

TERMS AND CONDITIONS

MARK DAVID CANADA INC. STANDARD TERMS AND CONDITIONS OF SALE PRODUCT WARRANTY

01. GENERAL

- A). The terms and conditions contained herein, together with any additional terms contained in Mark David Canada Inc. (referred herein as "MDC", "The Company" or "Seller") proposal, constitute the entire agreement between the parties with respect to the order and supersede all prior communication and agreements. Acceptance by MDC of Purchaser's (also referred herein as "Buyer") order, or Purchaser's acceptance of MDC's proposal is expressly limited to and conditioned upon Purchaser's acceptance of these terms and conditions, which may not be changed or waived, except in writing and signed by both parties. Any additional, inconsistent or different terms and conditions contained in Purchaser's purchase order or other document supplied by the Purchaser are hereby expressly rejected.
- B). There is no contract unless Purchaser expressly accepts MDC's terms and conditions.
- C). Unless the context otherwise requires, the term "products" (also referred herein as "goods") as used herein includes all products, parts and accessories furnished by Mark David Canada Inc.

02. APPROVAL OF CREDIT

- A). Shipments and deliveries are subject to credit approval by MDC. Terms of payment shall be effective from the date of invoice and/or as detailed on the face of this quotation/order. Prices quoted are in Canadian or US dollars or Euros as stated on the quotation/invoice and shall be paid in the currency of said quotation/invoice.
- B). Seller reserves the right in his sole judgment to require satisfactory security before shipment of Products to Buyer. If Buyer defaults in payments, Seller at his option may defer further shipment until Buyer re-establishes satisfactory credit or cancels the unshipped portion of the order without any liability on part of Seller for failure to ship.
- C). If the Seller should have reasonable grounds, at Seller's sole discretion, even after performing a satisfactory credit review, based on supplied references, for insecurity as to the Purchaser's ability to issue payment for goods, Seller may refuse to manufacture or deliver the goods until adequate assurances of Purchaser's payment and/or current performance, in such form as MDC reasonably requests, is received.

- D). Purchasers located outside of our immediate jurisdiction or Purchasers deemed as credit risk, may be required to provide partial or full payment, that in advance of product design and manufacture, and that at the full discretion of Mark David Canada Inc.

If MDC shall require payment via Irrevocable Letter of Credit, all costs, foreign or domestic associated with said Letter of Credit shall be at Purchaser's expense.

03. COST ANALYSIS

- A). No cost analysis of the cost of manufacturing the equipment sold shall be supplied, and no examination or audit of the seller's books and records shall be permitted for any reason whatsoever.

04. PRICES

- A). All orders are subject to acceptance by Seller at its office in Montreal, Quebec, Canada.

- B). Orders are accepted within the stated validity on the quote on the basis of the cost of labour and/or materials as of the date of the acknowledgement. A change in the costs of labour and/or materials during the production of an order shall give MDC the right to alter prices hereon to reflect such changes in costs (i.e. metals market volatility).

Consequently, the Seller reserves the right to make any revision in price or prices on an unshipped balance of a Purchaser's order by giving Purchaser a written notice of the revision in price not less than fifteen (15) days prior to the effective date of the revision. Purchaser shall be deemed to have agreed to such revision unless Purchaser, by written notice shall refuse such price revision with ten (10) days of receipt of notice of revision. Purchaser's refusal of price revision shall give Seller the option of cancelling that portion of Purchaser's order to which the price revision is applicable, or completing the Purchaser's order at the original price quoted for the order. In the event of cancellation, MDC reserves the right to charge the Purchaser materials and/or any work completed to-date.

- C). Purchaser's reduction below quantities originally acknowledged are subject to increase in prices. Purchaser's change in delivery schedule, requiring the Seller to employ extra means of production capacity, including but not limited to additional shifts, overtime and dedicated transport are subject to increase in prices.

05. SPECIFICATIONS, DRAWINGS

- A). If equipment furnished on this quotation/order is a product supplied by MDC, the specifications are subject to change at MDC's option to a design equal or exceeding the original specification.

MDC's product drawings and specifications reflect the design characteristics at the time of printing. MDC reserves the right to change dimensions, material, or method of construction without notice. Purchaser may contact the Company to obtain certified prints (exact dimensions) when necessary.

Purchaser shall cooperate with the Company and furnish any drawings, specifications, or information reasonably requested by MDC with respect to the

products and piping system layout within a reasonable time after such request.

- B). The drawings, specifications, computer media, documents, samples, or other information the Company furnishes the Purchaser in connection with the products may compromise in whole or part trade secrets that are proprietary to the Company and protectable by law. Purchaser agrees to disclose the trade secrets only to his employees on a "need-to-know" basis, will take all reasonable measures to prevent disclosure of the trade secrets to any other persons, and will return to us or destroy any information containing the trade secrets after the need for the information ends, or upon our demand. The aforementioned information shall be used solely for the inspection or operation or maintenance of the products and not for any other purposes, including duplication thereof in whole or part. Mark David Canada Inc. is not obligated to treat confidential any disclosure made to us by the Purchaser, unless agreed otherwise in writing.
- C). Purchaser shall not advertise the product sold by MDC by electronic or any other means in whole or in part without the written consent by Mark David Canada Inc.
- D). Product samples remain the property of the Company and shall be returned upon request.
- E). Seller's products are manufactured to Seller's standard specifications with allowable variations for the product. Products are manufactured to Purchaser's specifications only by express agreement between Seller and Purchaser. The products manufactured by Seller, except as may be manufactured to Purchaser's design or specifications, conveyed hereunder were designed and manufactured by Seller to meet all applicable Governmental & Industrial standards effective on the date of manufacture.
- F). Approval drawings, where requested by the Purchaser shall be generated by the Company within two (2) weeks of receipt of order. No drawings shall be produced by the Seller without a prior order from the Purchaser. Approval of the Seller's drawings by the Purchaser shall take no more than sixty (60) days from the receipt of said drawings. Seller's drawings rejected by the Purchaser without cause, due to design conditions changed by the Purchaser, for procedural reasons not previously communicated in writing to the Company and unrelated to the performance of goods as well a non-response after the sixty (60) day allotted period for approval, shall entitle MDC to charge engineering and drafting fees for erection of said drawings in accordance with current industry rates for such services.

06. ORDER

- A). Orders are subject to acceptance at home office of the seller. Written or typed provisions govern. In the event of a conflict between any of the printed provisions hereof and any written or typed provision hereof, the written or typed provisions shall govern. Clerical and stenographic errors are not binding and may be corrected by MDC at any time after discovery.

07. BLANKET ORDERS

A). Mark David Canada Inc. may accept customer blanket orders for MDC's products under the "Standard Terms and Conditions of Sale" as outlined in this document, with the additional conditions as follows:

- All blanket purchase orders will contain a purchase order number, unit pricing, total quantity, scheduled quantities and release delivery dates.
- MDC's blanket orders will have a maximum duration of twelve (12) months. All blanket orders will be shipped complete within twelve (12) months period from the date of the first shipment on the order.
- Any extensions to this shipping policy must be approved in writing by Mark David Canada Inc. management five working days prior to the next scheduled ship date on the blanket order.
- Any pricing considerations extended by MDC based on the quantities involved in the blanket order will be honored except under the following conditions:
 - a). If the blanket order is cancelled prior to completion, a cancellation charge will be assessed that may include order cancellation charges and retraction of the initial pricing considerations that were extended and were based solely on the blanket order quantity.
 - b). If the blanket order is extended by MDC for a period exceeding the original twelve (12) months order period, MDC will have the right to pass on any price increases they have incurred on the non-shipped portion of a blanket order that has been extended beyond its original term length.
- Blanket orders may be cancelled by MDC with a thirty (30) days written notice.

08. ASSIGNMENT

A). Purchaser may not assign this Agreement without MDC's prior written consent. Any assignment of this contract or any rights or obligations hereunder without such prior consent of MDC shall be void.

09. DELIVERY

A). MDC shall use commercially reasonable efforts to meet any schedule or date shown on the face of this quotation/order. However, MDC will not be liable for any delay or failure in the estimated delivery or shipment, or for any damages that may result to the customer from such delay.

B). Unless otherwise stated in MDC's quotation, all Products manufactured, assembled, fabricated or warehoused are delivered on Ex-Works Montreal, Quebec, Canada basis. Where the scheduled delivery of Products is delayed by the Purchaser or by reason of any of the contingencies referred to in section 32 (Warranty), MDC reserves the right to deliver such shipment by moving it to a storage lot at Purchaser's expense and all risks to the Purchaser. Alternately, MDC reserves the right to store such shipment on its premises and apply storage charges consistent with industry standards.

C). Shipping dates are contingent on receipt of all necessary design information from the Purchaser. Quoted delivery commences only after drawing approval, if such approval is applicable.

- D). Purchaser should state explicitly the method of preferred shipment and in absence of shipping directions MDC will use its own discretion regarding the carrier.

Delivery of finished parts to the Purchaser depends on receipt of materials, tools, jigs and fixtures (if applicable). Estimated delivery dates are based on statements of material sub-vendors and are not guaranteed. The Company will use its best efforts to complete delivery on estimated dates, but MDC assumes no liability and/or shall not accept any penalty clauses in case of delays.

10. RISK OF LOSS

- A). Title to and risk of loss of the products herein described shall pass to Purchaser upon delivery of said products to a carrier at Seller's plant.

All claims for breakage, damage and losses should be made directly to the transportation company.

Title to and risk of loss of said products shall pass to Purchaser in no other way, notwithstanding any agreement to the contrary, including, but not by way of limitation, any agreement to pay freight, express or other transportation or insurance charges.

- B). If goods are held in the factory beyond the shipping date for Purchaser's convenience, the risk of loss shall pass to the Purchaser upon the date originally scheduled for shipping. The Purchaser shall pay all costs of insurance from the time the risk of loss passes to the Purchaser.

11. POINT OF SALE

- A). Unless otherwise specified on the face of this quotation/order, all goods are delivered Ex-Works MDC's facility, freight charges collect. Transfer of title is in accordance with International Chamber of Commerce Terms.

12. CLAIMS FOR SHORTAGE OR REJECTIONS

- A). Claims for shortage or rejections for defects, freight or pricing adjustment must be made within ten (10) days after receipt of goods. Credit will be rendered on such defective parts provided they are returned to our factory, transportation charges paid, within thirty (30) days after the date of shipment and after we have had an opportunity to inspect them. Credit will not be issued on any parts which have been altered or defaced in any way, or upon which an operation contrary to the EJMA (or any other body governing the performance of such part) guidelines has been performed. Seller is to have the option to give credit, effect a repair to "as new" condition or replacement. Failure to file such a claim within fifteen (15) days shall constitute unqualified acceptance of product by Purchaser.

13. PAYMENT

- A). Unless otherwise agreed in writing, payment terms are Net 30 Days. Invoices issued to cover "Prepaid Freight" are due and payable on terms of Net 7 Days.
- B). Contract of orders are subject to approval by MDC's credit department. MDC shall have the right to modify, change or withdraw credit terms at any time prior to delivery without notice and to request guarantees, security or payment in advance for the amount of credit involved. MDC shall have the right to terminate all contracts and orders, whereupon MDC shall be entitled to receive reasonable cancellation charges. If delivery is delayed by Purchaser, payment shall become due on the date MDC is prepared to make delivery. Delays in delivery or non-conformities in any installments shall not relieve the Purchaser of its obligations to accept and pay for remaining installments.
- C). If payments are not made when due, Purchaser shall pay attorneys' fees and court costs incurred by MDC in collecting the overdue payments.
- D). Any unpaid account for any manufactured parts, dies, jigs, fixtures, or tools shall constitute a lien of any parts manufactured to-date, dies, jigs, fixtures or free-issued sub-components in MDC's possession.
- E). In the event that buyer has not tendered payment within the time set forth in the order, seller may charge the buyer interest on the then due amounts until payment is actually received by seller. The interest rate shall be 1.5% per month. The right of seller to charge such interest is in addition, and not in lieu, of any other right the seller may have against the buyer for breach under a sales agreement. Customer agrees to pay cost of collection including attorney's fee.
- F). MDC reserves the right to suspend or cancel further orders and/or deliveries and impose a lien in case an invoice remains unpaid after the due date.
- G). For orders over \$50,000, a progress payment is required. 40% of the total order value will be invoiced after receipt of order and will be due Net 10 Days. No purchase of raw materials, sub-components or any manufacturing activity shall take place before receipt of said installment. 30% will be due upon final inspection by the customer, due Net 10 Days. The balance of the order will be invoiced upon shipment, due Net 30 Days.
- H). In the event of electronic transfer payments Purchaser shall pay all costs associated with said transfer including but not limited to the charges by the bank of origin, correspondent bank and Company's receiving bank.
- I). MDC institutes a minimum order value of \$50.00 (excluding taxes) for all order placements.
- J). In the event of any proceeding against Purchaser, voluntary or involuntary, in bankruptcy or insolvency, or for corporate reorganizations under the Federal Bankruptcy Law or the appointment of a receiver or trustee or an assignee for the benefits of creditors, Mark David Canada Inc. shall be entitled to cancel this contract, or suspend, delay or terminate its performance obligations for non-payment by the Purchaser.

14. TAXES

- A). Any manufacturer's excise tax, use tax, sales tax, or tax or duty of any nature whatsoever (City, State, Provincial, Federal, Foreign, etc.) arising out of or assessed against orders, shall be added to the prices quoted or invoiced and shall be paid by the Purchaser. In the event MDC is required to pay any such taxes or duties, the Purchaser shall reimburse MDC, unless Purchaser shall provide MDC with exemption certificates or other documents acceptable to taxing or customs authorities at the time an order is submitted.

15. INSPECTION

- A). All inspection and testing requirements must be specified at time of order. Seller's products are subject to Seller's factory inspection. Any further inspection at Purchaser's request, if agreeable to the Seller, is at Purchaser's expense.

16. TRANSPORTATION CHARGES

- A). Freight terms on the face of this document are controlling. In the absence of terms on the face, no freight allowance will be made. If a freight allowance is provided for on the face, the following terms shall control:
- All freight allowances shall be at the lowest carrier routing selected.
 - If carrier is selected by Purchaser, all freight charges are the responsibility of the Purchaser.
 - Should the Purchaser request and the Company agree to "prepay and charge" terms, MDC reserves the right to add 10% to the carrier's invoice as compensation for administrative expenses.

17. WEIGHTS AND DIMENSIONS

- A). Shipping weights and dimensions given in Seller's catalog are as close to actual as practicable but are not guaranteed. No claims shall be allowed because of any discrepancy between actual weights or dimensions of material shipped and listed data.

18. SHIPPING AND PACKING

- A). All material is carefully packed for shipment, and seller shall not be responsible for loss, delay or breakage after having received "in good order" receipts from the transportation company. All claims for breakage, loss, delay and damage should be made to carriers, but Seller shall render the Purchaser all possible assistance in securing satisfactory adjustment of such claims.
- B). Goods held in factory beyond delivery date for convenience of buyer shall be invoiced on date of completion and terms of payment shall apply as from invoice date. Such goods shall be subject to charges for warehousing and other expenses incident to such delay.
- C). All goods are packed in a "standard-commercial" method as per industry standards. Any packing requiring special materials and/or certifications shall be specified by Purchaser to the Company at the time of order. All costs related to the special packing and/or certifications requested by Purchaser will be quoted

by Seller as an extra charge and must appear on the order with related requirements clearly indicated therein. The Company shall not be liable for refusal by transport company or any other authority, local or foreign for lack of proper packing or documentation related to packing non-conforming to any authority all the way to the point of final destination.

19. SHIPPING DATE

- A). Seller shall not be liable in any way for any default or delay in shipping due to contingencies beyond its control, or the control of its suppliers or sub-contractors, which prevents or interferes with the seller making delivery on the date specified. In the event of delayed or extended shipping dates, and the Purchaser changes shipping instructions, any additional shipping charges shall be paid by the Purchaser as a part of the purchase price.

20. CANCELLATION

- A). Orders are not subject to cancellation or change in specifications, shipping schedules or other conditions originally agreed upon without seller's consent, and then only upon agreement to compensate seller for loss caused by such cancellation or changes.
- B). Special items are not subject to cancellation under any conditions. Special items are those requiring special engineering, special machining, special manufacturing or testing procedures and/or special handling.
- C). If an order is cancelled, MDC reserves the right to charge for all costs incurred in the cancellation including, without limitation, charges applicable to return of goods, overhead and profit.

At the discretion of MDC, cancellation charges are as follows:

- After order placement prior to drawing submittal: 10%
- After drawing submittal: 25%
- After release to production: 30% plus material, labour, and overhead to date.

- D). Orders may be cancelled by Mark David Canada Inc. with cause, within 30-day written notice.

21. RETURNS FOR CREDIT

- A). No returns for credit shall be accepted unless Seller's permission has been obtained in each case in advance. Only sizes and designs taken from Seller's regular line which are in active demand can be accepted for credit. Credit shall be based on prices prevailing at the time of return, or invoiced price, whichever is lower, subject to deduction for handling and an additional deduction for expenses incurred in restoring goods to salable conditions. Obsolete or specially manufactured goods can be accepted for return or credit only to the extent of value to Seller in each case. No credit shall be issued to other than the original purchaser. Any items accepted for credit by the Company shall be returned on freight prepaid basis. No items previously put in service by the Purchaser shall be considered returnable.

- B). The Purchaser must produce the original invoice, proving that the goods intended for return have been originally purchased from the Company.
- C). The minimum restocking charge, to the exclusion of all aforementioned charges is fifteen (15) percent of original order net value.

22. TERMINATION

- A). No termination by Purchaser for default shall be effective unless and until MDC shall have failed to correct such default within 45 days after receipt by MDC of the written notice specifying such default.

23. FORCE MAJEURE

- A). Mark David Canada Inc. shall not be liable for loss, damage, detention or delay, nor be deemed to be in default from causes beyond its reasonable control or from fire, acts of God, strike, labour difficulties, act of omission of any government authority or of Purchaser, compliance with local regulations, public enemy, insurrection or riot, interference by civil or military authorities, embargo delays, orders or policies of any government authority (foreign or domestic) or shortages in transportation or inability to obtain necessary labour, materials or manufacturing facilities from usual sources or from defects or delays in the performance of the suppliers or subcontractors due to any of the foregoing causes. In the event of delay due to any such cause, the delivery date and contract price will be adjusted as may be reasonably necessary to compensate MDC for such delay.

24. CONFORMANCE

- A). Samples or drawings submitted shall be deemed approved if written notice of rejection is not received within two (2) weeks after date of submittal.
- B). All dimensions must be limited by specified tolerances; when not specified by the Purchaser, it is understood that commercially recognized tolerances (for that particular product) will apply. When a sample is supplied without a detailed drawing, all dimensions of the sample will be considered "mean" dimensions. Commercially recognized inspection procedures will be followed by the Seller unless specifically arranged otherwise. Purchaser's refusal of non-destructive inspection procedures, such as dye penetration check, radiographic verification, magnetic resonance, hydro test (etc.), will release the Seller from any responsibility, should faults be subsequently discovered in parent materials.
- C). When the Purchaser contracts materials pursuant to his own specifications, the Seller will not be responsible for the design and fitting of parts; the conforming of the Seller's product to the specified tolerances as to the correctness of the product.

25. TOOLING

- A). Any new tools required for the manufacture of any special product shall be charged to the Purchaser. MDC will not be responsible for changes in design,

deliveries or instructions of any kind unless they are submitted in writing and accepted in writing by the Company. Such tools shall remain the sole property of the Seller and will be retained in Seller's possession for use exclusively in filling orders from the Purchaser. If, however, Seller has received no orders from the Purchaser within one (1) year from the date of the last order requiring the use of such tools, Seller may dispose of or use such tools as Seller sees fit without accounting to the Purchaser for use or disposition of any proceeds there from.

- B). In case of dissolution or bankruptcy of the Purchaser, dies, tools, jigs and fixtures in the possession of MDC that have not been fully paid for, the rights to use them and to dispose of parts made from such tools shall become the property of Mark David Canada Inc. as partial satisfaction of unpaid account, unpaid engineering charges and liquidated damages. A new corporate entity, taking possession of Purchaser's liquidated assets shall have no rights whatsoever to the tooling, dies, jigs and fixtures in MDC's possession.

26. LIMITATIONS OF LIABILITY

- A). Damage claims must be filed within seven (7) days of receipt of goods at site. MDC will have no liability for damage, shortage, or loss caused by acts of omission of the carrier or by other causes beyond MDC's reasonable control. Any damaged/defective goods will be held by the customer for disposal as instructed by MDC. MDC's maximum liability for damage, shortage, or loss shall be to repair or replace goods, or to allow credit in respect to the goods at MDC's sole option. Such liabilities shall be limited to the value of the goods supplied by MDC.
- B). In no event shall Mark David Canada Inc., its suppliers or sub-contractors be liable for special, indirect, accidental or consequential damages, whether in contract, warranty, tort, negligence, strict liability or otherwise, including, but not limited to loss of profits or revenue, loss of or use of the products or any associated products, cost of capital, cost of substitute products, facilities or service, downtime costs, delays or claims of customers of the Purchaser or other third parties for such or other damages. MDC's liability on any claim whether in contract, warranty, negligence, tort, strict liability, or otherwise for any loss or damage arising out of connection with, or resulting from this contract or the performance or breach thereof, or from design, manufacture, sale, delivery, resale, repair, replacement, installation, technical direction of installation, inspection, operation or use of any products covered by or furnished under this contract, or from any services rendered in connection therewith, shall in no case (except as provided in the section "Patent Indemnity") exceed the purchase price allowable to the products or part thereof or service which gives rise to the claim. All causes against Mark David Canada Inc. arising out of or relating to this contract or the performance or breach hereof shall expire unless brought within one (1) year of the time of accrual thereof. In no event, regardless of cause, shall Mark David Canada Inc. assume responsibility for or be liable for penalties or penalty clauses or any description or for indemnification of customer or others for loss, damages or expenses each arising out of or related to the goods or services of this order.
- C). MDC's engineering staff, when requested, will serve customers in submitting suggestions concerning design and construction of parts and will recommend

materials, but will not assume any responsibility or liability for the practicability of these suggestions or recommendations adopted by the customer, due to system variables which may be beyond our control and/or awareness.

27. USE OF GOODS

- A). The Purchaser will provide adequate and efficient safeguards, work handling tools, and safety devices necessary to provide a safe workplace and to protect fully all personnel from bodily injury or death which otherwise may result from the use, operation, setup or maintenance of goods. Purchaser will comply with the Canadian National Workplace Health and Safety (CANOSH) regulations and its provincial and local counterparts' regulations as well as all industry accepted standards. MDC is not liable for Purchaser's failure to order, install, or use safeguards, work handling tools or safety devices. Purchaser will establish and require all personnel who use, operate, setup or maintain the goods to use all proper safe operating procedures, including, procedures set forth in any manuals or instruction sheets relating to the goods.
- B). The Purchaser will indemnify the Seller and its employees and agents from any loss, damage or expense (including reasonable attorney's fees), by reason of any injury to or death of any person or damage to any property, arising from any breach of Purchaser's obligations under this offer or any actions or omissions by the Purchaser or his employees or agents concerning or related to the goods, including, negligence or reckless conduct, maintenance of goods, additions or modifications to the goods, or use of the goods.
- C). The Purchaser will notify the Company, within ten (10) days after its occurrence, of any accident or malfunction involving goods which results in injury to or death of persons, or damage to property, or the loss of its use. The Purchaser will cooperate fully with the Company in investigating and determining the cause of such accident or malfunction.

28. ENGINEERING SERVICES

- A). If the Purchaser requests MDC to service, repair, or perform engineering services, as set forth in the offer, related to the goods, The Purchaser shall provide a safe area in which the Seller's employees, agents or contractors may do so. Purchaser shall be responsible for the safety of all persons on, about, or adjacent to such areas. Purchaser shall furnish the Company all necessary work tools, equipment and supplies.
- B). Purchaser agrees to pay the Company for the services performed and for reimbursable expenses, as provided in the offer. The Company may suspend services upon seven (7) days written notice until the Company have been paid in full all amounts due for services, expenses, interest, and other related charges.
- C). The obligation to provide further services may be terminated for cause, by MDC, upon seven (7) days written notice if we believe that we are being requested by the Purchaser to furnish or perform services contrary to our Professional Engineer's responsibilities as a licensed professional or if our services are delayed or suspended for more than 90 days for reasons beyond our control.

- D). The standard of care for our services performed will be the care and skill ordinarily used by providers of such services practicing under similar circumstances at the same time in the same locality. We make no warranties, express or implied, under this offer or otherwise, in connection with our services. MDC's disclaimer of warranties related to the goods as set forth elsewhere in this offer shall not be diminished or affected by, and no obligation or liability shall arise or grow out of, our rendering of technical advice or services in connection with goods furnished under this offer.
The relevant limitations of liability contained in this offer shall apply to services rendered by MDC except that our liability arising out of or relating in any way to the services performed shall not exceed the amount paid to MDC for such services.
Purchaser shall be responsible for, and MDC may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by the Purchaser that MDC may use in the provision of services.
- E). MDC shall not be responsible for the acts of omissions by Purchaser at the work area or otherwise, or for any decision made on interpretations or clarifications of this offer given by you without the consultation and advice of Mark David Canada Inc.
- F). Purchaser shall guarantee continuation of payment to the Seller in the event of labour disputes at the Purchaser's plant or any place related to this contract, preventing the Seller to perform the assigned work under provisions of this contract. Purchaser may suspend the work of the Seller, arising from said labour disputes no sooner than seven (7) days from suspension of work due to said labour disputes.
- G). To the fullest extent permitted by law, Purchaser agrees to defend, indemnify and hold MDC harmless, and also our officers, agents and employees, from and against claims, losses, costs, expenses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals, and all court or arbitration or other dispute resolution costs) arising from or related to property damage, economic injury, or bodily injury (including death) of any kind or nature arising out of provision of services relating to the goods or caused by the negligent acts or omissions of Purchaser with respect to services.
- H). Except as expressly provided otherwise in this offer, MDC retains on an exclusive basis all right, title and interest in and to any intellectual property developed, including but not limited to all paper and electronic documents generated related to our services delivered, and used by us in the performance of any services for the Purchaser. Such documents are not intended or represented to be suitable for reuse by the Purchaser or others on extension of Seller's services or on any other project. Any such reuse or modification without written verification or adaptation by us, as appropriate for the specific purpose intended, will be at Purchaser's sole risk and without liability or legal exposure to Mark David Canada Inc. Purchaser shall indemnify the Seller and hold us harmless from all claims, damages, losses and expenses, including attorney's fees arising out of or resulting from any such reuse or modification.

29. LAWS AND REGULATIONS

- A). Mark David Canada Inc. does not assume any responsibility for compliance with federal, provincial or local laws and regulations, except as expressly set forth herein, and in compliance with any laws and regulations relating to the operation or use of the products is the sole responsibility of the Purchaser. All laws and regulations expressly incorporated herein shall be those in effect as of the date hereof. In the event of any subsequent revisions or changes therein, Mark David Canada Inc. assumes no responsibility for compliance therewith. If Purchaser declares modification as a result of any such change or revision, it shall be treated as a change of order. Nothing contained herein shall be construed as imposing responsibility or liability upon the Seller for the obtaining of permits, licenses or approvals from any agency required in connection with the supply, erection or operation of the products. No responsibility or liability shall be taken for import duties, laws, regulations or taxes imposed by any foreign country.

30. PATENTS

- A). Purchaser agrees to indemnify and defend Seller against all claims of liability or costs of suit rising from the manufacture, use or sale of products furnished the Purchaser where such products were made to Purchaser's specifications and where such manufacture, use or sale is alleged to infringe the patent rights of another.

31. INVENTIONS

- A). Unless otherwise agreed in writing by Mark David Canada Inc. and Purchaser, all rights, title and interest in any invention, development, improvements or modifications of or for products and services furnished to Purchaser shall remain with MDC.

32. WARRANTY

- A). The following warranty is given to the exclusion of any other warranty or condition either expressed or implied.
All goods/services provided by MDC are warranted for twelve (12) months after system startup under the conditions for which the goods were designed, or eighteen (18) months after shipment, whichever comes first. The warranty covers defects in workmanship, or material, when subjected to the specified conditions of use. MDC at its sole option will either repair or replace any supplied defective components. The effects of corrosion, erosion, aging, normal wear, or negligence, incidental or consequential damages are specifically excluded from the warranty. All goods must be installed in accordance with the industry standards or instructions contained within this website. Failure to comply with proper installation instructions will nullify the warranty.
- B). All warranty claims must be made in writing. Claims made by phone must be confirmed in writing within ten (10) days. Failure to do so shall invalidate the

claim.

- C). All removal, reinstallation and freight costs to and from MDC are excluded from warranty coverage.
- D). The warranty on products repaired shall not be extended beyond the original warranty period.
- E). Mark David Canada Inc. makes no other warranty of any kind whatsoever, express or implied and all implied warranties of merchantability and fitness for particular purpose which exceed the aforestated obligation are hereby disclaimed by MDC and excluded from this agreement. Mark David Canada neither assumes or authorizes any persons to assume for it any other obligation in connection with the sale of MDC's products.
- F). This warranty shall not apply to any product or component thereof, which has been repaired or altered outside of MDC's facilities in any manner, as so, MDC's judgment to affect its serviceability or which has been subject to misuse, negligence or accident, or to products made by MDC which have been operated in a manner contrary to MDC's printed instructions. Under no circumstances shall MDC be liable for loss, damage, cost of repair or consequential damages of any kind in connection with the sale, use or repair of any products purchased from Mark David Canada Inc.
- G). As it relates to MDC's Pipe Motion Products, unless stated in writing to the contrary and agreed by the Seller, the Contractor and/or the Purchaser shall be responsible for the correct sizing and installation of all flex connectors, expansion joints, anchors and pipe alignment guides so as to ensure the proper functioning of the goods and to maintain full manufacturer's warranty.

As it relates to MDC's Diesel Parts Division Products, the customer shall be responsible for supplying the correct part number relative to other parts and version of engine to ensure proper fitment and performance.

- H). Warranty claims or alleged non-performance by MDC shall not affect the customer's duty to pay MDC in accordance with the terms of this agreement. Any additional costs to MDC of completing performance reasonably related to the customer's failure to fulfill its obligations could result in additional charges.

33. PARTIAL INVALIDITY

- A). If any provisions herein or portions thereof shall for any reason be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision thereof, but these Conditions of Sale shall be construed as if such invalid or unenforceable provision thereof had never been contained herein.

34. CHOICE OF LAW, VENUE

- A). This agreement shall be governed by laws of Province of Quebec, but excluding the provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG) and excluding Province of Quebec law with respect to conflicts of law. Purchaser agrees that all causes of action under this Agreement shall be brought in the Provincial Courts of the City of Montreal, Quebec, Canada. Purchaser agrees that Montreal, Quebec, Canada is both the place of making and the place of performance of this Agreement.

35. ATTORNEY'S FEES

- A). In the event either party is required to bring an action in connection with these terms or conditions of sale, or any action in connection with collection of amounts due hereunder, the prevailing party shall be entitled to recover all of its costs or expenses, including reasonable attorney's fees.

36. NOTIFICATION

- A). Any notice, consent, demand or submission required under this order shall be in writing and delivered to the parties at the address set forth in the offer, or at such addresses as they designate in writing. Service shall be made by hand delivery (with proof of receipt), recognized overnight courier, by first class mail (registered or certified, return receipt requested), or (if confirmed in writing using one of the following methods) by facsimile or email, in each case prepaid. All such communication shall be effective when received, except that email and facsimile communications shall be effective when received only if confirmation is received within seven (7) days later.