



NAV CANADA operates an Environmental Management System that is certified to the ISO 14001 Standard. Its Corporate Policy on the Environment is available to the public on its Internet site: www.navcanada.ca.

PURCHASE ORDER FORM

STANDARD TERMS AND CONDITIONS

GENERAL PROVISIONS

By accepting this Purchase Order, and/or performing hereunder, the Contractor (as defined below) agrees to comply fully with the terms and conditions of purchase set forth below. Acceptance of this Purchase Order is expressly limited to the terms and conditions herein and none of the Contractor's terms and conditions shall apply in acknowledging this order or any acceptance of this agreement. Acceptance by NAV CANADA of the goods, services or work delivered under this Purchase Order shall not constitute agreement to the Contractor's terms or conditions. The Contractor may not ship under reservation.

1. INTERPRETATION

1.1 In this Agreement, unless the context otherwise requires,

"Agreement" means this written agreement between the Parties, including the General Terms and Conditions and all other schedules listed below, and every other document specified or referred to herein as forming part of this Agreement, all as amended by agreement of the Parties from time to time;

"Applicable Law" means any domestic or foreign law, rule, statute, subordinate legislation, regulation, by-law, order, ordinance, protocol, code, guideline, treaty, policy, notice, direction or judicial, arbitral, administrative, ministerial or departmental judgment, award, decree, treaty, directive, or other requirement or guideline published or in force at any time during the term which applies to or is otherwise intended to govern or regulate any Person (including any Party), property, transaction, activity, event or other matter, including any rule, order, judgment, directive or other requirement or guideline issued by any governmental or regulatory authority. For greater certainty, Applicable Law includes the laws in force in Canada, including privacy laws;

"Bank Rate" means the prime rate of interest per annum set by The Royal Bank of Canada from time to time;

"Contractor" means the person or entity who is to supply goods or services to NAV CANADA under the Agreement;

"NAV CANADA" means a corporation incorporated under the provisions of Part II of the Canada Corporations Act, and having its head office in Ottawa, Ontario receiving the goods or services delivered under this Agreement;

"Party" means NAV CANADA or the Contractor or any other signatory to this Agreement and

"Parties" means all of them;

"Work" means the whole of the activities, goods, services, materials, equipment, matters and things required to be done, delivered or performed by the Contractor in accordance with the terms of this Agreement.

1.2 The headings used in this Agreement are inserted for convenience of reference only and shall not affect their interpretation.

1.3 In this Agreement, words importing the singular number include the plural and vice versa, and words importing the masculine gender include the feminine gender and the neuter.

2. SUPPLIER CODE OF CONDUCT AND PROTECTION OF HUMAN RIGHTS

- 2.1 NAV CANADA requires all suppliers to comply with and support NAV CANADA's "Supplier Code of Conduct". The supplier must ensure that gifts, gratuities, entertainment or any other benefit are not offered to any NAV CANADA personnel in order to obtain or retain business, direct business to any person, or otherwise gain an improper advantage. NAV CANADA's Supplier Code of Conduct can be found at:
<https://www.navcanada.ca/en/supplier-code-of-conduct-en.pdf>
- 2.2 For the purposes of this Agreement:
- 2.2.1 **"Child Labour"** means labour or services provided or offered to be provided by persons under the age of 18 years and that:
- (a) are provided or offered to be provided in Canada under circumstances that are contrary to the laws applicable in Canada;
 - (b) are provided or offered to be provided under circumstances that are mentally, physically, socially or morally dangerous to them;
 - (c) interfere with their schooling by depriving them of the opportunity to attend school, obliging them to leave school prematurely or requiring them to attempt to combine school attendance with excessively long and heavy work; or
 - (d) constitute the worst forms of child labour as defined in article 3 of the Worst Forms of Child Labour Convention, 1999, adopted at Geneva on June 17, 1999;
- "Forced labour"** means labour or service provided or offered to be provided by a person under circumstances that:
- (a) could reasonably be expected to cause the person to believe their safety or the safety of a person known to them would be threatened if they failed to provide or offer to provide the labour or service; or
 - (b) constitute forced or compulsory labour as defined in article 2 of the Forced Labour Convention, 1930, adopted in Geneva on June 28, 1930;
- "Human Trafficking"** means transporting, harboring, recruiting, transferring or receiving persons by means of threat, force, coercion, abduction or fraud for labour or services; and
- "Modern Slavery"** means the exploitation of a person for commercial or personal gain, in which the person cannot leave or refuse the situation because of threats, violence, coercion, deception, and/or abuse of power. Modern Slavery includes, but is not limited to:
- (a) Child Labour;
 - (b) Forced Labour;
 - (c) Human Trafficking;
 - (d) bonded (including debt bondage) or indentured labour; and
 - (e) involuntary prison labour.
- 2.2.2 The Contractor represents and warrants that at the date of this Agreement, neither the Contractor nor any of its directors, officers or employees:
- 2.2.2.1 has been convicted of any offence including Modern Slavery; and
 - 2.2.2.2 having made reasonable enquiries, to the best of its knowledge, has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with Modern Slavery.
- 2.2.3 The Contractor shall use reasonable commercial efforts to implement due diligence procedures for its own suppliers, sub-contractors and other participants in its supply chains, to ensure that there is no Modern Slavery in its supply chains.
- 2.2.4 The Contractor shall use reasonable commercial efforts to ensure, and shall use reasonable commercial efforts to verify that its suppliers, contractors, subcontractors,

and supply chain parties ensure, that no Modern Slavery is used in the rendering of the services, manufacturing of the Products, or any of the raw materials required to produce them.

- 2.2.5 The Contractor shall comply with all Applicable Laws as required by section 19 of this Agreement, including without limitation, those Applicable Laws that relate to the protection of human rights and that prohibit the importation of articles made in whole or in part with Modern Slavery.
- 2.3 NAV CANADA shall have the right to audit and inspect any and all records relating to Contactor's compliance with Applicable Laws and requirements referenced in this section.
- 2.4 NAV CANADA requires all suppliers to understand and comply with NAV CANADA's Anti-Corruption Policy and applicable anti-bribery laws, including Canada's Corruption of Foreign Public Officials Act. The Contractor represents, warrants and agrees that:
 - 2.4.1 neither the Contractor nor any of its principals, shareholders, directors, officers, employees or agents has performed or will perform any act which would constitute a violation of, or which would cause NAV CANADA to be in violation of applicable anti-bribery laws or NAV CANADA's Anti-Corruption Policy; and
 - 2.4.2 in connection with its performance of this Agreement, the Contractor shall not, directly or indirectly, offer, pay, give, promise to pay or give, or authorize the payment or giving of any money, gift, kickback or anything of value to any public official, or to any other person for the benefit of a public official, for the purpose of influencing such public official in the course of his or her official duties.

3. CONDUCT OF WORK

- 3.1 The Contractor acknowledges that due to operational requirements, NAV CANADA's facilities contain equipment for flight safety and air traffic navigation purposes and that Contractor shall not interfere, or cause the interference, of such equipment as it could constitute a safety hazard.
- 3.2 NAV CANADA strictly prohibits contractors to Work, to be in control of a NAV CANADA vehicle or to be operating equipment while under the influence of alcohol or drugs, including the after-effects of such use. The possession, distribution, sale, or consumption of cannabis is explicitly banned at all times while on NAV CANADA property or while performing Work for NAV CANADA. Furthermore, the use, possession, presence in the body, or distribution or sale of illicit and/or illegal drugs while performing Work for NAV CANADA (including during all breaks taken on or off NAV CANADA premises), on NAV CANADA business, in NAV CANADA vehicles or while using NAV CANADA equipment is strictly prohibited.
- 3.3 The Contractor represents and warrants that;
 - 3.3.1 it is competent to perform the Work; and
 - 3.3.2 it has the necessary qualifications, including knowledge, skill and experience to perform the Work, together with the ability to use those qualifications effectively for that purpose.
- 3.4 The Contractor shall supply everything necessary for the performance of the Work, including all the resources, facilities, labour and supervision, management, services, equipment, materials, drawings, technical data, technical assistance, engineering services, inspection and quality assurance procedures, and planning necessary to perform the Work.
- 3.5 The Contractor shall be fully responsible for performing the Work and NAV CANADA shall not be liable for any negative consequences or extra costs arising out of the Contractor's following any advice given by NAV CANADA, whether given without or upon invitation by the Contractor, unless the advice was provided to the Contractor in writing by NAV CANADA and was accompanied by a statement specifically relieving the Contractor of any responsibility for negative consequences or extra costs that might arise from following the advice.
- 3.6 Material will be new production of current manufacture conforming to the current issue of the specifications, standards, drawings or part numbers as applicable, unless otherwise indicated in this Agreement.

4. WORK PERMITS

- 4.1 The Contractor represents and warrants that it is currently in compliance with, and agrees that it will at all times remain in compliance with, any applicable immigration or work authorization laws or rules, including the provisions of the Immigration and Refugee Protection Act, which may be applicable to the Work or to the entry to Canada of any of the Contractor's personnel or permitted sub-contractors. Evidence of compliance shall be furnished by the Contractor to NAV CANADA at such times as NAV CANADA may reasonably request.
- 4.2 The Contractor agrees that the Contractor is solely responsible for obtaining and maintaining any necessary authorizations or work permits for the Contractor's personnel or permitted sub-contractors to enter Canada to legally to perform the Work in Canada. NAV CANADA is not responsible for obtaining any such authorizations and/or work permits or for filing any applications or documents to request such authorizations and/or work permits.

5. SHIPPING TERMS

- 5.1 Unless otherwise indicated in the terms found on the NAV CANADA purchase order form, shipment is to be consigned F.O.B. to the destination specified by NAV CANADA and shall include all delivery charges applicable.

6. CANADA – EUROPEAN UNION COMPREHENSIVE ECONOMIC AND TRADE AGREEMENT ("CETA")

- 6.1 When Products that are subject to CETA and that are provided pursuant to this PO originate in the European Union for purposes of CETA, Supplier shall provide to NAV CANADA, prior to the export of such Products, a valid and accurately completed proof of origin as contemplated by and in the form of an origin declaration that complies with Annex 2 of the CETA Protocol on Rules of Origin and Origin Procedure ("Origin Declaration").
- 6.2 In accordance with CETA, Supplier shall notify NAV CANADA in writing of any changes that might result in such Products being ineligible for preferential tariff treatment under CETA. Supplier acknowledges that the Origin Declaration will be used by NAV CANADA for proof of eligibility for preferential duty treatment, and Supplier agrees to provide full cooperation to NAV CANADA for any inquiries into CETA claims that arise out of any of such Products furnished under the PO. Upon request, Supplier shall promptly furnish to NAV CANADA all certificates of origin or declarations or documents relating to the cost and place of origin of such Products and materials contained therein, as may be required by NAV CANADA to comply with all customs requirements and governmental regulations.
- 6.3 Supplier shall indemnify, defend (at NAV CANADA's option) and hold harmless NAV CANADA its subsidiaries and Affiliates and their respective successors, assigns, representatives, employees and agents, from and against all liabilities, demands, claims, losses, costs, damages and expenses of any kind or nature (including fines and penalties) arising from or as a result of: (1) Supplier's delay in furnishing the Origin Declaration; (2) many errors or omissions in the Origin Declaration; and (3) any non-compliance by Supplier with the requirements of CETA.

7. DELIVERY

- 7.1 Delivery schedule for all of the Work shall be as identified in this Agreement.
- 7.2 Delivery of all or part of the Work, excluding services, provided under this Agreement shall be deemed to have occurred upon delivery and, for products, unloading of same, by the Contractor, at the destination identified in this Agreement.
- 7.3 For services, delivery shall be deemed to have occurred upon execution by NAV CANADA of a document or documents acknowledging same.

8. RISK OF LOSS

- 8.1 The Contractor shall bear all risk of loss and damage until the Work is delivered to NAV CANADA, as specified in section 7, (Delivery), unless such loss or damage results solely from the active negligence of NAV CANADA.

9. INSPECTION AND ACCEPTANCE OF THE WORK

- 9.1 NAV CANADA shall have thirty (30) days after delivery as specified in section 7, (Delivery), to

inspect the Work provided or performed by the Contractor. NAV CANADA at its option may reject all or any portion of the Work which does not in NAV CANADA's sole discretion comply in every respect with each and every term and condition of this Agreement. NAV CANADA may elect to reject the Work in its entirety even if only a portion thereof is non-conforming. NAV CANADA may require that rejected Work be corrected or replaced at the Contractor's expense. If NAV CANADA elects to accept non-conforming Work, NAV CANADA, in addition to its other remedies, shall be entitled to deduct a reasonable amount from the price thereof to compensate NAV CANADA for the nonconformity. Any acceptance by NAV CANADA, even if non-conditional, shall not be deemed a waiver or settlement of any defect in the Work.

- 9.2 In the event NAV CANADA does not notify the Contractor of any rejection of all or a portion of the Work within the thirty (30) day period referred to above, the Work shall be deemed to have been accepted by NAV CANADA.
- 9.3 If NAV CANADA notifies the Contractor that they reject all or any portion of the Work, the Contractor must, within five (5) Business Days, submit revised Work, at its cost.
- 9.4 Where all or a portion of the Work is rejected and re-submitted, processing of the re-submitted Work will be subject to the same conditions as if they were the original Work.
- 9.5 The actions of the Contractor in preparing, submitting, correcting or resubmitting the Work will not:
 - 9.5.1 entitle the Contractor to claim postponement of any relevant Milestone Date;
 - 9.5.2 relieve the Contractor from performing its obligations under this Agreement; or
 - 9.5.3 limit NAV CANADA's rights under this Agreement or otherwise.
- 9.6 Subject to the obligations and responsibilities of NAV CANADA under this Agreement, the Contractor acknowledges and agrees that, it is wholly responsible for the Work and for demonstrating that the Work meet the requirements of this Agreement, and that it must, at no additional cost to NAV CANADA, rectify any deficiency, error or other inadequacy in the Work as advised by NAV CANADA.

10. RETURNS

- 10.1 Defective material shall be returned freight collect to the Contractor. Replacement material shall be sent freight prepaid from the Contractor, who will absorb the burden of premium transportation when the defect or replacement material places critical time or delivery schedule constraints on NAV CANADA.

11. WARRANTY

- 11.1 The Contractor warrants that all services performed under this Agreement will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this Agreement. If the Contractor is required to correct or replace the services or any portion thereof, it shall be at no cost to NAV CANADA, and any services corrected or replaced by the Contractor pursuant to this subsection shall be subject to all provisions of this Agreement to the same extent as services initially performed.
- 11.2 Notwithstanding inspection and acceptance of the Work by or on behalf of NAV CANADA and without restricting any other provision of this Agreement or any condition, warranty or provision implied or imposed by law, the Contractor warrants that, for a period of 12 months from the date of delivery, or if acceptance takes place on a later date, the date of acceptance, the Work shall be free from all defects in design, materials or workmanship, and shall conform with the requirements of this Agreement.
- 11.3 In the event of a defect or non-conformance in any part of the Work during the warranty period defined in sections 11.2 and 11.4, the Contractor shall as soon as possible repair, replace, redo the Work or otherwise make good at its own option and expense the part of the work found to be defective or not in conformance with the requirements of this Agreement.
- 11.4 The warranties set out in sections 11.1 and 11.2 shall apply to any part of the Work repaired, replaced or otherwise made good pursuant to section 11.3, for the greater of:
 - 11.4.1 the warranty period remaining under section 11.1 and 11.2, or
 - 11.4.2 90 days, whichever period is the longest.
- 11.5 All of the provisions of sections 11.3 and 11.4 of this article inclusive apply, with such

minimum changes as the context may require, to any such part of the Work that is found during that period to be defective or not in conformance with this Agreement.

12. PRICE ADJUSTMENT

- 12.1 NAV CANADA will not accept shipment of goods at any increase in price above that indicated in this Agreement. Any general price decrease announced by the Contractor in classification of equipment and/or materials similar to the items described on this order shall automatically reduce the price thereof by a comparable percentage.

13. EXTRA CHARGES

- 13.1 No extra charges of any kind, including charges for service, charges for boxing or cartage, will be allowed unless specifically agreed to by NAV CANADA in writing. Pricing by weight, where applicable, covers net weight of material, unless agreed to by NAV CANADA in writing.

14. PAYMENT

- 14.1 Notwithstanding any other provision of this Agreement, no payment shall be made to the Contractor unless and until:
- 14.1.1 an invoice, inspection notes, certificates and any other documents required by this Agreement have been submitted in accordance with the terms of this Agreement and the instructions of NAV CANADA;
 - 14.1.2 all such documents have been verified by NAV CANADA;
 - 14.1.3 with respect to all parts of the Work in respect of which payment is claimed, the Contractor, where requested to do so, establishes to the satisfaction of NAV CANADA that such parts of the Work will be free from all claims, liens, attachments, charges or encumbrances and same has been inspected by NAV CANADA and accepted as being in accordance with this Agreement, including the Specification; and
 - 14.1.4 in the case of payment in respect of finished work, the finished work has been inspected by NAV CANADA and accepted as being in accordance with this Agreement, including the Specifications.
- 14.2 NAV CANADA shall notify the Contractor, of any inadequacy of the invoice or of the supporting documentation, and where any such notice is given the date for payment of the amount invoiced shall be postponed until the Contractor remedies the inadequacy to the satisfaction of NAV CANADA.
- 14.3 Provided all the terms and conditions of this section 14 have been complied with by the Contractor, NAV CANADA shall make payment to the Contractor within thirty (30) days of the date of acceptance of the Work by NAV CANADA or the receipt of an invoice, whichever is later.
- 14.4 Unless otherwise agreed to by the Parties NAV CANADA will make payment through Electronic Fund Transfer (EFT) process. The Contractor shall provide NAV CANADA the appropriate banking information to process EFT payments.

15. INTEREST ON OVERDUE ACCOUNTS

- 15.1 Subject to the terms and conditions of this Agreement, NAV CANADA shall be liable to pay to the Contractor simple interest at the Bank Rate on any amount that is overdue from the date such amount becomes overdue until the day prior to the date of payment, inclusive.

16. SET-OFF

- 16.1 NAV CANADA shall be entitled at all times to set off any amount owing, for any reason, at any time, from the Contractor to NAV CANADA against any amount payable at any time by NAV CANADA in connection with this Agreement.

17. INCOME TAX WITHHOLDING ON SERVICES RENDERED IN CANADA AND OR QUEBEC

- 17.1 Where the Contractor is a non-resident of Canada and/or Quebec, the Contractor agrees, in accordance with the tax laws of Canada and/or Quebec, that NAV CANADA may withhold Canadian income tax of 15% for Work performed in Canada, Quebec income tax of 9% for Work performed in Quebec, or 24% for Work performed in both Canada and Quebec on the

amount paid for any services of any nature whatsoever performed or rendered in Canada and/or Quebec or in both tax jurisdictions by the Contractor or by a Canadian sub-contractor. Any income tax withheld will be remitted to the Canada Revenue Agency (CRA) and/or Revenu Quebec on behalf of the Contractor and the appropriate reporting forms will be prepared by NAV CANADA and provided annually to the Contractor as proof of any withholding tax payments paid by the Contractor.

- 17.2 Alternatively, before any Work is scheduled to be performed under this Agreement, the Contractor may apply directly to CRA and/or Revenu Quebec for a waiver and/or a reduction of withholding taxes. If the withholding tax waiver is approved by CRA and/or Revenu Quebec, the withholding tax for services performed in Canada and/or Quebec will be waived by NAV CANADA. The Contractor shall be in possession of the CRA-issued withholding tax waiver before entering Canada and/or Quebec to perform any services. Services performed by the Contractor shall be subject to withholding tax if the Contractor fails to provide a copy of the withholding tax waiver(s) to NAV CANADA.
- 17.3 The Contractor further agrees to identify and segregate the "Canadian and/or Quebec portion" of the fees and other charges on the invoice; each invoice will separately identify:
- 17.3.1 Consulting, training or other fees applicable to time spent in Canada and/or Quebec; and
- 17.3.2 Travel expenses (transportation, accommodation, and meals) for work in Canada. The travel should be segregated between:
- 17.3.2.1 travel amounts, such as per diem meal rates and supported travel expenses with attached original supporting documents; the reimbursement of these travel expenses may be excluded from the income tax withholding requirement; and
- 17.3.2.2 travel that has no supporting copies of documents (other than per diem rates), and is subject to the withholding tax.

18. INCOME TAX WITHHOLDING ON PAYMENTS TO NON-RESIDENTS FOR SOFTWARE

- 18.1 Where the Contractor is a non-resident of Canada, the Contractor agrees, in accordance with Part XIII of Canada's *Income Tax Act* and the reciprocal tax treaty between Canada and the Contractor's country of origin, that NAV CANADA may withhold Canadian income tax on the amount paid for any software at the rate set out in the applicable reciprocal tax treaty. This income tax will be remitted to the CRA on behalf of the Contractor and the appropriate reporting forms will be prepared by NAV CANADA and provided annually to the Contractor as proof of the payment of the said tax.

19. COMPLIANCE WITH APPLICABLE LAWS

- 19.1 The Contractor shall comply with all laws applicable to the performance of the Work or any part thereof including, without limitation, all laws concerning health and labour conditions, human rights, anti-trust and fair competition, the protection of the environment, all applicable anti-bribery laws, all applicable immigration laws, and all applicable tax laws, and shall require compliance therewith by all of its permitted sub-contractors. Evidence of compliance with such laws shall be furnished by the Contractor to NAV CANADA at such times as NAV CANADA may reasonably request.

20. CONFIDENTIAL INFORMATION

- 20.1 For the purposes of this clause, "Confidential Information" means all information disclosed (whether in writing, verbally or by any other means and whether directly or indirectly) by NAV CANADA to the Contractor whether before or after the date of this Agreement including, without limitation, any information relating to NAV CANADA's products, operations, processes, plans or intentions, product information, pricing, market opportunities and business affairs or those of its customers, clients or other contacts.
- 20.2 The Contractor shall:
- 20.2.1 keep the Confidential Information confidential;

- 20.2.2 not disclose the Confidential Information to any person, other than in accordance with section 20.3 and 20.4, unless it first obtains NAV CANADA's prior written consent, such consent not to be unreasonably withheld or delayed; and
- 20.2.3 not use the Confidential Information for any purpose other than the performance of its obligations under this Agreement.
- 20.3 During the term of this Agreement the Contractor may disclose Confidential Information to its employees but only to the extent reasonably necessary for the purposes of this Agreement.
- 20.4 The Contractor shall ensure that each person who receives Confidential Information pursuant to section 20.3 above is made aware of all the obligations of confidentiality under this Agreement, and either
 - 20.4.1 complies with those obligations as if they were a Party to this Agreement; or
 - 20.4.2 is bound by confidentiality obligations substantially similar to those contained in this clause.
- 20.5 The Contractor may disclose Confidential Information where disclosure is required by law, by a court of competent jurisdiction or by a regulatory body with authority over its business, provided that where possible, the Contractor gives NAV CANADA at least two working days' prior written notice of the disclosure.
- 20.6 The obligations contained in sections 20.2 to 20.4 do not apply to Confidential Information which:
 - 20.6.1 is at the date of this Agreement or at any time after the date of this Agreement comes into the public domain other than through breach of this Agreement by the Contractor or its employees;
 - 20.6.2 can be shown by the Contractor to the reasonable satisfaction of NAV CANADA to have been known by the Contractor before disclosure by NAV CANADA to the Contractor; or
 - 20.6.3 subsequently comes lawfully into the possession of the Contractor from a third party.

21. SUB-CONTRACTING

- 21.1 Unless otherwise provided in this Agreement, the Contractor shall obtain the written consent of NAV CANADA prior to subcontracting or permitting the sub-contracting of any substantial portion of the Work.
- 21.2 Any consent to a sub-contract shall not relieve the Contractor from its obligations under this Agreement or be construed as authorizing any liability on the part of NAV CANADA to a subcontractor. NAV CANADA may withhold its consent to any subcontracting in NAV CANADA's sole and unfettered discretion.

22. INTELLECTUAL PROPERTY

- 22.1 The Contractor hereby irrevocably and unconditionally transfers and assigns to NAV CANADA all right, title and interest in and to all patents, trade-marks, copyrights and any and all other intellectual or industrial property rights in any material created for NAV CANADA under this Contract, and such assignment and transfer shall occur at the time of creation thereof. All such material shall incorporate appropriate notices pursuant to Canadian law and international treaties such as:

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- 22.2 For any part of the Work in which Intellectual Property is owned or licensed by the Contractor, the Contractor shall and hereby grants to NAV CANADA a world-wide, non-exclusive, fully paid, assignable, irrevocable license to use, perform, execute, transmit, copy, modify, prepare derivative works and translate and to authorize any third party to do any of the aforesaid on behalf of NAV CANADA and disclose to third parties, the Work ordered under this Agreement. The provision of this section shall not apply to any and all systems, software, documentation, tools utilities, methodologies, techniques and other know-how owned by the Contractor which does not remain in NAV CANADA's possession after the Work is completed.
- 22.3 Copyright in any translation of the Work made by NAV CANADA shall vest in NAV CANADA, but this copyright shall be subservient to the copyright of the original Work. NAV CANADA

may use independent contractors in the exercise of NAV CANADA's rights under this section.

- 22.4 NAV CANADA shall reproduce the Contractor's copyright notice, if any, on the translation of any of the material incorporated by the Contractor into the Work, which the Contractor owns the Intellectual Property.
- 22.5 No restrictions other than those set out in this section shall apply to NAV CANADA's translated version of the Work.
- 22.6 The Contractor agrees:
 - 22.6.1 To defend, hold harmless and indemnify NAV CANADA and its successors and customers against all claims, demands, losses, suits, damages, liability and expenses (including reasonable lawyer's fees) arising out of any suit, claim or action for actual or alleged direct or contributory infringement of, or inducement to infringe, any Canadian or foreign patent, trade-mark, copyright or industrial property right by reason of the manufacture, use or sale of the Work, including infringement arising out of compliance with specifications furnished by NAV CANADA for actual or alleged misuse or misappropriation of a trade secret or confidential information from a third party resulting directly or indirectly from the Contractor's action;
 - 22.6.2 To waive any claim against NAV CANADA, including any hold harmless or similar claim, in any way related to a claim asserted against the Contractor and/or NAV CANADA for patent, trade-mark, copyright or industrial property right infringement or the like, including claims arising out of compliance with specifications furnished by NAV CANADA;

23. INDEMNITY

- 23.1 The Contractor shall indemnify, defend, (at NAV CANADA's request) and save harmless NAV CANADA, its respective directors, trustees, officers, members and employees, their respective heirs, estates and assigns, and any others for whom NAV CANADA may be responsible in law, from and against any claim for damages, losses, costs and expenses (including reasonable attorneys' fees and expenses on a solicitor and his own client basis) or any claim, action, suit or other proceeding which they or any of them may incur or suffer as a result of or arising out:
 - 23.1.1 any breach of the provisions of this Agreement;
 - 23.1.2 any injury (including injuries resulting in death) to persons, including Contractor's employees and employees of sub-contractors, loss of, or damage to, or loss of use of property that may be alleged to have been caused by or suffered as a result of the performance, (including any failure or omission to act), of the Work or any part thereof;
 - 23.1.3 any liens, attachments, charges or other encumbrances or claims upon or in respect of any materials, parts, equipment, work-in-progress furnished to, or in respect of which any payment has been made by, NAV CANADA.

24. TITLE

- 24.1 Except as otherwise provided in this Agreement, and except as provided in section 23.2, title to the Work or any part thereof shall vest in NAV CANADA upon delivery and acceptance thereof by or on behalf of NAV CANADA.
- 24.2 Upon any payment being made to the Contractor in respect of the Work or any portion of the Work, either by way of progress payments or accountable advances or otherwise, title to the Work so paid for shall vest in and remain in NAV CANADA unless already so vested under any other provision of this Agreement.
- 24.3 Notwithstanding any vesting of title referred to in this section and except as otherwise provided in this Agreement, the risk of loss or damage to the Work or part thereof so vested shall remain with the Contractor until its delivery to and acceptance by NAV CANADA in accordance with this Agreement. The Contractor shall be liable for any loss or damage to any part of the Work caused by the Contractor or any authorized subcontractor after such delivery.
- 24.4 Any vesting of title referred to above shall not constitute acceptance by NAV CANADA of the Work and shall not relieve the Contractor of its obligation to perform the Work in accordance

with this Agreement.

- 24.5 Where title to any materials, parts, work-in-process or finished Work becomes vested in NAV CANADA, the Contractor shall, upon NAV CANADA's request, establish to NAV CANADA's satisfaction, that the title is free and clear of all claims, liens, attachments, charges or encumbrances and shall execute such conveyances thereof and other instruments necessary to perfect that title as NAV CANADA may request.

25. INSURANCE

- 25.1 Unless more specific insurance provisions are attached, the following shall apply hereto. At all times during its performance hereunder the Contractor shall effect and maintain comprehensive public liability insurance on an occurrence basis against claims for personal injury, death or property damage, including products liability and non-owned automobile coverages, with reasonable exclusions and in such amount as would from time to time be carried by a prudent owner, but in no event less than \$2,000,000.00 per occurrence. Such insurance shall add NAV CANADA as additional insured and waive any right of subrogation against NAV CANADA and shall specifically cover the Contractor's obligations to defend, indemnify and hold NAV CANADA harmless as provided herein.
- 25.2 Where appropriate and when a product provided by the Contractor is generally marketed as a product for aviation use, or is sold to NAV CANADA for that purpose, the contractor shall provide and maintain aviation products liability insurance and shall furnish proof of coverage on request.
- 25.3 The Contractor shall obtain, where applicable, Professional Liability Insurance for professional services provided pursuant to this Agreement, in an amount not less than \$5,000,000.00 each claim and aggregate and this insurance shall be maintained for the duration of the Work and for a period of three (3) years after substantial completion of the Work.
- 25.4 The Contractor represents that they are registered and in good standing with the Workers Compensation Board or authority for the provincial jurisdiction or jurisdictions in which the work under this agreement will be conducted. The Contractor shall provide NAV CANADA with the clearance certificates from such Workers Compensation Board (a) at the time of execution of this Agreement, (b) annually thereafter, and (c) with the invoice for the final payment made pursuant to this Agreement.
- 25.5 Minimum insurance requirements set out in this article are intended to protect the interest of NAV CANADA and are in no way warranted by NAV CANADA as sufficient to protect the interests of the Contractor or any other party at interest.
- 25.6 The Contractor, for itself and for any party claiming through it, agrees to fully and completely release NAV CANADA, its Members and Associate Members, their respective directors, trustees, officers and employees, their respective heirs, estates and assigns forever from any claim for contribution for any injury, loss or damage that may be the subject of any of the insurance coverage arranged by the Contractor, including without limitation, the coverage required to be maintained by this Section.
- 25.7 All insurance policies shall be endorsed to provide not less than sixty (60) days' notice of cancellation, material reduction in coverage or non-renewal to NAV CANADA by the insurer. At the time of contract signing or before and annually thereafter, the Contractor shall provide to NAV CANADA a certified copy of each policy or a Certificate(s) of Insurance acceptable to NAV CANADA and signed by an authorized representative of the insurer.

26. SUSPENSION OF THE WORK

- 26.1 NAV CANADA may at any time, by written notice, order the Contractor to suspend or stop all or part of the Work under this Agreement for a period of up to 180 days. The Contractor shall immediately comply with any such order in the manner that minimizes the cost of so doing. While such an order is in effect, the Contractor shall not remove any part of the Work from any premises without the prior written consent of NAV CANADA. At any time prior to the expiration of the 180 days, NAV CANADA shall either rescind the order, further extend the suspension or terminate this Agreement, in whole or in part, in accordance with the terms of this Agreement.
- 26.2 When an order is made under this section, unless NAV CANADA terminates this Agreement by reason of default by the Contractor or the Contractor abandons this Agreement, the Contractor shall be entitled to be paid its additional costs incurred as a result of the

suspension plus a fair and reasonable profit thereon.

26.3 When an order is made under this section and is rescinded:

26.3.1 the Contractor shall as soon as practicable resume Work in accordance with this Agreement;

26.3.2 if the suspension has affected the Contractor's ability to meet any delivery date under this Agreement, the date for the performance of that part of the Work affected by the suspension shall be extended for a period equal to the period of suspension plus a period, if any, which in the opinion of NAV CANADA following consultation with the Contractor is reasonably necessary for the Contractor to resume the Work; and

26.3.3 subject to section 31 (Amendment and Waivers), an equitable adjustment shall be made as necessary to affected terms and conditions of this Agreement.

27. TERMINATION FOR CONVENIENCE

27.1 Notwithstanding anything contained in this Agreement, NAV CANADA may, at any time prior to the completion of the Work, by giving notice to the Contractor (in this section sometimes referred to as a "termination notice"), terminate this Agreement as regards all or any part of the Work not completed. Upon a termination notice being given, the Contractor shall cease work in accordance with and to the extent specified in the notice, but shall proceed to complete such part or parts of the Work as are not affected by the termination notice. NAV CANADA may, at any time or from time to time, give one or more additional termination notices with respect to any or all parts of the Work not terminated by any previous termination notice.

27.2 In the event of a termination notice being given pursuant to section 27.1, the Contractor shall be entitled to be paid, to the extent that costs have been reasonably and properly incurred for purpose of performing this Agreement and to the extent that the Contractor has not already been so paid or reimbursed by NAV CANADA including the unliquidated portion of any advance payment.

28. DEFAULT BY THE CONTRACTOR

28.1 Where the Contractor is in default in carrying out any of its obligations under this Agreement, NAV CANADA may, upon giving written notice to the Contractor, terminate for default the whole or any part of this Agreement, either immediately, or at the expiration of a cure period not exceeding 30 days, as specified in the notice if the Contractor has not cured the default to the satisfaction of NAV CANADA within that cure period.

28.2 Where the Contractor becomes bankrupt or insolvent, makes an assignment for the benefit of creditors, or takes the benefit of any statute relating to bankrupt or insolvent debtors, or where a receiver is appointed under a debt instrument or a receiving order is made against the Contractor, or an order is made or a resolution passed for the winding up of the Contractor, NAV CANADA may, to the extent permitted by applicable law, upon giving notice to the Contractor, immediately terminate for default the whole or any part of this Agreement.

28.3 Where, subsequent to issuance of a notice pursuant to this article, NAV CANADA is satisfied that grounds did not exist for a termination under this section, the notice shall be deemed a notice of termination for convenience issued under section 27 (Termination for Convenience) of this Agreement.

28.4 Where NAV CANADA terminates this Agreement pursuant to sections 28.1 or 28.2 above, wherever it has provided notice or not, the Contractor shall not be entitled to be paid for any costs incurred for the purpose of performing the Work under this Agreement.

29. GOVERNING LAW

29.1 The Parties hereto agree that this Agreement is made in the province of Ontario and that it shall be governed by and interpreted in accordance with the laws of the Province of Ontario, and the laws of Canada applicable therein and that the courts of the Province of Ontario shall have exclusive jurisdiction with respect to any matter set out herein. The Parties hereby expressly agree that the United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement.

30. STATUS OF THE CONTRACTOR

- 30.1 The Contractor is engaged as an independent contractor for the sole purpose of performing the Work. Neither the Contractor nor any of its personnel are engaged as an employee, servant or agent of NAV CANADA. The Contractor is responsible for all deductions and remittances required by law in relation to its employees including those required for Canada or Quebec Pension Plans, Employment Insurance, worker's compensation, or income tax.

31. AMENDMENT AND WAIVERS

- 31.1 No design change, variation, addition, deletion (which term includes lining out), rider, modification to the Work, or amendment to this Agreement shall be binding unless it is incorporated into this Agreement by written amendment executed by NAV CANADA and the Contractor.
- 31.2 No waiver shall be valid, binding or affect the rights of the Parties unless it is made in writing and signed by both of the Parties.
- 31.3 The waiver by a Party of a breach of any term or condition of this Agreement shall not prevent the enforcement of that term or condition by that Party in the case of a subsequent breach, and shall not be deemed or construed a waiver of any subsequent breach.
- 31.4 The failure by any party hereto to insist in any one instance upon the strict performance by the other party hereto of its obligations hereunder shall not constitute a waiver or relinquishment of any such obligations as to any other instances, and the same shall continue in full force and effect. No covenant or condition of this Agreement may be waived by any party hereto except by the written consent of that party, and forbearance or indulgence by that party in any regard whatsoever and no matter how long shall not constitute a waiver of the covenant or condition and, until performed or waived in writing, that party shall be entitled to invoke any remedy available to that party under this Agreement or by law, despite the forbearance or indulgence.

32. TIME OF THE ESSENCE

- 32.1 Time is of the essence of this Agreement.

33. ASSIGNMENT

- 33.1 This Agreement shall not be assigned, in whole or in part, by the Contractor without the prior written consent in writing of NAV CANADA and any purported assignment made without that consent is void and of no effect. NAV CANADA may withhold its consent to any assignment in NAV CANADA's sole and unfettered discretion.
- 33.2 No assignment of this Agreement shall relieve the Contractor from any obligation under this Agreement or impose any liability upon NAV CANADA.
- 33.3 NAV CANADA may assign its rights and obligations pursuant to this Agreement on notice to the Contractor.

34. SUCCESSORS AND ASSIGNS

- 34.1 This Agreement shall enure to the benefit of, and shall be binding upon, the successors and permitted assignees of NAV CANADA and of the Contractor.

35. ENTIRE AGREEMENT

- 35.1 This Agreement constitutes the entire and sole agreement between the parties with respect to the subject matter of this Agreement and supersedes all previous negotiations, communications and other agreements, whether written or oral, relating to it, unless they are incorporated by reference in this Agreement. There are no terms, covenants, representations, statements or conditions binding on the Parties other than those contained in this Agreement.

36. SURVIVAL

- 36.1 All of the Contractor's obligations of confidentiality and all of the Contractor's representations and warranties set out in this Agreement as well as the provisions concerning accounts and audit, indemnity against third party claims, royalties, infringement and intellectual property rights shall survive the expiry of this Agreement or the termination of this Agreement, as shall

any other provision of this Agreement which, by the nature of the rights or obligations set out therein, might reasonably be expected to be intended to so survive.

37. SEVERABILITY

- 37.1 If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid, illegal or unenforceable, such provision shall be severed from this Agreement and all other provisions of this Agreement shall remain in full force and effect.

38. NAV CANADA'S CONTRACTOR HANDBOOK

- 38.1 Where and to the extent that there is a requirement to perform Work or otherwise provide services on NAV CANADA premises, NAV CANADA requires all suppliers to understand and comply with NAV CANADA's Contractor Handbook, as updated from time to time, including all applicable policies, codes and legislation referenced therein.
- 38.2 For greater certainty, Contractor shall (i) comply with NAV CANADA's Contractor Handbook; y(ii) comply with all NAV CANADA safety policies such as the Safety Management Responsibility of Contractors; (iii) develop Site Specific Safety Plans; (iv) provide a commitment to educate itself and its staff on the risks associated with the Work and ensure the Work is completed in accordance with all applicable codes, regulations and NAV CANADA policies and procedures; (v) report all relevant operational safety information to the appropriate NAV CANADA personnel; (vi) understand and comply with all applicable provincial and territorial occupational safety and health legislation; (vii) be familiar with site- specific Emergency Plans; (viii) complete the Handbook Safety Checklist; and (ix) obtain and pay all costs associated with all required permits under environmental legislation, including facility permits.
- 38.3 The Contractor shall keep proper accounts and records of its compliance with NAV CANADA's Contractor Handbook. All such accounts and records shall at all reasonable times during regular business hours and upon prior reasonable notice during the term of this Agreement, be open to audit, inspection and examination by the authorized representatives of NAV CANADA, who may make copies and take extracts thereof. The Contractor shall provide all facilities for such audits and inspections and shall furnish all such information as the representatives of NAV CANADA may from time to time require with respect to such accounts and records.

NAV CANADA's Contractor Handbook can be found [here](#).

Appendix A - Contractor Handbook Checklist can be found [here](#).

Appendix B - Site Specific Safety Plan can be found [here](#).

39. RESERVATION OF RIGHTS

- 39.1 Notwithstanding any other provision of this Agreement, NAV CANADA expressly reserves in respect hereof all rights and remedies which are available to them under the terms of this Agreement, at law or in equity.

40. NO PUBLICITY

- 40.1 The Contractor shall not use: (i) the name, trade name, or trademarks of NAV CANADA; (ii) any information which may reasonably be seen to imply that the Contractor has entered into an agreement with or has a relationship with NAV CANADA, in any manner, in any of its advertising or marketing literature, customer lists, web sites, applications, emails, press releases or any presentation, deliverable, document or communication (in electronic or paper form) without the prior written consent of NAV CANADA.

41. LANGUAGE OF CONTRACT

- 41.1 The parties hereto have required that this Agreement be written in English. Les parties aux présentes ont exigé que le présent contrat soit rédigé en anglais.

42. SECURITY

- 42.1 Prior to the commencement of Work, the Contractor and each of its personnel involved in the performance of this Agreement must be security screened in accordance with the NAV CANADA security policy.

- 42.2 Contractor personnel who, in the performance of this Agreement, require access to NAV CANADA property and/or information and assets shall hold either:
- 42.2.1 a NAV CANADA approved security clearance check, or
 - 42.2.2 a valid Personnel Security Clearance granted by the Government of Canada.
- 42.3 The NAV CANADA Contracting department will provide necessary documents and administration associated with obtaining a NAV CANADA Security Clearance check.
- 42.4 In cases where the Contractor and each of its personnel involved in the performance of this Agreement are in possession of a valid Government of Canada Personnel Security Clearance, a copy of their approved documentation must be provided to NAV CANADA Corporate Security Office prior to the signature of a Contract and the commencement of work. In absence of a Government of Canada security clearance, the Contractor must obtain from NAV CANADA's Contracting department the appropriate application form for the commencement of a NAV CANADA Security Clearance check. Once the form is completed and forwarded by the Contractor to NAV CANADA's designated background check service provider, a Security Clearance check will then be performed. Upon completion, the document will then be forwarded to NAV CANADA's Corporate Security & Emergency Planning department for final approval.
- 42.5 Contractor personnel who, in the performance of this Agreement, require access to an airport restricted area shall each hold a valid airport restricted area pass in accordance with Transport Canada's Transportation Security Clearance. Information regarding obtaining this secure access can be obtained at Transport Canada's [website](#).
- 42.6 The Contractor shall not remove any Company CONFIDENTIAL, Government CLASSIFIED or NATO CLASSIFIED information or assets from the work site, and the Contractor shall ensure that its personnel are made aware of and comply with this restriction. The NAV CANADA Technical Authority may, in writing, authorize TEMPORARY REMOVAL of such information or assets by the Contractor from the work site.
- 42.7 The Contractor shall safeguard all Government CLASSIFIED or NATO CLASSIFIED information or assets furnished to the Contractor in the performance of this Agreement, in accordance with the security requirements of the Government of Canada for the safeguarding of information or assets which are CLASSIFIED. The Contractor shall not use or release the information or assets for any purpose other than the performance of this Agreement.

43. INFORMATION SECURITY

- 43.1 The Contractor acknowledges they have developed, implemented, and will maintain effective information security policies and procedures that include administrative, technical and physical safeguards designed to ensure security by protecting against anticipated threats or hazards, unauthorized access or inappropriate use of proprietary and/or restricted information, and ensuring the proper disposal of the aforementioned.
- 43.2 The Contractor agrees to regularly audit and review its information security policies and procedures to ensure continued effectiveness and determine whether adjustments are necessary in light of then-current circumstances including, without limitation, changes in technology, customer information systems or threats or hazards to proprietary and/or restricted information.