

## TERMS AND CONDITIONS

### 1.0 DEFINITIONS AND INTERPRETATION

In these terms and conditions, unless the context otherwise requires:

**"Affiliate"** means in reference to a corporation another corporation which controls it, is controlled by it, or is under common control with it;

**Anti-Corruption Laws** means laws which are designed to stop the potential corruption of public officials of any country in which any aspect of this Agreement will take place, and includes the *Corruption of Foreign Public Officials Act* (Canada), the *Foreign Corrupt Practices Act* (US), the *Anti-Terrorism, Crime and Security Act 2001* and the *Bribery Act 2010* (UK), or the *Criminal Code Amendment (Bribery of Foreign Public Officials) Act 1999* (Australia);

**"Applicable Taxes"** means any federal goods and services tax, provincial or harmonised sales tax, value-added or like taxes on a consumer and services;

**"Associated Person"** means any owner (including any principal, shareholder or person having a direct or indirect financial interest), officer, director, partner, principal, employee, agent or any other person, directly or indirectly, controlling, controlled by, or under common control with, the Supplier;

**"Confidential Information"** means the Reflex Property (if applicable) and all information belonging or relating to Reflex, whether oral, graphic, electronic, written or in any other form, including but not limited to Reflex's production engineering, design data, specifications, processes, procedures, know-how, technology, drawings, reports and any other business and technical related information that is not generally available to the public at the time of disclosure other than by reason of a breach of these terms and conditions or that is in fact, or should reasonably be regarded as, confidential to Reflex;

**"Consequential Loss"** means any one or more of the following: loss of revenue; loss of profits; loss of opportunity to make profits; loss of business; loss of business opportunity; loss of use or amenity, or loss of anticipated savings; special, exemplary or punitive damages; and any loss which does not directly and naturally flow in the normal course of events from the occurrence of the event giving rise to the liability for such loss, whether or not such loss was in the contemplation of the Parties at the time of entry into these terms and conditions, including any of the preceding types of loss arising from an interruption to a business or activity;

**"Party"** means either Reflex or Supplier (as the case may be) and **"Parties"** means collectively Reflex and Supplier;

**"person"** means any individual, corporation, partnership, joint venture, trust, unincorporated association, or any other judicial entity or a government, state or agency or political subdivision thereof;

**"Personal Information"** has the meaning attributed to it under Privacy Law;

**"PPSA"** means the *Personal Property Security Act* (Ontario) as amended, and where the AMC Property is located or used in a Province of Canada other than Ontario, PPSA includes, where determined by AMC in its sole discretion, the analogous personal property security law of that Province.

**"PPS Law"** means the PPSA together with any subsidiary legislation or regulations made under the PPSA, any amendment to other legislation made as a consequence of the PPSA and any amendment to a PPS Law from time to time.

**"PPS Register"** means the register or registration system established under the PPS Law.

**"Privacy Law"** means the *Personal Information Protection and Electronic Documents Act* (Canada) and any other applicable laws relating to preservation of privacy of personal information, as amended from time to time;

**"Products"** means the products or services specified in the purchase order;

**"Prohibited Payment"** shall mean the payment, offer or promise to pay,

or authorisation of the offer, promise or payment, directly or indirectly (through one or more intermediaries), of any money, benefit or anything of value to: (i) any Public Official for the purpose of influencing any act or decision of, or for securing any improper advantage, from, such Public Official, or a government, instrumentality thereof, or political party, in order to assist in any way in obtaining or retaining business for or with, or directing business to, any person; or (ii) any other person, if such payment, offer, promise or authorisation would violate any applicable law of any country in which any aspect of the supply of the Products will take place, or the Anti-Corruption Laws;

**"Public Official"** shall mean any officer, contractor or employee of a government or any department, agency, or instrumentality thereof, or of a public international organisation, any political party, any official of a political party, any candidate for political office, or any person acting in an official capacity for or on behalf of any such government, department, agency, instrumentality, public international organisation, or political party;

**"Reflex"** means Reflex Instrument North America Limited and its Affiliates; **"Reflex Indemnified Parties"** means Reflex, Reflex's directors, officers, employees, agents, consultants and representatives, any of Reflex's Affiliates, its subsidiaries, its parent company, any other subsidiaries of its parent company and any other company within its group of companies, and any sub-contractors employed by Reflex with the consent of Supplier and their directors, officers, employees, agents, consultants and representatives;

**"Reflex Property"** means, if applicable, any specifications or other documents, materials and technical information provided by Reflex to Supplier for the purpose of producing the Products; and

**"Security Interest"** has the same meaning as under the PPS Law; and

**"Supplier"** means the person or entity specified as supplier in the purchase order.

### 2.0 APPLICATION

2.1 These terms and conditions apply when at Reflex's request Supplier agrees to supply Products to Reflex.

2.2 Reflex may amend these terms and conditions from time to time by giving Supplier notice in writing of the amendments at least 1 month prior to the amendments taking effect.

2.3 Any terms and conditions put forward by a Supplier in respect of a supply of Products will not be binding on Reflex so far as they purport to amend, annul or vary any of these terms and conditions, unless specifically agreed to by Reflex in writing.

2.4 To the extent to which the terms of any supply of Products by Supplier to Reflex differ from these terms and conditions, the acceptance by Supplier to supply Products will be deemed to be an offer to supply only on these terms and conditions (unless AMC has expressly agreed in writing to such different terms) and acceptance of the Products by Reflex will constitute acceptance of the Products on these terms and conditions. For the avoidance of doubt, the mere receipt of Products by Reflex from the Supplier pursuant to any different terms is not acceptance by Reflex of such differing terms and to the extent that the terms of any supply of Products by or on behalf of Supplier differ from these terms and conditions, these terms and conditions will prevail.

2.5 If Supplier does not wish to supply Products on these terms and conditions as amended from time to time, Supplier must notify Reflex within 48 hours of receipt of a purchase order or the date of the amendment of these terms, otherwise Supplier will be deemed to have agreed to supply the Products on these terms and conditions.

### 3.0 PRICE AND PAYMENT TERMS

3.1 Reflex agrees to pay Supplier for the Products supplied at the prices agreed between the Parties. Prices must not be changed unless agreed by both Parties in writing.

3.2 Supplier will invoice Reflex upon completion of an order for Products. Supplier shall send Reflex a detailed price invoice or invoices as instructed on the purchase order clearly stating the purchase order number, item numbers and containing all information required to be stated on a tax invoice for any Applicable Tax purposes.

3.3 All payments to be made by Reflex to Supplier under these terms and conditions will be paid to Supplier by bank wire transfer within 60 days of receipt of an invoice from Supplier. Payments shall not operate as a waiver of any of the rights of Reflex under a purchase order or otherwise.

3.4 Unless Reflex agrees otherwise, no payments will be due to Supplier prior to delivery to and acceptance by Reflex of the Products.

3.5 If Reflex pays for Products upfront or prior to delivery, Supplier must hold all such payments on trust and for the benefit of Reflex until the Products are delivered to Reflex in accordance with these terms and conditions.

3.6 Reflex may withhold any payment due to Supplier to such extent as may be necessary to protect Reflex from loss because of a doubt that the Products will fulfill the requirements of a purchase order or breach by Supplier of any of these terms and conditions, or due to a dispute in an invoice.

#### **4.0 ORDERS FOR PRODUCTS**

4.1 Reflex may submit to Supplier a written purchase order that shall include the quantity and price of the Products and the delivery date and shipment address of the Products. Upon receipt of a purchase order, Supplier will send Reflex a written acknowledgment of the purchase order, including acknowledgment of quantity, price, delivery date and shipping address. A purchase order and Supplier's acknowledgement may be sent by email. A purchase order becomes binding on Supplier when accepted by Supplier's acknowledgment or upon any performance by Supplier pursuant to the purchase order.

4.2 Supplier shall perform any changes to a purchase order required by Reflex which may include additions to, or reductions in the quantity of Products. If Reflex is contemplating a change, notice shall be provided to Supplier, who shall promptly advise Reflex of its reasonable effect on the delivery date. Notices for the purpose of this clause may be sent by email.

4.3 No change shall be accepted by Reflex and Reflex shall not be liable to make any payment therefore to Supplier unless such change has been authorized by Reflex in writing.

#### **5.0 COMPLETION AND DELIVERY**

5.1 Time is of the essence in regard to these terms and conditions, the delivery date and all of Supplier's obligations.

5.2 Supplier agrees to deliver the Products to Reflex pursuant to delivery schedules which may, from time to time, be provided by Reflex. Supplier shall be responsible to deliver any Products ordered by Reflex to support Reflex's production schedule as notified to Supplier from time to time. Supplier shall meet all delivery dates, specifications and quantities as set forth in any acknowledged purchase order pursuant to clause 4.1.

5.3 Supplier shall provide at its own expense such information concerning status and progress of the Products as Reflex shall deem necessary to ensure that the Products will be delivered by the delivery date. If Supplier expects any delays in the delivery of the Products, it shall immediately notify Reflex and provide Reflex with a written action plan to remedy such delay. The provision of such notice and action plan by Supplier to Reflex shall in no way relieve Supplier of any of its obligations under these terms and conditions and shall not operate as a waiver of any of the rights of Reflex under these terms and conditions.

5.4 Transportation with respect to Products supplied to Reflex shall be F.O.B shipping point. Except as expressly set forth herein, Supplier shall attempt to consolidate to truck load shipments to the extent possible except where otherwise directed by Reflex.

5.5 Supplier shall take all necessary precautions to ensure that all Products delivered to Reflex are packaged in a safe and sufficient manner so as to avoid damage or loss to the Products whilst in transit and until delivered. Packaging of the Products shall comply with all applicable statutory requirements and/or codes of practice. Supplier shall indemnify Reflex and Reflex Indemnified Parties in respect of any and all loss, expense, damage claim and liability incurred by Reflex Indemnified Parties arising in connection with any breach of Supplier's obligations under this clause 5.5

#### **6.0 TITLE AND RISK**

6.1 Title in the Products shall pass to Reflex either: (a) When the Products or part thereof are first identifiable as being appropriated to the order or; (b) upon payment of the relevant invoice by Reflex or; (c) upon acceptance of the Products by Reflex at the specified delivery point, whichever occurs first.

6.2 Notwithstanding passage of title (in whole or in part) on the occurrence of clause 6.1 (a) or (b), risk shall remain with Supplier until delivery or acceptance of the Products by Reflex in accordance with the provisions of the purchase order, whichever shall be the later.

6.3 All materials or equipment to be incorporated in the Products the title of which has passed to Reflex shall be clearly marked by Supplier as Reflex property and shall be stored separately from Supplier's property.

#### **7.0 QUALITY AND DESCRIPTION**

7.1 The supply of Products by Supplier to Reflex shall: (a) conform strictly as to quantity, quality and description with the particulars stated in the relevant purchase order and with all applicable statutory requirements; (b) be of sound materials and workmanship; (c) be in strict compliance with the Reflex Property and any other samples, patents, drawings or specifications provided by Reflex (if applicable); (d) be fit for the purpose for which it is supplied under the relevant purchase order.

7.2 All work performed by Supplier under these terms and conditions shall be performed by suitably qualified and competent personnel and all equipment and tools used shall at all times be maintained in first class operating condition by Supplier.

#### **8.0 DEFECTS AND WARRANTY**

8.1 Supplier expressly warrants to Reflex that Products manufactured by Supplier and supplied to Reflex shall be: (a) supplied with due care and skill using the standard of diligence that would reasonably be expected from a prudent, expert and experienced provider of Products which are similar to the Products; (b) of merchantable quality and fit for the purpose for which they are designed; and (c) free from defects in material and workmanship as of the date of delivery of such Products to Reflex and for a period of 12 months from this date ("Warranty Period").

8.2 Supplier shall be responsible for remedying at its expense any defect that may arise in the Products within the Warranty Period. Supplier shall guarantee for a further period of 12 months all remedial work carried out under this warranty. Where a defect arises within the Warranty Period but does not become apparent until that period has expired, Supplier's liability shall not cease merely because Reflex has been unable to give notice of the defect to Supplier within the Warranty Period. If any defects which Supplier is obliged to remedy under this clause, are not remedied within a reasonable time, or circumstances render it impracticable for Supplier to do the same, Reflex may do so itself or authorise others to do the same, and Supplier shall reimburse Reflex for all costs arising there from.

8.3 Supplier warrants that any and all information provided to Reflex in respect of Products supplied or to be supplied to Reflex is accurate, complete and sufficient.

8.4 These warranties and Reflex remedies under this clause are in addition to any other rights and remedies of Reflex pursuant to applicable law and equity.

#### **9.0 INSPECTION AND TESTING**

9.1 Reflex and its representatives shall at all times be granted access to any premises of Supplier and be allowed to: (a) inspect and test the Products at any time prior to acceptance or delivery, whichever shall be the later; and (b) audit Supplier management systems, operations and production process used to manufacture the Products for the purposes of ensuring satisfactory product quality. Unless otherwise specified, all Products will be subject to final inspection and acceptance by Reflex.

9.2 Reflex and its representatives shall have full power to reject any Products it considers to be defective or inferior in quality of material or workmanship and/or not in accordance with Reflex's specifications or Reflex Property (if provided). Any work so rejected shall immediately be replaced or corrected as required by Reflex or its representatives, at Supplier's expense.

#### **10.0 SUPPLIER COVENANTS**

10.1 Supplier covenants and agrees that it will:

(a) Comply with all applicable laws, regulations, customs requirements and other legal requirements from time to time in force and which are binding on it or Reflex, the business operations of it or Reflex or any of its property or the property of Reflex;

(b) Require its employees to use devices, guards, and proper safe operating procedures as are prudent in connection with the supply of the Products;

(c) Not remove or modify, nor permit the removal or modification of, any safety device, guard or warning sign;

(d) Not supply any items prohibited under applicable laws or regulations; and

(e) procure that its Associated Persons will:

(i) not make, and has not made, in connection with any aspect of the supply of the Products or any other transaction involving the Supplier, any Prohibited Payment. Further, to the knowledge and belief of Supplier no other person has made or will make any Prohibited Payment in connection with any aspect of the supply of the Products or any other transaction involving Reflex;

(ii) comply with the Anti-Corruption Laws;

- (iii) comply with any anti-corruption laws of any country where any aspect of the supply of the Products takes place. It is the intent of this clause that no Prohibited Payments will be made by Supplier which would have the purpose or effect of public or commercial bribery, pay-offs, corruption, kickbacks or other unlawful or improper means of obtaining or retaining business for or with, or directing business to, the Supplier or its Affiliates;
- (iv) Not become:
  - A. a Public Official, in any country where any aspect of the supply of the Products will take place;
  - B. a member of the family of such a Public Official; nor
  - C. a nominee for any Public Official;
- (v) Not:
  - A. use forced labour, regardless of its form;
  - B. employ any person below the age of 15 (or younger if provided for in any applicable law), unless it is part of a government approved job training, apprenticeship or other program that would be clearly beneficial to its participants; nor
  - C. engage in physically abusive disciplinary practices; and
- (vi) Comply with any of Reflex's policies provided by Reflex to Supplier from time to time.

any applicable award, determination or agreement of a competent industrial tribunal.

- 12.3 The Supplier will not be liable under clause 12.2 to the extent that the liability was caused, or contributed to, by (as the case requires) the negligent acts or omissions or willful misconduct of Reflex or its Affiliates.

### 13.0 INSURANCE

- 13.1 Supplier shall ensure that it carries and maintains appropriate insurance, with insurers acceptable to Reflex, including but not limited to: (a) employer's liability insurance and workmen's compensation insurance as appropriate to comply fully with all applicable laws; (b) automobile public and passenger liability insurance having unlimited indemnity; and (c) general liability insurance having a limit of not less than CAD \$5 million equivalent combined single limit any one occurrence covering all operations of the insured including without prejudice to the foregoing generally the contractual liabilities assumed herein. Supplier shall ensure that all such insurances waive all rights of subrogation against Reflex. Supplier shall remit certificates evidencing said insurances, confirming names of insurers, policy numbers and expiration dates upon the request of Reflex.

### 14.0 CONFIDENTIALITY AND INTELLECTUAL PROPERTY

- 14.1 Supplier may receive, possess or otherwise acquire Confidential Information of Reflex and Supplier acknowledges that the Confidential Information is the property of, confidential to and a trade secret of Reflex. Supplier must:

- (a) keep the Confidential Information confidential and not directly or indirectly disclose, divulge or communicate that Confidential Information to, or otherwise place that Confidential Information at the disposal of any other person without the prior written approval of Reflex;
- (b) take all steps to secure and keep secure all the Confidential Information coming into its possession or control;
- (c) not use the Confidential Information for its personal benefit or for the benefit of any person or entity other than Reflex and only use the Confidential Information to the extent necessary to perform its obligations under these terms and conditions;
- (d) not memorise, modify, reverse engineer or make copies, notes or records of the Confidential Information for any purpose other than in connection with the performance of its obligations under these terms and conditions; and
- (e) only disclose Confidential Information to those of its employees strictly on a "need to know basis" for the purpose of performing its obligations under these terms and conditions; and
- (f) take all steps to ensure that its employees comply at all times with the terms of this clause 14.1.

- 14.2 Immediately on the written request of Reflex for any reason, Supplier shall:

- (a) cease the use of all Confidential Information;
- (b) deliver to Reflex all documents and other materials in its possession or control containing, recording or constituting that Confidential Information, or make the Confidential Information available for collection by Reflex at its own cost or, at the option of Reflex, destroy, and undertake to Reflex that it has destroyed, those documents and materials; and
- (c) for Confidential Information stored electronically, permanently delete that Confidential Information from all electronic media on which it is stored, so that it cannot be restored.

- 14.3 Reflex shall be the sole owner of, and be entitled to the full and unrestricted right, including the right to apply for patent or other protection in its own name, to exploit any invention, technical information or know-how, any intellectual property arising from or developed in the course of the supply of the Products. For the avoidance of doubt, the parties acknowledge and agree that any invention, improvement, design or other work in which intellectual property rights may subsist (**Works**) that is developed or originated by Supplier based in whole or in part on the Confidential Information will be owned exclusively by Reflex and that all rights, title and interest in the Works shall vest solely in Reflex. All moral rights in and to such Works are hereby irrevocably waived by Supplier.

- 14.4 Reflex retains exclusive title and ownership of all intellectual property rights in relation to the Reflex Property. These terms and conditions do not grant any intellectual property rights in the Reflex Property and do not grant any express or implied licence to the intellectual property rights in the Reflex Property.

### 15.0 TAXES AND OTHER CHARGES

Supplier shall be responsible for all taxes import duties, fees and the like

### 11.0 Reflex PROPERTY

- 11.1 If Reflex provides any Reflex Property to Supplier: (a) Supplier shall only use the Reflex Property for the purpose of producing and supplying the Products to Reflex; (b) Supplier agrees to use the Reflex Property only in accordance with these terms and conditions; (c) Supplier will not use the Reflex Property to produce Products for sale to any other party without Reflex's prior written consent; (d) Supplier will maintain the Reflex Property in its original operating condition except for ordinary wear and tear; and (e) Supplier agrees to immediately notify Reflex on any and all conditions that may require Reflex Property maintenance or repair.

- 11.2 Subject only to the rights of Supplier as a mere bailee of the Reflex Property with a right only to use the Reflex Property in accordance with, and under, these terms and conditions, the Supplier acknowledges and agrees that all Reflex Property shall be and remain the exclusive property of Reflex and no right, title or interest in the Reflex Property shall transfer to Supplier at any time notwithstanding: (i) delivery of the Reflex Property to the Supplier; (ii) possession and use of the Reflex Property by the Supplier; and (iii) any temporary attachment of the Reflex Property to any land or buildings to facilitate use of the Reflex Property.

- 11.3 The Supplier agrees to Reflex effecting a registration on the PPS Register (in any manner Reflex considers appropriate) in relation to any Security Interest over Reflex Property and the Supplier agrees to provide all assistance reasonably required to facilitate this (including executing any supplementary document and paying all costs in connection with effecting, maintaining, amending or discharging that registration). The Supplier waives the right to receive any verification statement (or notice of any verification statement) in respect of a registration made on the PPS Register.

- 11.4 Return of Reflex Property. Immediately on the written request of Reflex or on the expiration or termination of the supply of the Products, for any reason, Supplier shall return the Reflex Property to Reflex or make the Reflex Property available for collection by Reflex at its own cost.

- 11.5 Indemnity. Supplier shall indemnify Reflex and Reflex Indemnified Parties in respect of any and all loss, expense, damage, claim and liability incurred by Reflex Indemnified Parties arising in connection with the operation, handling, or transportation of any Reflex Products while the Reflex Products are in the possession or control of Supplier.

### 12.0 LIABILITY AND INDEMNITY

- 12.1 Consequential loss or damage. Reflex shall not be liable to the Supplier or any of its Affiliates or representatives for any Consequential Loss.

- 12.2 Subject to clause 12.3 the Supplier will indemnify (and keep indemnified) Reflex and Reflex's Indemnified Parties from and against all liabilities and costs suffered or incurred by Reflex arising directly or indirectly from any:

- (a) breach by the Supplier or its personnel of these terms and conditions;
- (b) negligent act or omission by the Supplier or its personnel arising out of or in any way related to the supply of the Products;
- (c) false, incorrect, inaccurate, incomplete or misleading information provided by Supplier to Reflex whether in respect of the Products or otherwise; and
- (d) claim made against Reflex by any of the Supplier's personnel in respect of relevant legislation concerning income tax, workers' compensation, annual leave, long service leave, superannuation or

related to the supply of the Products to Reflex and shall indemnify Reflex in respect of all liabilities and associated costs and expenses which may be incurred in connection therewith.

## **16.0 DEFAULT**

If the Supplier fails to comply with any of these terms or conditions or if Supplier becomes subject to any insolvency, administration or bankruptcy or if any Reflex Property provided to Supplier (as the case may be) or any part of the Reflex Property are abused, illegally used or misused, Reflex shall have the right, without legal proceedings, to the extent permitted by the laws of location where the Reflex Property is located, to enter the premises where the Reflex Property is located and take possession thereof without being liable to any party and Reflex also shall have the right to exercise any right and/or remedy available to it at law or in equity.

## **17.0 DISPUTE RESOLUTION AND GOVERNING LAW**

17.1 These terms and conditions shall be governed by, interpreted and construed in accordance with the laws of the province of Ontario. The parties submit to the exclusive jurisdiction of the state and federal courts located in that province.

17.2 In the event of a dispute between the Parties arising out of or relating to these terms and conditions, or the breach thereof, either Party may give notice to the other Party of the dispute, and the Parties shall make every effort to amicably resolve, reconcile, and settle such dispute between them. To this extent the Parties shall consult and negotiate with each other, in good faith and understanding of their mutual interests to reach a just and equitable solution satisfactory to both Parties. Should an amicable resolution not be possible within 30 days of the date of the notice, then the dispute may be submitted to the courts of Ontario, Canada.

## **18.0 FORCE MAJEURE**

18.1 Neither Party shall be responsible for any failure or delay in complying with these terms and conditions, other than an obligation to pay money, where such failure or delay is due to causes beyond its reasonable control. These causes shall include, but not be restricted to: fire, storm, flood, earthquake, explosion, accident, acts of the public enemy, war, rebellion, insurrection, sabotage, epidemic, quarantine restrictions, transportation embargoes, acts of God, acts of any government, whether national, municipal or otherwise, or any agency thereof and judicial action. The Party so affected by the force majeure shall notify the other Party as soon as practicable of its existence. The Parties shall then meet and endeavor to alleviate the effect and extent thereof.

## **19.0 PRIVACY**

- (a) Reflex agrees to comply with its privacy policy and all Privacy Laws in relation to any and all Personal Information that it collects from Supplier.
- (b) Supplier has read and agrees to the collection and handling of its personal information in accordance with Reflex's privacy policy, which is available on its website. For the avoidance of doubt, the privacy policy does not create contractual obligations on Reflex, but is a policy document prescribed under Privacy Law and the obligations on Reflex in respect of that policy are to be handled via the procedure prescribed in Privacy Law.

## **20.0 ASSIGNMENT AND SUBCONTRACTING**

- (a) Supplier must not assign, transfer, or delegate or purport to assign, transfer or delegate its obligations under these terms and conditions or its rights hereunder without the prior written consent of Reflex which Reflex may withhold in its absolute discretion.
- (b) Supplier must not, without Reflex's prior written approval, subcontract to any third party any part of the supply of Products to Reflex.

## **21.0 LANGUAGE**

The parties have expressly requested and required that this Agreement and all other related documents be drawn up in the English language. Les parties conviennent et exigent expressement que ce Contrat et tous les documents qui s'y rapportent soient rediges en anglais,