

STANDARD SUPPLY AGREEMENT

STANDARD SUPPLY AGREEMENT for Tarco Consulting Inc., Tarco International Inc., and Tarco Systems Inc..

The following terms and conditions apply to any sale of hardware ("Hardware"), license of software and related documentation (collectively called the "Software") and/or supply of services (the "Services") (the Hardware, Software and Services being collectively called the "Deliverables") by Tarco to the Customer. Specifics of the Deliverables under this Agreement are set forth in the Tarco quotation (the "Quotation").

1. ACCEPTANCE

- 1.1 Any authorization by Customer to provide Deliverables, whether written or oral, will constitute acceptance of the terms and conditions contained herein. Upon acceptance, the Customer agrees to purchase and Tarco agrees to provide, the Deliverables on the terms set forth herein.
- 1.2 This Agreement and the Deliverables are not subject to changes or cancellation by the Customer, except with Tarco's written consent. In such cases where Tarco authorizes changes or cancellation, Tarco reserves the right to charge the Customer with reasonable costs based upon expenses already incurred and commitments made by Tarco, including without limitation any labour done, material purchased, usual overhead, reasonable profit and cancellation charges from Tarco's suppliers.

2. DELIVERY

- 2.1 All Deliverables are Ex Works Tarco's office. The Customer is responsible for all risk and shipping, insurance and other charges for shipments and all travel, lodging and similar expenses where the Deliverables require travel outside of the City of Calgary.
- 2.2 The Customer agrees that Tarco's responsibility for any shipped Hardware and/or Software ceases once the delivery carrier acknowledges receipt of same. The Customer further agrees and covenants that in the event of loss or damage to the Hardware and/or Software during delivery, the Customer's claim will be against the delivery carrier and will not include Tarco.
- 2.3 Although Tarco will use reasonable efforts to meet the delivery dates set forth in the Quotation the same are approximations only and, in the event of a change in market conditions, delivery dates may be effected. In addition, timely delivery and performance by Tarco of its obligations is dependent upon timely performance of obligations and delivery of information by the Customer and the Customer's contractors needed by Tarco to deliver the Deliverables. In the event delays are caused by any of the foregoing, Tarco at its option may extend the delivery schedule for the Deliverables, and/or cancel the Customer's order in part, or cancel the Customer's order in full. In addition, where the delay is a result of the unwillingness or inability on the part of the Customer or the Customer's contractors or other suppliers to perform on a timely basis, Tarco shall also be entitled to an equitable price adjustment, in addition to any extension of time for delivery. Tarco agrees to use customary delivery methods unless the Customer indicates that it prefers special delivery. Tarco agrees to use special delivery methods at the Customer's request only if:
 - (a) the Customer has provided Tarco with reasonable notice of its preference before delivery; and
 - (b) the Customer is willing to accept collect charges for special delivery.
- 2.4 Tarco reserves the right to make partial delivery of Deliverables and submit invoices for same. The Customer agrees to pay any such invoices in accordance herewith.
- 2.5 Acceptance of delivery of any Deliverables shall constitute a waiver of any and all claims for loss or damage due to any delay whatsoever.

3. PRICE AND PAYMENT

- 3.1 The Customer agrees to pay the purchase price (the "Purchase Price") set forth in the Quotation for the Deliverables. Unless otherwise stated in the Quotation, in the event any or all of the Deliverables includes Services and a separate Purchase Price is quoted for same, such Purchase Price is subject to change from time to time by Tarco providing notice of such change to the Customer. From and after such notice being given, the Customer agrees to pay for Services at the new Purchase Price.
- 3.2 Unless otherwise stated, invoices are due and payable within (30) days of invoice date. Should payment not be made to Tarco when due, Tarco reserves the right, until the price has been fully paid in cash, to charge the Customer with interest on such overdue payments at the rate of eighteen percent (18%) per annum. The charging of such interest shall not be construed as obligating Tarco to grant any extension of time in the terms of payment.

- 3.3 If Tarco consents to delay shipments after completion of any product, invoices shall be issued on the date when Tarco is prepared to make shipment. In the event of any such delay, products shall be held at the Customer's risk and expense.
- 3.4 The Purchase Price is exclusive of all:
- (a) goods and services tax, provincial and/or municipal sales, use, value - added or other tax (exclusive of Tarco's own income taxes);
 - (b) customs, duty and brokerage fees; and
 - (c) shipping, delivery and insurance charges,
- and the Customer shall be responsible to pay the same.

4. INSTALLATION

- 4.1 Unless otherwise expressly stipulated, Hardware and/or Software shall be installed by and at the risk and expense of the Customer. In the event that Tarco is requested to supervise such installation, Tarco's responsibility shall be limited to exercising that degree of skill customary in the trade in supervising installations of the same type. The Customer shall remain responsible for all other aspects of the work including compliance with the local regulations, whether Municipal, Provincial or Federal.

5. TITLE

- 5.1 Title to and license of any Hardware and/or Software or any part thereof shall not pass from Tarco to the Customer until all payments due have been duly made. Hardware and Software shall be and remain personal or moveable property, notwithstanding their mode of attachment to realty or other property. If default is made in any of the payments, the Customer agrees that Tarco may retain all payments which have been made on account of the Purchase Price as liquidated damages, and Tarco shall be free to enter the premises where the products may be located and remove them as Tarco's property, without prejudice to Tarco's right to recover any further expenses or damages Tarco may suffer by reason of such non-payment.
- 5.2 Where the Deliverables include any Software, and whether the same is embedded in Hardware or licensed separately:
- (a) subject to the terms hereof, Tarco grants a non-exclusive license to use the same only on that system for which the Software is intended;
 - (b) the Customer covenants that it will only use the Software in the furtherance of the internal operations of the Customer and not for the use or benefit of third parties, and will not reverse engineer, disassemble, decompile or otherwise disseminate the source code from the Software;
 - (c) the Customer may make one copy of the Software for backup purposes only; and
 - (d) the Customer agrees that it must obtain additional licenses to use the Software for each additional system. Any such licenses will be governed by the terms and conditions of this Agreement and are subject to payment to Tarco of the license fee at the then current rate.

6. INTELLECTUAL PROPERTY

- 6.1 The Customer agrees that nothing in this Agreement grants the Customer a license to use or display any Tarco trademark, including without limitation, the Tarco and motiv logos.
- 6.2 The Customer agrees to maintain all copyright and other proprietary notices on all copies of the Software (including without limitation the related documentation) in the same manner as when the Software is delivered to the Customer by Tarco.
- 6.3 For the purposes of this Agreement, "Intellectual Property" includes any industrial or intellectual property rights including, but not limited to, rights to any inventions, software, programs, designs, drawings, discoveries, improvements, patents, patent applications, copyright, trade marks, trade name, Confidential Information, know-how, industrial designs and industrial design applications.
- 6.4 The Customer agrees that exclusive right, title and ownership of all Intellectual Property remains with Tarco at all times, including, but not limited to, any backups of the Software made by the Customer, whether authorized or not, any updates, changes, modifications, enhancements or improvements made to the Software or Hardware and whether made by Tarco or the Customer or one of the Customer's employees, agents or contractors and any Intellectual Property provided to the Customer while Tarco or its agent provides Services or fulfils any obligation under this Agreement.
- 6.5 The Customer covenants that it will not sell, assign, transfer, duplicate, destroy or encumber the Intellectual Property except as expressly permitted by the terms of this Agreement.

7. CONFIDENTIALITY

- 7.1 For the purposes of this Agreement, “Confidential Information” means data or information, disclosed in any form, including, but not limited to, in writing, orally or electronically, of any nature in any form including, without limitation, drawings, specifications, graphs, charts, business plans, designs, research, software, trade secrets, processes, methods, compositions, techniques, discoveries, improvements, inventions, ideas, know how, marketing plans as well as any other technical, financial or business information which is developed or disclosed for the purpose of this Agreement. Confidential Information does not include information which is:
- (a) available to the public other than by breach of this Agreement by the recipient thereof;
 - (b) rightfully received by the recipient from a third party without confidential limitations;
 - (c) known to the recipient prior to the first receipt of the information from the discloser; or
 - (d) disclosed by a discloser to a third party without restriction on disclosure.
- 7.2 The Customer agrees to hold Tarco’s Confidential Information in the strictest confidence, subject to the exceptions in this Article 7.
- 7.3 The Customer agrees that Confidential Information may be revealed to the Customer’s directors, officers, employers, consultant or agents who need to know, provided that these parties expressly acknowledge and agree to abide by the confidentiality provisions of this Agreement.
- 7.4 The Customer agrees to take all reasonable steps to prevent disclosure of Tarco’s Confidential Information.
- 7.5 The Customer agrees to notify Tarco immediately if it is compelled by legal proceedings, applicable law or a valid court order to reveal Tarco’s Confidential Information. The Customer will take all reasonable steps to reveal only the Confidential Information necessary and ensure the Confidential Information will remain confidential, to the extent possible, with the applicable authority compelling disclosure.
- 7.6 Notwithstanding the provisions of any agreement or other obligation to the contrary, any information, suggestions or ideas transmitted by the Customer to Tarco, its agents, employees or subcontractors are not to be regarded as secret or submitted in confidence unless the information is in writing, specifically marked as being confidential and the obligation has been accepted in writing signed by a duly authorized representative of Tarco.

8. LIMITED WARRANTY

- 8.1 Tarco warrants non-Tarco manufactured products supplied through Tarco only to the extent that the manufacturer’s warranty allows Tarco to transfer such manufacturer’s warranty to the Customer. Tarco will pass through to the Customer any such warranties. Customer’s sole remedy for breach of such warranty shall be the remedy offered by and available from the manufacturer, if any. Tarco shall have no liability, whether in contract, tort, negligence, or otherwise, to the Customer with respect to non-Tarco manufactured products.
- 8.2 With respect to Hardware and Software manufactured by Tarco and Services supplied by Tarco, subject to the terms hereof Tarco warrants only that for a period of one (1) year from the date of shipment by Tarco of Hardware and/or Software or ninety (90) days from the initial completion of Services, that:
- (a) the Deliverables will be free from material defects;
 - (b) the Services will be provided in a workmanlike manner; and
 - (c) the Deliverables will conform to the written technical specifications, if any, supplied by Tarco to the Customer in a situation where the parties have agreed that technical specifications will be supplied with respect to a particular Deliverable.
- Any replacement part or product required to be furnished pursuant to this Section 8.2 shall be FOB the Customer’s site, but Tarco does not assume any responsibility or liability for installation, labour or any consequential damages. Repairs or replacement deliveries do not interrupt or prolong the term of the warranty.
- 8.3 Tarco’s obligation to provide warranty for Deliverables under this Agreement is contingent upon proper use of same. Tarco is under no obligation to provide any warranty as a result of:
- (a) Hardware damage occurring in transit;
 - (b) improper Hardware or Software installation or operation by the Customer;
 - (c) misuse, abuse or negligent use, repair, alteration or improper maintenance or storage or any use by the Customer which does not conform to the specific instructions of Tarco;
 - (d) any non-permitted uses of the Deliverables under the terms of this Agreement or use of the Deliverables by any unauthorized third party;

- (e) causes external to the Deliverables;
- (f) exposure of the Hardware or Software to an extreme power surge or electromagnetic field, whether or not through the fault of the Customer; or
- (g) the Customer's failure or refusal to implement updates recommended by Tarco.

In the event any maintenance, repairs, services, or replacements are required as a result of the foregoing, all costs associated therewith shall be paid for by the Customer.

8.4 EXCEPT AS SPECIFICALLY SET FORTH, THE DELIVERABLES ARE PROVIDED "AS IS". TARCO MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND OTHER THAN THOSE STATED IN SECTIONS 8.1 AND 8.2 OF THIS AGREEMENT, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, REPRESENTATIONS OR WARRANTIES OF:

- (a) MERCHANTABILITY;
- (b) FITNESS FOR A PARTICULAR PURPOSE;
- (c) NON-INFRINGEMENT; OR
- (d) ERROR-FREE OPERATION.

8.5 THE ENTIRE RISK OF USING THE DELIVERABLES AND THEIR SUITABILITY, QUALITY AND PERFORMANCE RESIDES WITH THE CUSTOMER.

8.6 TARCO'S TOTAL LIABILITY TO THE CUSTOMER OR TO ANY THIRD PARTY FOR DAMAGES ARISING FROM ANY CAUSE OF ACTION IS, IN THE AGGREGATE, LIMITED TO THE FEES ACTUALLY PAID BY THE CUSTOMER DURING THE PRIOR ONE YEAR PERIOD FROM THE DATE OF THE EVENT GIVING RISE TO THE CLAIM. THE LIMITATION OF LIABILITY PROVISIONS OF THIS AGREEMENT REFLECT AN INFORMED VOLUNTARY ALLOCATION OF THE RISKS (KNOWN AND UNKNOWN) THAT MAY EXIST IN CONNECTION WITH THE DELIVERABLES AND THAT SUCH VOLUNTARY RISK ALLOCATION REPRESENTS A FUNDAMENTAL PART OF THE AGREEMENT BETWEEN THE CUSTOMER AND TARCO.

8.7 Tarco is not liable for any special, indirect, incidental, consequential, exemplary, punitive or any similar or other damages of any nature suffered by the Customer whatsoever including, without limitation, loss of use or lack of availability of the Customer's facilities, including its computer resources and any stored data, loss of profits or revenue, or other commercial loss, or any claim for contribution or indemnity in respect of any claims against the Customer, regardless of whether Tarco has been advised of the possibility of such damages and regardless of whether the damages arose because of breach of this Agreement, wilful conduct or negligence.

8.8 The Customer agrees to indemnify and hold harmless Tarco, its employees, agents and assigns from and against any costs, loss, damages, claims or expenses resulting from the use of the Hardware, the Software or the provision of Services.

9. TERMINATION

9.1 This Agreement may be terminated by either Party at any time if the other Party breaches a material term of this Agreement and fails to cure the breach to the satisfaction of the other Party within thirty (30) days of receiving a notice specifying the breach.

9.2 Tarco may forthwith terminate this Agreement without notice to the Customer if the Customer:

- (a) fails to make full payment on any amounts due within (10) days after receiving a demand notice from Tarco for payment of same;
- (b) becomes subject to bankruptcy, insolvency, receivership, or reorganization proposal, arrangement or proceeding;
- (c) is subject to wind-up, liquidation or dissolution; or
- (d) suspends business, abandons, attempts to transfer or gives up possession of substantially all of the Customer's assets.

9.3 On termination of this Agreement for any reason, all amounts owing become immediately payable. In the event Software is a Deliverable, Tarco may, at its sole option, require the Customer to forthwith either destroy or return to Tarco all copies of the Software, whether legal or illegal and the Customer agrees to provide a certificate, signed by a signing officer, that the same has occurred.

9.4 The terms and conditions specified in Sections 2.5, 5.1, 8.3, 8.4, 8.5, 8.6, 8.7, 9.3, 9.4, 9.5 and Articles 3,4,6,7 and 10 of this Agreement survive the termination of this Agreement.

9.5 Termination of this Agreement for any reason does not affect the accrued rights or liabilities of either Party.

10. GENERAL TERMS

10.1 The following Schedules are appended to this Agreement:

- (a) Schedule "A" - Quotation
- (b) Schedule "B" - Special Terms

The foregoing Schedules are incorporated in this Agreement by reference as though contained in the body of the Agreement. Wherever any term, condition or provision, express or implied, of any Schedule conflicts or is at variance with any term or condition in the body of this Agreement, the term, condition or provision in the Schedule of this Agreement prevails. The parties agree to be bound by the Special Terms of this Agreement as described in Schedule B.

- 10.2 The Customer agrees not to sell, convey, sublicense, delegate, assign or otherwise transfer any Deliverable, or any component thereof, or any right therein or this Agreement, to any other person, either voluntarily or involuntarily, directly or indirectly, whether by operation of law or otherwise without the prior written consent of Tarco, such consent may be unreasonably withheld. Any merger, consolidation or other reorganization resulting in a change of control of the Customer will be deemed an assignment. The Customer acknowledges and agrees that Tarco may subcontract and/or assign any or all of its obligations. Subject to the restrictions on assignment in this Agreement, this Agreement enures to the benefit of and is binding upon the permitted successors and assigns of the parties.
- 10.3 This Agreement is governed by, and must be construed and enforced in accordance with, the laws in force in the Province of Alberta. Each of the parties irrevocably attorns to the jurisdiction of the courts of the Province of Alberta.
- 10.4 Tarco is not liable to the Customer for failure to perform this Agreement in accordance with its terms if such failure arises out of causes beyond its reasonable control such as acts of God, acts of any government, war or other hostility, civil disorder, the elements, fire, explosion, power failure, equipment failure, industrial or labour dispute, inability to obtain necessary supplies and the like.
- 10.5 The contents of this Agreement are proprietary and confidential to Tarco.
- 10.6 The Customer assumes all risks of loss or damage to the Hardware and Software while on the premises of or otherwise in the possession of the Customer.
- 10.7 Words importing the singular number include the plural and vice versa and words importing gender include the masculine, feminine and neuter genders.
- 10.8 In the absence of a specific designation of any currency, all dollar amounts referred to in this Agreement are in Canadian dollars.
- 10.9 The division of this Agreement into Articles and Sections and the insertion of the headings are for convenience of reference only and does not affect the construction or interpretation of this Agreement and, unless otherwise stated, all references in this Agreement or in the Schedules to Articles, Sections and Schedules refer to Articles, Sections and Schedules of and to this Agreement or of the Schedule in which such reference is made.
- 10.10 A term or condition of this Agreement can be waived or modified only by the written consent of both parties. Forebearance or indulgence by either party in any regard does not constitute a waiver of the term or condition to be performed, and either party may invoke any remedy available under the Agreement or by law despite the forbearance or indulgence.
- 10.11 If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, the offending provision will be severed from the Agreement and the other provisions of this Agreement will remain in full force.
- 10.12 This Agreement constitutes the entire agreement between Tarco and the Customer and supercedes all prior and contemporaneous agreements or representations or warranties of any kind.