



Flo Fab General Terms and Conditions

1. Definitions:

In these conditions, "FLO FAB" shall mean the applicable Flo Fab entity named in the agreement, or order, or Order Acceptance (as defined in Clause 2 hereof), as appropriate, or any affiliate thereof, and, for the avoidance of doubt, this shall include the various Flo Fab entities. "The Buyer" shall mean the person, firm or company named in the agreement, or Purchase Order (as defined in Clause 2 hereof), or Order Acceptance (as defined in Clause 2 hereof), as appropriate, with whom any contract is named. "Equipment" and "Services" shall mean respectively the goods or services or any part thereof agreed to be sold as described within the Purchase Order or Order Acknowledgement, which shall include both FLO FAB and third party goods and services.

2. Binding Contract:

- a) Orders placed with FLO FAB require express written FLO FAB final acceptance before any contract arises ("Order Acceptance"). Such Order Acceptance shall be subject to these Terms and Conditions of Sale, together with any special conditions endorsed as above on the face of the FLO FAB Order Acceptance, which is the only basis upon which FLO FAB do business and shall prevail notwithstanding any printed or other conditions contained in any purchase orders, or Buyer's acceptances or otherwise brought to FLO FAB notice. No other document, including but not limited to purchase order, Buyer's General Terms and Conditions of Supply, Letter of Intent, Memorandum of Understanding, Letter of Credit, etc. shall alter, vary, supersede or operate as a waiver of these Terms and Conditions of Sale or any other conditions of the contract.
- b) Any typographical or clerical error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by FLO FAB shall be subject to correction without any liability on the part of FLO FAB.
- c) The Buyer shall be responsible to FLO FAB for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer and for giving FLO FAB any necessary information relating to the equipment within a sufficient time to enable FLO FAB to perform the contract in accordance with its terms.

3. Scope of work:

In consideration of payment of the Contract price as set forth in Clause 4 below, FLO FAB undertakes to Supply and perform the Services as detailed in the Order Acknowledgement (forming an integral part of this Contract Agreement).

4. Contract price:

- a) All prices are quoted in USD United States Dollars unless otherwise specified in the Order Acceptance.
- b) The prices are on an "Ex-works" (otherwise known as "EXW") basis in accordance with ICC Incoterms 2010, unless stated otherwise in the Order Acknowledgement.
- c) The prices quoted do not include any taxes, tariffs, duties or other local, national government or any levies (collectively "Levies") which may now or hereafter be applicable to, measured by, or imposed upon this transaction, the Equipment or the Services unless specifically started on the face of the Purchase Order or Order Acceptance. To the extent that goods and services provided by FLO FAB under the contract are, or may be subject to, such Levies, the contract prices will be increased by the gross amount of the Levies chargeable thereupon. For the avoidance of doubt, the Buyer is responsible for payment of all such Levies.



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- d) The Contract price and the price breakdown are detailed in the Order Acknowledgement (forming an integral part of this Contract Agreement).

5. Shipment and Delivery:

- a) Time - dates for delivery are given in good faith and as accurately as possible, but are not guaranteed. Time shall not be deemed to be of the essence.
- b) Delay - FLO FAB shall be under no liability for damages for delay, however arising. In particular, but not limited to, FLO FAB shall bear no liability to damages where delay has occurred as a consequence of force majeure (Clause 10) or where delay has caused no actual direct loss to the Buyer.
- c) Partial Delivery - FLO FAB shall have the right to dispatch any portion of the Equipment and/or Services ordered and shall be entitled to invoice the Buyer for such dispatched portion separately. FLO FAB shall also have the right to treat each delivery as a separate contract and failure by FLO FAB to deliver any one or more of the installments or any claim by the Buyer in respect of any one or more installments shall not entitle the Buyer to treat the contract as a whole as repudiated.
- d) Unless otherwise specified in Order Acceptance, the right to possession and risk of loss, destruction and damage to Equipment shall pass from FLO FAB onto the Buyer from the moment of delivery in accordance with the stated INCO terms basis of delivery and the Equipment will be deemed accepted upon such delivery. For the avoidance of doubt, legal title shall remain with FLO FAB until one hundred per cent (100%) of the price has been satisfactorily received by FLO FAB.
- e) Transshipments are allowed.
- f) Should the Buyer fail to accept the delivery on an agreed date as shown on the Order Acknowledgement, FLO FAB will keep the Equipment in storage for a reasonable amount of time but in any case not exceeding ten (10) days. Upon the expiration of this period FLO FAB will be entitled at its sole discretion to invoice the Buyer for the full value of the stored equipment alongside with any incremental costs including storage that FLO FAB may incur at Flo Fab sole discretion and request payment of the total amounts, warranty period will start from the date of Flo Fab production completion date, Flo Fab at its sole discretion can cancel the contract and claim cancellation fees (see Clause g)).
- g) In the event the Buyer cancels this contract, FLO FAB reserves the right of first refusal to title and possession. In case FLO FAB accepts to cancel the contract due to the Buyer's failure to accept delivery or any other reason, the Buyer agrees to pay:

(1) For "Standard equipment"

(i) If notice of cancellation is given before FLO FAB submit to the factory the order for manufacture, a minimum charge of twenty-five (25) percent of the Equipment selling price.

(ii) If notice of cancellation is given after FLO FAB submit to the factory the order for manufacture, a minimum charge of $[X/Y \text{ multiplied by } 110\% \text{ (one hundred \& ten percent)}]$ of the Equipment selling price, where X = number of weeks from the date FLO FAB submit the order for manufacture up to the date of receipt of the cancellation notice, and Y = number of weeks between the date FLO FAB submit the order for manufacture and the scheduled delivery of the Equipment. In any event the cancellation charges shall not be less than 25% and not exceed the Equipment selling price.

(2) For "Non-standard equipment"

- If notice of cancellation is given after FLO FAB submit to the factory the order for manufacture, a minimum charge of one hundred percent (100%) of the



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Equipment selling price, irrespective of whether the Equipment is partially or fully manufactured.

Non-standard Equipment shall mean Equipment that is modified, altered or customized in any manner either at the specific request of the Buyer or to enable fulfillment of the Buyer's specific purposes. The decision as to whether Equipment is Standard or Non-standard shall be at the sole discretion of FLO FAB based on this criteria, FLO FAB to act reasonably at all times.

- h) FLO FAB and the Buyer hereby acknowledge that the cancellation charges do not constitute penalties but a mutually and irrevocably agreed compensation. FLO FAB and the Buyer hereby irrevocably accept and agree that the cancellation charges calculated in accordance with the provisions of this clause shall be final, binding and enforceable on FLO FAB and the Buyer and may not be subject to any contestation before any authority or court of law. FLO FAB and the Buyer hereby irrevocably waive all rights to request any competent court or other authority to increase or reduce the cancellation charges.

6. Terms of Payment:

- a) Payment terms shall be as follows: Net 30 Days from Flo Fab invoice day.
- b) All payments shall be strictly net and no retention or set-off or counter-claim shall be exercised unless prior express written agreement is provided by FLO FAB.
- c) Failure by the Buyer to make timely payment under the contract shall entitle FLO FAB
- to charge interest on all outstanding sums overdue to FLO FAB at a rate of 1.5% per month for each month or part thereof; and/or
 - to suspend any outstanding deliveries or to cancel the contract at FLO FAB option and to demand immediate payment of all sums owing to FLO FAB, all without prejudice to FLO FAB rights to damages; and/or
 - to suspend work on any other contract which FLO FAB have with the Buyer or to cancel such contract at FLO FAB option and to demand immediate payment of all sums owing to FLO FAB hereunder, without prejudice to FLO FAB, rights to damages.
- d) In the event it becomes necessary for FLO FAB to incur any costs or expenses in the collection of monies due to FLO FAB from the Buyer, or to enforce any of its rights or privileges hereunder, the Buyer, upon demand, shall reimburse FLO FAB for all such costs or expenses (including, but not limited to, reasonable attorneys' fees).

7. Warranty:

- a) FLO FAB warrants all new and replacement Equipment of its own manufacture hereunder against defects in workmanship and material for the period of 18 months after the date of delivery or 12 months from commissioning of the Equipment, whichever occurs first and will at its sole discretion, repair or replace on the same INCO terms such products or components as FLO FAB finds defective, Pumps have 5-year warranty and packages 8-year.
- b) This warranty does not include the replacement of glycol or water from the unit after delivery.
- c) On Equipment furnished, by FLO FAB, but manufactured by others, FLO FAB will extend the same warranty FLO FAB received from the manufacturer.
- d) No liability shall be incurred by FLO FAB until said Equipment have been paid for, and then such liability shall be limited to the cost of repairing or replacing said defective product or component.



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- e) FLO FAB warrants that it shall perform the Services in a good and workmanlike manner compliant with industry standards. The Buyer's sole and exclusive remedy and FLO FAB entire liability for breach of this warranty will be reperformance of Services. Any claim for breach of this warranty must be made in writing and notified to FLO FAB within 90 days of performance of the Services at issue.
- f) The warranty and liability set forth above are in lieu of all other warranties and liabilities, express or implied in law or in fact, including the warranties of merchantability and fitness for a particular purpose. The warranties contained here in set forth Buyer's sole and exclusive remedy in the event of a defect in workmanship or materials.
- g) The obligations under this Clause 7 are subject to the following:
- That the Buyer shall give written notice to FLO FAB specifying the nature of defects in the part or parts of the Equipment alleged to be defective within twenty-one (21) days of any purported failure.
 - That the Buyer shall make no further use of the Equipment alleged to be defective after the time at which the Buyer discovers that it is defective unless approval in writing is given by FLO FAB.
 - That the Buyer shall afford FLO FAB a reasonable opportunity to inspect the equipment.
 - The Buyer shall forward commissioning and startup sheet during initial commissioning to validate the warranty.
 - The Buyer shall maintain a log with periodic maintenance record and Daily / Weekly equipment records including (not limited) pressure, flow, temperatures, water treatment records,....etc., this log should be accessible to Flo Fab upon request.
- h) The warranty is limited to the above-mentioned coverage only, and shall be null and void in any other case, including, without limitation:
- Improper storage or handling by Buyer or by a third party.
 - Corrosion, erosion, or deterioration.
 - Any defect arising from fair wear and tear, willful damage, negligence, abnormal working conditions.
 - Consumable parts including, without limitation, seals, bearings, filters, oil.
 - In the event of improper water treatment.
 - Installation not done in accordance with the manufacturer specifications and with recognized and accepted engineering Standards.
 - Modification of the equipment by the Buyer or by a third party, without prior written approval from Flo Fab.
 - If no maintenance performed or faulty maintenance not to the approved standard performed by Un-Approved maintenance supplier.
 - Faulty utilization of the equipment.
 - Unbalanced electric power supply rather than the specified unit name plate power supply.
 - Undersized or oversized units compared to the application.
 - Failure to follow FLO FAB instructions (whether verbal or in writing), misuse, alteration or repair of the Equipment without FLO FAB approval.
 - Failure to furnish FLO FAB operation records and data log for FLO FAB equipment and the whole system.
 - Failure to allow FLO FAB staff or their nominated parties to access the site and inspect the equipment and the system.
- I) FLO FAB's obligations and liabilities under this warranty are limited to furnishing on the same sales INCO terms replacement part(s) for its products not conforming to this warranty that have been returned to FLO FAB or, at its sole option, FLO FAB may elect to repair defective part(s),



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Freight and return costs of defective, repaired or replacement equipment or parts are at Buyer's expense.

8. Installation and Site Services:

- a) In any case where the contract requires FLO FAB to install the Equipment in or on the premises of the Buyer, the Buyer shall afford FLO FAB personnel access to such premises at all reasonable times, shall provide a clean and safe work area, shall appoint a suitably competent employee to liaise with FLO FAB personnel and shall make available power supplies and other facilities necessary or conducive to the proper execution of the work.
- b) The work carried out by FLO FAB will be in accordance with that as described in the Order.
- c) The installation shall be deemed to be complete when FLO FAB is in a position to commission the installation notwithstanding any work still outstanding by the Buyer or third parties.
- d) Site services are defined herein as services provided by FLO FAB, which are carried out on the premises of other parties.
- e) The Buyer shall make available at the site all electricity, water and other facilities as FLO FAB may require or as may be necessary for the execution of the works.
- f) Unless otherwise agreed in writing, all work is to be performed during FLO FAB normal working hours as FLO FAB may determine from time to time.
- g) Time of completion of any site work is not guaranteed but FLO FAB will use all reasonable commercial endeavors to comply with the schedule required.
- h) Where access to the equipment to be worked on by FLO FAB is hazardous, the Buyer shall make the necessary provision for the FLO FAB personnel to carry out work in safety. This includes but is not limited to working at altitudes, electrical hazards, flameproof areas, and protection from potential disease or contamination. Any costs incurred by FLO FAB as a direct result of an unsafe working environment such as, but not limited to, abortive visits or special safety equipment shall be the sole responsibility of the Buyer.
- i) Except to the extent that such is occasioned by the willful or gross negligence of FLO FAB, the Buyer hereby indemnifies FLO FAB in respect of all costs, claims and liabilities of whatever nature incurred by third parties as a result of execution of work at site and agree to hold FLO FAB harmless in respect thereof.

9. Limitation of Liability:

- a) The Buyer shall indemnify FLO FAB in respect of all damage or injury caused to the property and personnel of FLO FAB or any other person, firm or company (including all costs and expenses associated therewith) caused by the act or omission (negligent or otherwise) of the Buyer, its employees, agents, or sub-contractors in connection with the Contract.
- b) Except with respect to death or personal injury resulting from negligence, the remedies of the Buyer set forth herein are exclusive, and the total liability of FLO FAB with respect to this agreement or the Equipment and/or Services furnished hereunder, in connection with the performance or breach thereof or from the manufacture, sale, delivery, installation, repair or technical direction covered by or furnished under this contract whether based on contract, warranty, negligence, indemnity, strict liability or otherwise, shall not exceed the purchase price of the unit of Equipment or Services, as appropriate, upon which such liability is based.
- c) Both FLO FAB and the Buyer, and/or their respective suppliers, shall in no event be liable to the other, any successors in interest or any beneficiary or assignees of this contract for any consequential, incidental, indirect, special or punitive damages arising



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out of this contract or any breach thereof, or any defect in, or failure of, or malfunction of the Equipment or Services there under, whether based upon loss of use, lost profits or revenue, interest, lost goodwill, work stoppage, impairment of other goods, loss by reason of shut-down or non-operation, increased expenses of operation, cost of purchase of replacement power or claims of a party or customers of a party for service interruption, whether or not such loss or damage is based on contract, warranty, negligence, indemnity, strict liability or otherwise.

- d) Catalogs, quotations, price lists and any other sales literature are issued by Flo Fab for information purposes only and can be updated or amended from time to time. Any typographical, clerical or other error, mistake or omission in these documents or in offers, order acknowledgements, drawings, specifications, invoice or other documents shall be subject to correction without any liability on the part of Flo Fab.

10. Force Majeure:

- a) If either FLO FAB or the Buyer is rendered unable wholly or in part by force majeure to carry out its obligations under this contract the party affected shall give to the other prompt written notice of the force majeure with reasonable full particulars concerning such where upon the obligation of the party giving the notice, so far as it is effected by the force majeure, shall be suspended during but no longer than the continuance of the force majeure. The affected party shall use all reasonable diligence to eliminate the effects of the force majeure as quickly as possible.
- b) The term "force majeure" as employed in this contract shall be deemed to include but shall not be limited to any war, riot, act of God, fire, flood, Government regulation or act, any natural or accidental disaster, any strike, lockout or industrial dispute, embargo, damage or delay in transportation, shortage of raw materials or fuel or any breakdown of machinery or any other cause outside the reasonable control of the party suffering such force majeure, but not in any circumstances including financial inability.
- c) If a party is rendered unable wholly or in part by force majeure to substantially carry out its obligations under this contract for a period four (4) months or more, then either party may declare the contract to be abandoned forthwith by written, notice to the other party to that effect.

11. Patents.

- a) FLO FAB will hold Buyer and Buyer's sales outlets and customers harmless against any rightful claim of any third person by way of infringement of any patent or other intellectual property rights by such of the Equipment as are of FLO FAB own manufacture, but, if Buyer furnishes specifications to FLO FAB, Buyer will hold FLO FAB harmless against any such claims which arise out of compliance with the specifications. FLO FAB agreement to hold Buyer harmless shall not apply to any infringement consisting of the use of Equipment manufactured by FLO FAB as a part of any combination with goods manufactured by others. In the event that any Equipment manufactured by FLO FAB are (i) in any suit held to constitute infringement; or (ii) FLO FAB deems it necessary or expedient for the protection of FLO FAB patent rights or for the prevention of patent litigation, infringement suits, or any other patent or intellectual property rights claim, FLO FAB, if unable within a reasonable time to secure for Buyer the right to continue using such Equipment, either by suspension of any injunction, by securing for Buyer a license, or otherwise, will, at its own expense, either replace said Equipment at Buyer's place of business with non-infringing Equipment or modify such Equipment so that they become non-infringing, or accept the return of the Equipment and refund the purchase price paid therefore, which action to be determined at the sole discretion of FLO FAB.



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- b) Whenever FLO FAB deems it necessary or expedient for the protection of FLO FAB patent rights or for the prevention of patent litigation, infringement suits, or for any patent or intellectual property rights reason whatsoever, to discontinue the sale of any Equipment manufactured by FLO FAB, Buyer, upon receipt of notice from FLO FAB with respect to discontinuance of sale of such Equipment, shall make no further purchases or sales or installations of any such Equipment unless or until authorized to do so in writing by FLO FAB.

12. Software License:

- a) Any software, whether on tape, disk or other reproductive medium or device, supplied as part of or in connection with the Equipment or Services is supplied by way of irrevocable non-exclusive license to the Buyer to use such software only in or in respect of the Equipment. In this connection the Buyer shall at FLO FAB request execute and deliver such license-to-use agreements as are appropriate to such software in such form as FLO FAB shall require.
- b) The software supplied may be used to make copies thereof in printed or machine-readable form for retention by the Buyer for record purposes. The Buyer acknowledges that the copyright and other intellectual property rights in such software are the property of and shall remain with FLO FAB or the supplier of such software, as appropriate.

13. Compliance with laws and regulations:

- a) The Buyer, including its principals, owners, shareholders, officers, directors, and employees shall use only legitimate and ethical business practices in the activities contemplated by this Contract. The Buyer shall comply fully with all laws applying to the carrying out of its obligations under this Contract, including the United States Foreign Corrupt Practices Act, United States export control laws, local anti-corruption laws and laws prohibiting the payment of commercial or private bribes. In connection with this Contract, neither the Buyer nor any of its principals, owners, shareholders, officers, directors or employees shall pay, offer, promise, or authorize the payment of, directly or indirectly, any monies or anything of value to any person, including but not limited to any "Government Official", for the purpose of improperly influencing such person or any other third party to exercise his/her discretionary authority or influencing in order to assist the Buyer and/or FLO FAB to obtain or retain business, or rewarding any favorable action or obtaining any improper advantage in any commercial transaction or in any government matter. For the purposes of this Clause, "Government Official" means any officer or employee of any federal, state, provincial or local government, including any government-owned or controlled entity, or, any department, agency, corporation or instrumentality thereof, or any political candidate, any official of a public international organization, or anyone acting on behalf of any such entity or individual, including immediate family members or nominees of such officials.
- b) Equipment, Services, technology, materials, tools, and technical data delivered by or to FLO FAB may be subject to United States export controls or the trade laws of other countries. The Buyer and FLO FAB agree to comply with all export control regulations and acknowledge that they have the responsibility to obtain such licenses to export, re-export or import as may be required. The Buyer and FLO FAB agree not to export or re-export to entities on the most current United States export exclusion lists or to any country subject to United States embargo or terrorist controls as specified in the United States export laws. The Buyer and FLO FAB will not use or provide Equipment, Services, technology, materials, tools, and technical data for nuclear, missile, or chemical and biological weaponry end uses. The Buyer represents, warrants and agrees



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that it has not and will not, directly or indirectly sell, ship or arrange for transfer of any Equipment, Services, technology, materials, tools, and technical data into countries subject to US trade embargoes (as of the date of this Contract: Cuba, Iran, North Korea, Syria and Sudan) and will cooperate with FLO FAB in determining whether any sale of FLO FAB supplied Equipment, Services, technology, materials, tools, and technical data under this Contract requires a United States export license or other approval.

- c) The Buyer shall indemnify, defend and hold FLO FAB harmless from all suits, claims, liability, costs, damages and other expenses (including legal fees) incurred by FLO FAB arising out of or in connection with (a) any material misrepresentation or warranty or omission made by the Buyer in connection with itself or the end user prior to entering into this Contract, or (b) any breach of any of the Buyer's warranties or covenants provided in this Contract, including but not limited to the provisions of this Clause 12.

14. Governing Law and Arbitration:

- a) This Contract shall be deemed to have entered into and shall be governed by the laws in force in Montreal, Canada. All claims, disputes and controversies arising out of or relating to this Contract or the breach thereof, shall be settled in an amicable way between the parties. Should an amicable settlement prove to be impossible, such disputes in lieu of court action, shall be submitted to arbitration in accordance with the Rules of Conciliation and Arbitration of the International Chamber of Commerce (the "Arbitration Rules") to be decided by a single arbitrator agreed to by FLO FAB and the Buyer, or failing such a agreement, by three (3) arbitrators one of which shall be appointed by FLO FAB, one by the Buyer and the third arbitrator by the two arbitrator appointed as aforesaid, or failing the agreement of the two arbitrators in accordance with the Arbitration Rules. The place of arbitration proceedings shall be Montreal, Canada, unless another site is mutually agreed between the parties. The language of the arbitration proceedings shall be English.
- b) The award rendered by the sole arbitrator or the majority of arbitrators, as the case may be, shall be final, binding and subject to no appeal and may be entered in any court having jurisdiction thereof. It is agreed no appeal in any question of law may be made to any Court.

15. Miscellaneous:

- a) Any addenda or amendments to this Contract shall become valid only when affected through a written Order Acknowledgement.
- b) The effective date of this Contract is the date of the Order Acknowledgement drawn under this contract.
- c) These Terms and Conditions of Sale and the matter set forth on the face of FLO FAB Purchase Order or Order Acknowledgement, shall constitute the entire agreement between FLO FAB and the Buyer. No prior understandings, agreements or representations, written or verbal, express or implied, are a part of the agreement, nor shall any subsequent modification, agreement or representation become part of this agreement unless expressly agreed to in writing by both parties or as stated in a later Purchase Order or Order Acknowledgement referencing the same Equipment and/or Services for the same project.
- d) If any of these conditions or any part thereof is rendered void by any legislation to which it is subject it shall be void to that extent and no further.
- e) The Contract is personal to the Buyer which shall have no right to assign or delegate all or any of its rights and obligations there under.
- f) A waiver by either party of any of the Terms and Conditions of Sale of this agreement and/or breach thereof shall apply only to the particular instance or instances in which



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such waiver occurs, and shall not effect or impair the further continuance in force of such Terms and Conditions of Sale, or the right of either party to avail itself of such Terms and Conditions of Sale upon any subsequent breach or breaches thereof.

- g) Any notice to be given there under shall be given by sending the same in a pre-paid registered letter or by facsimile or telex to the principal place of business of relevant party or to such other address as such party may have notified to the other for the purposes hereof. Any notice sent by post shall be deemed (in the absence of evidence of earlier receipt) to have been served seven (7) days after dispatch. Any notice sent by telex or facsimile shall be deemed to have been served on the day following its dispatch.
- h) These terms and conditions are made in English. The English text having prevailing force in matters of conflicting interpretations in the event these Terms and Conditions of Sale are translated into any other language for any reason.

For and on behalf of the Buyer

For and on FLO FAB

Name & title
Date

Name & title
Date