

**1. General.** These general conditions shall govern the sale and supply of equipment, products, materials, spare parts, wear parts and/or associated services and software (“**Goods**”) by McCloskey International Limited (“**McCloskey**”) to the purchaser of the Goods (“**Purchaser**”).

**2. Contract Formation.** The contract between Purchaser and McCloskey (“**Contract**”) shall be formed with (i) the execution by Purchaser and McCloskey of a separate written agreement, or (ii) McCloskey’s acceptance in writing of a purchase order issued by Purchaser, based on McCloskey’s quotation for the Goods as may be amended by mutual agreement in writing. These general conditions shall supersede any conflicting conditions of Purchaser, whether contained in any purchase order issued by Purchaser or elsewhere. All modifications and deviations to these general conditions shall be expressly agreed in writing by Purchaser and McCloskey as set out in clause 32 or in a separate written agreement.

**3. Scope of Work.** The Goods shall be as specified in McCloskey’s quotation as may be amended in the Contract. All equipment, materials, commodities and services not specifically mentioned therein, including, without limitation, installation and commissioning of the Goods, are expressly excluded.

**4. Variations.** Purchaser and McCloskey may at any time prior to Delivery (as defined below) vary the scope of work by written agreement recording required amendments to the Goods, the Contract Price and Delivery times for the Goods as well as any other relevant matters. McCloskey shall not be required to implement any variations without such written agreement.

**5. Price.** The price for the Goods (“**Contract Price**”) shall be as specified in the Contract or, if not specified, in McCloskey’s quotation for the Goods exclusive of any value added, sales or similar tax.

**6. Taxes.** The Contract Price shall be paid free and clear of all deductions and withholdings for taxes, duties, levies or other charges imposed by federal, state, regional or other governmental authorities in the country of registration of Purchaser and the country of Purchaser’s site or under any applicable treaty for the avoidance of double taxation except as required by law. If any deduction or withholding is required by law, Purchaser shall on the due date for the payment pay McCloskey such additional amounts as shall, after the making of the deduction or withholding, result in the payment to McCloskey of the net Contract Price. Purchaser shall make all necessary tax or other returns and all necessary payments in relation to any such deduction or withholding and shall pay and indemnify and hold McCloskey harmless from liabilities for any sum, payable as a result of any failure, delay or error. Purchaser shall promptly provide McCloskey with all appropriate certificates, receipts or other documents evidencing the proper deduction or withholding.

**7. Payment.** Unless otherwise specified in the Contract, payment of the Contract Price shall be made by Purchaser in CAD free of charge without any deductions within seven (7) days of the date of McCloskey’s invoice to the bank account specified in the invoice or prior to the Delivery, whichever comes first. Partial deliveries shall be paid pro rata of the Contract Price for Goods delivered.

**8. Transparency.** All payments shall be made by Purchaser from an account held by Purchaser at an internationally renowned bank or equivalent financial institution or by letter of credit as per clause 10. Any other account or means of payment such as a Purchaser group financial service provider must be approved by McCloskey prior to any payments being made.

**9. Late Payment.** McCloskey shall be entitled to charge pro rata interest for delayed payments at a rate of eight (8) percentage points over the then current Canadian prime lending rate published from time to time by the Wall Street Journal, calculated from the due date to the date of payment. McCloskey may further suspend the further performance of the Contract if Purchaser fails to make a payment when due under the Contract and, if the delay exceeds two months, terminate the Contract and, in addition to the above interest, recover all costs and losses incurred by McCloskey as a result of such termination.

**10. Letter of Credit.** Where the Contract states that payments are to be made by letter of credit, Purchaser shall at its own cost provide an irrevocable letter of credit issued by a reputable bank and confirmed by a bank approved by McCloskey. The letter of credit shall be issued within thirty days of the formation of the Contract and shall remain valid for a period of one hundred twenty days after the scheduled date for the final Delivery.

**11. Delivery.** Unless otherwise specified in the Contract, the Goods shall be delivered EXW (according to Incoterms 2020) McCloskey manufacturing plant (“**Delivery**”). Dates quoted for delivery of Goods are approximate only and McCloskey shall not be liable for any delay in delivery of the Goods howsoever caused. Purchaser shall make all arrangements necessary to take delivery of the Goods whenever they are tendered for delivery. Delivery time shall not be of the essence unless previously agreed by the parties in writing. Partial Deliveries are permitted and shall be accepted by Purchaser. If Purchaser fails to accept Delivery, (a) the Purchaser shall nevertheless pay any part of the Contract Price which becomes due on Delivery, as if Delivery had taken place; and (b) McCloskey shall, at Purchaser’s expense, store the Goods and obtain such insurance policies covering losses and damages as McCloskey considers appropriate. McCloskey may by notice in writing require the Purchaser to accept Delivery within a final

reasonable period of time. If, for any reason for which McCloskey is not responsible, the Purchaser fails to accept Delivery within such period, McCloskey may by notice in writing terminate the Contract in whole or in part. McCloskey shall then be entitled to compensation for the loss it has suffered by reason of the Purchaser’s default. Delivery shall be deemed timely if Purchaser was advised of the readiness for Delivery by the agreed delivery time.

**12. Transfer of Title and Risk.** Title to the Goods shall, irrespective of Delivery, pass to Purchaser upon payment of the Contract Price in full. The risk of loss of and damage to the Goods shall pass to Purchaser upon Delivery in accordance with the applicable Incoterm. Until the title to the Goods has passed from McCloskey to Purchaser, Purchaser shall keep the Goods separately and readily identifiable as the property of McCloskey. Purchaser shall assist McCloskey in taking any measures necessary to protect McCloskey’s title to the Goods in the country concerned. If Purchaser is in default of its payment obligations under this Contract, and fails to rectify this within seven (7) days after the McCloskey’s written notice thereof, McCloskey may (without prejudice to any other of its rights available at law or under this Contract) enter upon Purchaser’s premises and without any court order or other process of law may repossess and remove the Goods, or render the Goods unusable without removal, either with or without prior notice thereof to Purchaser. Purchaser hereby authorizes McCloskey to do so, and waives any trespass or right of action for damages by reason of such entry, removal or disabling. Any such repossession or action by McCloskey shall not constitute a termination of this Contract.

**13. Extension of Time.** If McCloskey is prevented or delayed from meeting agreed Delivery times due to the actions or inactions of Purchaser or its agents or other contractors, Force Majeure, Covid-19 or due to other reasons outside McCloskey’s control, the Delivery times shall be extended accordingly and McCloskey shall be entitled to reimbursement of all additional costs incurred as a result of such delay.

**14. Defects Liability.** a.) McCloskey warrants that the Goods shall be free from defects in material and workmanship attributable to McCloskey, provided that any defect must be claimed in writing within the defects liability period set out in Appendix 1, unless otherwise specified in the Contract. McCloskey’s sole liability under this warranty shall be limited to, at its choice, repair or replace defective Goods and the above defects liability period shall be extended by six months from the repair or replacement but shall not extend beyond six months from the expiry of the initial defects liability period. Repair work shall be performed at the location determined by McCloskey. Title to any replaced Goods shall revert to McCloskey. b.) The above warranty shall not apply for (i) ordinary wear and tear or deterioration of the Goods, (ii) wear and consumable parts such as hoses, belts, rubber tyres, blades, linings, discs, batteries, nozzles, oil, fuel, fluids, grease, coolants or other parts which by their nature are expected to be replaced in regular intervals (unless such parts were defective upon delivery in which case they shall be replaced with new parts), (iii) minor defects which can be rectified with minimal effort such as changing of seals, tightening, adjustment or settings or have no significance to the operation of the Goods such as dents or surface scratches, (iv) any service, modification or replacement of any Goods by an unauthorised repairer or without McCloskey’s prior written consent, (v) defects caused by improper or faulty assembly, installation, operation or maintenance such as use of unsuitable materials, utilities or parts, unsuitable operating conditions, overloading, or any act or omission contrary to McCloskey’s operation and maintenance manuals or instructions, and (vi) defects caused by the use of other than genuine McCloskey spare and wear parts. c.) Except as specifically provided in this clause, McCloskey has not made and does not make any warranties, guarantees, representations, indemnities or the like, whether express, implied, statutory, or otherwise arising from trade usage or practice including without limitation warranties of uninterrupted or error-free operation, fitness for purpose or merchantability and any such warranties, guarantees, representations, indemnities or the like are expressly disclaimed and excluded. Technical, design and other information and descriptions in brochures, catalogues or other written documentation shall only serve as a general description of the deliverables and shall not be deemed as agreed or guaranteed quality or performance. McCloskey shall not be liable for any damage to movable or immovable property caused by the Goods after Delivery or to products manufactured by Purchaser or to products of which Purchaser’s products form a part. Defects liability is further set out in Appendix 1 (“**McCloskey Limited Product Warranty**”).

**15. Tooling.** In the event special tooling such as moulds, dies, forms, jigs, mandrels, fixtures and other special equipment is required to manufacture any Goods, the parties shall enter into a separate agreement for such tooling. Unless otherwise agreed in writing, all such tooling shall remain the property of McCloskey and McCloskey’s responsibility related to such tooling is limited to proper design, handling in manufacture and storage.

**16. Indemnity.** Each party shall indemnify and hold harmless the other party against any loss, expense or damage including, without limitation, reasonable attorneys’ fees, suffered or incurred by the other party in connection with the Contract resulting from death, personal injury or physical loss of or damage to third party property caused by the acts or omissions of such party. Each party’s liability to indemnify as per the above shall be reduced proportionally to the extent

that the acts or omission of the other party have contributed to the loss, expense or damage.

**17. Intellectual Property Rights.** As between the parties, each party shall retain ownership in all of its patents, patent applications, utility models, copyrights, trademarks, and any other statutory protection of a similar kind, as well as know-how and trade secrets, whether or not such rights are registered or capable of registration (“**Intellectual Property Rights**”) existing prior to or created independently of the Contract. All Intellectual Property Rights developed by McCloskey during the performance of the Contract, including any improvement to the Goods, shall exclusively vest in McCloskey. Subject to payment of the Contract Price, McCloskey herewith grants Purchaser a non-exclusive, non-transferable and limited license to use McCloskey’s Intellectual Property Rights in the Goods for the sole purpose of installing, commissioning, operating and maintaining the Goods. Such license shall not include the right to disclose McCloskey’s confidential know-how or trade secrets to any third party or to grant any sub-licenses. Any other use of such Intellectual Property Rights, including, without limitation, its copying or use for a modification, duplication or replication of the Goods, is not permitted.

**18. Third Party Intellectual Property Rights.** McCloskey shall indemnify and hold Purchaser harmless from any claim by a third party (including reasonable attorneys’ fees) that the use of the Goods by Purchaser in accordance with the Contract constitutes an infringement or alleged infringement of any Intellectual Property Rights of such third party, provided that Purchaser (i) promptly notifies McCloskey in writing of the claim, (ii) allows McCloskey full control of the defence and any related settlement negotiations, (iii) fully cooperates with McCloskey in the defence, (iv) McCloskey shall not be liable for any infringement or alleged infringement resulting from any design, specification or other information or a combined operation with other equipment that is provided by or on behalf of Purchaser nor shall it be liable for any use by Purchaser that is contrary to any manuals or instructions by McCloskey, and (v) Purchaser shall in no event compromise or settle any proceedings or claims in connection with such infringement or alleged infringement or otherwise act against the reasonable interests of McCloskey. In the event the Goods are held to be infringing and the use of the same is enjoined, McCloskey shall, at its own expense and sole discretion, either procure the right to continue using the Goods, replace the Goods with non-infringing equivalents, or modify the Goods to eliminate such infringement. If the foregoing remedies do not cure the infringement, McCloskey will refund the purchase price of the infringing Goods. Purchaser shall have the right to select its own counsel to participate in any proceedings or negotiations at Purchaser’s expense. All other rights and remedies of Purchaser for an infringement of Intellectual Property Rights are excluded.

**19. Confidentiality.** a.) Each party recognises the proprietary and confidential nature of the other party’s commercial, technical, financial and operational information and know-how relating to its business, facilities, products, techniques and processes, including, without limitation, the Goods and any information derived therefrom (“**Confidential Information**”) and undertakes to hold in strict confidence any Confidential Information, whether marked confidential or not, and shall take all reasonable precautions to prevent the same in whole or in part from becoming available to any third party. The receiving party undertakes to use Confidential Information solely for the purpose of the Contract or as agreed in writing by the disclosing party. b.) This clause shall not apply for any information which, as evidenced by documents of that time, (i) was in the lawful possession of the receiving party or any of its Affiliates (an “Affiliate” is any entity which directly or indirectly controls, is controlled by, or is under common control with a party) and had not been obtained from the disclosing party, (ii) has after disclosure been lawfully disclosed by a third party without any obligation of confidentiality and restricted use, (iii) has entered before or after the date of formation of the Contract into the public domain through no act or failure to act by the receiving party or any of its Affiliates, (iv) has been developed independently of any Confidential Information, or (v) is requested to be disclosed pursuant to applicable law, governmental regulation or legal process, provided that such party shall, to the extent legally permissible, promptly notify the disclosing party of such required disclosure, shall disclose only such Confidential Information as is required, and shall take all reasonable steps to protect the confidentiality of such disclosed information. Confidential Information shall not be deemed to be within the foregoing exceptions merely because such information is embraced by more general information within the foregoing exceptions or because individual features fall within the foregoing exceptions. c.) The receiving party shall, unless otherwise agreed in writing, limit access to Confidential Information to its directors, officers and employees, its Affiliates, any professional adviser or consultant who has been engaged to advise in connection with the Contract, any contractor or sub-contractor engaged in connection with the Contract, and any other person the disclosing party has agreed in writing that Confidential Information may be disclosed to in connection with the Contract (“**Representatives**”) on a need-to-know basis only, provided that such Representatives are bound by confidentiality and restricted use undertakings substantially similar to this clause and the receiving party shall be liable for any breach of confidentiality and restricted use by such Representatives. d.) Each party acknowledges and agrees that monetary damages alone may not be an adequate remedy for a breach of this clause and that the other party shall be entitled to seek interim injunctive relief or such other relief

that may be available under applicable law. e.) This clause shall survive performance or any earlier termination of the Contract for whatever reason and shall remain valid for period of ten years from the date of formation of the Contract.

**20. Force Majeure.** Each party shall have the right to suspend performance of its obligations under the Contract and be entitled to an extension of the delivery time for the Goods to the extent that such performance is impeded, made unreasonably onerous or impossible by circumstances beyond its control, including without limitation epidemics, pandemics and an unforeseeable outbreak of endemics, industrial disputes, governmental or legislative activities or restraints, exceptional weather conditions, fire, earthquake, flood and other acts of nature or disasters, war (whether declared or not), military mobilisation, insurrection, embargos and trade sanctions, shortage of transport, general shortage of materials and restrictions in use of power (“**Force Majeure**”). The affected party shall as soon as possible after becoming aware of Force Majeure event and its cessation notify the other party in writing. Each party shall have the right to terminate the Contract if the Contract has been suspended for more than six months and Purchaser shall pay McCloskey the proportion of the Contract Price reflecting the progress of the work under the Contract up to the effective date of termination as well as all reasonable costs in connection with the premature ending of the Contract.

**21. Default.** Each party shall have the right to terminate the Contract by a written notice after having given the other party not less than 60 days’ written notice of the failure to rectify any material default, breach or repudiation of the Contract. McCloskey shall also have the right to terminate the Contract if new or changed export control laws and regulations come into force after the date of formation of the Contract that prevent McCloskey from obtaining any required individual export authorisation. Unless the Contract is terminated due to a default or breach by McCloskey to perform any of its material obligations under the Contract, Purchaser shall pay McCloskey the proportion of the Contract Price reflecting the progress of the work under the Contract up to the effective date of termination as well as all reasonable costs in connection with the premature ending of the Contract. Any provisions that by their nature or otherwise reasonably should survive termination of the Contract shall survive a termination of the Contract, including without limitation clause 17 (Intellectual Property Rights), clause 19 (Confidentiality), clause 28 (Limitation of Liability), and clause 29 (Governing Law and Disputes).

**22. HSE Requirements.** a.) Purchaser shall take necessary measures to prevent health hazards and risk of injury or damage on any Purchaser premises or sites as required by applicable laws or as set out as McCloskey’s minimum HSE requirements below and shall provide McCloskey sufficient access to such premises or sites as required for work under the Contract. McCloskey shall comply with all reasonable safety, induction and other site regulations provided to McCloskey prior to its representatives entering such premises or sites. b.) McCloskey’s minimum HSE requirements include radiation levels not exceeding 0.4 uSv/h, safe transportation, safe working conditions at heights, use of proper safety devices and personnel protective clothing, strict avoidance of asbestos, chemical and toxic exposure, relevant sorting, recovery, treatment and handling of electronic, electrical and other waste, chemicals and hazardous substances, and compliance with all registration and reporting obligations. Failure to comply with McCloskey’s minimum HSE requirements shall be a material default for the purpose of clause 21.

**23. Services** a) Installation. Any installation or other work carried out in connection with the goods at Purchaser’s premises or outside McCloskey’s premises shall be the subject of separate charges in addition to the purchase price of the Goods and Purchaser agrees to indemnify McCloskey, its employees, servants and agents in respect of all damage or injury, actions, suits, claims, demands, costs or charges incurred in connection with such installation and work howsoever the same shall be occasioned. Possible service or installation works have no effect on passing of the risk from McCloskey to the Purchaser as set out in clause 12 above. b) Service. All hours the McCloskey’s employees spend on Purchaser’s site shall be charged to Purchaser, included hours wasted due to Purchaser. The Purchaser must give to McCloskey’s technical personnel a copy of the technical documentation needed for the maintenance of the Goods, including the Goods maintenance register. Purchaser is liable for making the plant available for the maintenance operation (putting the plant in an out of running status and making the equipment environment safe). Purchaser shall at own cost provide all necessary assistance for service works, such as qualified personnel, as well supply of fluids and consumables necessary for the maintenance operations. Purchaser and/or the end user, as applicable, shall make free and safe the access to the plant, to the usage of consumables, to the available facilities and to waste removal. Before any work performed at site, Purchaser shall remit a copy of the site safety plan to McCloskey technician and organise a tour on the place he will have to work and reminding him all safety instructions to be followed on the site. c) Purchaser’s permits, approvals, data. Purchaser shall provide and pay for all permits and licenses required for the completion of installation and operation of the Goods. Purchaser shall provide and pay for all necessary recovery, treatment, registration and reporting measures of electronic, electrical and other waste and hazardous substances. Timely performance by McCloskey is contingent upon Purchaser supplying to McCloskey, when needed, all required technical

information and data, including drawing approval, as well as all required commercial documentation.

**24. Telematics.** The Goods may include an equipment data recording and transmission system ("Telematics") with different data levels depending on the service level agreed with McCloskey. Purchaser agrees that certain data including equipment details, operational data, time data and position data may be recorded, transmitted, stored, analysed and evaluated by McCloskey and its Affiliates and relevant suppliers, consultants and distributors for online reporting services and offering and recommending certain goods and services to Purchaser. Purchaser further agrees that McCloskey may use such data, along with other data, on an anonymous and aggregated basis, to test, develop, evaluate, improve and enhance its goods and services and to create derivative works based on such data. Such data shall be trade secrets of McCloskey. Subject to payment of the Contract Price and all agreed additional fees, McCloskey herewith grants Purchaser a non-exclusive and non-transferable right to use Telematics for the sole purpose of managing its equipment during the agreed term. Purchaser shall not copy or modify any part of Telematics or create any derivative works from Telematics, use or provide Telematics on a white-labelled basis or otherwise for the benefit of any third party or use any materials or communications facilities provided by McCloskey other than for the purposes of Telematics. McCloskey shall not publish or use any data which identifies Purchaser or any individual user to provide goods or services to other customers of McCloskey.

**25. Trade Sanctions.** Each party warrants that as of the date of the Contract it or any entity or person that has direct or indirect control of fifty percent or more of its shares ("Beneficiaries") are not subject to any economic, trade or financial sanctions or other trade restrictions administered or enforced by the United Nations, the European Union, the United States of America or any other relevant jurisdiction, including, without limitation, the EU Consolidated list of persons, groups and entities subject to EU financial sanctions, the U.S. Treasury Department Office of Foreign Assets Control list of Specially Designated Nationals and Blocked Persons or any similar list maintained by any EU member state or the country of registration of Purchaser or McCloskey ("Sanctions"). A breach of this warranty shall be a material default for the purpose of clause 21. Each party agrees that if at any time after the date of formation of the Contract it or any of its Beneficiaries become subject to any Sanctions, whether introduced before or after such date, which prohibit or restrict a party's performance of or rights under the Contract, or the performance of the Contract exposes such party, or creates a risk of such party being exposed, to any Sanctions, including, without limitation, any extraterritorial or secondary sanctions, the other party may suspend or terminate the Contract upon such Sanctions becoming effective.

**26. Permits.** McCloskey shall obtain and maintain all permits and licenses required under applicable laws to design, manufacture and supply the Goods. Purchaser shall obtain and maintain all permits and licenses required under applicable laws for the installation and operation of the Goods including without limitation all environmental permits.

**27. Assignment.** Neither party shall assign the Contract or its rights and obligations under the Contract without the express written consent of the other party, provided that McCloskey may subcontract part of the work under the Contract.

**28. Limitation of Liability.** a.) McCloskey's aggregate maximum liability for any and all costs, losses and damages of any sort and for whatever reason, resulting from or in any circumstance connected with the Contract or the use or delivery of the Goods, whether based on warranty, contract, strict liability, tort (including negligence) or any theory of law whatsoever and howsoever the same may arise, including without limitation payment of liquidated damages, claims, costs, liabilities, and damages shall not exceed 10% of the Contract Price. McCloskey shall in no event be liable under or in connection with the Contract, whether based on warranty, contract, strict liability, tort (including negligence) or any theory of law whatsoever and howsoever the same may arise, for any loss of contract, loss of goodwill, loss of market, loss of actual or anticipated profit, loss of use, loss of production, loss of revenue, loss of opportunity, loss by reason of shut-down or non-operation, increased expenses of operation, claims from Purchasers of Purchaser, higher financing costs, or costs of repair or replacement of equipment other than the Goods, or for any similar pecuniary loss whatsoever, even if it had been advised of the possibility of such, or for any indirect, incidental, consequential, special, exemplary or punitive damages or losses. c.) Nothing in

this clause shall exclude or restrict any liability in any case of fraud, gross negligence (an act or failure to act which seriously and substantially deviates from normal industry practice and which is in reckless disregard of, or indifference to, the harmful consequences thereof) or wilful misconduct (a conscious, voluntary and deliberate act or failure to act which seriously and substantially deviates from normal industry practice and is done with the intention of causing or in disregard of the harmful consequences thereof, but excluding any error of judgement, mistake, act or omission, whether negligent or not, made in good faith) or shall exclude or restrict any liability towards third parties or which cannot by mandatory law be excluded or restricted.

**29. Governing Law and Disputes.** The Contract shall, unless otherwise agreed in writing, be governed by and construed in accordance with the laws of Ontario, Canada, excluding its choice of law provisions and the United Nations Convention on the International Sale of Goods (CISG). Any dispute, controversy or claim arising out of or relating to the Contract, or the breach, termination or validity thereof, shall be finally settled by arbitration in accordance with the Rules of the Canadian Arbitration Association by three arbitrators appointed in accordance with said rules. The arbitration shall take place in Toronto, Ontario. The language of the arbitration proceedings shall be English.

THE PARTIES EACH HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS CONTRACT. THE PARTIES EACH AGREE THAT THEY WILL NOT FILE ANY MOTION OR ASSERT ANY DEFENSE IN ANY SUCH PROCEEDING THAT IS INCONSISTENT WITH THE FOREGOING AGREEMENTS, WAIVERS, CONSENTS OR STIPULATIONS.

**30. Claims.** Each party shall take all measures as reasonably may be expected in order to mitigate and diminish the damages and losses which the party may face due to any action or omission made by the other party. All claims under or related to the Contract must be made within latest two years (or such longer period as may be required by mandatory law) from Delivery or the date of termination of the Contract and shall be barred upon the expiry of such time period.

**31. Miscellaneous.** The parties acknowledge and agree that (i) they have not relied on any previous written, oral or implied representation, inducement or understanding of any kind or nature, (ii) the Contract embodies the entire agreement between the parties with respect to the subject matter thereof, (iii) the Contract may not be amended except in writing and signed by the duly authorised representatives of both parties, (iv) in the event that any provision of the Contract becomes invalid, the remainder of the Contract shall not be affected and the parties shall attempt through negotiations in good faith to replace these with provisions corresponding as closely as possible to the original intention, (v) no failure, delay or forbearance by a party to require performance of, exercise or enforce any right or remedy under the Contract shall be deemed or construed in any manner as a waiver of the right or remedy or of any other rights or remedies nor shall such failure, delay or forbearance operate as a bar to the exercise or enforcement of the right or remedy at any time of times thereafter, and (vi) a waiver of any right or remedy conferred by the Contract shall only be effective if it is given in writing and expressly refers to the relevant right or remedy.

**32. Special Conditions.** The parties agree that the attached special conditions, if any, shall form part of the Contract and shall have priority over these general conditions.

**33. Covid-19.** In the event that the coronavirus known as "2019-nCoV" or "COVID-19", or any restrictions, directions or other measures to prevent or limit the spreading of COVID-19 by any government or regional or local authority, create circumstances where any provision or receipt of the work under the Contract is impeded, made unreasonable onerous or impossible or would require either party to take unreasonable risks not to obey recommendations, instructions or orders given by the competent authorities relating to travelling or public safety and health or general order, either party shall be entitled to suspend the work under the Contract by written notice to the other party. If the suspension continues for six months or more, either party shall have the right to terminate the Contract by written notice.

## APPENDIX 1 TO MCCLOSKEY GENERAL SALES TERMS AND CONDITIONS

### LIMITED PRODUCT WARRANTY

**Warranty.** McCloskey warrants new equipment, as well as components and spare parts thereto ("Goods"), supplied by McCloskey under the contract between McCloskey and its Purchaser ("Contract"), to be free from defects in materials and workmanship in accordance with this Warranty. Subject to this Warranty, wear parts and consumables are not warranted. This Warranty covers (i) the Purchaser; or, in case of distribution channel sales, or (ii) the first purchaser purchasing from authorized distributor (all referred to as "User") and is not transferable without McCloskey's prior written consent. McCloskey has the right to review the Goods at any time agreed with the User during the warranty period though at the latest by the expiry date of the warranty.

**Duration.** McCloskey warrants its new equipment therein manufactured and sold to be free, under normal use and service, of any defects in manufacture or materials for a period of the lesser of: (i) 28 months from Delivery; (ii) 24 months from date of Initial Commissioning ("IC") (demo, rental or sold); or (iii) the date when the engine meter reaches 3000 hours, provided that (1) McCloskey receives from User written notice of the defect within 30 days of its discovery and (2) User is able to establish (User's burden of proof) that (a) the equipment has been operated and maintained within the limits of rated normal usage; and (b) the defect in any matter is not the result of intentional or negligent action or inaction by User, its agents or employees and that (c) a Pre-Delivery Inspection form ("PDI") and an Operation and Safety Training Waiver form ("OSTW") have been completed in full, signed and delivered to the McCloskey within 30 days of the equipment's IC date. If requested by McCloskey, User must return the defective equipment or part to McCloskey's specified manufacturing facility, or other location designated by McCloskey, for inspection. If any of the above preconditions of (1) and (2) (a), (b) and (c) have not been met, then this warranty shall not cover the alleged defect.

McCloskey warrants the spare parts supplied by McCloskey under the Contract to be free of defect in material or workmanship for a period of (i) six (6) months from the first industrial use, (ii) 1,000 operating hours or (iii) twelve (12) months from Delivery, whichever occurs first.

All warranties (whether for replacement parts, spare parts, latent defects or otherwise) shall expire no later than the earlier of (i) 28 months from Delivery; (ii) 24 months from IC; or (iii) the date when the engine meter reaches 3000 hours.

**Limitations.** McCloskey's obligations and liability under this warranty is expressly limited to, at McCloskey's sole option, repairing or replacing with new or remanufactured parts or components, any part, which appears to the McCloskey upon inspection to have been defective in material or workmanship. Such parts shall be provided at no cost to User, and McCloskey covers standard shipping costs for these replacement part. If requested by McCloskey, components or parts for which a warranty claim is made shall be returned to McCloskey at a location designated by McCloskey. All components and parts replaced under this limited warranty shall become the property of McCloskey upon McCloskey's request.

This warranty shall be null and void if parts (including wear parts) other than genuine McCloskey' parts are used in the equipment. McCloskey shall have no liability to the extent any defect, fault or occurrence has been caused as a result of the use of other than genuine McCloskey's spare and wear parts in the equipment or plant in question.

Accessories, assemblies and components included in McCloskey's equipment, which are not manufactured by McCloskey, are subject to the warranty of their respective manufacturers. Normal maintenance, adjustments, or maintenance/wear parts, including, but not limited to, friction plates, clutch and brake linings, paint, bearings and filters, are not covered by this warranty and are the sole maintenance responsibility of User.

McCloskey's obligation under this warranty shall not include duty, taxes, environmental fees, including without limitation, import clearance duties, disposal or handling of tires, batteries, petrochemical items, or any charges whatsoever, or any liability for direct, indirect, incidental or consequential damages.

Improper maintenance, improper use, abuse, improper storage, operation beyond rated capacity, operation after discovery of defective or worn parts, accident, sabotage, alteration or repair of the equipment by persons not authorized by McCloskey shall render this warranty null and void. McCloskey reserves the right to inspect the installation of the product and review maintenance records and procedures to determine if the failure was due to improper maintenance, improper use, abuse, improper storage, operation beyond rated capacity, operation after discovery of defective or worn parts, or alteration or repair of the equipment by persons not authorized by McCloskey.

Purchaser shall have the right to carry out the warranty repair or replacement only subject to McCloskey's prior written consent.

**Exclusions.** The following items are NOT covered under McCloskey's limited product warranty (the following list is not exhaustive):

1. Sales by non-authorized distributors. Items sold by any individual or legal entity that is not an authorized McCloskey's distributor.
2. Power generation systems warranty. McCloskey product warranty does not cover power generation system warranty. User is advised to register warranty for power generation system with its manufacturer upon IC.
3. Ordinary wear and tear. McCloskey product warranty does not cover ordinary wear and tear or deterioration of the equipment, components or parts, normal maintenance and service (such as engine tune-ups, adjustments, settings and inspections), normal ageing, normal replacement items (such as service filters), or any damage resulting therefore. Such maintenance services and wear parts NOT COVERED include such as, but not limited to: bearings, seals, gaskets, clutch and brake linings, hoses, belts, rubber tyres, blades, discs, batteries, nozzles, oil, fuel, fluids, grease, coolants or other materials or parts, which are considered within the industry as wear parts or consumables, except where defects in materials or workmanship are found, in McCloskey's judgement, to cause premature breakage or wear, as well as adjusting or replacing flashing or scrapers, proper tightening of fasteners, adding or replacing of fluids, filters, breathers, belts, nozzles, adjustments of any kind, service supplies such as towels and lubricants, machine inspections.
4. Secondary failures. Should any User continue to operate a machine after it has been noted that a failure has occurred, McCloskey will not be responsible under the warranty for resultant damage to other parts due to continued operation.
5. Workmanship of others. McCloskey does not accept responsibility for improper installation or labour costs or costs of any kind from personnel other than authorized McCloskey's personnel, unless otherwise agreed in advance in writing. McCloskey does not accept responsibility for any duplicate, repeat or comeback repair resulting from improper diagnosis or poor service work. Users are responsible for proper diagnosis and for the satisfactory completion of all service work, whether paid for by the User or covered under the McCloskey's Warranty.
6. Improper handling & deterioration. McCloskey does not accept responsibility for defects, damages, losses and costs resulting from improper or incomplete handling, storage, erection, operation, maintenance, use of corrosive materials or other such use of the products by User or third parties, or caused by non-compliance with McCloskey's manuals or instructions.
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