

# STANDARD TERMS AND CONDITIONS OF TRADE (APRIL 2017 CANADA)

The following standard terms and conditions (**Standard Terms**) apply to all supplies of goods and/or services by RCT Technologies, Inc. (**RCT**) to you, unless RCT agrees (in writing) to the contrary or RCT and you have executed a formal written contract that provides for different terms and conditions.

## 1 QUOTATION

- 1.1 If RCT provides a quotation (in any form) or price estimates (**Quote**) to you, the Quote is indicative only and does not represent an offer to contract
- 1.2 The Quote does not in any way bind RCT and RCT may withdraw or vary the Quote at any time before you accept the Quote.

## 2 CONTRACT

- 2.1 By issuing RCT with a purchase order (**Purchase Order**), or by accepting the Quote or by offering to purchase the Goods, you are making an offer to enter into a binding contract with RCT to purchase the Goods (**Offer**).
- 2.2 The Purchase Order should specify the following:
  - a) The description of the Goods required;
  - b) The specifications for the Goods;
  - c) The quantity of the Goods;
  - d) Delivery Date for the Goods;
  - e) Delivery Address; and
  - f) Price for the Goods.
- 2.3 If the Purchase Order does not contain any of the terms required by clause 2.2, it will incorporate by reference relevant terms in the Quote or in your offer.
- 2.4 If RCT accepts the Offer, a legally binding contract (**Contract**) between RCT and you is formed.
- 2.5 The Contract comprises the following:
  - a) Standard Terms;
  - b) Purchase Order;
  - c) Quote.
- 2.6 In the event of any inconsistency between the documents in clause 2.5, the following is the order of precedence:
  - a) Standard Terms;
  - b) Purchase Order;
  - c) Quote.
- 2.7 Each Contract is a separate contract for the supply of the Goods under the particular Purchase Order or Quote.
- 2.8 Any terms and conditions that you include in the Purchase Order (or in any other written communications to RCT) will be of no legal effect and do not form part of the Contract, unless an Authorized Representative expressly agrees in writing that your terms and conditions will override these Standard Terms.

## 3 PRICE

- 3.1 Subject to clause 3.3, the Price is the total amount specified in an accepted Purchase Order, the Quote or as communicated to you by RCT.
- 3.2 Unless otherwise stated, the Price does not include:
  - a) Sales and use tax, valued-added tax or equivalent taxes;
  - b) Other taxes;
  - c) Duties;
  - d) Bank or credit card transaction costs;
  - e) Insurance; and
  - f) Delivery charges.
- 3.3 The Price is based on RCT's understanding of your requirements. The Price is subject to increases at RCT's discretion in any of the following situations:
  - a) You vary or change your initial requirements;
  - b) RCT varies its original requirements for the Goods or scope of Service due to inaccurate or incomplete information or requirements that you had provided to RCT; or
  - c) Additional costs incurred by RCT due to:
    - i) Factors or circumstances that are not within RCT's control including but not limited to delays to RCT's supply or completion of the Services due to issues in relation to the Site or with your goods or equipment;
    - ii) Any of your acts or omissions which prevent or delay RCT in performing its obligations under this Contract.
- 3.4 RCT supplies the Goods to you on an "as is" basis. Unless RCT has agreed otherwise, the Goods

do not include any future upgrades or updates (whether to software or hardware). Accordingly, any future upgrade or update to the Goods will be at your cost.

## 4 PAYMENT

- 4.1 If you have a credit facility with RCT, the payment terms will be within 30 days from the date of RCT's invoice. You acknowledge that RCT may at its discretion vary the terms of the credit facility such as credit limit and payment terms.
- 4.2 If you do not have a credit facility with RCT, you must pay the Price for the Goods and Services upfront before RCT makes the Goods available for delivery or provides the Services.
- 4.3 If you fail to pay RCT in accordance with clause 4.1 or clause 4.2, without prejudice to any other right or remedy, you will be liable for interest charges on the outstanding amount accrued daily at a rate of 2% per month from the date when the payment was due until the date of payment.
- 4.4 If the Goods are to be delivered to an address outside Canada, the payment terms are as follow:
  - a) If the Contract does not require RCT to install or commission the Goods at your premises or your nominated site, you must pay for the Price for the Goods upfront before RCT makes the Goods available for delivery; or
  - b) If the Contract includes Services, you must pay:
    - i) 80% of the Price of the Goods before RCT makes the Goods available for delivery; and
    - ii) The remaining 20% of the Price for the Goods and the Price for the Services, within 30 days from the date of the RCT's invoice (which RCT will issue after the commissioning of the Goods).
- 4.5 Clause 4.3 also applies if RCT has a credit facility with you, unless RCT expressly agrees that clause 4.3 will not apply.
- 4.6 Notwithstanding your credit facility with RCT or any credit terms granted by RCT in this clause 4, any outstanding invoice will become immediately due for payment if:
  - a) You experience an Insolvency Event or an Insolvent Event affecting you is in RCT's sole opinion reasonably expected to occur; or
  - b) RCT in its sole opinion, considers that you are not able to pay your debts in a timely manner.
- 4.7 You must make all payments to RCT free from any deductions, set-off or claim of any kind whatsoever.

## 5 DELIVERY

- 5.1 Unless RCT agrees otherwise, the delivery of the Goods is **Ex Works (RCT's premises)**. As to Services, RCT will perform them at the Site or any other place as required by RCT.
- 5.2 Unless RCT agrees otherwise, you will bear all delivery and freight costs.
- 5.3 RCT will provide appropriate packing of the Goods to prevent damage during their transportation but to the extent that you have made known the mode of transportation or any specific circumstances to RCT.
- 5.4 Delivery of the Goods is effected when RCT hands the Goods over to you, your nominated carrier or your agent. RCT may, but is not obliged to obtain a written acknowledgement of delivery from the person who collect the Goods on your behalf.
- 5.5 You must inspect the Goods on delivery (and/or the Services after the Services are completed) or within a reasonable time after the delivery or completion. You must notify RCT in writing within seven (7) days of delivery (or completion of the Services) of any damage, defect or non-compliance of the Goods or Services with the Contract. If you fail to notify RCT within the specified time, you are deemed to have accepted the Goods and/or Services.
- 5.6 If the Goods and/or Services do not comply with this Contract, RCT will at its sole discretion elect whether to replace or to rectify the Goods or Services.

## 6 DELAYS

- 6.1 Any time or date for delivery given by RCT

or specified in the Quote or Purchase Order is intended only a best estimate, and may be subject to delays caused by RCT's suppliers, freight carriers, or any other cause beyond the reasonable control of RCT. RCT will not be liable to you for any loss or damage resulting from late delivery of the Goods or delay in completion of the Services. RCT's delay will not entitle you to treat the Contract as repudiated or to terminate this Contract.

- 6.2 RCT will use best endeavours to deliver the Goods without delay. RCT will notify you if it becomes aware of any possible delay in the delivery of the Goods.
- 6.3 To the extent that RCT is or is likely to be delayed or prevented from delivering the Goods to you by the Delivery Date due to:
  - a) Any event or circumstance beyond RCT's reasonable control; or
  - b) Any breach, act or omission by you or your agent or contractor,

RCT is entitled to a reasonable extension of time to deliver the Goods to you.

## 7 VARIATIONS

- 7.1 If at any time before RCT delivers the Goods to you, you request RCT to vary the Goods (whether as to the nature, quality or quantity of the Goods) (**Proposed Variation**), RCT may but is under no obligation to accept the Proposed Variation. If RCT agrees to consider the Proposed Variation, it will:
  - a) Confirm with you whether the Proposed Variation is feasible and the effect of the Proposed Variation on the Delivery Date and the Price; or
  - b) Notify you that the Proposed Variation is not feasible and RCT's reasons.
- 7.2 If clause 7.1(a) applies and you agree to the adjustments to the Price and the Delivery Date, RCT may require you to issue an amended Purchase Order or an additional Purchase Order.
- 7.3 RCT is entitled to be paid the agreed amount for performing the Proposed Variation (whether or not you had complied with the formal requirements in clause 7.2).
- 7.4 If the Parties cannot agree on the price for the Proposed Variation or the impact on the Delivery Date within 10 Business Days from your request in clause 7.1, RCT will not perform the Proposed Variation and the Proposed Variation will have no effect on this Contract.

## 8 YOUR OBLIGATIONS

- 8.1 Without limiting any other clauses in this Contract, during the term of this Contract, you agree to perform the following obligations:
  - a) To pay RCT's invoices in accordance with clause 4;
  - b) To provide RCT with necessary instructions to enable RCT to perform this Contract in a timely manner; and
  - c) To ensure that any materials or documents that you provide to RCT for the purposes of this Contract are true and correct to the best of your knowledge.

## 9 RCT'S OBLIGATIONS

- 9.1 During the term of this Contract, RCT will:
  - a) Ensure the Goods comply with the Contract and all applicable laws; and
  - b) Complete the Services with due care and skill, in a proper and workmanlike manner and in accordance with all applicable laws.

## 10 WARRANTY

- 10.1 Subject to clauses 10.3 and 10.4, RCT gives the following warranties:
  - a) The Goods supplied will be of acceptable quality (**Goods Warranty**);
  - b) The Services rendered will not be defective (**Services Warranty**); and
  - c) Any Goods or part of the Goods that are repaired by RCT will be of acceptable quality (**Repair Warranty**).
- 10.2 The warranty periods for the warranties in clause 10.1 are as follows:
  - a) Goods Warranty - 12 months from the date of delivery or the date of commissioning of the

- Goods (where applicable and provided RCT agrees that the warranty will commence on the date of commissioning).
- b) Services Warranty - 3 months from RCT's date of completion of the Services;
- c) Repair Warranty - 3 months from the date of delivery of the repaired Goods.
- 10.3 The warranties in clause 10.1 do not apply in the following situations:
- a) Defects or damage to the Goods or Services (as the case may be) which may be caused or partly caused by you or by any other person:
- i) Accident, misuse or abuse;
  - ii) Normal wear and tear;
  - iii) Adverse external conditions such as power surges and dips, thunderstorms, fire, floods, acts of God, vermin or insect infestation;
  - iv) Exposure to excessive heat, cold, moisture or dampness or subject to conditions that are not recommended by RCT or the product manual;
  - v) Exposure to abnormally corrosive conditions;
  - vi) Modification, alteration or interference with the Goods without RCT's approval;
  - vii) Failure to properly maintain the Goods;
  - viii) Incorrect voltage or non-authorized electrical connections;
  - ix) Use of the Goods for other applications or purposes not made known to RCT before RCT delivered the Goods;
  - x) Repairs, servicing, modification or other works carried out on the Goods by a third party without RCT's approval;
  - xi) Use of parts or components for the Goods which are not approved by RCT;
  - xii) Incorrect use of the Goods or failure to follow RCT's (or the original manufacturer if relevant) operating guidelines, instructions or manual; or
  - xiii) Continued use of the Goods after any defect becomes apparent or would have become apparent to a reasonably prudent operator or user.
- b) You have not fully paid for the Goods and/or the Services.
- 10.4 If you have grounds to believe that the Goods or Services do not comply with the warranties given in clause 10.1, you must within a reasonable time (in any event within 14 days) after discovering the alleged defect, notify RCT in writing of the nature of the defect. RCT will investigate and determine the cause of the alleged defect or fault.
- 10.5 If RCT requires you to return the Goods for the purposes of further investigation, the Goods returned must be accompanied by a "Return Merchandise Authorization" (RMA). You may request an RMA by contacting your RCT branch and the branch will generate an RMA and email it to you. You must return the Goods to RCT by pre-paid freight.
- 10.6 If RCT determines that the alleged defect or fault is under warranty, RCT's liability will be limited, at RCT's option, to one or more of the following:
- a) If the breach relates to goods:
- i) The replacement of the Goods or the supply of equivalent goods;
  - ii) The repair of the Goods;
  - iii) The payment of the cost of replacing the Goods or of acquiring equivalent goods; or
  - iv) The payment of the cost of having the Goods repaired.
- b) If the breach relates to services:
- i) The supplying of the Services again; or
  - ii) The payment of the cost of having the Services supplied again.
- 10.7 If the alleged defect or fault is not under RCT's warranty, you will be liable for RCT's reasonable costs and expenses (if any) if RCT has attended to you and has incurred costs (including travel, accommodation, delivery cost, freight). If you instruct RCT to rectify the Goods or Services, RCT will charge based on RCT's then current rates.
- 10.8 The warranties in clause 10.1 are not transferable and are for your benefit only.
- 10.9 The warranties in clause 10.1 do not apply to third party goods that RCT resells to you. To the extent permitted by law, RCT does not give any warranty for these third party goods. The original manufacturer or the relevant supplier's warranty will apply to such goods.
- 10.10 You agree to promptly take all reasonable steps to mitigate any loss or damage that you may suffer or incur.
- ## 11 RETURN OF GOODS
- 11.1 If for whatever reason, you wish to return the Goods to RCT after delivery, you must notify RCT of your intention before you attempt to return the Goods to RCT.
- 11.2 Other than a breach of warranty by RCT under clause 10, RCT may but is under no obligation to accept the return of the Goods.
- 11.3 If RCT accepts the return of the Goods, it is conditional upon the following:
- a) You return the Goods to RCT's premises at your expense;
  - b) The Goods are:
    - i) Undamaged;
    - ii) Unsoiled;
    - iii) In its original packaging;
    - iv) In a condition which RCT considers satisfactory for resale; and
    - v) Subject to any other terms that RCT requires.
  - c) The Goods are not custom made goods;
  - d) The Goods are not installed in or affixed to other goods or equipment.
- 11.4 If RCT accepts the return of the Goods, it will either give you the refund, a credit note or allow you to exchange the Goods for some other goods. RCT reserves the right to charge you a restocking fee of 15% of the Price of the relevant Goods.
- ## 12 INTELLECTUAL PROPERTY
- 12.1 You acknowledge that RCT is the owner of RCT's Background IP.
- 12.2 You acknowledge that RCT owns all Intellectual Property Rights in the Goods and in RCT's Technical Materials.
- 12.3 You acknowledge that all Intellectual Property Rights in the Developed IP vests in RCT upon the creation of the Developed IP. RCT may take such steps as RCT thinks fit to register or otherwise protect the Developed IP.
- 12.4 RCT grants to you an irrevocable, royalty free and non-exclusive licence to use RCT's Intellectual Property that subsist in or has been incorporated into the Goods, in the ordinary course of your business.
- 12.5 You must not, and must not procure any person to re-engineer, de-compile, reproduce, copy any of RCT's Intellectual Property that subsists in the Goods or otherwise exploit RCT's Intellectual Property or deal with RCT's Intellectual Property in a manner that is not contemplated by this Contract.
- 12.6 You warrant to RCT that you own or have the right to use any intellectual property that you license to RCT or any materials that you provide to RCT for the purposes of this Contract. If you infringe on any third party's Intellectual Property Rights, you agree to indemnify RCT on a full indemnity basis (including legal costs) if that third party makes a claim against RCT.
- ## 13 CONFIDENTIALITY
- 13.1 Subject to clause 13.2, you must not at any time use or disclose to any third party any Confidential Information unless RCT (or RCT's Affiliate as the case may be) has given prior written consent.
- 13.2 Clause 13.1 does not apply in the following circumstances:
- a) The Confidential Information is in the public domain (other than by reason of your breach of confidentiality);
  - b) You are required by law to make the disclosure;
  - c) The disclosure is to your employees or contractors as is reasonably necessary in connection with this Contract; or
  - d) The disclosure is made to your professional advisors.
- 13.3 If clause 13.2(c) and/or clause 13.2(d) applies, you must ensure that you enter into an appropriate confidentiality deed with the recipient of any Confidential Information.
- ## 14 TITLE & RISK
- 14.1 Risk in the Goods passes to you from the time you or your nominated carrier or agent takes custody, possession or control of the Goods from RCT.
- 14.2 Title in the Goods passes to you after RCT has received full payment (in cleared funds) for the Goods.
- 14.3 While RCT retains title to the Goods, you must:
- a) Store them separately from other goods and clearly identify the Goods as RCT's property;
  - b) You must insure the Goods with a reputable insurance company for the full replacement value of the Goods against loss or damage including but not limited to fire, malicious damage, theft and transit risks from the time risk in the Goods passes to you until the time title in the Goods passes to you.
- ## 15 LIMITATION OF LIABILITY
- 15.1 Subject to any warranties which are implied by law and cannot otherwise be excluded, RCT excludes all other conditions, warranties or guarantees or liability in connection with this Contract or RCT's supply of the Goods and/or Services.
- 15.2 Subject to clause 15.1, to the extent RCT's liability cannot be excluded, RCT's liability will be limited to the express warranties in clause 10 and RCT's maximum liability under this Contract (including negligence claims) is capped at the price of the specific Goods and/or Services that gave rise to your loss or damage.
- 15.3 Under no circumstances will RCT be liable to you for any Consequential Loss, damage to property or injury to persons.
- ## 16 INDEMNITY
- 16.1 You will indemnify RCT against any claim, loss, damage or expense (including legal costs on a full indemnity basis) that RCT incurs or suffers directly as a result of your breach of any term or warranty in this Contract.
- ## 17 ACCESS TO SITE
- 17.1 If RCT requires access to the site or your premises for the purposes of this Contract, you must provide RCT, its employees, contractors or agents (**Personnel**), reasonable and safe access to the site or premises.
- 17.2 You indemnify RCT for any loss or damage suffered by RCT (and RCT's Personnel) arising from or in connection with RCT or RCT's Personnel's attendance at the Site or your premises, to the extent caused or contributed by your acts or negligence (or that of your agents or employees).
- ## 18 DEFAULT ON PAYMENT
- 18.1 If you default in payment of RCT's invoices, without limiting RCT's rights and remedies, you agree to the following:
- a) You grant RCT (and RCT's employees, agents or contractors) access to your premises (or to procure access for RCT to the site where the Goods are located) to seize the unpaid Goods;
  - b) You agree that RCT may do whatever is reasonably necessary for RCT to seize the unpaid Goods (including but not limited to dismantling, disassembling or detaching the unpaid Goods from other goods or equipment to which the unpaid Goods are affixed, attached to or incorporated into);
  - c) You agree to pay all the enforcement costs incurred by RCT and also indemnify and hold RCT harmless against any claims by any third party as a result of RCT's exercise of its right pursuant to this clause 18.1.
- 18.2 RCT may apply any monies received from you (including any proceeds of sale from the disposal of any Goods that RCT seized from you through enforcement actions) towards any unpaid invoice, RCT's enforcement costs or any other claims against you (e.g. indemnities) in accordance with this Contract, as RCT determines at its absolute discretion.
- ## 19 TERMINATION OF CONTRACT
- 19.1 RCT may take the actions in clause 19.2 in any of the following situations:
- a) You have breached a term of this Contract and have failed to remedy the breach within the time stipulated by RCT;
  - b) You experience an Insolvency Event or an Insolvent Event affecting you is in RCT's sole opinion reasonably expected to occur;
  - c) You cease or threaten to cease conduct of your business in the normal course;
  - d) You do not provide RCT with accurate or timely information, directions or instructions which are necessary for RCT's performance of its obligations under this Contract.

- 19.2 RCT has the right to take the following actions if any event specified in clause 19.1 occurs:
- Terminate the Contract by giving you 14 days' written notice;
  - Cancel RCT's credit facility to you;
  - Refuse to deliver the Goods, except where payment in full has been received by RCT;
  - Enter your premises where the Goods are located and retake possession of those Goods, the full payment for which has not been received by RCT.
- 19.3 Subject to RCT's written consent, you may terminate the Contract before RCT delivers the Goods.
- 19.4 Upon termination of this Contract in accordance with clauses 19.2(a) or 19.3, you must:
- Pay RCT for the cost of any materials, parts, equipment or services ordered which RCT cannot reasonably avoid or cancel;
  - Pay RCT for that portion of the Contract Price which relates to Goods that RCT has completed;
  - Any other costs that RCT incur as a result of your early termination, including but not limited to RCT's cost or loss arising from RCT's cancellation of contracts with third parties or suppliers engaged for the purposes of this Contract.
  - Return all of RCT's Confidential Information and Intellectual Property (including RCT's Background IP and Technical Materials) in your possession. If any of RCT's Confidential Information or Intellectual Property are stored in your storage devices (including electronic mails), you must destroy them permanently and give a written undertaking to RCT after you have done so.
- 19.5 Clauses 4, 8.1(a), 10, 12, 13, 15, 16, 17, 18, 20, 21, 23, 25 and any other clause which is intended to survive, will continue to survive after this Contract comes to an end.

## 20 USE OF INFORMATION

- 20.1 You agree that RCT may use information that you provide to RCT for the purpose of credit assessment, debt collection and direct marketing activities.
- 20.2 You consent to RCT's disclosure of the fact that you are RCT's customer for the purposes of RCT's tenders for other contracts. RCT may also provide a brief description of the supply (for example, the goods supplied by RCT and the make and model of your equipment if applicable) and your contact details for the purposes of the tenders.

## 21 CONSENT TO USE

- 21.1 RCT may film the operation or testing of the Goods at your premises or site.
- 21.2 You consent to RCT using the video footages or photographs in clause 21.1 (**Materials**) for its marketing and promotional activities and materials ("**Authorized Purpose**").
- 21.3 The licence in clause 21.2 is perpetual, non-transferrable and royalty free.
- 21.4 To the extent possible, RCT will de-identify you and the site owner/occupier in RCT's marketing materials.
- 21.5 RCT will, upon your request, provide a copy of the final marketing material to you for your viewing.

## 22 PRIVACY ACT

- 22.1 You consent to receive regular communications (whether mailers, electronic mails, electronic text messages or via any other media including social media) from RCT (or RCT's Affiliates or service providers) in relation to product information, marketing materials or information about RCT's events.
- 22.2 If you wish to opt out from receiving these communications, please contact RCT (please refer to RCT's website at <http://www.rct-global.com> for its contact details).

## 23 SMARTRACK® FLEET CONTROL SYSTEM AND EARTHTRACK® INFORMATION SYSTEM

- 23.1 **Licence to use the Service**
- If the Goods are SmartTrack® Fleet Control System (**SmartTrack**) or Earthtrack® Information System (**Earthtrack**), RCT grants you a licence to access and use the Software Service (**Licence**) via the Website for a term of 5 years (or such term as specified by RCT)

- commencing from the Start Date.
- The Licence is non-exclusive, non-transferrable, royalty free and subject to the terms of this clause 23, other terms in this Contract and any end-user licence agreement between RCT and you (or your nominated users) entered into via the Website.
- RCT may charge licence fees for the grant of the Licence.
- To access the Software Service, RCT may provide a SIM card to you or you may be required to procure your own SIM card.

### 23.2 Your general obligations

- You must only use the Software Service and the Website for the internal purposes of your business;
- You must not sub-licence the Licence to any person;
- You must not do anything or permit another person from doing anything which may undermine the security, integrity or functionality of the Software Service or the Website or impair the ability of another third party to use the Software Service or the Website;
- You must not modify, copy, adapt, reproduce, disassemble, decompile or reverse engineer any computer programs used to deliver the Software Service or to operate the Website;
- You must not procure another person to breach clause 23.2(d).

### 23.3 Intellectual Property

Title to and all Intellectual Property Rights in the Software Service, the Website and any documentation relating to the Software Service remain the property of RCT (or RCT's Affiliate if applicable) (or their licensors).

### 23.4 Backup of Data

- While RCT (or RCT's Affiliate) has data backup and recovery procedures, you are responsible for backing up and keep a copy of your Data (whether in paper form or in electronic form).
- RCT does not guarantee that there will be no loss of your Data and RCT excludes liability for your loss of Data, howsoever caused.

### 23.5 No warranties

- RCT does not warrant that the use of the Software Service or Website will be uninterrupted or error free. You agree that the Software Service and Website depend on the availability and reliability of communications networks, network providers and the internet. RCT or RCT's third party provider may also suspend the Software Service or Website from time to time to perform upgrades, updates or general maintenance. RCT will not be responsible for any such interference, disruptions or inaccessibility to the Software Service or Website.
- RCT is not responsible for your Data. You are responsible for the integrity, accuracy or reliability of your own Data.
- RCT gives no warranty about the Software Service and provides the Software Service on an 'as is' basis each time you access the service. RCT does not warrant that the Software Service will meet your requirements or that it will be fit for your particular purpose. All implied conditions or warranties are excluded insofar as is permitted by law. If any implied condition or warranty cannot be excluded, RCT's liability is limited to resupplying or making the Software Service (or an equivalent service) available to you.

### 23.6 Upgrades

- RCT may, but is not under any obligation to, make any changes, upgrades or updates to the Software Service.
- If RCT carries out a significant upgrade or replacement of the Software Service, you may be required to bear reasonable costs (whether in the form of a one-off payment or ongoing fees) of the upgrade or replacement. If you do not wish to pay the reasonable costs and elect to remain on your current Software Service, RCT does not guarantee that the Software Service that you have been using will be available after the upgrade or replacement.

### 23.7 Termination of Licence

RCT may suspend or terminate the Licence at any time if RCT has reasonable grounds to believe

that you are not complying with the terms of use in clause 23.

## 23.8 Definitions

The following terms in clause 23 shall have the following definitions:

- "Data"** means any data that you (or your employees, agents or contractors) input into the Software Application or which are generated from your equipment, machine or application;
- "Intellectual Property Rights"** has the same meaning given by clause 25.
- "Software Application"** means RCT's software information system (or as licensed to RCT) used in conjunction with SmartTrack or Earthtrack.
- "Software Service"** means RCT's service of making available the Software Application for your use.
- "Start Date"** means the date of RCT's invoice for the particular Goods, unless otherwise agreed by RCT.
- "Website"** means the website or domain where RCT hosts the Software Application or makes the Software Service available from.

## 24 PPSA

- 24.1 To secure your payment obligations under clause 4, you grant to RCT a Purchase-Money Security Interest in the Goods (and in any other goods that RCT supplies to you from time to time). RCT's Security Interest will attach to any Proceeds or any Accessions.
- 24.2 RCT may register its Security Interests under this Contract pursuant to the PPSA and you consent to the registration.
- 24.3 You agree that this Contract constitutes a Security Agreement for the purposes of the PPSA.
- 24.4 You agree to sign any documents and provide necessary assistance and information to RCT to enable RCT to perfect its Security Interest by registration.
- 24.5 You waive the right to receive notice of any financing statement registered by RCT.
- 24.6 You acknowledge that if you mix the Goods with other goods or products so that the Goods are no longer separately identifiable, any Security Interest shall continue for the purposes of the PPSA, and that RCT's Security Interest will be attached to the processed or commingled goods in accordance with section 37 of the PPSA.
- 24.7 You must not dispose of the Goods to which RCT has a Security Interest other than in the ordinary course of your business.
- 24.8 While RCT retains title to the Goods, you must not subject the Goods to any person's Security Interest or to permit a third party from registering a Security Interest over the Goods, unless you have received RCT's prior written consent.
- 24.9 RCT may apply any amounts that you have paid under this Contract to any of your outstanding invoices in RCT's absolute discretion.
- 24.10 You agree to notify RCT in writing of any change to your details set out in this Contract, within 5 days from the date of such change.

## 25 GENERAL

### 25.1 Governing Law and Jurisdiction

- The Parties agree that this Contract shall be governed by and construed in accordance with the laws of Ontario. To the extent the Convention of the United Nations on Contracts for the International Sale of Goods (Vienna Sales Convention) applies to the Contract, you agree to waive the application of the convention to the Contract.
- The Parties submit to the jurisdiction of the courts located in the Province of Ontario.

### 25.2 Notices

Any notice shall be given by sending the notice by registered mail, courier, fax or by email to the address of the Party as stated in the Contract or to such other address as such Party may have notified in writing to the other for such purposes.

### 25.3 Assignment and Subcontracting

RCT may assign or subcontract any or all rights and obligations under this Contract to another person.

### 25.4 Severability

In the event that any provision of this Contract is declared invalid or unenforceable by any court or body of competent jurisdiction or under any law,

regulation or order that may be applied to the Contract as well as for any other reason, such provision shall be void and unenforceable only in this respect and the validity and enforceability of any other provision of this Contract shall not be affected.

#### 25.5 Amendments

RCT may amend, vary or modify these Standard Terms at any time. Any variation will take effect from the date on which RCT gives notice of the variation to you.

#### 25.6 Entire Agreement

This Contract constitutes the entire agreement and understanding of the Parties, and supersedes all prior negotiations, understandings and representations, whether written or oral, of the Parties with respect to the subject matter of this Contract.

#### 25.7 Waiver

The waiver by a Party at any time, for non-compliance by the other Party with a provision of this Contract, shall never be construed as a waiver by such Party of any subsequent execution of that provision or a waiver by such Party of the execution of any other provision of the Contract.

#### 25.8 Further Assurances

Each Party must do all things, and must ensure that its officers, employees or representatives do all things reasonably required of it or them by notice from another Party effectively to carry out and give full effect to this Contract and the rights and obligations of the Parties.

#### 25.9 Counterparts

This Contract may be executed in any number of counterparts and all of those counterparts taken together constitute one and the same instrument.

#### 25.10 Force Majeure

- a) RCT is not liable for failure to perform the Contract during the time and to the extent that such performance is prevented, wholly or substantially, by Force Majeure.
- b) RCT may terminate the Contract by giving a written notice to you if the Force Majeure event continues for more than 60 days. RCT is not liable to you for any loss or damage that you suffered as a result of a Force Majeure event or RCT's termination of the Contract under this clause 25.10(b).
- c) Upon RCT's termination under clause 25.10(b), you must immediately pay for any Goods that RCT has supplied to you prior to the date of termination.

#### 25.11 Set off

If RCT owes any amounts to you under this Contract, RCT has the right to set off those amounts against any of your outstanding invoices.

#### 25.12 Special Conditions

The Special Conditions form part of this Contract.

## 26 DEFINITIONS

For the purposes of this Contract, the following terms in this document have the meanings below:

**"Affiliate"** means, with respect to a Party:

- a) A company which controls directly or indirectly the Party;
- b) A company which is controlled directly or indirectly by such Party,

Where 'control' means ownership of more than fifty per cent of the issued voting share capital of the relevant company.

**"Authorized Representative"** means RCT's Director, Secretary, Chief Executive Officer or Chief Financial Officer.

**"Background IP"** means any Intellectual Property of a Party (or licensed to the Party by a third party) which the Party makes available, contributes, brings to or uses in connection with this Contract.

**"Confidential Information"** means RCT's (or RCT's Affiliate) technical or commercial information of a confidential nature or which was designated as confidential, including but not limited to policies, productions, procedures, methods, formulations, facilities, products, plans, business transactions, organisations, business relationships, customer list, finances, manufacturing process, business plans, suppliers, research and development, sales information, marketing research and strategies, which may be disclosed, provided or otherwise made available by RCT to you, whether this information has been disclosed before or during the execution of the

Contract. However, Confidentiality Information does not apply to any information that:

- a) Is available in the public domain;
- b) Has been obtained from a third party provided the third party is not in breach of its confidentiality towards RCT;
- c) The laws require you to disclose.

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

**"Delivery Address"** means RCT's premises or another place of delivery as agreed by RCT.

**"Delivery Date"** means the date of delivery of the Goods (or completion of the Services), as agreed or specified by RCT.

**"Developed IP"** means all Intellectual Property or Intellectual Property Rights (present or future) that RCT (and/or RCT's Affiliate) developed, created, discovered or coming into existence as a result of, for the purpose of or in connection with RCT's supply of the Goods or this Contract.

**"Force Majeure"** means any event or circumstance beyond the reasonable control of a Party including but not limited to acts of God, wars, riots, strikes, lock-outs, embargos, trade disputes, labour disturbances, breakdown of plant or machinery, accidents, storm, fire, floods, difficulties in obtaining materials, unavailability of communications network or infrastructure from third party network providers, transport or labour or any other circumstances affecting the supply of the Goods.

**"Goods"** mean the goods and/or Services to be supplied pursuant to this Contract.

**"Insolvency Event"** means any of the following events:

- a) Voluntary administration;
- b) Any winding up or dissolution proceedings;
- c) Failure to pay debts when they fall due; or
- d) Receivership.

**"Intellectual Property"** means any subject matter, whether tangible or intangible, that attracts, or is susceptible to protection by, Intellectual Property Rights.

**"Intellectual Property Rights"** means all copyright and analogous rights, all rights in relation to patents, inventions, registered and unregistered trademarks, registered designs, source code, Confidential Information (including trade secrets), know-how, circuit layouts and all other rights throughout the world resulting from intellectual activity in the industrial, scientific or artistic fields.

**"Personnel"** means RCT's directors, officers, employees, agents or contractors.

**"PPSA"** means the Personal Property Security Act 1990 (Ontario) (as amended from time to time) and where the Goods are located or used in a Province of Canada other than Ontario, PPSA refers to the analogous personal property security law of that Province.

**"Purchase-Money Security Interest", "Proceeds", "Accessions", "Security Interest" and "Security Agreement"** have the same meaning given by the PPSA.

**"Price"** means the prices of the Goods and/or fees for the Services.

**"RCT"** means RCT Technologies, Inc, a corporation registered in the Province of British Columbia, Canada (Incorporation Number: BC1092695).

**"Services"** means the services that RCT will supply to you as indicated in the Contract.

**"Site"** means the site or place where the Goods will be commissioned or where the Services are to be carried out.

**"Special Conditions"** mean any special

conditions that RCT specifies in the Contract.

**"Standard Terms"** means RCT's general terms and conditions of sale in this document.

**"Technical Materials"** include models, software (including source code and object code versions), information, design concepts, designs, audio, video, drawings (including "as built" drawings), programmes, schedules, manuals, operating instructions, diagrams, charts, specifications, records, concepts, plans, formulae, designs (including structural, mechanical, electrical and instrumentation designs) in any medium, methods and processes, including all copies of and extracts from them and data stored by any means.

## 27 INTERPRETATION

In this Contract, unless the context indicates a contrary intention:

- a) Headings are for convenience only and do not affect the interpretation of this Contract;
- b) An obligation or a liability assumed by, or a right conferred on, 2 or more persons binds or benefits them jointly and severally;
- c) A reference to "person" includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- d) A reference to a Party includes that Party's executors, administrators, successors and permitted assigns, including persons taking by way of novation;
- e) A reference to a document (including this Contract) is to that document as varied, novated, ratified or replaced from time to time;
- f) A reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re enactments and replacements;
- g) A word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
- h) A reference to a Party, clause, schedule, exhibit, attachment or annexure is a reference to a Party, clause, schedule, exhibit, attachment or annexure to or of this Contract, and a reference to this Contract includes all schedules, exhibits, attachments and annexures to it;
- i) If a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- j) "includes" in any form is not a word of limitation;
- k) The currency for the purposes of this Contract is the Canadian dollar (CAD) unless the Purchase Order indicates otherwise;
- l) For the purposes of clauses 12, 13, 17, 20, 21, 22 and 23, any reference to "RCT" includes RCT's Affiliates (if applicable).