



## Goods Purchase Order Terms and Conditions

---

1.	Definitions .....	1
2.	Interpretation.....	2
3.	Scope of Work .....	3
4.	Return of Goods.....	3
5.	Changes.....	3
6.	Independent Contractor .....	3
7.	Subcontractors.....	3
8.	Representations.....	3
9.	Defective or Deficient Work.....	3
10.	Insurance .....	3
11.	Liability and Indemnification .....	4
12.	Limitation of Liability.....	4
13.	Third Party Claims .....	4
14.	Consequential and Punitive Damages .....	4
15.	Title Transfer.....	4
16.	Payment.....	4
17.	Set-Off .....	4
18.	Suspension or Termination .....	5
19.	Confidentiality .....	5
20.	Personal Information.....	5
21.	Publicity.....	5
22.	Intellectual Property .....	5
23.	Compliance with Laws and Suncor's Supplier Code of Conduct.....	5
24.	Anti-Bribery Law.....	6
25.	Taxes .....	6
26.	Audit.....	6
27.	Dispute Resolution.....	6
28.	Notices.....	6
29.	U.N. Convention on the Sale of Goods .....	6
30.	Governing Law.....	6
31.	Canada - Newfoundland and Labrador Benefits .....	6
32.	General Matters .....	7

**1. DEFINITIONS**

1.1 **Definitions.** The following capitalized terms, wherever used in the Contract and any documents prepared pursuant thereto, mean:

- (a) **“Affiliate”** shall have the same meaning given to that term in the Canada Business Corporations Act, or any similar, replacement or supplemental Law in effect from time to time, which meaning shall, mutatis mutandis, also apply to partnerships, limited liability partnerships and limited partnerships, and for the purposes of the Contract, Fort Hills Energy L.P., Syncrude Canada Ltd., and any joint venture (regardless of the form of such joint venture) for which an Affiliate of Suncor is the operator or for which an Affiliate of Suncor has a majority ownership interest shall each be deemed to be an Affiliate of Suncor.
- (b) **“Anti-Bribery Law”** means any anti-bribery law or international convention, as may apply now or in the future, including the Corruption of Foreign Public Officials Act (Canada), the Foreign Corrupt Practices Act (U.S.), the Bribery Act (U.K.) and the Organisation for Economic Co-operation and Development Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.
- (c) **“Claim”** means any one or more of: loss, damage, cost, expense, disbursement, penalty, fine, claim, demand, action, proceeding, lien (whether builders', mechanics', construction or other type of lien), legal hypothec, encumbrance, statutory obligation, liability, suit, judgment, award, decree, determination, adjudication, unpaid tax of any kind (including withholding tax), cost of investigation and any type of fee (including legal fees, on a solicitor-and-own-client basis), together with any interest in relation thereto at the applicable rate.
- (d) **“Completion”** means that the Work has been fully completed in accordance with the Contract.
- (e) **“Confidential Information”** means all information of a confidential nature which a Party acquires concerning or relating to the other Party, any Indemnitee or the Contract, including such other Party's or any Indemnitee's business, affairs, financial position, assets, operations, activities, prospects or trade secrets, together with all analyses, evaluations, compilations, notes, studies or other documents containing or based upon such information, including those prepared by the Contractor.
- (f) **“Contract”** means the contract created in accordance with Paragraph 32.1 (Binding Agreement).
- (g) **“Contractor”** means the party named in the Purchase Order as the supplier of the Goods to Suncor.
- (h) **“Deliverable”** means any and all physical products and any and all documentation, including drawings, specifications, reports, manuals and other documents delivered or required to be delivered to Suncor or its Affiliates as part of the Work, whether generated by the Contractor or a Subcontractor, whether in full or in partial stage of completion.
- (i) **“Documents”** includes, without limitation, diagrams, illustrations, specifications or drawings supplied directly or indirectly by Suncor to the Contractor, or produced by the Contractor or its subcontractors in connection with the supply of the Goods.
- (j) **“General Conditions”** means this document entitled **“Goods Purchase Order Terms and Conditions”** which forms part of the Contract.
- (k) **“Goods”** means any items supplied, manufactured or procured for Suncor by the Contractor in order to meet the requirements of the Contract.
- (l) **“Indemnitees”** means Suncor, Suncor's Affiliates, Suncor's joint venturers and the Personnel of each of the foregoing.
- (m) **“Intellectual Property Rights”** means all intellectual property rights as recognized under the Law, including rights in and to patents, copyrights, industrial designs and other intellectual property, but excluding trademarks. Intellectual Property shall include all:
  - (i) applications and registrations;
  - (ii) rights and privileges arising under applicable Laws; and
  - (iii) rights of the same or similar effect or nature in any jurisdiction,
 all relating to the foregoing throughout the world.
- (n) **“Invoicing Requirements”** means Suncor's invoicing and accounts payable standards, procedures, policies and guidelines at <https://www.suncor.com/en-ca/contractors-suppliers-carriers/existing-contractors-suppliers-carriers> or such other Suncor website as may be updated from time to time, or as specified in the Contract, or as may be provided by Suncor from time to time.
- (o) **“Law”** means collectively all valid applicable common law, federal, provincial, state and municipal and other local laws, orders, rules, regulations and decisions of regulatory bodies, including those related to occupational health and safety, fire, immigration, employment insurance, workers' compensation, transportation of dangerous goods and handling, environmental protection legislation, building codes, Anti-Bribery Law, and any other governmental requirements, work practices and procedures prescribed by law.
- (p) **“Party”** means a party to the Contract.
- (q) **“Personal Data”** means "personal data", "personal information" or an equivalent term, as defined by applicable Personal Data Protection Legislation to the extent such data or information is accessed, collected, stored, transmitted, processed, hosted, used, handled, or disposed of by the Contractor in connection with the Contract.
- (r) **“Personal Data Processing”** means any operation or set of operations which is performed by or on behalf of the Contractor in connection with the Contract upon Personal Data, whether or not by automatic means, such as collection, recording, organization, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction.

- (s) **“Personal Data Processing Addendum”** means the document entitled "Suncor Personal Data Processing Addendum" and found on Suncor's website at <https://www.suncor.com/en-ca/contractors-suppliers-carriers/existing-contractors-suppliers-carriers> or such other Suncor website as may be updated from time to time.
- (t) **“Personal Data Protection Legislation”** means all Laws applicable to Personal Data Processing under the Contract.
- (u) **“Personnel”** means a Party's directors, officers, employees, contractors, representatives, advisors and agents, and, in respect of the Contractor, includes Subcontractors and the directors, officers, employees, contractors, representatives, advisors and agents of Subcontractors.
- (v) **“Project Technology”** means any Technology, and any Intellectual Property Rights therein, created, developed or acquired by the Contractor, the Contractor's Personnel or Suncor as a result of or in connection with the Goods.
- (w) **“Purchase Order”** means an authorization issued by Suncor, which may be in the form of a purchase order, statement of work, or work order, and all other attachments identified in such authorization.
- (x) **“Records”** means the records of the Contractor and its Affiliates and the Personnel of each of the foregoing relating to the Contract or the Work, including paper and electronic documents and copies in their native form of:
- (i) original invoices and accounts showing all the Contractor's charges, costs and expenses incurred in the performance of the Work, including:
    - (A) records of account for all Work performed, including names and positions of Personnel, hours worked, type of Work performed and wages paid; and
    - (B) records of account for any items for which Suncor is obliged to reimburse the Contractor, including for equipment and materials, whether subcontracted or not;
  - (ii) information relating to the Contractor's compliance with the Invoicing Requirements;
  - (iii) where the Work is supplied for Suncor's operations in relation to the Terra Nova Project area, the records described in Paragraph 31.1 (Canada - Newfoundland and Labrador Benefits);
  - (iv) records relating to any termination or suspension costs; and
  - (v) information relating to the Contractor's compliance with Suncor's Supplier Code of Conduct and the Law, and the Contractor's use of Confidential Information.
- (y) **“Services”** means all labour, supervision, administration, transportation, delivery and such other work to be performed by the Contractor, and the supply of tools, equipment and other materials necessary for the performance of such services.
- (z) **“Site”** means the site(s) identified in the Contract.
- (aa) **“Subcontractor”** means any Person directly or indirectly subcontracted by the Contractor to perform all or any part of the Work.
- (bb) **“Suncor”** means the purchasing entity.
- (cc) **“Suncor's Supplier Code of Conduct”** means the document "The Way We Do Business – Working with Suncor" available on Suncor's website at <https://www.suncor.com/en-ca/contractors-suppliers-carriers/existing-contractors-suppliers-carriers> or such other Suncor website as may be updated from time to time.
- (dd) **“Supplemental Site Service Terms and Conditions Addendum”** means the document Supplemental Site Service Terms and Conditions Addendum available on Suncor's website at <https://www.suncor.com/en-ca/contractors-suppliers-carriers/existing-contractors-suppliers-carriers>, or such other Suncor website as may be updated from time to time.
- (ee) **“Technology”** means all: Documents, trade secrets and other proprietary or confidential information; any information of a scientific, technical, or business nature; standards and specifications; conceptions, ideas, innovations, principles, knowledge and discoveries; research, developmental, demonstration or engineering work; systems, designs, analytical tools, practices, methods of assessment and techniques; data and data files; metrics and statistics; scoping studies; and all other information, methods, processes, formulations, formulae, technical or procedural information. Furthermore, Technology may be embodied in or on any media including hardware, software, photographs, drawings, plans, documents, Deliverables, reports, studies, manuals, summaries and other work product.
- (ff) **“Work”** means the supply of Goods, Services, labour, supervision, administration, Deliverables and such other activities that are inherent, necessary or customarily provided for the scope of work described in the Contract.

## 2. INTERPRETATION

2.1 **Interpretation.** The interpretation of the Contract shall be governed by the following rules:

- (a) headings contained in the Contract are for convenience and reference only and are not to be considered in the interpretation of any of its provisions;
- (b) all dollar figures shall mean Canadian Dollars unless otherwise specifically referenced;
- (c) words signifying the singular include the plural, and vice versa;
- (d) words importing the masculine, feminine or neutral genders shall mean any of them as the context requires unless specifically stated otherwise;
- (e) words importing persons, firms or corporations shall mean any of them as the context requires unless specifically stated otherwise;
- (f) **“Article”** or **“Paragraph”** refers to the specified article or paragraph of the Contract unless expressly noted otherwise;
- (g) the word **“include”** or **“including”**, when following a general term or statement, is not to be construed as

limiting the term or statement to the specific items or matters stated or to similar items or matters, but rather as referring to all items or matters that could reasonably fall within the broadest possible scope of the term or statement;

- (h) where a reference is made to a “day”, “week”, “month” or “year”, the reference is to the calendar period; and
- (i) all Appendices are integral parts of the Contract.

2.2 **Document Precedence.** In the event of any conflict between or among the various documents comprising the Contract, such documents shall be interpreted in the following order of precedence:

- (a) General Conditions; and
- (b) the Purchase Order.

2.3 **E-Commerce Provider.** The Parties shall utilize Suncor's third party e-commerce service provider. The Contractor shall enter into licensing and service agreements with the e-commerce service provider necessary to access and utilize the e-commerce service provider's electronic communications portal, record retention system and any other modules or accessory applications deemed necessary by Suncor. Suncor may change its e-commerce service provider upon written notice to Contractor. The Parties acknowledge and agree that use of an e-commerce service provider will allow the Parties to transmit to one another various documents and communications, including purchase orders, statements of work, work orders, receipt confirmations, sourcing activities, invoices, acknowledgements, and other documents related to the Contract.

### 3. SCOPE OF WORK

3.1 **Work.** The Contractor shall perform the Work in accordance with the Contract.

3.2 **Time.** The Contractor acknowledges that timely performance of the Work is a matter of paramount importance to Suncor.

3.3 **Terms and Conditions.** Where the Work includes the performance of Services at the Site, such Services shall be performed in accordance with the Supplemental Site Service Terms and Conditions Addendum and the General Conditions. The Supplemental Site Service Terms and Conditions Addendum shall not apply to Services supplied to Suncor's off-shore operations in relation to the Terra Nova Project, which shall be governed by Suncor's standard off-shore services terms and conditions (as provided by Suncor).

### 4. RETURN OF GOODS

4.1 **Return of Goods.** Suncor shall have the right to return Goods at the Contractor's risk and expense in the event any such Goods are:

- (a) delivered in error;
- (b) rejected as not being in accordance with the Contract; or
- (c) an overage in excess of trade practice.

### 5. CHANGES

5.1 **Suncor Change.** Suncor may make any changes to the Work including additions, deletions, rescheduling, acceleration or deceleration to all or any part of the Work. The Contractor agrees to perform the Work as changed.

### 6. INDEPENDENT CONTRACTOR

6.1 **Independent Contractor.** The Contractor is an independent contractor and not an agent of Suncor.

### 7. SUBCONTRACTORS

7.1 **Subcontracting.** The Contractor may subcontract any portion of the Work, subject to the prior written approval of Suncor, which approval may be withheld at Suncor's sole discretion.

7.2 **Responsibility.** Where any portion of the Work is subcontracted by the Contractor, the Contractor shall remain responsible for the performance of the Work and for the acts, omissions or defaults of its Subcontractors and their respective Personnel as if they were acts, omissions or defaults of the Contractor.

### 8. REPRESENTATIONS

8.1 **Contractor's Performance Representations and Warranties.** The Contractor acknowledges that Suncor is relying on the Contractor's skill, knowledge and expertise in performing the Work in accordance with the Contract. The Contractor represents and warrants that:

- (a) the Work shall be free from all latent and other defects or deficiencies, of merchantable quality and shall be fit for the purpose for which the Work has been supplied as stated in the Contract;
- (b) all Goods shall be new, of merchantable quality, and shall be fit for the purpose for which such Goods have been manufactured or fabricated; and
- (c) the Work is now, and shall continue to be, free and clear of all liens, encumbrances, adverse Claims, demands or other interests.

### 9. DEFECTIVE OR DEFICIENT WORK

9.1 **Remediation of Defective or Deficient Work.** The Contractor shall, at its own risk and expense, including all costs to access the Work, remedy without delay any defect or deficiency in the Work discovered within 24 months after Completion or 12 months after the Goods are put into service under normal operating conditions, whichever occurs first.

9.2 **Indemnification by Contractor to Suncor for Remediation.** Should the Contractor fail to remedy the defects or deficiencies in accordance with Paragraph 9.1 (Remediation of Defective or Deficient Work) as soon as practicable from the time of Suncor providing a notice to the Contractor to remedy the same, Suncor may proceed with any activities necessary to remedy the defects or deficiencies and the Contractor shall indemnify and hold harmless the Indemnitees from any Claim brought against or suffered, sustained, paid or incurred by one or more of the Indemnitees to remedy such defects or deficiencies.

### 10. INSURANCE

10.1 **Insurance Coverage.** Without limiting any of the obligations or liabilities under the Contract, the Contractor shall obtain at its own expense and cost, a policy of Commercial General Liability Insurance suitable to Suncor in an amount of not less than \$5 million (combined single limit on each occurrence) covering Products and Completed Operations Liability, and shall name the Indemnitees as additional insureds. This policy will respond to property damage to Suncor's existing facilities.

**11. LIABILITY AND INDEMNIFICATION**

11.1 **Liability of Contractor.** The Contractor shall indemnify and hold harmless the Indemnitees from all Claims brought against or suffered, sustained, paid or incurred by one or more of the Indemnitees as a result of the negligence or breach of contract by the Contractor arising out of or incidental to the performance or non-performance of the Contract or of the Work.

**12. LIMITATION OF LIABILITY**

12.1 **Limitation of Liability for the Contractor.** Subject to Paragraph 12.2 (Gross Negligence and Willful Misconduct) and the Contractor's obligations to indemnify pursuant to Article 13 (Third Party Claims), Article 19 (Confidentiality), Article 20 (Personal Information), Article 22 (Intellectual Property), Article 24 (Anti-Bribery Law) and Article 25 (Taxes), the liability for which shall not be limited in any way, the Contractor's liability under the Contract shall be limited to the greater of:

- (a) all amounts of applicable insurance coverage required to be maintained under the Contract, provided that the cost of the deductibles shall not be deducted from the total insurance coverage in determining the amount of coverage under the policies of insurance; and
- (b) the total compensation to complete the full scope of Work.

12.2 **Gross Negligence and Willful Misconduct.** Notwithstanding any other provision in the Contract, the limitations of liability contained in the Contract shall not apply in respect of any liability of the Contractor arising from, or connected to, its gross negligence or willful misconduct. Where the Contract is governed by the Laws of Quebec, "gross negligence and willful misconduct" shall have the same meaning as "intentional or gross fault".

**13. THIRD PARTY CLAIMS**

13.1 **Third Party Claims.** The Contractor shall indemnify and hold harmless the Indemnitees from all Claims by any third party which may be brought against or suffered, sustained, paid or incurred by one or more of the Indemnitees as a result of and to the extent of the acts, faults, errors, omissions or negligence of the Contractor.

**14. CONSEQUENTIAL AND PUNITIVE DAMAGES**

14.1 **Consequential and Punitive Damages Exclusion.** Subject to Paragraph 14.3 (Exception to Consequential and Punitive Damages Exclusion) and except for coverage that may be available under insurance policies required to be maintained under the Contract by the Contractor, the Contractor shall not be liable to the Indemnitees and the Indemnitees shall not be liable to the Contractor or its Affiliates or their respective Personnel for consequential or punitive damages.

14.2 **Direct Economic Damages Limitation.** Notwithstanding Paragraph 14.1 (Consequential and Punitive Damages Exclusion), the Contractor shall be liable to the Indemnitees for damages for losses of profits, revenue, business, reputation, financing or opportunity if and to the extent that such losses are a direct result of the negligence or breach of contract by the Contractor arising out of or incidental to the performance or non-performance of the Contract or of the Work, but such liability will be limited as stated in Article 12 (Limitation of Liability).

14.3 **Exception to Consequential and Punitive Damages Exclusion.** Paragraph 14.1 (Consequential and Punitive Damages Exclusion) and the limitation in Paragraph 14.2 (Direct Economic Damages Limitation) shall not apply to: (i) any liability of the Contractor arising from or connected to its, or any of its Subcontractors', gross negligence or willful misconduct; or (ii) the Contractor's obligation to indemnify the Indemnitees pursuant to Article 13 (Third Party Claims), Article 19 (Confidentiality), Article 20 (Personal Information), Article 22 (Intellectual Property) and Article 24 (Anti-Bribery Law).

**15. TITLE TRANSFER**

15.1 **Title Transfer.** Title to the Goods shall be vested in Suncor when any one of the following events first occurs:

- (a) the Goods, or a portion thereof, is first identifiable as being appropriated to the Contract;
- (b) Suncor pays for the Goods, or a portion thereof; or
- (c) the Goods, or part thereof, is dispatched from the Contractor's place of manufacture to the Site.

15.2 **Shop Work Number.** All Goods shall be marked so as to be identifiable as the property of Suncor.

15.3 **Risk of Loss.** Care, custody, control and risk of loss of the Work shall remain with the Contractor until Completion.

**16. PAYMENT**

16.1 **Payment.** Subject to the General Conditions, payment shall be made in accordance with the Purchase Order.

16.2 **Withholding.** Notwithstanding any other provision of the Contract, an amount otherwise due to the Contractor may be withheld without payment of interest if, in the opinion of Suncor, it is necessary to protect Suncor from loss on account of:

- (a) the Contractor failing to complete the Work, not making satisfactory progress with the Work or being in default of any condition of the Contract, including quality assurance and health and safety requirements, or failing to provide any Deliverables in a timely manner;
- (b) the Contractor not promptly remedying defective or deficient Work;
- (c) the Contractor failing to promptly and satisfactorily pay any Claim for labour performed or materials or equipment furnished; or
- (d) loss or damage to the property of Suncor or others for which the Contractor or its Subcontractors is responsible.

If and when the cause of the withholding of any amount is removed and satisfactory evidence of such removal is furnished to Suncor, Suncor shall promptly pay the amount withheld to the Contractor pertaining to such cause.

**17. SET-OFF**

17.1 **Set-Off.** Notwithstanding any other provision in the Contract, Suncor may, from time to time, without prejudice to any other right or remedy Suncor may have at Law or otherwise, deduct and set off any amounts owed by the Contractor to Suncor under the Contract, howsoever arising, from any amount due or owing by Suncor or its Affiliates under any contract Suncor or its Affiliates has or may have with the Contractor.

**18. SUSPENSION OR TERMINATION**

18.1 **Suspension or Termination for Convenience.** Suncor may, without cause:

- (a) suspend the Contract in whole or in part, at any time, by giving notice to the Contractor stating the extent and effective date of such suspension or termination; or
- (b) terminate the Contract in whole or in part, at any time, by giving 15 days' notice to the Contractor stating the extent and effective date of such termination.

In the event of a suspension or termination under this Paragraph, the Contractor shall place no further orders, subcontracts or other agreements related to the suspended or terminated Work and shall make every effort to suspend or terminate all outstanding purchase orders, subcontracts or other agreements as they relate to the suspended or terminated Work.

18.2 **Termination for Cause.** Suncor may, at any time, upon notice to the Contractor, immediately terminate the Contract if the Contractor is in default of any provision of the Contract.

**19. CONFIDENTIALITY**

19.1 **Confidential Information.** Confidential Information received by a Party (including Confidential Information received by a Party prior to the execution of the Contract) shall be received in the strictest confidence and shall not, for a period of five years following the creation of the Contract, be disclosed to any third party in any manner whatsoever, in whole or in part, or be used in any manner whatsoever directly or indirectly for any purpose other than for the purposes of carrying out the Work, except by Suncor as may be necessary to use or maintain the Goods.

19.2 **Unauthorized Disclosure by a Third Party.** Any unauthorized disclosure of Confidential Information by a third party shall be considered an unauthorized disclosure by the Party that, directly or indirectly, provided the Confidential Information to such third party.

19.3 **Confidentiality Indemnification.** Without limitation and in addition to any other rights or remedies Suncor may have, the Contractor shall indemnify and hold harmless the Indemnitees from all Claims brought against or suffered, sustained, paid or incurred by one or more of the Indemnitees arising out of or resulting from a breach of this Article by the Contractor.

19.4 **Ownership of Confidential Information.** Each Party shall retain ownership of all its Confidential Information and the other Party shall have no right, title or interest therein or thereto unless expressly stated in the Contract. The Contractor shall return or destroy Suncor's Confidential Information in the Contractor's possession, including any documents prepared by the Contractor based on or incorporating Suncor's Confidential Information, no later than 10 days following a request by Suncor or at termination or conclusion of the Contract, whichever may occur first. Upon request by Suncor, the Contractor shall promptly certify that all such materials constituting Suncor's Confidential Information in the Contractor's possession have been returned to Suncor or destroyed.

**20. PERSONAL INFORMATION**

20.1 **Application.** Where the Contractor performs Personal Data Processing in relation to the Contract, the Personal Data Processing Addendum shall apply to such Personal Data Processing and shall form part of the General Conditions.

**21. PUBLICITY**

21.1 **Advertising.** Without the prior written consent of Suncor, which consent may be arbitrarily withheld, the Contractor shall not, with respect to the Contract or the Work: (i) use any endorsement of Suncor, (ii) erect any sign or advertising, (iii) use any Suncor trademark, logo or device in any sign or advertisement or on its website, (iv) provide any link to Suncor's website or otherwise make reference to Suncor on Contractor's website, or (v) issue any statement to a news media organization.

**22. INTELLECTUAL PROPERTY**

22.1 **Rights of Parties.** Subject to any rights, title or interests expressly granted by the Contract, neither Party shall acquire any right, title, or interest in or to any Technology of the other Party in existence prior to the execution of the Contract and any Intellectual Property Rights therein.

22.2 **Intellectual Property Indemnification.** The Contractor shall be liable to and, in addition, shall indemnify and hold harmless the Indemnitees from and against any and all Claims arising out of or resulting from the actual or alleged infringement or misappropriation of Intellectual Property Rights or any litigation based thereon in respect of Project Technology or Work supplied by the Contractor or the license provided pursuant to Paragraph 22.3 (License). The Contractor, if requested to do so by Suncor, shall, at its sole expense, promptly defend against the Claim. Suncor shall notify the Contractor upon becoming aware of the Claims. The Contractor shall have the right at its own expense to modify the Work so they become non-infringing, or to obtain the necessary licenses to use the infringing Work only if such substituted and modified Work shall meet all the requirements and be subject to all the provisions of the Contract.

22.3 **License.** Notwithstanding Paragraph 22.1 (Rights of Parties), if any Technology that the Contractor owned, created, developed or acquired prior to Suncor receiving the Goods or independently of such order for the Goods ("**Background IP**") is incorporated or embedded into any Goods or is otherwise necessary to use or maintain the Goods, then the Contractor hereby grants to Suncor and its Affiliates a non-exclusive, irrevocable, worldwide, transferable, royalty-free, fully paid-up, sub-licensable and perpetual right and license to use or maintain such Background IP in any way related to its use of the Goods with no obligation to account to the Contractor.

22.4 **Project Technology.** Suncor shall own all Project Technology, which shall be Suncor's Confidential Information. The Contractor hereby assigns, and agrees to assign to Suncor, an ownership interest in any Project Technology that it or its Personnel create, develop or acquire and provide such Project Technology to Suncor.

**23. COMPLIANCE WITH LAWS AND SUNCOR'S SUPPLIER CODE OF CONDUCT**

23.1 **Compliance with Law.** The Contractor and its Personnel shall be fully knowledgeable of the Law applicable to the Work and the performance of the Contract and shall comply with the Law.

23.2 **Compliance with Suncor's Supplier Code of Conduct.** At the Contractor's expense, the Contractor and its Personnel shall understand and comply with Suncor's Supplier Code of Conduct and shall provide written certification of same if requested, and shall use reasonable efforts to prevent any harm to Suncor's reputation. In the case of any difference

between the requirements of Suncor's Supplier Code of Conduct and the Law, the stricter or higher standard shall apply.

**24. ANTI-BRIBERY LAW**

24.1 **Indemnification for Anti-Bribery Law Compliance.** The Contractor shall indemnify and hold harmless the Indemnitees from all Claims brought against or suffered, sustained, paid or incurred by one or more of the Indemnitees as a result of the Contractor's or Subcontractors' failure to comply with Anti-Bribery Law.

24.2 **Obligation to Report Non-Compliance.** The Contractor shall immediately notify Suncor of any alleged or actual breach of Anti-Bribery Law by the Contractor or a Subcontractor in relation to the Work or in connection with the Contractor's business relationship with Suncor.

**25. TAXES**

25.1 **Tax Responsibility.** With the exception of goods and services tax and harmonized sales tax pursuant to the Excise Tax Act (Canada) and, if applicable, Québec sales tax as described in an Act respecting the Quebec Sales tax (Québec), payable on amounts due to the Contractor, which shall remain the responsibility of Suncor, the Contractor shall be responsible for and pay all Taxes in relation to the Work.

25.2 **Tax Indemnity.** The Contractor shall indemnify and hold harmless the Indemnitees from all Claims brought against or suffered, sustained, paid or incurred by one or more of the Indemnitees in respect of the Contractor's obligations described in this Article.

**26. AUDIT**

26.1 **Records.** The Contractor shall maintain a complete set of Records during performance of the Work and for a period of at least five years after the expiration or termination of the Contract, and, where applicable, such Records shall be maintained in accordance with GAAP.

26.2 **Audit.** At any time during normal business hours until five years after the expiration or termination of the Contract, Suncor or its nominees shall have the right to inspect and audit all Records. The Contractor shall give every assistance to Suncor, including proper access and facilities, to enable Suncor or its nominees to undertake such inspection and audit. The Contractor shall allow Suncor to make copies as reasonably required. The Contractor shall provide to Suncor an electronic file of such data upon Suncor's request. The Contractor shall ensure that its contracts with its Subcontractors provide for similar inspection and audit rights so as to allow Suncor to inspect and audit the Subcontractors.

**27. DISPUTE RESOLUTION**

27.1 **Equitable Relief.** In the event a Party breaches or attempts or threatens to breach its obligations stated in Article 19 (Confidentiality), Article 20 (Personal Information), Article 21 (Publicity), or Article 22 (Intellectual Property), such breach may cause the non-breaching Party to suffer a loss for which it could not be adequately compensated by monetary damages. In addition to claiming damages or an indemnity, the affected Party shall be entitled as a matter of right to seek an injunction and enforce the terms and provisions of the applicable Article. The Parties agree that the affected Party will suffer irreparable harm as a result of such breach, and the other Party consents to any preliminary or ex parte applications for such relief to any court of competent

jurisdiction, including equitable relief such as injunctive relief and specific performance. The foregoing rights shall be cumulative and shall be in addition to any other remedies which may be available to the affected Party.

**28. NOTICES**

28.1 **Notices.** Notices shall be given in writing and shall be addressed to the Party in question at the address stated in the Contract.

28.2 **Delivery of Notice.** Notices may only be delivered in person, by courier or transmitted by electronic communication.

28.3 **Receipt of Notice.** A notice shall be deemed to be received by the recipient two hours after delivery or time of transmission, as applicable, except that if such time is not within the recipient's normal business hours, such notice shall be deemed to be received at the commencement of the recipient's next normal business day.

**29. U.N. CONVENTION ON THE SALE OF GOODS**

29.1 **Exclude the Application.** The Parties hereto expressly exclude the application of the United Nations Convention on Contracts for the International Sale of Goods.

**30. GOVERNING LAW**

30.1 **Governing Law and Jurisdiction.** The Contract shall be governed by and construed in accordance with the Laws of the province where the Site is located. The Parties agree to accept and submit to the exclusive jurisdiction of the courts of that province.

**31. CANADA - NEWFOUNDLAND AND LABRADOR BENEFITS**

31.1 **Canada - Newfoundland and Labrador Benefits.** Where the Goods are supplied for Suncor's operations in relation to the Terra Nova Project, the Contractor shall:

(a) fulfill the Canada - Newfoundland and Labrador Benefits representations as submitted in the Contractor's proposal;

(b) from the date of the Contract and for a period of two years after Completion, maintain Records containing the following information:

(i) the nation and, if applicable, province of residence for each Person employed or subcontracted by the Contractor in relation to the Work, and the cost attributable to each such Person invoiced from time to time by the Contractor to Suncor;

(ii) the nation and, if applicable, province in which each manufacturer or supplier of goods or services used by the Contractor in providing the Work is located, and the cost attributable to each such manufacturer or supplier invoiced from time to time by the Contractor to Suncor;

(iii) the nation and, if applicable, province of residence for each Person trained in relation to the Work by the Contractor or its Subcontractors, and the nature of such training, including the amount of time and expenditures incurred in relation to such training; and

- (iv) any expenditures incurred in relation to research and development, education and training carried out in Newfoundland and Labrador;
- (c) specifically identify any of the foregoing information that pertains to disadvantaged individuals and groups, or corporations owned or co-operatives operated by such individuals or groups and provide summaries or other reports in relation to the foregoing information from time to time as and when requested by Suncor; and
- (d) maintain a written auditable trail identifying that full and fair opportunity has been given to Canadian and Newfoundland and Labrador entities when awarding subcontracts for the supply of equipment or services with a contract value in excess of \$100,000.

31.2 **Scope of Undertakings.** Where the Goods are supplied for Suncor's operations in relation to the Terra Nova Project, the Contractor acknowledges that Suncor is acting on behalf of itself and its co-lessees, joint interest owners or holders of a working, participating or other proprietary interest in the Terra Nova Project and their respective successors in interest and assigns (collectively, the "**Owners**"), and that the Owners, or any of them, shall be entitled under arrangements with Suncor to certain of the benefits of the Contract. The Contractor shall nonetheless deal exclusively with Suncor in relation to the Contract. Suncor shall be entitled to exercise, on behalf of itself and the Owners, all rights of action existing under the Contract in favour of the Owners and Suncor. The losses, damages, costs and expenses recoverable by Suncor on behalf of the Owners pursuant to the Contract shall include all losses, damages, costs and expenses of the Owners and Suncor, except that such losses, damages, costs and expenses shall be subject to the same limitations or exclusion of liability applicable to Suncor under the Contract.

31.3 **Terra Nova Claims.** Where the Goods are supplied for Suncor's operations in relation to the Terra Nova Project, Suncor may commence proceedings and make Claims in its own name to enforce all liabilities and obligations of the Contractor and to make any Claim which all or any of the Owners may have against the Contractor in relation to or arising out of the Contract.

## 32. GENERAL MATTERS

32.1 **Binding Agreement.** Suncor is entitled to issue one or more Purchase Orders describing the scope of Work. Following the issuance of the Purchase Order(s), upon the earlier of the Contractor commencing performance of the Work or otherwise acknowledging acceptance of any Purchase Order in respect of the scope of Work, Suncor and the Contractor shall have entered into a single contract for such scope of Work which shall be governed by the General Conditions and any requirements stated in the Purchase Order(s).

32.2 **Assignment.** Neither Party is permitted to assign the Contract without the prior written consent of the other Party, which consent may be arbitrarily withheld. Notwithstanding the foregoing, Suncor may assign the Contract to any of its Affiliates or to any third party which acquires all or substantially all of the assets of Suncor, conditional upon the successor covenanting and agreeing to be bound to the Contractor by the provisions of the Contract. The Contract shall enure to the benefit of and be binding upon the Parties' respective successors and, in the case of Suncor, its assigns.

32.3 **Entire Agreement.** The Contract constitutes the entire agreement between the Parties and shall supersede and replace any and all prior agreements or communications

between the Parties with respect to the Work. Any reference to the Contractor's terms and conditions, quotation, bid, or proposal does not imply acceptance of any terms, conditions, or instruction contained in any such document.

32.4 **Amendments.** No amendment to the Contract shall be effective unless made in writing and signed by authorized representatives of both Parties.

32.5 **No Waiver.** A waiver by Suncor of any right, power or remedy on any one occasion shall not be construed as a bar to or waiver of any right, power or remedy which Suncor would otherwise have on any future occasion.

**END OF DOCUMENT**