



## STANDARD TERMS AND CONDITIONS OF SALE

Set forth below are the terms and conditions of sale between Titan Environmental Containment Ltd. ("Titan") and the buyer (the "Buyer") of Products and/or Services (as such terms are defined herein) which are duly incorporated into the Purchase Agreement (as such term is defined herein) between the parties:

1. **Defined Terms.** Whenever used in these terms and conditions, the following terms shall have the following meanings respectively, unless otherwise specified:
  - a) "Event of Force Majeure" means any event or occurrence beyond the reasonable control of Titan including, where applicable herein, where caused or claimed by third party manufacturers and suppliers, and without Titan's fault or negligence, such as, by way of example and not by way of limitation, acts of God, pandemics, epidemics or other public health emergencies, action or regulation by any governmental authority (whether valid or invalid), fires, floods, wind storms, explosions, riots, natural disasters, wars, sabotage, embargo, labour problems (including lock-outs, strikes and slow-downs), court injunction or order, or inability to obtain power, fuel, materials (including necessary raw materials, parts or components), labour, equipment or transportation;
  - b) "Products" means, where applicable, any and all goods and materials sold by Titan to the Buyer pursuant to the Purchase Agreement;
  - c) "Purchase Agreement" means any contract, sub-contract, purchase order, quotation that is accepted in writing by the parties or other contract between the parties with respect to the sale of Products and/or Services by Titan to the Buyer, as well as all amendments, additions, restatements, modifications or replacements thereto and all other documents incorporated therein by reference, subject to Titan's prior approval and agreement thereto, including, without limitation, these terms and conditions;
  - d) "Services" means, where applicable, any and all installation services purchased by the Buyer from Titan and provided by Titan to the Buyer pursuant to the Purchase Agreement;
2. **Acceptance of Terms and Conditions.** All orders are subject to review and acceptance by Titan. By placing an order and/or entering into a Purchase Agreement with Titan, the Buyer accepts the terms and conditions of sale herein. Changes to these terms and conditions may not be made without the prior written agreement of Titan. In the event that these terms and conditions are submitted to the Buyer as an offer, such offer shall remain open for fifteen (15) days from the date the offer is made.
3. **Prices.** All prices set out in Purchase Contracts that are for Products only are F.O.B. from Titan's location and all prices set out in Purchase Contracts that are for Products and Services are F.O.B. the applicable project site and, unless otherwise specified in writing, exclude all applicable local, provincial, state or federal sales taxes. Proposals and quotations of prices apply only in the quantity and on the shipping schedule named in the proposal or quotation and, unless Titan expressly agrees to the contrary in writing, such proposal and quotations are subject to change without notice. Titan expressly reserves the right to adjust quoted unit rates if actual anticipated or installed units are +/- 5% of the value used in preparation of the proposal or quotation. Prices are subject to change in the event of increases in customs duty, sales, excise, or other similar taxes, or increases in freight charges, cost of insurance, variations in foreign currency exchange rates, or in the costs of manufacture of Products. The prices in the Purchase Agreement are based on the then current material prices. Please note that pricing is subject to global material conditions and may increase without warning or notification. This includes validity, material availability and any Event of Force Majeure claimed by manufacturers. If the price of raw materials purchased by Titan from its third party vendors increases during the stated acceptance period, regardless of the cause of such price increase, the prices in the Purchase Agreement shall be adjusted to reflect this increase in the material prices and shall be passed on to the Buyer without allowance for overhead or profit. Bonding is not included unless otherwise expressly included in the Purchase Agreement. If bonds (labour, material and/or performance) are requested, Titan may agree to provide same, in its discretion, and additional standard markups shall apply and be payable by the Buyer. Unless Titan expressly agrees to the contrary in writing, all invoices become due and payable thirty (30) days following the date of Titan's invoice O.A.C. Any portion of the price not paid in accordance with these terms will bear interest from the due date at a rate of four percent (4%) per month until paid in full.
4. **Holdbacks.** Unless expressly set forth in the Purchase Agreement signed by both the Buyer and Titan, no holdbacks are permitted on any portion of the outstanding invoices.
5. **Delivery.** Any dates or schedules which may be specified for delivery or performance of Products and Services will be estimated and Titan will incur no liability, either direct or indirect, as a result of any delays in meeting such dates or schedules. Titan shall not be responsible for any delays in delivery or failures in manufacture caused by contingencies beyond Titan's reasonable control, including, but not limited to, an Event of Force Majeure. Acceptance of order and delivery is subject to availability of material at time of order. The Buyer acknowledges and agrees that delays in provision of Services may be occasioned by weather conditions and shall make reasonable efforts to accommodate contingencies for such delays in its schedule, provided however that Titan shall not be liable for any inability to meet such schedules resulting from weather conditions, whether or not such contingencies have been made by the Buyer. If the Buyer shall fail to make any payments in accordance with the terms of payment, Titan may, in its sole discretion, defer further shipment(s) of Products or performance of Services until such delinquent payments are made or terminate the Purchase Agreement. Shipments and deliveries of Products and performance of Services shall at all times be subject to the confirmation and approval of Titan's credit department.
6. **Inspection of Products.** The Buyer shall carefully inspect the condition of Products on receipt and shall notify Titan in writing before Products have been covered up or put out of view or are otherwise made unavailable for inspection of any deficiencies, shortages or defects, and provide Titan an opportunity to inspect these deficiencies. Any error in workmanship, defects in material, or nonconformities between Products ordered and those delivered must be reported to Titan within forty-eight (48) hours of delivery of the Products. At the expiry of the forty-eight (48) hour period, the Buyer shall be treated as having accepted Products which have not been rejected in accordance herewith. If any Products which are the subject of the Purchase Agreement are rejected because of failure to conform to specifications and drawings, or because of failure in workmanship or materials, Titan shall replace such Products with others which comply with Titan's standard specifications within fifteen (15) days. The obligation of Titan is limited to replacing those Products with others which comply with the specifications, or, at the option of Titan, in the case of failure in workmanship or materials, repairing such items.
7. **Returns.** No Products shall be returned by the Buyer to Titan without the prior written consent of Titan. A minimum of twenty-five (25%) restocking charge will be levied on all authorized returned standard resale roll goods. Upon written consent of Titan, such Products may be returned to Titan's designated location, freight prepaid, and by a carrier designated by Titan. Returns are not accepted on any damaged Products, or on any Products that consist of custom ordered product or fabricated product.
8. **Quality and Standards.** Unless otherwise expressly agreed upon in writing, Products sold hereunder shall be manufactured in a good and workmanlike manner in accordance with Titan's standard specifications, manufacturing variations, and tolerances.
9. **Inspection and Acceptance of Services.** Prior to demobilization of Titan's personnel following completion of delivery of Services, the Buyer's field supervisor and an authorized representative of Titan shall conduct a walk-through and final inspection of the Services to identify any deficiencies thereto. In the event that any deficiencies are noted and agreed upon by the parties' representatives, Titan shall correct such deficiencies subject to the Buyer's agreement to pay all additional mobilization charges incurred by Titan in connection therewith, and such corrective actions shall be subject to a further inspection in accordance with this paragraph. Upon completion of the walk-through and final inspection, provided there are no corrective actions required by the Buyer as agreed to by Titan, the parties shall sign a certificate of completion in form and content satisfactory to Titan. Signing of a certificate of completion by the Buyer, or the Buyer's failure or refusal to conduct such a walk-through and final inspection, shall constitute full and complete satisfactory of Services by Titan in accordance with the Purchase Agreement.
10. **Limited Warranties.** Titan does not warrant the fitness of Products for any particular purpose. Titan limits warranty on materials purchased by Titan from third party manufacturers to the standard warranty offered by such manufacturers. Without limitation to the foregoing, all geomembrane material warranties are limited to those as provided by the manufacturer. Titan warrants and agrees to supply, and where applicable, install Products in accordance with Titan's standard specifications, subject to any changes thereto expressly agreed to by Titan in writing, with reasonable skill and, in respect of Services, without defective workmanship. Unless specifically agreed to in writing by Titan, Titan warrants its Services for a period of twelve (12) months following the date Services are completed by Titan. For standard warranty details please contact your Titan representative for a copy of the applicable warranty. Any extended warranty required by the Buyer must be applied for at the time of order. Titan does not accept requests for extended warranties after the delivery of the applicable Products. Titan reserves the right to adjust prices to accommodate costs of any extended warranty approved by Titan.

11. **Designs.** It is the sole responsibility of the Buyer to ensure that the design into which Products will be used is properly engineered and that Products' properties are adequate for the installation. Should Products be used in an application where property or public safety could be endangered, the Buyer warrants that the design of such application and use of Products therein have been engineered and approved by a competent, licensed engineer with experience in the design of such applications and Products. In the event that Titan, at the request of the Buyer and subject to Titan's sole discretion and written agreement pursuant to the Purchase Agreement, agrees to provide the Buyer with any pre-designs, drawing, technical specification or similar documents or technical advice (collectively, the "Titan Designs"), the Buyer acknowledges and agrees that:
- the Buyer shall be responsible for ensuring that the Titan Designs are used only for review and reference by the Buyer's licensed engineer in connection with the intended application, and shall not be disclosed to any other persons without Titan's express prior written consent including, without limitation, to any other person that may provide products or services similar to those offered by Titan;
  - Titan shall not be responsible for the results of the Titan Designs or any use, reference to or reliance on the Titan Designs;
  - all right, title and interest in and to the Titan Designs shall remain the sole and exclusive property of Titan, and the Buyer shall have no rights therein or thereto other than a limited license to use same as reference materials in connection with the applicable application, and, without limitation to the foregoing, the Buyer shall have no right to use, cause to be used, or allow any other person to use the Titan Designs in connection with any other application, project or designs;
  - Titan makes no representation or warranty with respect to the fitness of the Titan Designs for any purpose, including the Buyer's intended purpose; and
  - Titan makes no representation or warranty that the Titan Designs do not infringe or breach any rights of any other person, including, without limitation, any copyright, patent rights or other intellectual property rights.
12. **Indemnity.** The Buyer agrees to indemnify, save harmless and defend Titan and Titan's directors, officers and employees from and against all claims by any third party (being any individual, partnership, joint venture, firm, trust, body corporate, government, authority or any other legal entity other than Titan or the Buyer) in respect of or in any way relating to Products or Services (including the installation of the Products) purchased by the Buyer pursuant to the Purchase Agreement including, without limitation, any claims relating to any breach of contract, negligence or other tort or breach of statutory or other duty by Titan, whether actual or alleged. The Buyer agrees that Titan's directors, officers and employees are intended to be party to and beneficiaries of this clause.
13. **Limitation of Liability.** Titan's liability pursuant to the Purchase Agreement and the Products and/or Services purchase by the Buyer thereunder shall be limited to those liabilities as expressly contemplated in these terms and conditions. Should any Products prove so defective that repair or replacement is not practical, the Buyer's sole and exclusive remedy shall be that which is available to it from the manufacturer. Titan's legal liability is limited to the cost of the installation of Products, where Services were found to be materially defective. Without limitation to the foregoing, in no event shall Titan be liable to the Buyer or any third party:
- for the cost of field labour or for any costs incurred by the Buyer in returning any Products to Titan;
  - for special, indirect, incidental, consequential or punitive damages, including, without limitation, any loss of profit or revenue, loss of use, downtime, or cost of a substitute product, for, resulting from, or in connection with, any breach of warranty or any loss resulting from the use of Products or Services by the Buyer; or
  - for any liquidated damages, including where the Buyer's form of any agreement, order, change order or purchase order may contemplate such liquidated damages, and whether or not such liquidated damages may arise or result by reason of any breach by or delays caused or occasioned by Titan, directly or indirectly.
14. **Termination by Titan.** The Purchase Agreement may be terminated by Titan in its sole discretion, effectively immediately, by written notice to the Buyer for any of the following occurrences:
- the Buyer's failure to perform any of its obligations pursuant to the Purchase Agreement, and the Buyer does not remedy such failure within fifteen (15) days, or such shorter period in the event of an emergency as determined by Titan and communicated by Titan to the Buyer, or receipt by the Buyer of written notice of such failure from Titan (provided that the failure by Titan to provide any such notice to the Buyer hereunder shall not constitute a waiver on the part of Titan);
  - if a decree or order of a court having competent jurisdiction is entered adjudging the Buyer bankrupt or approving as properly filed a petition seeking or winding up of such party under the *Company's Creditors Arrangement Act* (Canada) or the *Winding-up and Restructuring Act* (Canada) or under any analogous, comparable or similar law, or under any other process of execution or similar effect against any substantial part of the property of the Buyer, including, without limitation, the appointment of a receiver in respect thereto, or ordering for the winding up or liquidation of its affairs, and any such decree or order continues unstated and in effect for a period of thirty (30) days;
- if the Buyer admits in writing its inability to pay its debts as they become due, makes any assignment in bankruptcy or makes any other assignment for the benefit of creditors, makes any proposal under the *Bankruptcy and Insolvency Act* (Canada) or any comparable or similar law, seeks relief under the *Companies' Creditors Arrangement Act* (Canada), the *Winding-up and Restructuring Act* (Canada) or any other bankruptcy, insolvency, or analogous, comparable or similar law, is adjudged bankrupt, files a petition or proposal to take advantage of any act of insolvency, consents to or acquiesces in the appointment of a trustee, receiver, receiver and manager, interim receiver, custodian, sequestrated or other person with similar powers to itself or of all of any substantial portion of its property or assets, or files a petition or otherwise commences any proceeding seeking any reorganization, arrangement, composition or readjustment under the applicable bankruptcy, insolvency, moratorium, reorganization or other similar law affecting creditors' rights or consents to or acquiesces in, the filing of such a petition; or
  - if a governmental regulatory order or final judgment or decree in any jurisdiction which materially and adversely affects the ability of the Buyer to fulfill its obligations under the Purchase Agreement, or which prevents or could reasonably be expected to prevent the ability to provide the Products and/or Services to the Buyer in accordance with the Purchase Agreement, shall have been made, issued obtained or entered against such party and such order, judgment or decree shall not have been vacated, discharged or stayed pending appeal within the applicable time period.
15. **Force Majeure.** Any delay or failure of Titan to perform its obligations under the Purchase Agreement shall be excused if, and to the extent, that the delay or failure is caused by an Event of Force Majeure. If the Event of Force Majeure continues for a period of more than ninety (90) consecutive months, without the parties hereto being able to develop an alternative satisfactory arrangement, then Titan has the option of immediately terminating the Purchase Agreement by giving written notice to the Buyer.
16. **Applicable Laws.** Notwithstanding anything to the contrary otherwise indicated in the Purchase Agreement, whether express or implied, the Purchase Agreement shall be governed by and construed in accordance with the laws of the Province of Manitoba, and the parties do expressly and irrevocably attorn to the exclusive jurisdiction of the courts of the Province of Manitoba with respect to any matter or claim, suit, action or proceeding arising under or related to the Purchase Agreement.
17. **Severability.** If any term of the Purchase Agreement is invalid or unenforceable under any statute, regulation, ordinance, order or other rule of law, that term shall be deemed modified or deleted, but only to the extent necessary to comply with the statute, regulation, ordinance, order or rule, and the remaining provisions of the Purchase Agreement shall remain in full force and effect.
18. **No Assignment.** The Buyer shall not assign the Purchase Agreement or any of its rights and privileges or obligations and liabilities thereunder without the express prior written consent of Titan.
19. **Waivers.** Any waiver of any provision of the Purchase Agreement will be binding only if it is in writing and signed by the party to be bound by it, and only in the specific instance and for the specific purpose for which it has been given. The failure or delay of any party in exercising any right under the Purchase Agreement will not operate as a waiver of that right. No single or partial exercise of any right will preclude any other or further exercise of that right or the exercise of any other right, and no waiver of any of the provisions of the Purchase Agreement will constitute a waiver of any other provision.
20. **Counterpart Execution.** The Purchase Agreement, and any documents or notices to be delivered thereunder, may be executed and delivered in any number of counterparts (including counterparts by facsimile or other electronic (e-mail) transmission), each of which will be deemed to be an original and all of which, taken together, will be deemed to constitute one and the same instrument or document.