

STANDARD TERMS AND CONDITIONS OF PURCHASE—United States

1. Agreement Terms

The purchase order, together with these terms and conditions, and any attachments and exhibits, specifications, drawings, notes, instructions, and other information, whether physically attached or incorporated by reference (collectively the "Purchase Order"), constitutes the entire and exclusive agreement between TNL USA Inc, (TNL) and the supplier (the "Supplier") identified in the Purchase Order. TNL's submission of the Purchase Order is conditioned on Supplier's agreement that any terms different from or in addition to the terms of the Purchase Order, whether communicated orally or contained in any purchase order confirmation, invoice, acknowledgement, release, acceptance, or other written correspondence, irrespective of the timing, shall not form a part of the Purchase Order, even if Supplier purports to condition its acceptance of the Purchase Order on TNL's agreement to such different or additional terms. Supplier's electronic acceptance, acknowledgement of this Purchase Order, or commencement of performance constitutes Supplier's acceptance of these terms and conditions. Notwithstanding the foregoing, if a master agreement covering procurement of the Work described in the Purchase Order exists between Supplier and TNL, the terms of such master agreement shall prevail over any inconsistent terms herein.

2. Definitions

- 2.1 "Deliverables" means the deliverables specified in the Purchase Order (and any Statement of Work) to be delivered on or before the Delivery Date.
- 2.2 "Delivery Date" means the date or dates specified in the Purchase Order by which the Supplier is required to deliver the Work.
- 2.3 "Harmful Code" means any software intentionally designed to (i) disrupt, disable, harm, or impede operation; or (ii) impair operation based on the lapse of time, including but not limited to viruses, worms, time bombs, time locks, drop-dead devices, access codes, security keys, back doors, or trap door devices.
- 2.4 "Intellectual Property Rights" means any and all tangible and intangible: (i) copyrights and other rights associated with works of authorship throughout the world, including but not limited to copyrights, neighboring rights, moral rights, and mask works, and all derivative works thereof; (ii) trademark and trade name rights and similar rights; (iii) trade secret rights; (iv) patents, designs, algorithms, utility models, and other industrial property rights, and all improvements thereto; (v) all other intellectual and industrial property rights (of every kind and nature throughout the world and however designated) whether arising by operation of law, contract,



license, or otherwise; and (vi) all registrations, applications, renewals, extensions, continuations, divisions, or reissues thereof now or hereafter in force (including any rights in any of the foregoing).

- 2.5 "Preexisting Materials" means any Intellectual Property Rights or tangible personal property of Supplier or TNL created before the date of this Purchase Order or outside the scope of this Purchase Order.
- 2.6 "Products" means tangible goods specified in the Purchase Order to be delivered on or before the Delivery Date.
- 2.7 "Services" means the services that Supplier is to perform for TNL specified in the Purchase Order.
- 2.8 "Statement of Work" or "SOW" means the document specifying, without limitation, the scope, objective, and time frame of the Work that Supplier will perform for TNL.
- 2.9 "Subcontractor" means a third party performing Work under an agreement (a "Subcontract") with Supplier.
- 2.10 "Supplier Personnel" means Supplier's employees, consultants, agents, independent contractors, and Subcontractors.
- 2.11 "Third Party Intellectual Property" means the Intellectual Property Rights of a third party which Supplier uses or incorporates into the Work.
- 2.12 "Work" means the Deliverables, Products, and Services specified in the Purchase Order, including any SOW.

3. Delivery

- 3.1 Time is of the essence in Supplier's performance of its obligations under Section 3 of the Purchase Order. Supplier will immediately notify TNL if Supplier's timely performance under the Purchase Order is delayed or is likely to be delayed. TNL's acceptance of Supplier's notice will not constitute TNL's waiver of any of Supplier's obligations.
- 3.2 If Supplier delivers Work after the Delivery Date, TNL may reject such Work.
- 3.3 TNL will hold any Work rejected under this Purchase Order at Supplier's risk and expense, including storage charges, while awaiting Supplier's return shipping instructions. Supplier will bear all return shipping charges, including without limitation, insurance charges TNL incurs on Supplier's behalf. TNL may, in its sole discretion, destroy or sell at a public or private sale any rejected Work for which



TNL does not receive return shipping instructions within a reasonable time, and apply the proceeds, if any, first toward any storage charges.

- 3.4 Supplier will preserve, pack, package, and handle the Deliverables and Products so as to protect the Deliverables and Products from loss or damage and in accordance with best commercial practices in the absence of any specifications TNL may provide. Without limiting the foregoing, Supplier shall observe the requirements of any local laws and regulations relating to hazardous work, including, without limitation, with respect to its accompanying information, packing, labeling, reporting, carriage, and disposal.
- 3.5 Supplier will include with each delivery of Products a packing list identifying the Purchase Order number, the TNL part number for each of the Products (if applicable), a description and the quantity of each of the Products, and the date of shipment.
- 3.6 Unless TNL expressly instructs otherwise, Supplier will deliver all Work to TNL's plant at the address set forth in the Purchase Order. Seller assumes responsibility for all shipping and delivery charges including, without limitation, customs, duties, costs, taxes, and insurance. Risk of loss for the Deliverables and Products does not pass to TNL until acceptance in accordance with Section 6.

4. Price and Payment

- 4.1 Unless otherwise specified in the Purchase Order, the price for the Work includes all taxes and other charges such as shipping and delivery charges, duties, customs, tariffs, imposts, and government-imposed surcharges. Supplier will, at TNL's request, break-out from the price all such taxes and other charges, in its invoices. Supplier shall use its best efforts to assist TNL in all legal efforts to minimize the taxes resulting from the performance of this Purchase Order.



- 4.2 TNL will pay Supplier the price in accordance with the payment terms set forth in the Purchase Order following the later of:
- (i) the Delivery Date;
 - (ii) the date of TNL's acceptance of all the Work; or
 - (iii) TNL's receipt of a properly prepared invoice. A properly prepared invoice must include the Purchase Order number and, if required in the Purchase Order, Supplier's certification of conformance of the Work to the requirements. Payment will be in the currency of the country in which the TNL entity or affiliate identified in the Purchase Order is located, and if the price set forth in the Purchase Order is not in the local currency, then TNL will determine the local currency equivalent of the price as of date of payment. TNL may, at any time, set-off any amounts Supplier owes TNL against any amounts TNL owes to Supplier or any of its affiliated companies.
- In absence of a payment term within the Purchase order YNL will pay Supplier after 30 days.

5. Ownership and license

- 5.1 Unless otherwise specified in a SOW and except as provided in Section 5.2, TNL is the sole and exclusive owner of all Deliverables and Supplier hereby irrevocably assigns and transfers to TNL all of its worldwide right and title to, and interest in, the Deliverables, including all associated Intellectual Property Rights.
- 5.2 Unless otherwise specified in a SOW, each party owns all right, title, and interest in and to any of its Preexisting Materials. Supplier hereby grants TNL a perpetual, irrevocable, worldwide, transferable, royalty-free, non-exclusive license, with the right to sublicense and authorize the granting of sublicenses, to use and reproduce Supplier's Preexisting Materials in the Deliverables to the extent necessary for TNL's exercise and use of its rights in the Deliverables.
- 5.3 Unless otherwise specified in an SOW, Supplier will obtain and assign to TNL a nonexclusive, royalty-free, worldwide, perpetual, irrevocable, transferable, sub-licensable license to use all Third Party Intellectual Property Rights incorporated into, required to use, or delivered with the Work. Supplier will deliver copies of the above releases and licenses to TNL upon TNL's request.

6. Inspection and Acceptance

- 6.1 TNL may reject any or all of the Work which does not conform to the applicable requirements within 10 business days of Supplier's delivery of the Work. At TNL's option, TNL may (i) return the nonconforming Work to Supplier for a refund or credit, (ii) require Supplier to replace the non-conforming Work, or (iii) repair the non-conforming Work so that it meets the requirements. As an alternative to (i) through (iii), TNL may accept the non-conforming Work conditioned on Supplier



providing a refund or credit in an amount TNL reasonably determines to represent the diminished value of the non-conforming Work. TNL's payment to Supplier for Work prior to TNL's timely rejection of such Work as nonconforming will not be deemed as acceptance by TNL.

7. Changes

- 7.1 As used in this Section 7, "Change" means a change TNL directs or causes within the general scope of this Agreement, the applicable SOW, or both.
- 7.2 TNL, by written order ("Change Order"), may make Changes in accordance with this Section 7.
- 7.3 If Supplier asserts that TNL has directed or caused a Change to the cost of or time for performance for which TNL has not issued a Change Order, Supplier will promptly notify TNL in writing of the Change, providing (i) a description of the action or inaction asserted to have caused the Change, (ii) an estimate of the equitable adjustment that would be required for Supplier to perform the Changed Work, and (iii) a date no less than 30 days from the date of notice by which TNL must respond to Supplier's notice so that Supplier may proceed with the Work unchanged. TNL will evaluate Supplier's notice of Change in good faith, and if TNL agrees that it has made a constructive change, TNL will issue a Change Order to Supplier.
- 7.4 Supplier shall, as promptly as practicable, after giving the notice of the Change, or within 10 days of receiving a Change Order, submit a request for equitable adjustment specifying the adjustment in the price or time for performance resulting from the Change.
- 7.5 The parties shall negotiate an amendment to the applicable SOW to incorporate a Change Order providing for an equitable adjustment to the price, time for performance, or both.
- 7.6 Supplier will proceed with the Changed Work as directed, notwithstanding that the parties have not negotiated the amendment to this Agreement or the applicable SOW to incorporate the equitable adjustment.

8. Representations and warranties

- 8.1 Supplier represents and warrants that:
- (i) it has the full power to enter into the Purchase Order and to perform its obligations under the Purchase Order;
 - (ii) it has the right and unrestricted ability to assign the Work to TNL including, without limitation, the right to assign any Work performed by Supplier Personnel and Subcontractors;
 - (iii) the Work, and TNL's use of the Work, do not and will not infringe upon any third party's Intellectual Property Rights, right of publicity or privacy, or any other proprietary rights, whether contractual, statutory, or common law;
 - (iv) Supplier will not disclose to TNL, bring onto TNL's premises, or induce TNL to use any confidential or proprietary information that belongs to anyone other than TNL or Supplier which is not covered by a non-disclosure agreement between TNL and Supplier;
 - (v) Software supplied by Supplier does not contain any Harmful Code;
 - (vi) Supplier's Work conforms to TNL's specifications, Supplier's quotation or proposal, and Supplier's brochures or catalogs, and if none of the foregoing is applicable, then such Work is suitable for the intended use;
- 8.2 TNL warrants and represents to Supplier that it has the full power to enter into the Purchase Order and to perform its obligations under the Purchase Order.
- 8.3 TO THE EXTENT ALLOWED BY APPLICABLE LAW, NO OTHER WARRANTIES ARE MADE, EITHER EXPRESSED OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

9. Assignment and Subcontracting

- 9.1 Supplier may not assign any of its rights or delegate any of its obligations under the Purchase Order without TNL's prior written consent, which TNL will not unreasonably withhold. TNL may, at its option, void any attempted assignment or delegation undertaken without TNL's prior written consent.
- 9.2 Supplier may not subcontract any of its rights or obligations under the Purchase Order without TNL's prior written consent. If TNL consents to the use of a Subcontractor, Supplier will: (i) guarantee and will remain liable for the performance of all subcontracted obligations; (ii) indemnify TNL for all damages and costs of any kind, subject to the limitations in Section 12 (Indemnification), incurred by TNL or any third party and caused by the acts and omissions of Supplier's Subcontractors; and (iii) make all payments to its Subcontractors. If Supplier fails to timely pay a Subcontractor for work performed, TNL will have the right, but not the obligation, to pay the Subcontractor and offset any amount due to



Supplier by any amount paid to the Subcontractor. Supplier will defend, indemnify, and hold TNL harmless for all damages and costs of any kind, without limitation, incurred by TNL and caused by Supplier's failure to pay a Subcontractor.

- 9.3 To the extent allowed by applicable law, no person who is not a party to Purchase Order shall be entitled to enforce or take the benefit of any of its terms whether as a result of applicable legislation, custom or otherwise.

10. Term and Termination

- 10.1 The Purchase Order will remain in effect with respect to any SOW already issued prior to expiration of the term of the Purchase Order until such SOW is either terminated or the Work is completed and accepted.
- 10.2 TNL may terminate this Purchase Order, any SOW, or both at any time, for no reason or for any reason, upon 15 days written notice to Supplier. Upon receipt of notice of such termination, Supplier will inform TNL of the extent to which it has completed performance as of the date of the notice, and Supplier will collect and deliver to TNL whatever Work then exists. TNL will pay Supplier for all Work performed and accepted through the effective date of the termination, provided that TNL will not be obligated to pay any more than the payment that would have become due had Supplier completed and TNL had accepted the Work. TNL will have no further payment obligation in connection with any termination.
- 10.3 Either party may terminate the Purchase Order, any SOW or both, immediately by delivering written notice to the other party upon the occurrence of any of the following events: (i) a receiver is appointed for either party or its property; (ii) either makes a general assignment for the benefit of its creditors; (iii) either party commences, or has commenced against it, proceedings under any bankruptcy, insolvency, or debtor's relief law, if such proceedings are not dismissed within 60 days; or (iv) either party is liquidating, dissolving, or ceasing to do business in the ordinary course.
- 10.4 TNL may immediately terminate the Purchase Order upon written notice to Supplier if there is a change in ownership representing 20 percent or more of the equity ownership of Supplier.
- 10.5 Either party may terminate this Purchase Order, any SOW or both, immediately by delivering written notice to the other party for any material breach not cured within 30 days of receipt of notice of the breach. TNL shall have no further payment obligation to Supplier under any terminated SOW if TNL terminates the SOW under this Section 10.5.



10.6 Any obligations or duties which, by their nature, extend beyond the expiration or termination of the Purchase Order shall survive the expiration or termination of the Purchase Order.

11. Confidential information and publicity

11.1 If TNL and Supplier have entered into a Non-Disclosure Agreement ("NDA") which covers disclosure of confidential information under the Purchase Order, and if the term of the NDA expires before the expiration or termination of the Purchase Order, then the term of the NDA shall be automatically extended to match the term of the Purchase Order.

11.2 The parties shall treat the terms, conditions, and existence of the Purchase Order as Confidential Information as defined in the NDA.

11.3 Supplier shall obtain TNL's written consent prior to any publication, presentation, public announcement, or press release concerning its relationship as a supplier to TNL.

12. Indemnification

12.1 As used in this Section 12, a "Claim" is any claim, demand, loss, damage, liability, cost, or expense (including professional fees and costs as incurred) for which one party (the "Indemnifying Party") may be obligated to defend, indemnify, and hold the other party (the "Indemnified Party") harmless.

12.2 Supplier shall defend, indemnify, and hold TNL harmless from and against any and all Claims as incurred, arising out of or in connection with any (i) act or omission of Supplier (including its Subcontractors) in the performance of the Work; or (ii) any infringement of a third party's Intellectual Property Rights or any other rights.

12.3 TNL shall indemnify and hold Supplier harmless from and against any and all Claims as incurred, arising out of or in connection with: (i) Supplier's use of TNL's products or services in connection with the Work, (ii) Supplier's use of information or materials provided to Supplier by TNL, or (iii) infringement a third party's Intellectual Property Rights or any other rights resulting from Supplier's adherence to TNL's written instructions.

12.4 Each party will indemnify and hold the other party harmless from and against any and all Claims, as incurred, arising out of any negligent or willful acts or omissions of the Indemnifying Party which results in personal injury (including death) or damage to tangible property (not including lost or damaged data).

12.5 The Indemnified Party will provide the Indemnifying Party with prompt written notice of the Claim and permit the Indemnifying Party to control the defense,



settlement, adjustment, or compromise of any Claim. The Indemnified Party may employ counsel at its own expense to assist it with respect to any Claim. The Indemnified Party will have no authority to settle any Claim on the Indemnified Party's behalf.

- 12.6 If a third party enjoins or interferes with TNL's use of any Work, then in addition to Supplier's obligations under Section 12.2, Supplier will use its best efforts to (i) obtain any licenses necessary to permit TNL to continue to use the Work, (ii) replace or modify the Work as necessary to permit TNL to continue to use of the Work, or if (i) and (ii) are not commercially reasonable, then (iii) promptly refund to TNL the amount paid for any Work for which a third party enjoins or interferes with TNL's use of the Work.
- 12.7 Nothing in this Section shall limit any other remedy of the parties.

13. Liability

- 13.1 NOTWITHSTANDING ANYTHING ELSE IN THE PURCHASE ORDER OR OTHERWISE, TNL WILL NOT BE LIABLE TO SUPPLIER WITH RESPECT TO THE SUBJECT MATTER OF THE PURCHASE ORDER UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY AMOUNTS IN EXCESS IN THE AMOUNT TNL PAID TO SUPPLIER IN THE SIX MONTHS PRECEDING THE EVENT OR CIRCUMSTANCE GIVING RISE TO SUCH LIABILITY.
- 13.2 IN NO EVENT WILL TNL BE LIABLE TO SUPPLIER FOR ANY INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL DAMAGES OR LOSS OF PROFITS ARISING OUT OF, OR IN CONNECTION WITH, THE PURCHASE ORDER, WHETHER OR NOT TNL WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.
- 13.3 THE LIMITATIONS WILL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED HEREIN. NOTHING IN THE PURCHASE ORDER LIMITS EITHER PARTY'S LIABILITY FOR BODILY INJURY OF A PERSON, DEATH, OR PHYSICAL DAMAGE TO PROPERTY OR ANY LIABILITY WHICH CANNOT BE EXCLUDED UNDER APPLICABLE LAW.

14. Insurance

Supplier will secure and maintain insurance providing coverage for liabilities to third parties for bodily injury (personal injury) and damage to property in amounts sufficient to protect TNL in the event of such injury or damage, and will be in compliance with any and all laws, regulations, or orders addressing the liabilities of an employer to its employees for injuries and disease suffered in connection with employment. Supplier



further will maintain such additional types and limits of insurance as is customary for a company of similar size and similar operations to Supplier in the jurisdiction or jurisdictions in which Supplier's operations take place.

15. Compliance with laws

Supplier represents and warrants that it will comply with all applicable local and national laws and regulations pertaining to its performance of its obligations under this Purchase Order. In particular and without limitation, Supplier shall not act in any fashion or take any action that will render TNL liable for a violation of any applicable anti-bribery legislation which prohibits the offering, giving, or promising to offer or give, or receiving, directly or indirectly, money or anything of value to any third party to assist it or TNL in retaining or obtaining business or in performing the Work. Without limiting the foregoing, to the extent that Supplier is a US federal contractor or covered subcontractor as contemplated in accordance with the applicable laws and regulations, then Supplier agrees that this Purchase Order will be subject to the requirements of 41 CFR 60-1.4 and 29 CFR part 471, Appendix A to Subpart A, and the requirements of 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a), which are incorporated herein by reference. The latter two regulations prohibit discrimination against qualified individuals on the basis of protected veteran status and disability and require affirmative action to employ and advance in employment protected veterans and qualified individuals with disabilities. Supplier's failure to comply with this provision shall constitute a material breach of this Purchase Order. Additionally, Supplier agrees to timely provide, upon TNL's request and in a requested format, certain data concerning its supply chain that may be needed for applicable reporting obligations.

16. Governing law

The Purchase Order will be construed in accordance with, and all disputes will be governed by, the laws of the State of Delaware, without regard to its conflict of laws rules. The parties specifically waive application of the UN Convention on Contracts for the International Sale of Goods. Supplier irrevocably consents to the personal jurisdiction of the state and federal courts in and for, and irrevocably waives any claim it may have that any proceedings brought in such courts have been brought in an inconvenient forum.



17. General

- 17.1 Any notice to be given under the Purchase Order will be in writing and addressed to the party at the address stated in the front of the Purchase Order. Notices will be deemed given and effective (i) if personally delivered, upon delivery; (ii) if sent by an overnight service with tracking capabilities, upon receipt; (iii) if sent by fax or electronic mail, at such time as the party which sent the notice receives confirmation of receipt by the applicable method of transmittal; or (iv) if sent by certified or registered mail, within five days of deposit in the mail.
- 17.2 If there is a conflict between or among the Purchase Order and any documents attached to and incorporated by reference, the conflict will be resolved as follows:
- (i) A conflict between the terms of the Purchase Order and those set forth in an exhibit or hyperlink will be resolved in favor of the Purchase Order.
 - (ii) A conflict between the terms of the Purchase Order and those set forth in an SOW will be resolved in favor of the SOW.
 - (iii) A conflict between the terms of an exhibit or hyperlink and those set forth in an SOW will be resolved in favor of the SOW.
- 17.3 If any court of competent jurisdiction holds that any provision of the Purchase Order is illegal, invalid, or unenforceable, the legality, validity, and enforceability of the remaining provisions of the Purchase Order will not be affected or impaired, and all remaining terms of this Purchase Order remain in full force and effect, provided that this provision shall not be applied to defeat the intent of the parties.
- 17.4 A party's election not to insist on strict performance of any requirement of the Purchase Order will not operate or be construed to waive any future omission or breach, or any other provision of the Purchase Order.