed on payments under the Agreement pursuant to Part IX of the *Excise Tax Act* (Canada), as amended, and any harmonized sales tax or provincial sales tax in jurisdictions where it is applicable.

Insolvency Event means, in respect of a party, any one or combination of the following or any event or circumstance analogous to the following:

- (a) the appointment of a receiver or receiver manager over any of the party's assets;
- (b) the commencement of proceedings pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the party, if such proceedings are not contested by the party in good faith;
- (c) the party makes an assignment into bankruptcy or a bankruptcy order is made in respect of that party;
- (d) a mortgagee takes possession of, or commences the disposition of, all or substantially all of the party's assets, operations or business;
- (e) the party fails to make payment to creditors when payment is due, is unable to pay its debts or is otherwise insolvent; or
- (f) the party dies, ceases to be of full legal capacity or otherwise becomes incapable of managing its own affairs for any reason.

Invoice means an invoice or claim for payment submitted by the Supplier in accordance with clause 11.

Legislative Requirements includes any:

- (a) federal, provincial, territorial, regional, municipal or local statutes, ordinances, regulations, laws, by-laws, orders, awards, proclamations;

- (b) building codes, Canadian Standards and any other standards and codes applicable to the Goods and Services; and
- (c) certificates, licences, consents, permits, approvals and requirements of organisations having jurisdiction in connection with the supply of Goods or the provision of Services.

Modern Slavery means internationally recognised exploitative practices including human trafficking, slavery, slavery-like practices, servitude, forced labour, forced marriage, debt bondage, the worst forms of child labour, deceptive recruiting for labour services.

Modern Slavery Laws means any law of any relevant jurisdiction that creates a reporting or due diligence obligation in connection with Modern Slavery or otherwise criminalises or imposes a penalty for Modern Slavery.

Personnel means any employee, agent or contractor.

Price means the price for the Goods or Services stated in the Purchase Order in Canadian Dollars (unless otherwise expressly stated).

Purchase Order means the Atlantic Purchase Order which is governed by these Conditions.

Services means the services stated or described in the Purchase Order.

Specification means the specification for the supply of the Goods or Services, as approved in writing by Atlantic, and any variation to the specification in accordance with these Conditions.

Supplier means the supplier listed in the Purchase Order.

1.2 Interpretation

- (a) Headings are for convenience only and do not affect interpretation.
- (b) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (c) A reference to a clause is a reference to a clause in these Conditions.
- (d) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.

2. PRELIMINARY AND GENERAL OBLIGATIONS

2.1 Preliminary

- (a) Without limiting clause 20(c) the Supplier accepts the terms set out in the Agreement to the exclusion of any other terms unless otherwise agreed by Atlantic in writing, where the Supplier acknowledges that:
 - (i) the Supplier's standard terms and conditions do not apply;
 - (ii) the terms set out in the Agreement apply to the supply of Goods and/or performance of the Services; and
 - (iii) unless expressly provided in the Purchase Order, any prior representations, negotiations, arrangements, understandings or communications between the parties about the supply of Goods and/or the performance of the Services are superseded and replaced by the Agreement.
- (b) Atlantic is not obliged to request or acquire any minimum level of Goods or Services, other than as set out in the Purchase Order. The Agreement does not create an exclusive relationship between Atlantic and the Supplier for the supply of any Goods or Services.

2.2 General Obligations

- (a) The Supplier must comply with the Supplier Code of Conduct, as available on St Barbara Limited's website, when providing the Goods and Services.
- (b) The Supplier must ensure that the Goods and/or Services and their design, performance, fabrication, testing, packaging, loading on transport, Delivery, installation and commissioning, as relevant, are in accordance with the Specification.
- (c) The Supplier must advise Atlantic in writing, immediately if the Supplier anticipates any delay in performance of the Purchase Order. If the Supplier does not perform its

obligations in a timely fashion, Atlantic may, in addition to any other right, require the Supplier to do, at the Supplier's expense, whatever is reasonably required to ensure delivery of the Goods and/or performance of the Services on or as close to the specified date as possible, for example, by paying premium freight charges or undertaking work outside of ordinary operating hours.

- (d) The Supplier must not subcontract or delegate the whole or any part of the Services or the production, manufacture or supply of the whole or any part of the Goods without the prior written consent of Atlantic. Any subcontracting by the Supplier will not relieve the Supplier of any of its obligations under the Agreement.
- (e) The Supplier must use reasonable efforts to ensure that the goods or services that it provides are not the product of Modern Slavery and must otherwise comply with all relevant Modern Slavery Laws. The Supplier must use reasonable endeavours to require its suppliers to do likewise. In addition, the Supplier must promptly provide Atlantic with information and documentation as it reasonably requests to permit Atlantic to undertake due diligence on its supply chain, including by way of a questionnaire issued periodically.

3. SUPPLY AND DELIVERY OF GOODS

3.1 General Obligations

- (a) The Supplier must Deliver the Goods to the Delivery Point by the Delivery Date, free of carriage and handling charges.
- (b) Unless otherwise agreed with Atlantic, the Supplier must Deliver all Goods in one Delivery. The transport cost of any additional Deliveries, will be at the expense of the Supplier.
- (c) If requested by Atlantic, the Supplier must supply manufacturing schedules and progress reports to Atlantic as requested by Atlantic.
- (d) The Goods must be properly labelled and packed to avoid damage during loading, transit, unloading or storage and such labelling, packing and transport must comply with all relevant industry codes and practices and any reasonable safety and environmental requirements of Atlantic.
- (e) The Goods must be accompanied by:
 - (i) a packaging slip or delivery docket detailing the Goods and relevant Purchase Order number;
 - (ii) all relevant manufacturer's or supplier's instructions concerning the use of the Goods; and
 - (iii) all relevant manufacturer's or supplier's warranties in respect of the Goods.
- (f) The Goods must be provided in accordance with all applicable laws, including all Legislative Requirements and all applicable requirements of any Government Agency.
- (g) Unless otherwise stated in the Purchase Order and without limiting the effect of clause 22, the Supplier is responsible for all transport costs, including freight, customs and insurance charges, incurred in Delivering the Goods to the Delivery Point.
- (h) Atlantic may return at the Supplier's expense and risk any Goods delivered that are not covered by a Purchase Order, including any quantity of goods greater than the quantity specified in the Purchase Order.

3.2 Title and Risk in the Goods

- (a) The Goods remain at the Supplier's risk until they are delivered to the Delivery Point and, if applicable, installed and accepted in accordance with clause 3.2(b).
- (b) Subject to clause 3.2(e), title in the Goods passes to Atlantic on acceptance of the Goods by Atlantic at the Delivery Point, as evidenced by the relevant Goods receipt issued by Atlantic to the Supplier or any other document evidencing acceptance, as set out in the relevant Purchase Order.
- (c) The Supplier must not claim any lien over the Goods and must defend and indemnify Atlantic against any lien, attachment or third party claim on the Goods.
- (d) The Supplier must do all things (including executing all documents at any time) and provide all information reasonably required by Atlantic to enable Atlantic to lawfully register any charge or other interest in the Goods (including registration on any applicable provincial or territorial Personal Property Registry established under applicable personal property security legislation) so as to ensure Atlantic's rights under the Purchase Order are not adversely affected.
- (e) If prior to delivery Atlantic pays for the Goods or makes a part payment for the Goods, title in the Goods (or if the Goods are incomplete, title in the partly completed Goods and any

materials and parts to be used in their manufacture or assembly and then on hand) passes to Atlantic, and the Supplier must clearly mark them with Atlantic's name and the order number.

3.3 Hazardous Goods

- (a) If the Goods comprise any hazardous materials or dangerous goods, the Supplier is responsible for clearly marking, transporting and storing the Goods in accordance with all Legislative Requirements and must provide Atlantic with the relevant materials safety data sheet (**MSDS**) for all such Goods.
- (b) No hazardous goods may be Delivered or be required to be accepted by Atlantic until the relevant MSDS has been provided to Atlantic and the requirements of clause 3.3(a) have been complied with.

4. PROVISION OF SERVICES

- (a) The Supplier must provide the Services competently, diligently, with due care and skill, safely and to the standard that would be reasonably expected of an experienced, professional provider of services similar to the Services:
 - (i) at the time or times specified in the Purchase Order or otherwise in a timely manner;
 - (ii) in accordance with all directions given by Atlantic;
 - (iii) in compliance with all relevant laws, including any Legislative Requirements; and
 - (iv) in compliance with Atlantic's Policies and Procedures.
- (b) Where the Services are to be performed on Atlantic's premises, the Supplier must at its own cost:
 - (i) comply, and ensure its Personnel comply, with any site safety and induction requirements specified by Atlantic;
 - (ii) comply with Atlantic's Health, Safety, Environment and Community Management Standard (**HSECMS**) or, if required by Atlantic, submit a Health, Safety, Environment and Community Management Plan (**HSECMP**) to Atlantic for approval, and not commence the Services until the HSECMP is approved and otherwise perform the Services in accordance with the HSECMS or approved HSECMP, as relevant;
 - (iii) co-operate, liaise and co-ordinate the Services with Atlantic's operations so as to not interfere with or delay any other work in progress on Atlantic's premises or site; and
 - (iv) obtain and comply with every permit, visa, licence and approval, and give every notice required to comply with applicable law and with any requirement of a Government Agency.
- (c) The Supplier must provide all labour, tools, equipment and materials needed to complete the Services.
- (d) Atlantic may remove any Supplier Personnel from any Atlantic mine site if Atlantic is of the reasonable opinion that such Personnel is in breach of an obligation under the Agreement or any Atlantic Site Policy and Procedure or otherwise is acting in an unsafe, negligent or disruptive manner.

5. VARIATIONS

- (a) Atlantic may at any time request to vary (whether by change, addition, deletion, alteration, revision, substitution or other variation) the Goods and Services by providing written notice to the Supplier.
- (b) If the Supplier is able to provide the variation requested by Atlantic, the Supplier may claim any reasonable additional costs, or claim any reasonable adjustment to the date for the delivery of the Goods or the completion of the Services, as a direct result of Atlantic's variation. The parties must agree in writing any price and time impact of any proposed variation before the variation is carried out.

6. INSPECTION AND REJECTION

- (a) Atlantic may, at any time, including during the manufacturing of the Goods, inspect all or part of work connected with the Goods and Services being provided until final acceptance of those Goods and Services by Atlantic. No inspection by Atlantic will affect the Supplier's warranties or be deemed to have been acceptance of such Goods.
- (b) Atlantic must have a reasonable time to inspect the Goods after Delivery and/or the Services after its performance.
- (c) Without limiting Atlantic's rights in clause 7, after any inspection and despite previous acceptance of or payment for the Goods or Services, Atlantic may reject the Goods or

Services if it reasonably determines that the Goods or Services do not comply with the Agreement.

- (d) Atlantic will not pay for rejected Goods and Services and is entitled to a reimbursement for any part of the Price paid for the rejected Goods and Services.
- (e) Atlantic may, at the Supplier's cost, sell or dispose of the rejected delivered Goods if the Supplier does not repossess the Goods within 45 days of being notified of the rejection.
- (f) If there is a shortfall in the quantity of Goods delivered, Atlantic may either require the Supplier to credit Atlantic for the shortfall or within 7 days of delivery require the Supplier to deliver the outstanding Goods, which the Supplier must promptly do at its own cost.

7. DEFECT OR FAILURE TO SUPPLY

- (a) Without limiting the rights of Atlantic under clause 14, the Supplier must, within a reasonable period as notified by Atlantic, remedy, at the Supplier's cost, any defect in the Goods and Services which, for the Goods, arises within either:
 - (i) 12 months of the date that Atlantic puts the Goods into service; or
 - (ii) 18 months of the date of Delivery and/or the completion of installation of the Goods,whichever is earlier, and for the Services, within 12 months of the date the Services were completed.
- (b) If the Supplier fails to remedy any defect in the Goods or the Services within the reasonable period specified by Atlantic in accordance with clause 7(a) to Atlantic's reasonable satisfaction, Atlantic may remedy that defect and any reasonable costs incurred by Atlantic in doing so will be a debt due and owing by the Supplier to Atlantic.
- (c) If the Supplier does not deliver the Goods and/or perform the Services by the relevant specified date (and if no date, within a reasonable period of time), Atlantic may purchase replacement goods from a third party or engage another contractor to perform the Services and the difference (if any) between the cost of the replacement goods or services and the purchase price of the Goods or Services (as applicable) will be a debt due and owing from the Supplier to Atlantic..

8. SUPPLIER'S WARRANTIES

- (a) The Supplier warrants to Atlantic that it has the right to sell and transfer unencumbered title to the Goods to Atlantic and that the Goods:
 - (i) will be new (except as otherwise provided in the Specification), free from defects and of merchantable quality when Delivered to Atlantic;
 - (ii) will be fit for the purpose stated in the Specification, or if no purpose is stated, the purpose for which the Goods would ordinarily be used;
 - (iii) will conform to the description, model number and the sample (if any) provided by the Supplier or, if no sample or description has been provided, to the highest industry quality standards for their manufacture;
 - (iv) will comply with all applicable laws and industry standards and all applicable Legislative Requirements; and
 - (v) do not, and Atlantic's use of the Goods will not, infringe any intellectual property rights conferred under statute, common law or equity in any country.
- (b) The Supplier warrants and undertakes, as relevant, to Atlantic that the Services:
 - (i) will comply in every aspect with the description in the Specification, or if there is no description, with the highest industry quality standards for performance;
 - (ii) will be performed by appropriately qualified, trained and skilled personnel and otherwise performed with all due care and skill;
 - (iii) will be free from defects in materials, design and workmanship;
 - (iv) will comply with all applicable laws and industry standards and all applicable Legislative Requirements; and

(v) do not infringe any intellectual property rights conferred under statute, common law or equity in any country.

- (c) The Supplier warrants that it is and will, at all applicable times, remain registered for all applicable GST/PST.
- (d) The Supplier warrants that it is and will, at all applicable times, remain registered and in good standing pursuant to any workers' compensation Legislative Requirements applicable to it, and that it will, upon request from Atlantic, provide evidence of registration and clearance certificates from the applicable Government Agency.
- (e) The Supplier further warrants that it has not been convicted of any offence involving slavery and human trafficking nor has it been subject to any investigation or proceedings by any Government Agency in connection with slavery and human trafficking.
- (f) The Supplier acknowledges that Atlantic has relied upon all such warranties in entering into the Agreement.
- (g) The Supplier must provide or procure for the Goods and/or Services, any associated trade warranties. Where the Specification provides, the Supplier must obtain for Atlantic the benefit of any manufacturer's warranty in respect of the Goods.
- (h) The Vienna Convention on the Sale of Goods are expressly excluded from the Purchase Order and do not apply to the supply of the Goods or Services or to any materials, plant or equipment supplied as part of the Services.

9. INDEMNITY AND LIABILITY

- (a) To the extent permitted by law, the Supplier indemnifies Atlantic against, and releases Atlantic from, all actions, claims, costs, charges, damages, expenses, liabilities, losses or damages (including legal costs on an indemnity basis whether incurred by or awarded against Atlantic) that Atlantic may incur or sustain arising out of or in connection with:
 - (i) the loss of, or damage to, or loss of use of, any real or personal property, or the personal injury, disease or illness to, or death of, any person arising from the condition of the Goods or otherwise from the provision of the Goods or Services;
 - (ii) a breach of clauses 3.1(f) and 4(a)(iii) (compliance with laws) and 24 (anti-bribery and anti-corruption); and
 - (iii) any claim by a third party that its intellectual property rights have been, or will be, infringed by Atlantic's use of the Goods and/or Services.
- (b) The Supplier's liability to indemnify Atlantic will be reduced proportionally to the extent that any loss or liability was caused by Atlantic.

10. INSURANCE

- (a) The Supplier must insure itself fully in respect of all potential liability arising out of the supply of the Goods or the performance of the Services, including having the following insurances:
 - (i) commercial general liability insurance for at least CAD \$5 million;
 - (ii) workers' compensation insurance as required by applicable Legislative Requirements;
 - (iii) if the Agreement requires the Supplier to use or provide for the use of motor vehicles, comprehensive automobile indemnity insurance for at least CAD\$2 million;
 - (iv) if the Agreement requires the Supplier to use or provide any plant or equipment for use on Site, insurance covering all loss or damage to such plant and equipment, with coverage for an amount not less than 100% of the replacement value;
 - (v) if the Agreement requires the Supplier to provide professional advice or services, professional liability insurance to a minimum limit of CAD \$1 million for each claim; and
 - (vi) if the Agreement requires the Supplier to deal with or supply dangerous or hazardous goods, sudden and accidental pollution insurance for at least CAD \$5 million for each claim.
- (b) Atlantic will be responsible for obtaining all transit insurance.

- (c) The Supplier must provide certificates of currency or such other evidence of the insurances being effected and maintained under this clause as and when directed by Atlantic.
- (d) The Supplier will be responsible for the payment of any insurance excess or deductible for the insurances provided under this clause 10 and is not entitled to recover such amount from Atlantic.

11. PAYMENT TERMS AND GST/PST

- (a) The amount payable for the Goods and/or Services by Atlantic will be the Price. The Price:
 - (i) includes all applicable taxes, levies, duties and charges, except for GST/PST;
 - (ii) is inclusive of all costs incurred by the Supplier in the supply of the Goods and/or Services including all charges for packing, packaging, insurance and delivery of the Goods in accordance with the terms of this order and the cost of any items used or supplied in conjunction with the Services; and
 - (iii) unless otherwise expressly stated in a Purchase Order, is fixed and the Supplier may not vary the Price without the prior written consent of Atlantic.
- (b) Atlantic must pay to the Supplier any amount which is payable by the Supplier on account of GST/PST under Legislative Requirements as a consequence of any taxable supply made to Atlantic under the Agreement.
- (c) The Supplier may only submit an Invoice to Atlantic upon the later to occur of:
 - (i) the delivery of the Goods in accordance with the Purchase Order;
 - (ii) unless the Purchase Order states that progress payments are to be made, the completion of the Services; or
 - (iii) where progress payments are to be made for the provision of Services, on the last business day of each calendar month for Services performed by the Supplier in that month.
- (d) The Invoice must state the Purchase Order number, full details of the Goods Delivered or Services performed, the Price and separately any GST/PST and other information required by Legislative Requirements, the Purchase Order or by Atlantic to verify the amount stated in the Invoice. Atlantic shall be under no obligation to pay any invoice which is not rendered in accordance with this clause 11(d). Following receipt of a valid Invoice under this clause 11(d), but subject to clause 11(e) and subject to applicable law, Atlantic will pay the Supplier within 30 days from the end of the month in which the Invoice is received, except where Atlantic disputes the Invoice in which case Atlantic will pay the undisputed part of the relevant Invoice (if any) and dispute the balance in accordance with clause 19. If the resolution of the dispute determines that Atlantic is to pay an amount to the Supplier, Atlantic will pay that amount to the Supplier within 30 days of the date of the determination.
- (e) Payment is subject to Atlantic being satisfied that the Goods have been supplied, or the Services have been performed, strictly in accordance with the Agreement. Making a payment will not be construed as evidence or an admission that the Goods or Services have been supplied in accordance with the Agreement but is a payment on account only.
- (f) If the day of payment falls on a Saturday, Sunday or any other day which is a public holiday or a bank holiday in the place where a payment is to be made then the payment obligation must be performed on the next day that is not a Saturday, Sunday or such public or bank holiday.

12. CONFIDENTIALITY

- (a) If, in the supply of the Goods or the performance of the Services or otherwise, the Supplier receives any sensitive or confidential information relating to Atlantic or its business (Confidential Information), the Supplier must not, without Atlantic's prior written consent, disclose to any person the Confidential Information, except to those of its employees that are involved in the supply of the Goods or the performance of the Services and need to know the information, and then only on a strictly confidential basis or unless otherwise required to be disclosed at law. The Supplier must immediately notify Atlantic if it knows of, or suspects, any unauthorised disclosure of the Confidential Information.

- (b) For the purposes of clause 12(a), Confidential Information includes,
 - (i) every enquiry and every order of the Goods and Services;
 - (ii) any information (including data) provided by Atlantic as being confidential; and
 - (iii) the Agreement.

13. PRIVACY AND DATA BREACH

- (a) The Supplier agrees to be bound by applicable privacy and data protection laws with respect to any act done or practice engaged in by Supplier Personnel for the purposes of the Agreement.
- (b) The Supplier must not do anything with Personal Information (as that term is defined in applicable privacy and data protection Laws) that will cause Atlantic to breach any applicable privacy and data protection laws. The Supplier must co-operate with Atlantic to assist in any notification obligation or resolve any complaint inquiry or enquiry made under the any applicable privacy and data protection laws, Including:
 - (i) report any accidental loss or destruction of, or unauthorised disclosure of or access to, Atlantic Personal Information;
 - (ii) to the extent practicable, mitigate any harmful effect of such disclosure or access that is known to the Supplier;
 - (iii) cooperate with Atlantic in providing any notices to individuals or regulators regarding the incident; and
 - (iv) cooperate with any investigation undertaken by any privacy data authority, in consultation with Atlantic.
- (c) The Supplier must:
 - (i) not disclose Atlantic Personal Information without Atlantic's prior written consent, unless the disclosure is required by applicable law and is notified to Atlantic as being disclosed for that reason;
 - (ii) promptly notify Atlantic if it receives a complaint from any individual regarding the way Atlantic Personal Information has been processed and advise Atlantic how it has addressed the complaint; and
 - (iii) provide reasonable assistance to Atlantic to enable Atlantic or another party authorised by Atlantic to audit the Supplier's compliance with this clause 13.
- (d) At any time after expiry or termination of the Agreement, the Supplier must return, destroy, store or dispose of the Supplier Personal Information at its own cost, as directed by Atlantic, unless applicable law requires the Supplier to retain such Personal Information.

14. INTELLECTUAL PROPERTY

- (a) Subject to clause 14(b), all Intellectual Property Rights created by the Supplier in connection with or arising from the Agreement is owned by Atlantic at the time of creation. The Supplier assigns to Atlantic ownership of all Intellectual Property Rights The Supplier further agrees to obtain a waiver of moral rights and similar non-assignable personal rights from the authors or creators of such documents, drawings, maps, characters, images, photographs, artwork, videos, blueprints, calculations, information and instructions in favour of the Supplier and its assignees.
- (b) The Supplier remains owner of any Supplier intellectual Property Rights in existence before the commencement of this Agreement. The Supplier grants Atlantic an irrevocable, royalty free, non-exclusive, fully-assignable, perpetual license to use all Supplier Intellectual Property Rights associated with the Goods and/or the Services and any documentation provided pursuant to the Purchase Order for the installation, use, support, repair, maintenance and alteration of the Goods or other works, that is not otherwise assigned in clause 14(a).
- (c) The Supplier must disclose to Atlantic all of the Intellectual Property Rights created by the Supplier and owned by Atlantic in a format acceptable to Atlantic as soon as it is created.
- (d) The Supplier represents and warrants to Atlantic that if any third party Intellectual Property Rights are used by it in the performance of the supply or by St Barbra in the use or enjoyment of the supply, the Supplier will obtain at no cost to Atlantic all necessary licenses and consents to use such rights.
- (e) For the purposes of this clause 14, Intellectual Property Rights means patents, inventions, copyrights, moral rights, design rights, designs, drawings, specifications, studies,

calculations, work product, technical documents, documentations, recommendations, reports, records, deliverables, sketches, shop drawings, trademarks, and any other intellectual property or proprietary rights, including in computer software, in any country or jurisdiction.

15. TERM AND TERMINATION

- (a) The Agreement will commence on the date that the Supplier receives a Purchase Order from Atlantic, and will remain in force, unless terminated earlier, until the completion of the supply of Goods and Services by Supplier governed by this Agreement.
- (b) If a party materially breaches any provision of the Agreement, including a breach of the clause 24 anti-bribery and anti-corruption obligations, the non-defaulting party may provide notice to the defaulting party setting out the nature of the default and the period in which the default must be rectified (taking into account the nature of the breach).
- (c) If the default is not rectified in the period set out in the default notice or the defaulting party has not otherwise provided reasonable evidence that the default is to be rectified within a reasonable time to the reasonable satisfaction of the non-defaulting party, then the non-defaulting party may, at its option and without prejudice to any of its other rights, terminate the Purchase Order. The Supplier has no claim for the price of Goods and/or Services not delivered or performed at the time of termination or for any other compensation for that termination.
- (d) To the extent permitted by law, if an Insolvency Event occurs in relation to a party, the other party may elect to terminate the Purchase Order and the provisions of clause 15(b) will apply to the termination.
- (e) Atlantic may, at any time and for any reason, terminate a Purchase Order, in part or in whole, by giving the Supplier notice in writing and otherwise on the following basis:
 - (i) Atlantic must pay for any part of the Goods delivered and/or Services provided prior to the termination;
 - (ii) if the Supplier has prior to the termination shipped any Goods which have not been delivered to Atlantic at the time of termination, Atlantic may either accept delivery of those Goods, or return them to the Supplier at Atlantic's expense (and the Supplier has no claim for the price of those Goods or for any compensation for that termination); and
 - (iii) if the Goods are unshipped at the time of termination, the Supplier has no claim for the price of those Goods or for any compensation for that termination, except to the extent that the Goods are manufactured or fabricated to Atlantic's specification or to a specification prepared by the Supplier for Atlantic, and for those Goods:
 - (A) on receiving the notice of termination the Supplier must cease manufacture in accordance with and to the extent specified in the notice and immediately do everything possible to mitigate any costs incurred;
 - (B) Atlantic must pay to the Supplier any expenditure reasonably incurred by the Supplier prior to the date of the termination which is directly attributable to Atlantic's Purchase Order and which the Supplier is not able to recoup in some other way; and
 - (C) title to and property in materials or incomplete Goods passes to Atlantic upon payment and the Supplier must upon Atlantic's demand and at the Supplier's cost deliver to Atlantic any such property and/or incomplete Goods.
- (f) On Atlantic making payment pursuant to clause 15, Atlantic is not liable for any other claims, expenses or costs under the Agreement, general law, equity, statute or otherwise directly related to the termination.

16. SUSPENSION AND FORCE MAJEURE

- (a) Atlantic may immediately suspend the performance of any or all Services or supply of Goods at any time for any reason by giving written notice to the Supplier.

- (b) If Atlantic suspends any of the Services or supply of Goods under this clause, Atlantic may at any time give the Supplier a written notice to resume performing the suspended Services or supply of Goods. The Supplier must resume performing the relevant Services or provide the relevant Goods as soon as practicable after the date of such notice.
- (c) Atlantic and the Supplier must agree in good faith as to whether any additional fees are payable to the Supplier for the suspension, where the Supplier must mitigate its exposure to such additional fees wherever possible. The Supplier is not entitled to any additional fees if the suspension is caused by the Supplier's act, omission or breach.
- (d) Where a party is unable, wholly or in part, by reason of a Force Majeure Event, to carry out any obligations under the Agreement and that party:
 - (i) gives the other party prompt notice and reasonable particulars of that Force Majeure Event, including specifying the obligations unable to be performed, estimate the delay arising from the Force Majeure Event and specify any proposed measures to be taken by the relevant party to mitigate or remedy the Force Majeure Event;
 - (ii) uses all possible diligence to remove and mitigate the effect of the Force Majeure Event; and
 - (iii) has not caused or contributed to the Force Majeure Event,then that obligation is suspended so far as it is affected by that Force Majeure.
- (e) Unless otherwise expressly stated in the Agreement, the Supplier has no entitlement to any costs (including delay costs), losses, expenses, damages or the payment of any part of the Price during a Force Majeure Event or any delay costs as a result of a Force Majeure Event.
- (f) Either party may elect to terminate by providing written notice to the other party if the Force Majeure Event exceeds 30 continuous days.

17. GOVERNING LAW

The Agreement is governed by the laws of British Columbia and the laws of Canada applicable in British Columbia, and the Parties submit to the jurisdiction of the courts in that jurisdiction and any court that may hear appeals from any of those courts.

18. SURVIVAL

This clause 18 and the obligations of the Supplier under clauses 7 (Defect or Failure to Supply), 8 (Supplier's Warranties), 9 (Indemnity and liability), 12 (Confidentiality), 13 (Privacy and Data Breach) and 14 (Intellectual Property) will be of a continuing nature and survive the termination or expiration of the Agreement.

19. DISPUTES

- (a) If any dispute arises in connection with the Agreement which cannot be settled amicably between Atlantic and the Supplier, either party may give written notice of the dispute to the other party.
- (b) Within 14 days after service of a notice of dispute in clause 19(a), a general manager or equivalent or higher position of Atlantic and the Supplier (**Senior Managers**) must meet and endeavour to resolve the dispute and failing resolution of the dispute to explore and if possible agree on methods of resolving the dispute by other means. The Senior Managers are to determine their own procedures for meeting. Any decision of the Senior Managers is binding on the parties.
- (c) If the dispute has not been resolved within 30 days of giving written notice of the dispute in clause 19(a) (or such additional period the parties agree in writing), or if at any time either party considers that the other party is not making reasonable efforts to resolve the dispute, either party may take any action necessary to have the dispute determined, including by litigation.
- (d) Notwithstanding clause 19(a) and clause 19(b), the Supplier must continue to supply the Goods and/or provide the Services and in doing so must comply with all directions of Atlantic (unless the direction involves the subject matter of the dispute or difference in respect of which notice has been given pursuant to this clause 19).

20. GENERAL

- (a) Each party must promptly, at its own cost, do all things (including executing all documents) necessary or desirable to give full effect to the Agreement.
- (b) If anything in the Agreement is unenforceable, illegal or void then that part of the Agreement will be severed to the extent necessary to remove the offending provision and the remaining part of the Agreement will remain in force.
- (c) The Agreement contains the entire agreement and understanding between the parties on everything connected with the subject matter of the Agreement and supersedes any prior agreement or understanding on anything connected with that subject matter.
- (d) Each party has entered into the Agreement without relying on any representation by any other party or any person purporting to represent that party.
- (e) A party's failure to exercise or delay in exercising a power, right or remedy does not constitute an election to waive that power, right or remedy. An election to waive must be in writing, signed by the relevant party.
- (f) A notice or other communication connected with the Agreement has no legal effect unless it is in writing, signed and delivered to the other party at its address set out on the Purchase Order, or otherwise notified in writing by the relevant party, or sent by email as nominated in the Purchase Order or otherwise notified in writing by the relevant party. If it is sent by mail, it is taken to have been received 3 working days after it is posted. If sent by email, on receiving a delivery confirmation report or unless the sender receives a return email notification that the email was not delivered, undeliverable or similar, at the time which is 12 hours from the time the email was sent. If the delivery, receipt or transmission is after 5.00pm, the notice is taken to be received at 9.00am on the next day.
- (g) The Supplier is not an employee, agent or representative of Atlantic and has no authority to act on Atlantic's behalf and has entered into this Agreement as an independent contractor of Atlantic.
- (h) Subject to clause 20(i), neither party may assign its rights in the Agreement without the prior written consent of the other party.
- (i) Atlantic may assign its rights under the Agreement to a third party providing that third party has the financial capability to meet the obligations under the Agreement.
- (j) The Agreement may only be amended, supplemented, replaced or novated by another document signed by Atlantic and the Supplier.

21. SET OFF

Any amount payable by the Supplier to Atlantic or any amount to be borne by the Supplier in connection with the Agreement may be set off by Atlantic against any amount owing by Atlantic to the Supplier under the Agreement, and Atlantic may recover any net amount as a debt due to Atlantic.

22. CUSTOMS AND EXCISE DUTIES

- (a) Where Atlantic elects to acquire Goods and/or Services and the Supplier is the importer of record, the Supplier will:
 - (i) be responsible for, and remit payment of all Customs Duties assessed by or payable to any Government Agency as well as any other foreign shipping charges; and
 - (ii) use its best efforts to ensure that any Goods and/or Services are imported free of Customs Duties including, without limit, through the use of applicable bilateral free trade agreements (or the equivalent).
- (b) The Supplier will, at Atlantic's request, provide Atlantic with all information and documentation necessary for Atlantic to make or assess the Supplier's entitlement to make, in accordance with any applicable laws, applications or certifications for:
 - (i) a drawback, refund, rebate, remission or other reduction of Customs Duties or Excise Duties; and
 - (ii) Customs Duties or Excise Duties concessions, including, without limit, exemptions, reductions, duty-free access and preferential rates of duty available under bilateral free trade agreements (or the equivalent).
- (c) The Supplier must make any application or certification requested by Atlantic in a form that is satisfactory to Atlantic. Where any such application or certification is

successful, the Supplier will pass on to Atlantic the full economic benefit of the exemption, reduction, concession, drawback, refund, rebate or remission of Customs Duty or Excise Duty, as appropriate, by way of a reduction in the Price. This clause applies regardless of the shipping, insurance or freight terms used.

23. WITHHOLDING TAX

- (a) If Atlantic is required by any applicable law to make a deduction or withholding from a payment to the Supplier for or on account of any Taxes, Atlantic is entitled to make that deduction or withholding unless the Supplier provides Atlantic with valid documentation (received prior to the date when the payment is to be made) showing to the satisfaction of Atlantic that an exemption applies. If Atlantic is required by law to deduct or withhold, then Atlantic shall use its best efforts to furnish the Supplier with all receipts, proof of payment and other relevant documentation for all deductions and withholding Taxes so paid to the relevant Government Agency. For the avoidance of doubt, Atlantic will not be liable to pay any amount to the Supplier on account of an amount deducted or withheld in accordance with this clause.
- (b) Where a payment is made without a deduction or withholding for or on account of Taxes and such a deduction or withholding was required by any applicable law, the Supplier shall reimburse Atlantic for, or otherwise pay to Atlantic, the amount that should have been withheld or deducted within 14 days of receiving an official receipt (or certified copy) or other documentation evidencing the amount that was required to have been withheld or deducted.
- (c) For the purposes of this clause 23 "Taxes" means, unless the contrary intention is expressed, any and all taxes, including, without limitation, GST/PST, excise, stamp duty, withholding, income, payroll, interest equalisation, capital gains or other taxes, fees, withholdings, imposts, levies, duties or other charges of any nature whatsoever together with any penalties, fines or interest thereon imposed by any Government Agency or otherwise payable.

24. ANTI-BRIBERY AND ANTI-CORRUPTION

The Supplier must, in performing the Agreement, comply with any anti-bribery and corruption laws that are applicable to Atlantic, the Supplier, the Agreement or the jurisdictions in which the Agreement is performed, including the Canadian *Corruption of Foreign Public Officials Act*, the Canadian *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, the *Criminal Code of Canada*, the US *Foreign Corrupt Practices Act*, the UK *Bribery Act 2010* and the Australian *Criminal Code Act 1995 (Cth) (ABAC Legislation)* and must not do any act prohibited by the ABAC Legislation, give or offer to give, receive, or agree to accept, any payment, gift, benefit or other advantage which is given with the intention of inducing the recipient to act improperly, offer, promise or pay facilitation payments or any other act which is otherwise inconsistent with Atlantic's Policies and Procedures.