

GENERAL CONDITIONS OF PURCHASE

1. Formation and content of the Contract

1.1. The following terms shall have the meaning defined herein:

- ALSTOM: ALSTOM Transport Canada Inc.
- Seller: the person so described in the order
- Party: ALSTOM or the Seller, together the Parties
- Contract: the contract for the sale and purchase of the goods and/or the supply and acquisition of the services. All purchase orders are subject to acceptance by the Seller of these conditions.
- Work: good(s) and/or service(s) to be delivered by Seller to ALSTOM under the Contract as detailed under Article 2.
- Delivery Date: date the Work is due to be actually delivered in accordance with Article 17 below.

1.2. The Contract shall consist of and the order of precedence shall be:

- the order including the Special Conditions of Purchase
- these General Conditions of Purchase
- the technical specifications referred to on the order
- other documents incorporated by reference into this Contract.

1.3. Commencement of design, manufacture, shipment, delivery, invoicing or supply of the goods or services implies acceptance of the order by the Seller under these General Conditions of Purchase.

1.4. No terms or conditions or exceptions or clarifications stated by Seller verbally, or in its proposal, or in accepting or acknowledging the Contract or the order shall be binding unless expressly incorporated herein in writing by ALSTOM.

2. Scope of supply

In strict accordance with the Contract, Seller shall furnish all labor, materials, equipment, tools, supplies, services, permits, certifications, documentation and all other things, free of liens or other adverse lien against title, and necessary to perform its scope of work for the Contract.

3. Flow down

Where the Contract is for the furnishing or performance of a portion of the work under a prime contract between ALSTOM and a customer and such prime contract is identified in the order, the prime contract is specifically incorporated herein as part of the Contract, and the Work shall be performed in accordance therewith, to the extent applicable to the Contract. In such case, the term "ALSTOM" shall be deemed to represent ALSTOM and its customer, and the Seller acknowledges to have full knowledge of the terms and conditions of the prime contract.

4. Representations

4.1. Seller warrants and represents that it has examined the documents forming the Contract and the requirements of the various governmental agencies having jurisdiction, and is fully familiar with same and from its own investigations has satisfied itself as to the nature and location of the Work, the general and local conditions, and all matters which may in any way affect the Work or its performance.

4.2. Seller acknowledges that no representations as to the Work have been made by ALSTOM or by any one on its behalf, except as are expressly set forth in the Contract.

5. Contract price

5.1. ALSTOM shall pay Seller the price(s) indicated in the order for the satisfactory performance and completion of the Contract.

5.2. Unless otherwise stated in the Contract, the Contract price(s) shall not include any price increase or escalation for the duration of the Contract and shall include, without exception, all expenses related to the performance of the Work.

5.3. Unless otherwise stated in the Contract, the payment of sums due to the Seller shall be made in CAD Dollars. Payment of the invoices issued by the Seller in conformity with the Contract shall be made by ALSTOM within sixty (60) days of the acceptance of the Work, per Article 17, to ALSTOM or the reception of Seller's invoice, whichever comes last.

6. Retention

ALSTOM shall withhold ten percent (10 %) from the value of the Contract price as retention money. The retention of 10 % shall be released to the Seller upon completion of all of the Seller's obligations under the Contract, and provided that ALSTOM did not withhold or set off any amount of the Contract price.

7. Seller personnel

All Seller personnel shall be qualified and capable of meeting industry standards of workmanship and performance to fulfill the requirements hereunder. ALSTOM may request the replacement of any of Seller's personnel at no additional cost to ALSTOM.

8. Taxes

Seller shall be responsible for the payment of all taxes, duties, levies and charges of whatsoever nature or kind in respect of the performance of the Work. Seller shall pay and hold ALSTOM harmless from any such taxes (including penalties and interest) of any taxing jurisdiction which Seller is required to pay.

9. Insurance

Seller shall procure in its name and maintain at its expense from insurance companies satisfactory to ALSTOM, Commercial General Liability, including products and completed operations coverage for a minimum of two (2) years following completion of the work or services performed under the Contract and Professional Liability insurance where relevant, each with a minimum amount of five million (\$5,000,000.00) CAD dollars per event, as well as Worker's Compensation insurance as per statute, including Employer's Liability insurance with a minimum limit of one million (\$1,000,000.00) CAD dollars per accident. Seller shall not permit any policy furnished hereunder to expire or be cancelled before all obligations under the Contract have been fulfilled and final completion and acceptance by ALSTOM's customer has occurred. Seller shall add and maintain ALSTOM as an additional insured on each such policy, except for Worker's Compensation and where applicable Professional Liability. All such policies shall provide for a waiver of subrogation in favor of ALSTOM.

10. Proprietary and confidential data

10.1. The Seller agrees to keep confidential all documents, patterns, plans, drawings, specifications, information, data and the like communicated to the Seller by ALSTOM, and such other information as to the businesses of ALSTOM as may be supplied by ALSTOM to the Seller that is not generally ascertainable from public or published information or trade sources, which the Seller might become aware of in the course of the performance of the Contract or is created by Seller in the performance of the Work.

10.2. The provisions of this article shall remain effective during the performance of the Contract and until the expiry of five (5) years after completion (including the warranty obligation period), cancellation or termination of the Contract.

11. Intellectual property rights

11.1. The Seller warrants and represents to ALSTOM that the sale or use of the Work does not infringe any Intellectual Property Right of any third party. Seller agrees that ALSTOM shall be the owner of all designs, technologies, creative ideas, discoveries, inventions, and improvements, whether or not patentable, conceived, developed and/or reduced to practice as a result or in connection with the performance of the Contract by or on behalf of the Seller, all of which shall be the property of ALSTOM as mutually agreed upon.

11.2. Seller hereby grants to ALSTOM and ALSTOM's customers a non-exclusive, royalty-free, perpetual, irrevocable, paid-up license throughout the world to use, integrate in ALSTOM's or ALSTOM's customers' products any software or any Seller copyrighted material developed by Seller independently from the Contract.

11.3. Seller agrees to indemnify and to save ALSTOM, its officers, agents, employees, and vendees harmless from any and all loss, expense, damage, liability, claim or demand either at law or in equity for actual or alleged infringement of any patent invention, design, trademark, or copyright arising from the purchase, use or sale of materials or articles required by the Contract, except where such infringement or alleged infringement arises by reason of designs for such materials or articles originally furnished to Seller by ALSTOM.

12. Publicity

Seller shall not publish photographs or articles, give press releases or make speeches about or otherwise publicize the existence or scope of or any information or details about the Contract, Prime Contract or Project without first obtaining the written consent of ALSTOM.

13. ALSTOM's Property

All tools, equipment or material of every description furnished to Seller by ALSTOM or paid for by ALSTOM, and any replacement thereof, or any materials affixed thereto ("ALSTOM's Property"), shall be and remain the personal property of ALSTOM. Seller shall not substitute any property for ALSTOM's Property and shall not use such property for any other purpose than the performance of the Work or as otherwise instructed by ALSTOM. Such ALSTOM's Property, while in Seller's custody or control, shall be held at Seller's risk and shall be kept insured by Seller at Seller's expense in an amount equal to the replacement cost with loss payable to ALSTOM. Data, drawings, tooling, patterns, materials, specifications, and any other goods or information supplied to Seller under the Contract are the property of ALSTOM and must be returned upon completion, termination or cancellation of the Contract or upon request of ALSTOM.

14. Liability for damages and personal injury

14.1. Seller hereby assumes responsibility and liability for any and all bodily injury (including death) to all persons, whether employees of Seller or otherwise, and damage to all property, to the extent such damage or injury is caused by, results from, arises out of, or occurs in connection with Seller's execution of the Work.

14.2. Seller shall defend, indemnify and save harmless ALSTOM from and against any and all claims, damages, losses, liabilities, injuries, costs and expenses (including reasonable attorneys' fees and disbursements) arising out of or resulting from Seller's execution of or failure to execute the Work hereunder to the extent any such claim, damage, loss, liability, injury, cost and expense is caused by any act or omission, including negligence, of Seller or anyone directly or indirectly employed by Seller or anyone for whose acts Seller may be liable for.

14.3. Notwithstanding any other provision in the Contract to the contrary, ALSTOM shall under no circumstances, be liable to the Seller for any indirect, incidental, special or

consequential damages (including, without limitation, any damages arising from loss of use or lost business, revenue, profits, data or goodwill) arising in connection with the Contract, whether in an action in contract, tort, strict liability or negligence, even if advised of the possibility of such damages.

15. Compliance with law

Seller shall, at its sole cost and expense, comply with all Federal, State, Provincial, municipal and local laws, ordinances, rules, regulations, orders, notices and requirements, and be responsible for and shall correct at its sole expense any violation of any law, ordinance, rule, regulation, order, notice or requirement resulting from or in connection with the performance of the Work. If the Seller performs Work at ALSTOM's or the customer's premises, it shall comply with all environmental, health and safety regulations as ALSTOM or the customer may require.

16. Delivery, Packing and Shipping

16.1 Delivery – Time is essence, it is essential that the Work be delivered within or at the time stated in the Contract. Deliveries shall be made FOB shipping point. The delivery schedules for the Work are based on satisfactory results of prototypes per ALSTOM's sole decision and ALSTOM's current production plan. All deliveries shall be subject to ALSTOM's incoming inspection and acceptance. ALSTOM shall reserve scheduling flexibility to adjust delivery schedules quarterly with a thirty (30) days advance notice. It shall also be understood that unforeseen and unavoidable interruptions to ALSTOM's work program may require the Seller to delay deliveries accordingly. ALSTOM shall not be penalized for delays or invoiced for delayed deliveries. Seller shall immediately notify ALSTOM of any changes or conditions, which may affect required delivery dates.

16.2 Packing and Shipping -

16.2.1 Unauthorized over shipments and quality rejected materials will be returned to Seller at the Seller's risk and expense. The method of shipment shall be designated by or approved by ALSTOM. If Seller would like to use a method of shipment different than the Seller's freight routing instructions, Seller shall contact ALSTOM's Traffic Manager to obtain instructions or approval prior to the first shipment.

16.2.2 If Seller deliveries fall behind schedule, resulting in use of premium cost transportation, the Seller shall pay all the added cost for that premium transportation.

16.2.3 ALSTOM purchase order number, proper line item number, and part number will be provided on all packing lists and invoices. Prior to the first delivery, a sample invoice and packing slip shall be submitted for ALSTOM approval if requested. Lack of such detail will lead to payment delays.

16.2.4 A notice of shipment (sent by facsimile or email) shall be sent by Seller to ALSTOM on each day that any part or material is shipped to ALSTOM, stating the Purchase Order Number, the type of the material, quantity of each material, Seller's part number for each item, item description, number of cartons/containers in the shipment, the name of the shipper, bill of lading or other shipper's documentation. All cartons/containers must be marked/tagged with the Purchase Order Number. Lack of such detail will lead to payment delays. ALSTOM's count will exclude all shipments not accompanied by a packing list.

16.2.5 Seller shall pay any and all charges associated with the packing, crating, loading and shipment of items or material. Seller shall:

- a). Pack and/or crate, and mark the shipment to comply with the requirements of the Purchase Order. Crates and boxes shall be marked with the linear dimensions of the crate or box and the weight, in industrial customary units or in both industrial customary units and in metric units, of the crate or box. Lifting points or dragging points shall be identified. Any special handling instructions shall be provided in the English language, either labelled on the crate or box, or in a clearly identified pouch, which can be opened without opening the crate or box. In the case of a pouch being used, attention to its existence and location shall be called out on all external surfaces of the crate or box.
- b). Pack items of materials constituting all or part of the Work under a Purchase Order. All packages containing items of materials constituting a complete Purchase Order shall be palletized.
- c). Contract with a reputable carrier to handle shipment of the Work.
- d). Deliver the shipment in good order and condition to the carrier, and load, stow, trim, block, and/or brace carload or truckload shipment (when loaded by Seller or its agent) on or in the carrier's conveyance as required by carrier rules and regulations;
- e). Responsible for any loss of and/or damage to any items of Work:
 - (i) Occurring before the passage of title to ALSTOM; FOB shipping point.
 - (ii) Resulting from improper packing and marking; or
 - (iii) Resulting from improper loading, stowing, trimming, blocking, and/or bracing of the shipment, if loaded by Seller or its agent on or in the carrier's conveyance;
- f). Prepare a commercial "Bill of Lading" in accordance with applicable regulations. Obtain appropriate carrier signatures and forward the original Bill of Lading with the shipment. Provide a copy of it to ALSTOM with the notice of shipment as defined in Article 16.2.4.
- g). Ensure that all shipments are routed "Prepaid" and FOB Shipping Point and that subsequent freight bills are forwarded to Seller for payment and not to ALSTOM.
- h). Take reasonable suitable means to insure that parts furnished will be treated, by suitable means, against rusting or oxidizing or other degradation of parts. ALSTOM will pay no charges for packing, crating, or cartage unless stated on order.

17. Inspection and quality

17.1. ALSTOM and its customer shall have the right to visit and inspect any part of the Work either at Seller's facility or Seller's supplier's facilities. Seller shall perform in-process and final inspection and testing to ensure that the Work conforms to the specifications and quality standards required. ALSTOM reserves the right to witness any testing and Seller agrees to keep and make available to ALSTOM upon request, adequate quality records which clearly demonstrate the Seller's inspection of the Work prior to source inspection. Performance of source inspection at Seller's facility does not waive the rights of ALSTOM under this article or any other article herein. The Work will be deemed accepted by ALSTOM thirty (30) days after date of delivery, unless ALSTOM issues a rejection notice of the Work anytime between the date of delivery and the end of the warranty period. In such case, Seller shall grant to ALSTOM a credit for the full value of any Work rejected in accordance with Article 22 Backcharge. The Seller agrees to compensate ALSTOM for all costs incurred, including a minimum five hundred CAD dollar (\$500) administrative fee, for extended source inspection related to Seller's quality issues. Extended source inspection includes, but is not limited to, any extended source inspection greater than or equal to four (4) consecutive calendar days during any single source inspection visit or permanent relocation of ALSTOM personnel to the Seller's facility.

17.2. The Seller shall maintain a quality control system compliant with the requirements of ISO9000:2000 or AAR M1003 and will provide ALSTOM with factual evidence of its effectiveness upon request.

18. Liquidated damages

18.1. If the Seller does not achieve delivery and/or installation of the goods and/or completion of the services within the dates specified in the Contract, save for reasons exclusively attributable to ALSTOM or force majeure events as defined under Article 21.1 below, ALSTOM may apply liquidated damages for compensation for delay, without any prior notice. Seller agrees that the liquidated damages are not penalties, but are a reasonable attempt to establish an agreed measure of damages for delay that would be difficult or impossible to ascertain.

18.2. Unless otherwise stipulated in the order, liquidated damages, applicable in the event of a delay of the Seller, shall be calculated at the rate of one percent (1%) of the Contract price as defined under Article 5 hereof, excluding taxes, per week of delay or part thereof.

19. Warranty

19.1. Seller warrants that the goods shall be new, and of the specified quality, free from faults and defects in material, workmanship and design, and in conformity with the Contract requirements. The compliance of the Work with the Contract documentation is a condition substantial of the Contract.

19.2. The Seller shall, at ALSTOM's sole discretion, replace or repair any good or component part thereof found not to be in conformity with the preceding paragraph, and any other components or parts that may have been damaged by such nonconformity, provided that ALSTOM notifies the Seller of such non-conformity within forty-eight (48) months after delivery. Should Seller not respond within twenty four (24) hours of notice, unless otherwise indicated in ALSTOM's notification, ALSTOM shall repair, scrap or replace the good(s) and debit Seller's account in accordance with Article 22, Backcharge. When return, correction, or replacement is required, transportation charges and responsibility for the supplies in transit shall be borne by the Seller.

19.3. In addition and at any time, the if goods used under normal operating conditions suffer from an excessive level of similar defects as decided by ALSTOM, Seller shall promptly and at its expense (a) diagnose the source of the failures, (b) correct all defects or non-conformities which are the source of such failures, (c) provide ALSTOM with a summary of such diagnostic and correction activities, and (d) in accordance with ALSTOM's correction plan, repair or replace all affected goods with fully conforming goods.

19.4. For Work that has been replaced or repaired in accordance with Article 19.2 or 19.3, either by ALSTOM or by Seller, the period shall restart for twenty four (24) months when ALSTOM receives the replaced or repaired Work.

19.5. Seller shall defend, indemnify and hold ALSTOM harmless from the consequences of any breach of the warranty provided by this Article, which shall not be to the exclusion of any other remedy provided to ALSTOM by the Contract or at law.

20. Change orders, additions and deletions

20.1. ALSTOM may, at any time during the performance of the Work, require in writing any change to the Work, without obligation to give notice to any surety. Seller shall execute the change to the Work as directed in writing by ALSTOM. With the exception of schedule changes in accordance with Article 16, Seller shall be entitled to an equitable adjustment in the Contract price and/or schedule for the costs and/or time caused by the directed change, provided a request for an equitable adjustment by Seller was made within fifteen (15) days after the issuance of the directed change by ALSTOM.

20.2. The value of any change to the Work that will result in an addition to or deletion from the Contract price shall be determined and applied in accordance with the Contract, where applicable.

21. Delays and remedies

21.1. If the performance of an obligation hereof is prevented, restricted or delayed by a case of force majeure, such as any act of God, or the public enemy, any delay in acting, or failure to act of any governmental agency, or authority, or fire, flood, epidemic, quarantine, freight embargo, war, insurrection or riot, such performance shall be amended accordingly, providing the Party affected by an event of force majeure shall promptly inform the other Party in writing and shall take all reasonable steps to mitigate the consequences of such

situation, in particular to avoid or limit any delay in the delivery of the goods and the performance of the services.

21.2. Whenever any actual or potential labor dispute delays or threatens to delay the timely performance of the Contract, Seller shall immediately give notice to ALSTOM.

22. Backcharge

Without waiving any of its rights under Articles 25 & 26 hereof, ALSTOM shall be entitled to recover from the Seller any and all costs incurred by ALSTOM, which shall include a minimum administrative fee not less than five hundred CAD dollars (\$500) per occurrence to (i) perform corrective action on the Work, and/or (ii) provide such services as are necessary to complete the Work in the event the Seller is unable or unwilling to complete or fails to complete the Work in an acceptable and timely manner. In such case, the provisions of Article 27.2 (ii) shall apply.

23. Withholding and set-off of payment

23.1. ALSTOM shall have the right at any time to set-off, and/or withhold against Seller from any payment then due or thereafter to become due an amount which it reasonably deems sufficient to compensate ALSTOM for and indemnify it against any and all losses, liability, damages, costs and expenses, including legal fees and disbursements, which may be sustained or incurred by it based on Seller's failure to meet the Contract requirements.

23.2. If the amount retained together with the balance due under the Contract is insufficient to discharge Seller's obligation above, Seller shall be liable for the difference and pay the same to ALSTOM upon demand.

24. Suspension of Work

ALSTOM may at any time and for whatever cause order the temporary suspension of the Work to be performed hereunder or deliveries for up to ninety (90) days. During a temporary suspension, only finished Work that conforms to the types and quantities specified in the Firm Schedule as set forth in Article 17 hereto, and that otherwise is compliant with the Contract, shall be delivered to and accepted by ALSTOM. The Work shall be resumed by the Seller within ten (10) days after Seller's receipt of ALSTOM's written notice to recommence the Work.

25. Termination for default

25.1. ALSTOM may terminate the Contract in whole or in part at any time if (i) Seller is in default of its obligation under the Contract, and does not cure the default or submit a plan reasonably acceptable to ALSTOM to cure such default within ten (10) days from the receipt of the notice given to it by ALSTOM or (ii) Seller becomes insolvent or is adjudicated as bankrupt or goes into liquidation or dissolution, either voluntarily or involuntarily or under a court order, or makes a general assignment for the benefit of creditors, or otherwise acknowledges insolvency.

25.2. In the event of termination under Article 25.1, ALSTOM may (i) terminate the Contract for all or any portion of the Work, or (ii) perform the Work or subcontract the Work to a third party or third parties and deduct the cost thereof from any moneys due or to become due to Seller hereunder.

25.3. In the event ALSTOM wrongfully terminates the Seller for default, such termination shall be deemed a termination for convenience and Seller shall be compensated in accordance with Article 26 herein.

26. Termination for convenience

26.1. ALSTOM may terminate the Contract in whole or in part at any time for its convenience by giving written notice thereof to Seller. Upon receipt of such notice of termination, Seller shall immediately stop all Work on the affected portions of the Contract and order any affected suppliers to stop work, it being specifically understood that the Seller has an express duty to mitigate its costs associated with such termination. ALSTOM shall not be responsible for any work or costs after the notice of termination.

26.2. In the event of termination for convenience, provided Seller is in compliance with its obligations under the Contract and provided that the total sum payable upon termination shall not exceed the Contract price reduced by payments previously made, ALSTOM shall:

(a) Reimburse Seller for all actual expenditures and costs incurred in the performance of the Contract and approved by ALSTOM;

(b) Reimburse Seller for reasonable termination costs, approved by ALSTOM. Termination costs shall not include profit on work not performed.

The Seller shall hold partially completed work or raw material included in the Seller's costs for disposition in accordance with ALSTOM's instructions.

27. Disputes, claims and controversies

27.1. In the event that the dispute is not resolved amicably by the Parties, it shall then be submitted to arbitration in accordance with the provisions of the Arbitration Act, 1991 (Ontario). The language of such arbitration shall be English. The award shall be final and binding upon the Parties hereto, and judgment on the award rendered by the arbitrator or arbitrators may be entered in any Court having jurisdiction thereof. Each Party shall bear its own costs in connection with the preparation and presentation of such arbitration. Costs of the proceedings shall be assessed against the non-prevailing Party as determined by the arbiter.

27.2. Seller shall proceed diligently with the performance of the Work during the pendency of any dispute and in accordance with any determinations by ALSTOM.

27.3. Application to the Contract of the United Nations Convention on contracts for the international sale of goods, signed in Vienna in 1980 is expressly excluded.

28. Transfer of title- transfer of risks

28.1. Notwithstanding any other provision, the ownership of the Goods and/or result of the Services shall be transferred to ALSTOM upon their actual delivery to ALSTOM or to any other place agreed between the parties. This transfer of ownership does not constitute acceptance by ALSTOM of the Work or any part of the Work and does not relieve the Seller of its obligation to perform the Work in accordance with the Contract.

28.2. The risks relating to the Goods and/or Services shall, however, be transferred to ALSTOM (i) upon the date of their acceptance if this is performed on the ALSTOM's premises in accordance with the provisions of Article 14 or (ii) if not, on the date of delivery to ALSTOM Site.

29. Export Control Compliance

ALSTOM complies with all laws, applicable sanctions and embargo regulations. ALSTOM's employees and its subsidiaries are prohibited from (a) participating in any transaction or activity prohibited by a sanction or embargo and (b) facilitating or assisting any company (including foreign companies) with transactions in which Seller itself could not participate directly.

30. Governing law

The Contract shall be governed by and construed and enforced in accordance with the laws of the Laws of Ontario, Canada without regard to choice of law or conflicts of law.

31. Assignment

Neither the Contract nor any rights or obligations hereunder shall be assignable or otherwise transferable by the Seller in whole or in part without receiving prior written consent of ALSTOM.

32. Amendment

Any amendment to the Contract shall only be valid and binding upon the Parties if concluded in writing and signed by an authorised representative of each of the Parties and formally expressed as constituting an amendment hereto.

33. Waiver

No failure of delay on the part of any Party to exercise, and no delay in exercising, any of its rights hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by any Party of any right preclude any future exercise thereof or the exercise of any other right.

34. Notices

All notices under this agreement will be in writing and will be deemed given when:

- (a) delivered personally;
- (b) sent by confirmed facsimile;
- (c) sent by electronic mail that can be confirmed as having been received;
- (d) five (5) days after having been sent by registered or certified mail, return receipt requested; or
- (e) one (1) day after deposit with a commercial overnight carrier specifying next day delivery, with written verification of receipt.

All communications to us should be sent to the address indicated on the order. All communications to Seller will be sent to the address specified on order, or to such other address as may be designated by either Party by written notice to the other Party.