

1. Definitions
  - 1.1 Definitions. Unless the context requires otherwise, the following capitalized terms mean:
    - (a) "Claim" or "Claims" means, as the case may be, any one or more of: loss, damage, cost, expense, disbursement, penalty, fine, claim, demand, action, proceeding, lien (whether builders', mechanic's, construction or other type of lien), legal hypothec, suit, liability, judgment, award, decree, determination, adjudication, unpaid tax of any kind (including withholding tax), cost of investigation and any type of fee (including legal fees, on a solicitor-and-own-client basis), together with any interest in relation thereto at the applicable rate.
    - (b) "Goods" means all supplies, goods, materials, equipment, components and Services required to be supplied by the Seller in accordance with the Purchase Order.
    - (c) "Indemnitees" means DataCan Services Corp., its Affiliates and their respective Personnel.
    - (d) "Invoicing Requirements" means DataCan Services Corp.'s invoicing and accounts payable standards, procedures, policies and guidelines on DataCan Services Corp.'s website at [www.datacan.ca](http://www.datacan.ca) and as specified in the Purchase Order and as may be provided by DataCan Services Corp. from time to time.
    - (e) "Law" or "Laws" means collectively all valid applicable common law, federal, provincial, state and municipal and other local laws, orders, rules, regulations and decisions of regulatory bodies, including, occupational health and safety, fire, employment insurance, workers' compensation, Hazardous Substance, transportation of dangerous goods and handling, environmental protection legislation, building codes, anti-bribery law or international convention, as may apply now or in the future, including but not limited to the Corruption of Foreign Public Officials Act (Canada), the Foreign Corrupt Practices Act (U.S.), the Bribery Act (U.K.) and the OECD Convention on Combating Bribery of Foreign Public Officials, and any other governmental requirements, work practices and procedures prescribed by law and related to the Seller, the Site, the Goods or the Services.
    - (f) "Personnel" means a party's directors, officers, employees, contract personnel, representatives, advisors and agents.
    - (g) "Purchase Order" means the purchase order issued by DataCan Services Corp. and all other attachments identified in the purchase order.
    - (h) "Records" means the records of the Seller relating to the Purchase Order or the Goods, and which include paper and electronic documents and/or copies in their native form, as the case may be, of:
      - i. original invoices and records of account for all Goods supplied, and any other items of cost for which DataCan Services Corp. is obliged to reimburse the Seller, and information relating to Seller's compliance with the Invoicing Requirements;
      - ii. records relating to any termination or suspension costs;
      - iii. Information relating to Seller's compliance with the Law and the Supplier Code of Conduct, and the Seller's use of Confidential Information
    - (i) "Seller" means the party named in the Purchase Order as the supplier of the Goods to DataCan Services Corp.
    - (j) "Terms and Conditions of Purchase" means this document entitled "DataCan Purchase Order Terms and Conditions", including where applicable, the Supplemental Site Service Terms and Conditions Addendum, and forming part of the Purchase Order.
  2. Precedence
    - 2.1 Precedence. The Terms and Conditions of Purchase shall govern if inconsistent with the terms and conditions on the face of the Purchase Order.
  3. Scope of Supply
    - 3.1 Goods. The Seller shall supply the Goods in accordance with the Purchase Order.
    - 3.2 Time. The Seller acknowledges that timely supply of the Goods is a matter of paramount importance to DataCan Services Corp.
  4. Changes
    - 4.1 DataCan Services Corp. Change. DataCan Services Corp. may, at any time, make changes to the Goods including, without limitation, additions, deletions, rescheduling and acceleration or deceleration to all or any part of the Goods.
  5. Representations
    - 5.1 Seller's Performance Representations and Warranties. The Seller represents and warrants that the Goods:
      - (a) Shall be free from all latent and other defects or deficiencies;
      - (b) shall be of merchantable quality;
      - (c) shall be fit for the purpose for which the Goods have been manufactured, fabricated or supplied; and
      - (d) Are now, and shall continue to be, free and clear of all liens, encumbrances, any adverse Claims, demands or other interests.
  6. Warranty
    - 6.1 Remediation of Defective or Deficient Goods. The Seller shall, at its own risk and expense, including all costs to access the Goods, but subject to the limit specified in Paragraph 11.1 Limitation of Liability for the Seller, remedy without delay any defect or deficiency in the Goods discovered within 24 months after delivery of the Goods or 12 months after the Goods are put into service under normal operating conditions, whichever occurs first.
    - 6.2 Indemnification by Seller to DataCan Services Corp. for Remediation. Should the Seller fail to promptly remedy the defects or deficiencies in accordance with Paragraph 7.1 Remediation of Defective or Deficient Goods, DataCan Services Corp. may proceed with any activities necessary to remedy the defects or deficiencies and the Seller shall indemnify and hold harmless DataCan Services Corp. from any Claim suffered, sustained, paid or incurred by DataCan Services Corp.
  7. Return of Goods
    - 7.1 Return of Goods. In the event any Goods are delivered in error, rejected as not being in accordance with the Purchase Order, or overages in excess of trade practice, then DataCan Services Corp. shall have the right to return such Goods at the Seller's expense and risk.
  8. Liability and Indemnification
    - 8.1 Liability of Seller. The Seller agrees that it shall be liable to and indemnify and hold harmless the Indemnitees for all Claims whatsoever which the Indemnitees may suffer, sustain, pay or incur as a result of and to the extent of: (i) the negligence; and (ii) breach of contract; of the Seller, arising out of or incidental to the performance or non-performance of the Seller's obligations or the provision of the Goods under the Purchase Order.
  9. Consequential and Punitive Damages
    - 9.1 Consequential and Punitive Damages Exclusion. Neither party shall be liable to the other for consequential damages, punitive damages or damages for losses of profits, revenue, business, reputation or financing and lost opportunity.
  10. Direct Lost Profits. Notwithstanding Paragraph 9.1 Consequential and Punitive Damages Exclusion, the Seller shall be liable to the Indemnitees for damages for losses of profits, revenue, business, reputation or financing and lost opportunity if and to the extent that such losses are a direct result of: (i) the negligence; or (ii) breach of contract; of the Seller; arising out of or incidental to the performance or non-performance of the Purchase Order or the supply of the Goods by the Seller.
  11. Title Transfer
    - 11.1 Title Transfer. Title to the Goods or part thereof shall be vested in DataCan Services Corp. when the first of the following events occurs:
      - (a) the Goods, or a portion thereof, are first identifiable as being appropriated to the Purchase Order;
      - (b) DataCan Services Corp. pays for the Goods, or part thereof; or
      - (c) The Goods or part thereof are dispatched from the Seller's place of manufacture to the Site.
    - 11.2 Refusal of the Goods. Any transfer of title to the Goods shall be without prejudice to DataCan Services Corp.'s right to refuse the

- Goods in case of non-conformity with the requirements of the Purchase Order.
- 11.3 Risk of Loss. Notwithstanding Paragraph 11.1 Title Transfer, care, custody, control and risk of loss of the Goods, and liability arising from the storage and transportation of the Goods, remains with the Seller until DataCan Services Corp. takes physical possession and accepts delivery of the Goods
12. Payment
- 12.1 Payment. Subject to the terms and conditions herein, payment shall be made in accordance with the Purchase Order, or any terms agreed between DataCan Services Corp. and the Seller
- 12.2 Withholding. Notwithstanding any other provision, an amount otherwise due to the Seller may be withheld, without payment of interest, if, in the opinion of DataCan Services Corp., it is necessary to protect DataCan Services Corp. from loss on account of the Seller:
- (a) Failing to provide the Goods in accordance with the terms of this Purchase Order;
  - (b) being in default of any condition of the Purchase Order, including without limitation, quality assurance;
  - (c) not promptly remedying defective or deficient Goods; or
  - (d) failing to promptly and satisfactorily pay any Claim for labour performed or materials or equipment furnished;
- 12.3 And if and when the cause of the withholding of any amount is removed and satisfactory evidence of such removal is furnished to DataCan Services Corp., DataCan Services Corp. shall promptly pay the amount withheld to the Seller pertaining to such cause.
13. Suspension or Termination
- 13.1 Suspension or Termination by DataCan Services Corp. DataCan Services Corp. may, at any time, without cause, suspend or terminate the Purchase Order for any reason on 15 days' written notice; provided, however, that DataCan Services Corp. may, upon giving 24 hours' notice, immediately terminate the Purchase Order for cause.
14. Confidentiality
- 14.1 Confidential Information. Any and all confidential information of DataCan Services Corp. to the Purchase Order shall be received in the strictest confidence.
- 14.2 Indemnification. Without limitation and in addition to any other rights or remedies DataCan Services Corp. may have, the Seller acknowledges that it shall be liable to and shall indemnify and hold harmless the Indemnitees from all interparty Claims brought against or suffered, sustained, paid or incurred by the Indemnitees arising out of or resulting from a breach of Article 14 Confidentiality by the Seller.
- 14.3 Term. The obligations under this Article 14 Confidentiality shall continue for a period of 5 years following the date the Purchase Order becomes a binding agreement in accordance with Paragraph 21.6 Binding Agreement.
15. Intellectual Property
- 15.1 Intellectual Property Indemnification. The Seller shall be liable to and shall indemnify and hold harmless DataCan Services Corp. from and against any and all Claims arising out of or resulting from the actual or alleged infringement of any rights under patents, trade secrets, copyright or other intellectual property rights or any litigation based thereon in respect of Goods supplied by the Seller.
16. Laws and Supplier Code of Conduct
- 16.1 Compliance with Law. The Seller shall comply with all applicable Law in the performance of its obligations under the Purchase Order.
- 16.2 Compliance with Supplier Code of Conduct. The Seller shall and shall ensure that its subcontractors and their respective Personnel comply with the Supplier Code of Conduct at the cost and expense of the Seller. In the case of any difference between the requirements of Supplier Code of Conduct and the Law, the stricter or higher standard shall apply.
17. Taxes
- 17.1 Tax Responsibility. With the exception of goods and services tax/harmonized sales tax (as defined in the Excise Tax Act (Canada) payable on amounts due to the Seller, payment of which shall remain the responsibility of DataCan Services Corp., the Seller shall pay all taxes in relation to the Goods supplied under the Purchase Order in compliance with all applicable Law.
- 17.2 Tax Indemnity. The Seller shall indemnify and save harmless the DataCan Services Corp. from any and all Claims which may be made or assessed against DataCan Services Corp. in respect of the Seller's obligations described in Article 17 Taxes.
18. Audit
- 18.1 Audit. At any time during normal business hours until 2 years following delivery of the Goods, DataCan Services Corp. or its nominees shall have the right to inspect and audit the Records.
19. UN Convention on the Sale of Goods
- 19.1 Exclude the Application. The parties hereto expressly exclude the application of the United Nations Convention on Contracts for the International Sale of Goods.
20. Governing Law
- 20.1 Governing Law and Jurisdiction. The Purchase Order shall be governed by and construed in accordance with the Laws of the province where the Site is located. The parties agree to accept and submit to the exclusive jurisdiction of the courts of that province.
21. General Matters
- 21.1 Assignment. Neither party may assign the Purchase Order without the prior written consent of the other party, which consent shall not be unreasonably withheld.
- 21.2 Subcontracting. Seller shall not subcontract any portion of the Purchase Order without the prior written consent of DataCan Services Corp. which consent shall not be unreasonably withheld.
- 21.3 Entire Agreement. The Purchase Order constitutes the entire agreement between the parties and shall supersede and replace any and all prior agreements between the parties with respect to the subject matter hereof, and may be amended only by written instrument signed by the parties.
- 21.4 Amendments. No amendment to the Purchase Order shall be binding on DataCan Services Corp. and the Seller, unless made in writing and signed by the authorized representatives of both parties.
- 21.5 No Waiver. DataCan Services Corp's. failure to insist on performance of any term, condition or instruction or failure to exercise any right or privilege, or its waiver of any breach or default shall not thereafter waive any such term, condition, instruction, right or privilege.
- 21.6 Binding Agreement. The Purchase Order shall become a binding agreement upon the Seller signing and returning an executed copy of the Purchase Order or upon the Seller otherwise acknowledging acceptance of the Purchase Order or commencing performance of the Purchase Order, whichever occurs first.
- 21.7 Exclusions. Any reference to the Seller's documents (quotation, bid, or proposal) does not imply acceptance of any terms, conditions, or instruction contained in such document. Any Seller's terms and conditions stated in any communication shall not apply to the Purchase Order and shall not be applicable in the interpretation of the Purchase Order.