

Any quotation for and any acceptance of any resulting order by Simoneau & Sterling Inc. (the “**Seller**”) to a buyer (the “**Buyer**”) are expressly limited and conditioned upon the following terms and conditions. No order for, or change, modification or waiver to any terms or scope of an order for the Seller’s goods & services (the “**Goods & Services**”) shall be binding on Seller unless accepted in writing by Seller. No provision contained in any order, acceptance, confirmation or acknowledgment which is inconsistent with, different from or in addition to these Standard Terms and Conditions of Sale is accepted by Seller unless specifically agreed to in writing by Seller. Acceptance of Buyer’s order by Seller shall be subject to verification of Buyer’s creditworthiness.

1. **QUOTATIONS.** Except as otherwise stated in writing by Seller, Seller’s quotation shall be valid for thirty (30) days from the date of the quotation. The latest quotation supersedes all previous quotations. Seller’s offer, drawings, plans and other information of Seller, whenever furnished by Seller, shall not be used or disclosed by Buyer for any other purpose than internal evaluation of Seller’s offer and, if awarded an order, for the installation, operation and maintenance of the Goods & Services supplied hereunder.

2. **PRICE.** Except as otherwise stated in writing by Seller, the price of the Goods & Services does not include any cost of inspection, certification, transportation, handling, containerization, crating, packing, storage, duties, customs clearance, tariffs or any of the applicable sales taxes. Offers and/or sales contemplated herein are EXW Georgetown, Ontario, Incoterms 2010.

3. **PAYMENT.** Seller reserves ownership of the property of the Goods & Services until full payment of the sale’s price. Except as otherwise stated in writing by Seller, Goods & Services will be charged as work progresses. Payment of all invoices shall be net 30 days. Interests of 1,5% per month (18% per year), or the maximum rate allowed by law, shall be charged to all outstanding accounts and all expenses of collections, including reasonable attorneys’ fees. If so requested by Seller, payment shall be made by electronic means or irrevocable letter of credit consisting of terms acceptable to Seller and confirmed by a prime Canadian bank. Buyer’s failure to make payment when due shall be a material breach of the order and these terms and conditions. Seller, at its sole option, and without incurring any liability, may suspend its performance until such time as the overdue payment is made. In the event of such suspension, the delivery schedule and order price shall be equitably extended and increased taking into account the delay and costs resulting from such suspension. Buyer shall promptly pay Seller for all costs and related overhead costs arising from any such suspension. Payments due hereunder shall in no event be subject to set-off with any other order or business arrangement. Seller may declare due all other sums owing by Buyer to Seller.

4. **LIMITED WARRANTY.** Seller warrants that the Goods & Services conform to specifications and are free from defects. Seller shall not be responsible for any costs related to the delivery of defective parts to Seller’s plant and their return to Buyer. If, in virtue of this warranty, Seller’s presence is required on the installation site, Buyer shall pay for all costs relating thereto including without limitation, traveling time, transport, lodging and subsistence costs of the required personnel. In virtue of such limited warranty, Seller shall have the right to make appropriate try-outs and repair any defective parts instead of replacing them. Seller’s limited warranty shall apply only to Goods & Services (parts and labor) which it has manufactured. Notwithstanding any law to the contrary or anything contained herein, Seller shall not be responsible or liable for any part incorporated to the Goods & Services which have been manufactured by other manufacturers such as, without limitation, controls, instruments, burners, etc. Nonetheless, Seller shall transfer to Buyer the benefit of any warranty offered by the original manufacturer to Seller as the case may be. Seller shall not be responsible for any cost or labor required

to diagnose and/or retrieve a defective part manufactured by another manufacturer and for reinstallation of such part. Notwithstanding the terms of the present limited warranty for its Goods & Services or any law to the contrary, Seller shall not in any manner be held responsible for any direct or indirect damages which could be caused by its Goods & Services or any parts thereof. In no circumstance shall Seller’s warranty hereunder exceed the amount actually paid by Buyer for the Goods & Services.

5. **WORKING HOURS.** Unless otherwise indicated, the work will be done during regular working hours of each day. If the Seller is required to provide labor outside regular working hours, Buyer agrees to pay the difference between overtime hourly rate and regular hourly rate.

6. **ACCESSORIES.** If this contract includes installation of accessories provided by others, these accessories & parts required for installation must be available when the Seller asks. Otherwise, Seller may charge any inconvenience caused by the delay.

7. **ELECTRICITY SUPPLY.** Buyer agrees to provide at its expense the necessary and adequate power supply to the Seller in order to perform the contracted services.

8. **BUYER’S RESPONSIBILITY.** In case of fire, theft or vandalism in the premises where work is done, Buyer will be responsible for any damage or loss caused to Seller materials and tools.

9. **OBLIGATIONS OF BUYER.** Buyer is solely responsible for identifying and defining all processes and mechanical considerations and site requirements, which may affect the performance, reliability or operation of the Goods & Services furnished by Seller. Seller’s quotation and any sale is based upon the covenant by Buyer that all the information and data provided to Seller by or for Buyer is up to date, complete, accurate and does not contain information which is misleading.

10. **DAMAGE CAUSED BY OTHER TRADES.** The Seller is not responsible for damage or delays caused by other trades or any other party who is not a representative of the Seller.

11. **LIMITATION OF LIABILITY.** Seller’s liability shall be limited to the price allocable to the Goods & Services determined defective and in no event will Seller’s cumulative liability be in excess of the amount paid by Buyer for the Goods & Services. Seller will not be liable for any special, indirect, incidental or consequential damages or lost profit, whether arising under warranty, contract, negligence, strict liability, indemnification, or any other cause or combination of causes whatsoever. This limitation shall be inclusive of all insurance, bond and bank guarantee or letter of credit proceeds which may be paid to Buyer by the insurers, sureties or banks of Seller. This limitation shall apply notwithstanding any failure of essential purpose of any limited remedy. Buyer’s remedies are specifically limited to the repair or replacement of the defective Goods & Services and are exclusive of all other remedies. Should these remedies be found inadequate or to have failed their essential purpose for any reason whatsoever, Buyer agrees that the return of the amount paid by Buyer for the Goods & Services shall prevent the remedies from failing their essential purpose and shall be considered by Buyer as a fair and adequate remedy. This article shall prevail over any conflicting or inconsistent provisions stated elsewhere. Except to the extent limited by law, all claims by Buyer, to include but not limited to claims under bonds, letters of credit and financial or corporate guarantees, shall be made not later than the expiration date stated in the respective instrument, but in no event later than the expiration of the warranty period set forth in these terms. Notwithstanding any contrary provisions, under no circumstance shall Seller’s liability hereunder exceed the amount actually paid by Buyer for the Goods & Services.

12. **INDEMNIFICATION.** Buyer shall defend and indemnify Seller from and against any damages, liabilities, costs and expenses, including without limitation, reasonable attorneys’ fees and court costs, arising out of : (i) the use of the

Goods & Services by Buyer or its customers in an application or environment for which such Goods & Services were not designed or contemplated; (ii) modifications and/or improvements to the Goods & Services introduced by Buyer or its customers; or (iii) injuries or damages caused by the Goods & Services which were attributable to faulty materials or workmanship in the manufacture or assembly of the Goods & Services by Buyer or to Buyer's fault or negligence.

13. TECHNICAL ASSISTANCE. Seller shall make available, upon request from Buyer, installation, technical and/or maintenance services, to be offered under a separate agreement. In no event shall compliance by Seller of its obligations under the limited warranty provided hereunder shall be construed as an acceptance by Seller to provide installation, technical and/or maintenance services to Buyer hereunder.

14. CANCELLATION FEE. Except as otherwise agreed in writing by the parties, Buyer may not cancel or terminate the order, except upon written notice and payment to Seller of an amount consisting of all costs incurred by Seller up to the time of cancellation or termination, along with those costs which arose out of or resulted from the cancellation or termination, plus a cancellation fee of 25% of the total order price.

15. FORCE MAJEURE. If either party hereto is *bona fide* delayed, hindered in or prevented from the performance of any term, obligation or act required hereunder by reason of strikes, labor troubles, inability to procure materials or services, default by suppliers to deliver as planned, power failure, restrictive governmental Laws or regulations, riots, insurrection, sabotage, rebellion, war, acts of terrorism, act of God, *force majeure* or other reason which is beyond the control of the party so delayed, hindered or prevented, then performance of such term, obligation or act shall be excused for the period of the delay and the party shall be entitled to perform such term, obligation or act within the appropriate time period after the expiration of the period of such delay taking all reasonable steps to mitigate the effects of such events. However, Buyer shall not be excused from the prompt payment of the order price or any other amounts due to Seller in virtue hereof.

DELAYS. Availability dates are approximate and Seller reserves the right to modify availability dates. Under no circumstances will Seller, be responsible or incur any liability for costs or damages of any nature (whether general, consequential, as a penalty or liquidated damages, or otherwise) arising out of or owing to any delays in availability or failure to make the Goods & Services available at agreed or specified times, including without limitation on the Availability Date. If pick up is delayed or suspended by Buyer, Buyer shall pay: (i) Seller's invoice for the Goods & Services as per payment terms; (ii) Seller's assumes Buyer's mobilization/demobilization staff costs executing this Goods & Services; and (iii) any other costs incurred or suffered by Seller due to such delay or suspension.

16. ACKNOWLEDGEMENTS. Buyer acknowledges that the Goods & Services, in whole or in part, and related documentation including without restriction, plans, drawings, software programs, etc., embody intellectual property rights, whether it be copyrights, industrial designs, trademark rights, patent rights and or trade secrets (the "**IP Rights**") and that they are the property of Seller; Buyer further agrees and undertakes that it will not at any time, whether before, during or after this Agreement, assert or claim any right in the IP Rights, other than the rights set forth herein. Buyer agrees that it will not do or cause anything to be done which may jeopardize or adversely affect the validity of the IP Rights or Seller's ownership of the same. Buyer agrees that it will, at Seller's cost and expense, support Seller (provided the underlying issues are also of concern to the Buyer or to the protection of Buyer's rights hereunder) as may be necessary or desirable to assist Seller in ensuring full and continued validity of the IP Rights and Seller's rights with respect to it. Each party agrees to respect the confidential information of the other party to which it has access within the execution of this agreement, and

further agrees that it will, upon the other party's request, sign a Confidentiality Agreement in view of protecting such confidentiality.

17. NOTICES. All notices and communications required or permitted to be given under these provisions shall be in writing and may be given by hand, by facsimile at the number set forth below or by registered mail, postage prepaid, to the address hereinafter set forth: (a) if to Seller, notices must be served to both of the following addresses: 1) Simoneau & Sterling Inc. 8-150 Armstrong Ave, Georgetown, ON L7G 5G8, fax number (905) 702-1605 and 2) Simoneau & Sterling Inc., 1541, De Coulomb Street, Boucherville (Quebec) J4B 8C5, attention: Nancy Simoneau; Fax number: 450-641-9141; and, (b) if to Buyer: at the Buyer's address as stated in the contract or at Buyer's head office. Any notice delivered by hand shall be deemed to have been received at the time and on the date that it was delivered. Any notice sent by facsimile shall be deemed to have been received on the next day after the date on which the notice was sent. Any notice mailed shall be deemed to have been received on the 5th day after the date on which the notice was deposited in a post office for onward transmission by prepaid registered mail.

18. SEVERABILITY. Invalidity of any of these provisions will not affect the validity of any other provision and the remaining provisions will remain in full force and effect.

19. WAIVER. Failure by Seller to enforce any of these terms and conditions in a particular instance will not constitute a waiver of, or preclude subsequent enforcement of, any of these provisions.

20. ASSIGNMENT. Buyer shall not, without Seller's prior written consent, assign the order or claims against Seller relating in any manner to the Goods & Services or the order.

21. APPLICABLE LAW. This sale, order or offer shall be governed and interpreted in accordance with the laws in effect in the Province of Ontario. Buyer renounces to elect any other jurisdiction but for the Courts of Toronto to hear any dispute. The parties disclaim any applicability of the U.N. Convention of the International Sale of Goods & Services to the present offer, sale or order.

22. LANGUAGE. This quotation or order was prepared in English at the express request of both parties. La présente soumission ou commande a été rédigée en anglais à la demande expresse des deux parties.