

# MACH 6 STANDARD TERMS AND CONDITIONS OF SALE

The following Terms and Conditions of Sale (the “Terms”) apply to all sales of products and/or the performance of all services by any of Mach 6 Mechanical Ltd. (“Mach 6”) and/or any of its respective affiliates or related entities from time to time (each a “Mach 6 Entity”). The specific Mach 6 Entity which will be bound by these Terms with respect to a particular sale shall be the Mach 6 Entity which is a party to the relevant Contract (as defined below).

## 1. Definitions

In these Terms:

- a.     **“Customer”** means the purchaser of the Products and/or Services pursuant to the Contract;
- b.     **“Contract”** means the contract formed between the Customer and Mach 6 pursuant to a written contract (of which these Terms form a part), pursuant to an Order which has been accepted by Mach 6 in writing (of which these Terms shall be deemed to form a part), or pursuant to a Counter Sale Order which has been accepted by Mach 6 (of which these Terms shall be deemed to form a part), in any case with respect to the Work;
- c.     **“Counter Sale Order”** means an over the counter or retail request to purchase of the Customer which has been accepted by Mach 6, and includes but is not limited to a counter sale estimate or a counter sale invoice;
- d.     **“Parties”** means the Customer and Mach 6 together;
- e.     **“Products”** means the goods, materials, equipment, parts and/or products to be sold by Mach 6 to the Customer, or to be supplied by Mach 6 as part of the Services, pursuant to and as specified in the Contract;
- f.     **“Order”** means a written purchase order or service order of the Customer in form and content satisfactory to Mach 6 in its sole discretion which has been accepted by Mach 6 in writing;
- g.     **“Purchase Price”** means the price payable by the Customer to Mach 6 pursuant to the Contract for the Work, including all applicable taxes;
- h.     **“Services”** means the services to be provided by Mach 6 to the Customer pursuant to and as specified in the Contract;
- i.     **“Mach 6”** means the Mach 6 Entity identified in and party to the Contract; and
- j.     **“Work”** means the Products and the Services.

## 2. Entire Agreement

The Contract, including these Terms, together with any Mach 6 credit application entered into by the Customer, is the complete and entire agreement between the Parties with respect to the subject matter of the Contract. Mach 6 hereby objects to and shall not be bound by any additional, different or conflicting

terms, whether printed or otherwise, in any other communication between the parties (including on any of the Customer's forms), it being understood that the terms and conditions of the Contract (including these Terms) shall prevail notwithstanding any such additional, different or conflicting terms. Without limiting the generality of the foregoing, no understandings or communications between the parties, whether written or verbal, including but not limited to any bid invitation, proposal or other document exchanged between the Parties on or before the date of the Contract, no information and data contained in general product documentation and price lists, and no provisions contained in the Customer's purchase documents, purchase orders, work orders, acceptance documents or other communications or forms form part of the Contract and none of the foregoing has any legal effect between the Parties unless contained expressly in the Contract.

### **3. Acknowledgement**

Each Order or OTC Order of the Customer shall be binding only when accepted in writing by an authorized representative of Mach 6, and shall be deemed to incorporate these Terms. Any delivery commitments made as part of the Order or OTC Order shall commence on this date of acceptance.

### **4. Acceptance**

- a. The Customer will be conclusively deemed to have unconditionally and irrevocably accepted all Work upon the completion by Mach 6 of the delivery of the relevant Products and/or the performance of the relevant Services.
- b. If it is specified in the Contract that the Customer has the right to inspect the Products at Mach 6's facilities, the Customer may only do so during normal business hours upon giving Mach 6 reasonable prior notice of its intent to do so. Any inspection shall not impede or restrict Mach 6's normal business activities or Mach 6's ability to continue to perform its obligations under the Contract and any impediment may result in additional charges to the Customer.

### **5. Obligations of the Customer**

The Customer shall:

- a. comply with all applicable governmental laws, ordinances, codes, rules, regulations and orders in connection with its purchase, shipment, installation, use and maintenance of the Products and with the provision of Services by Mach 6;
- b. obtain all permits or licenses required to be obtained by it in connection with the purchase, shipment, installation, use and maintenance of the same;
- c. provide Mach 6 with timely and comprehensive instructions and directions upon request, which Mach 6 may rely upon;
- d. provide Mach 6 with safe access to the Customer's site and a safe working environment as required for the performance of the Services;

- e. comply with all occupational health and safety laws and regulations applicable to the Services and the place the Services are performed; and
- f. indemnify and hold harmless Mach 6 and its affiliates and related entities, and its and their respective officers, directors, employees, agents and representatives (collectively, the “Mach 6 Parties”), from and against any and all liabilities, costs, expenses (including, without limitation, legal fees and expenses), claims, demands, causes of action, damages and judgments suffered or incurred by the Mach 6 Parties relating to the Work and its use by or on behalf of the Customer or any other person, including without limitation pursuant to any third party claims.

## **6. Warranty**

Mach 6’s limited warranties with respect to the Products and Services are set out in Schedule “A” and Schedule “B” attached hereto, respectively. Notwithstanding any other provision of the Contract, the warranties of Mach 6 set out in such schedules: (a) are the only warranties applicable to the Work and all other warranties, conditions, guarantees or similar obligations, whether express or implied by fact, by law (including any statute or regulation), by custom or trade usage or by any course of dealing, including, without limitation, any implied warranties of quality, merchantability, fitness for purpose and fitness for a particular purpose or otherwise, are excluded from the Contract and are inapplicable, and (b) are the only remedy of the Customer arising out of defective or deficient Work.

## **7. Delivery and Title**

- a. Unless otherwise specified in the Contract, any delivery date or schedule specified in the Contract is an estimate only. Mach 6 shall use its commercially reasonable efforts to meet such delivery date or schedule but shall not be liable for damages of any type whatsoever for delay. Delays preventing the performance or provision of the Work which do not arise out of Mach 6’s default shall enable Mach 6 to review and revise pricing and schedule.
- b. Title to the Work shall remain vested in Mach 6 (even if affixed to real or personal property), and nothing contained in the Contract shall be deemed to have the effect of transferring right or title in any Work performed or provided until such time as the amounts due for the Work have been paid for in full. Until payment in full, all Products sold by Mach 6 are removable at the discretion of Mach 6 (notwithstanding any enclosure or affixation to real or personal property) and Mach 6 is authorized to enter and/or work upon such property for the purposes of such removal notwithstanding any damage caused. The Customer agrees to indemnify and hold harmless the Mach 6 Parties from and against any and all losses, liabilities, claims, costs and expenses whatsoever (including legal expenses on a solicitor and his own client basis) suffered or incurred by Mach 6 in the removal of its Products, including, without limitation, any suffered or incurred in the removal, destruction and repair of walls or other improvements or chattels.
- c. Mach 6 warrants that it has good and marketable title to the Products and that such title, when it passes to the Customer, will be free and clear of any and all liens, claims, charges, security interests, encumbrances and rights of other persons arising as a result of any actions or failure to act of Mach 6.
- d. Unless otherwise specified in the Contract, Mach 6 sells the Products to the Customer on the basis that delivery of the Products is ExWorks Mach 6’s nominated facility, as defined in accordance with

Incoterms 2020 rules and regulations, and Mach 6 does not assume responsibility for shipping. Shipping may be coordinated on a per Contract basis, and shipping will be at the Customer's additional cost. Instructions must be specified by the Customer in the Contract. Mach 6 accepts no liability for damages in transit. The Customer must file all claims with the transportation company.

e. The Customer shall have care, custody and control of, and shall bear the risk of physical loss with respect to, the Work, even if title has not passed, upon whole or part delivery of the Work to the Customer in accordance with the Contract.

f. If the Customer fails to accept delivery of any Products at the delivery time set out in the Contract for reasons other than for substantial non-conformity of the Products with the Contract, Mach 6 shall arrange for storage of the Products at the Customer's risk and expense. Notwithstanding the foregoing, the Customer shall pay any part of the Purchase Price which becomes due on delivery, as if delivery had taken place. In the event that the Work includes any testing, start-up or commissioning of the Products, such activities must take place within six (6) months after the date of delivery of the Products. If the Customer does not direct Mach 6 to complete such activities within such six (6) month period, Mach 6 reserves the right to invoice the amount remaining under the Contract and credit the Customer the amount of the unperformed Work. The Customer will be responsible for submitting a separate Order for the unperformed Work, which will be subject to any increase in labour or material, preservation costs and effect on warranty.

## **8. Limit of Liability**

Notwithstanding any other provision of the Contract including these Terms, Mach 6 shall in no event be liable to the Customer or any other person with respect to any Product or Service sold or provided by Mach 6, by way of indemnity or by reason of any breach of contract, warranty, statutory duty, tort, negligence, strict liability or otherwise, whether or not the possibility of such losses or damages were known or should have been known by Mach 6, (a) for any indirect, special, incidental, punitive, aggravated, exemplary or consequential loss or damage including loss of production, revenues, profits, opportunities, market or use, or economic loss, which may be suffered by the Customer or any other person, (b) for any loss or damage which may be suffered by the Customer or any other person as a result of any suspension or cancellation of the Contract by Mach 6 in accordance with its terms, or (c) in an amount in excess of the Purchase Price paid for such Product or Service.

## **9. Force Majeure**

Mach 6 shall not be considered in default or be liable for any failure to perform any obligation under the Contract in the event and to the extent that such failure is caused by a condition of force majeure. A condition of force majeure is an event beyond the reasonable control of Mach 6 which prevents or impedes the performance of the Contract by Mach 6, including without limitation the following: change in law, war, revolution, riots, insurrection, civil commotion, invasion, armed conflict, hostilities, acts of terrorism, epidemics, pandemic, governmental or ministerial order, sabotage, theft, explosions, fires, earthquakes, floods, other natural physical disaster, embargo, prohibition on import and exportation of materials or equipment or services, contamination, acts of God, hazardous properties, transportation blockages, electricity supply interruptions and power failures, strikes, work stoppages, slowdowns or other labour actions and failure of government to issue permits or approvals. Mach 6 shall give notice in writing to the Customer of the occurrence of any force majeure event which causes or is likely to cause any failure by Mach 6 to perform any obligation under the Contract. Such notice shall include the nature

of the event, the expected duration and any anticipated impact on performance of the Contract, including any cost impacts.

## **10. Assignment**

The Contract including these Terms shall be binding upon and inure to the benefit of the Parties and their successors and permitted assigns. No assignment of the Contract, in whole or in part, or of monies due or to become due hereunder, shall be made by the Customer without the prior written consent of Mach 6, and if such consent is provided the Customer shall remain liable, jointly and severally with the assignee, for the obligations of the Customer under the Contract. Mach 6 in its sole discretion may assign the Contract to any of its affiliates or related entities or to any purchaser of all or substantially all of the assets of Mach 6, and Mach 6 may subcontract its rights or any portion of its responsibility under the Contract to any of its affiliates or related entities or any third party.

## **11. Changes**

Requests by the Customer for any changes to the Work, including but not limited to, changes in specifications, quantities, delivery obligations and terms of payment, must be made to Mach 6 in writing. All such requests are subject to Mach 6's written acceptance, which may be withheld in Mach 6's sole discretion, and may result in adjustments to the Purchase Price and/or delivery schedules which must be agreed to in writing as part of a contract change order. Third party conditions outside of the control of Mach 6 that materially affect the performance of the Contract by Mach 6 may result in adjustments to the Purchase Price and/or delivery schedules. Mach 6 reserves the right to make substitutions and modifications in the specifications of any Products or Services, provided such substitutions or modifications do not materially adversely affect the performance of the Products or of the equipment or machinery, etc. upon which the Services are to be performed.

## **12. Returns; Cancellation for Convenience**

- a. Prior authorization of Mach 6 must be obtained before returning Products for credit, and Mach 6 may grant or withhold such authorization in its sole discretion. If a return is accepted, a return authorization form will be provided to the Customer and must be clearly indicated on the Customer's returns (prepaid shipments only). All returned Products must be in saleable condition, be in original containers and/or packaging, and will be subject to inspection and a restocking charge to be determined by an authorized Mach 6 representative. Return freight is to be prepaid by the Customer.
- b. Unless otherwise specified in the Contract, the Customer shall not be entitled to cancel the Contract.
- c. If it is specified in the Contract that the Customer may cancel for convenience, and the Customer exercises the Customer's right to cancel any or all unperformed part(s) of the Contract in accordance with the Contract, on the effective cancellation date Mach 6 shall discontinue all cancelled work, shall (with respect to the cancelled work) place no additional orders, and preserve and protect materials purchased for or committed to the cancelled work, work in progress, and completed goods, and shall dispose of these

materials and goods in accordance with the Customer's instructions. In connection with such a cancellation for convenience, the Customer will pay to Mach 6:

- i. if a cancellation schedule is included in the Contract, the amounts identified in such cancellation schedule;
- ii. if no cancellation schedule is included in the Contract, the sum of:
  1. the greater of payment for Work actually performed in whole or in part prior to termination for which Mach 6 has not already received payment (including, without limitation, the costs of supplies and inventory, and payment for work in progress and Products and components procured or produced but not yet delivered to the Customer at the time of termination and profit earned and overhead costs to the time of termination), or the next milestone payment; plus
  2. all other costs and expenses incurred by Mach 6 by reason of such termination of the Contract, including, without limitation, demobilization costs, costs in connection with the disposition of work and material on hand, interest on overdue payments and any subcontract cancellation payments or costs. For greater certainty, Mach 6 shall be entitled to any loss of profits, contribution to overhead and any incidental, consequential or other damages due to such cancellation.

### **13. Termination for Mach 6 Default**

The Customer shall have the right to terminate the Contract if Mach 6 shall have defaulted in its performance under any material provision of the Contract and if the same is not cured within 30 days following the delivery by the Customer to Mach 6 of a written notice of such event, or, if capable of being cured but not within such period, if Mach 6 has not commenced the cure within such 30 day period and does not thereafter diligently pursue such cure.

### **14. Termination for Customer Default**

a. Mach 6 shall have the right to terminate the Contract upon the occurrence of any one of the following events if the same is not cured within 30 days following the delivery by Mach 6 to the Customer of a written notice of such event, or, if capable of being cured but not within such period, if the Customer has not commenced the cure within such period and does not thereafter diligently pursue such cure (provided that such 30 day or longer cure period does not apply to a failure of the Customer to make the payment(s) due within the agreed payment term):

- i. the Customer shall have assigned or transferred the Contract or any right or interest herein except as expressly permitted by the Contract;
- ii. any representation made by the Customer in the Contract shall have been materially false or misleading when made;
- iii. the Customer shall have defaulted in its performance under any material provision of the Contract;

- iv. Mach 6 does not receive from the Customer the payment(s) due within the agreed payment term;
  - v. a prolonged suspension affects the whole of the Work; or
  - vi. the Customer shall have ceased to conduct the normal course of its business, seeks protection under bankruptcy, insolvency, reorganization or creditor moratorium laws, becomes insolvent or bankrupt or makes an assignment for the benefit of creditors, if proceedings are initiated by or against the Customer seeking relief, reorganization or rearrangement under laws relative to insolvency, or if a receiver, liquidator or trustee is appointed in respect of any material property or assets of the Customer.
- b. In such case, title to all Work, material, equipment, tools and supplies that shall have previously passed to the Customer shall automatically revert to Mach 6 until Mach 6 has received the payment required by this Section, at which time title shall pass to the Customer.
- c. In case of such termination, Mach 6 shall, in addition to any other rights and remedies that may be available by law or in equity or as otherwise provided in the Contract, be entitled to receive from the Customer and the Customer shall promptly pay to Mach 6 the sum of:
- i. the greater of payment for Work actually performed in whole or in part prior to termination for which Mach 6 has not already received payment (including, without limitation, the costs of supplies and inventory, and payment for work in progress and Products and components procured or produced but not yet delivered to the Customer at the time of termination and profit earned and overhead costs to the time of termination), or the next milestone payment; plus
  - ii. all other costs and expenses incurred by Mach 6 by reason of such termination of the Contract, including, without limitation, demobilization costs, costs in connection with the disposition of work and material on hand, interest on overdue payments and any subcontract cancellation payments or costs. For greater certainty, Mach 6 shall be entitled to any loss of profits, contribution to overhead and any incidental, consequential or other damages due to such termination.

## **15. Intellectual Property**

Mach 6 retains all ownership of its intellectual property of every nature and kind and of all materials prepared or developed by Mach 6 or its employees, including without limitation all trademarks, patents, copyright, industrial design or other intellectual property rights related to the Work and all specifications, plans, designs, concepts and other proprietary information related to the Work. Under no circumstance shall the Customer reverse engineer or design the Products for the Customer's use, without prior written permission from Mach 6.

## **16. Cybersecurity**

To the extent applicable, the Customer shall implement and maintain reasonable and appropriate cybersecurity measures relating to the Products, the information used therein and the Customer's network environment. This obligation includes complying with applicable cybersecurity laws, standards and best practices.

## **17. Confidential Information**

Unless otherwise specified in the Contract, all information including general business information, financial data, technical data, reports, photographs, electronic files, specifications, software, drawings, tools, dies, patterns, plans, methods or other intellectual property supplied, disclosed, conceived or prepared by Mach 6 in connection with the Contract, whether disclosed verbally, in writing, in electronic or other form, shall be considered confidential, shall not, at any time, be disclosed to a third party by the Customer without the written consent of Mach 6 and shall be used by the Customer solely for the purpose of using and maintaining the Work and the products or projects to which the Work relates.

## **18. Payment and Security**

- a. All amounts are due and payable on the date of the invoice, except that if credit is provided, invoices of Mach 6 are due and payable 30 days from date of each invoice unless otherwise specified in writing in the Contract. All payments shall be made without any deduction, set off, counterclaim or abatement. Payment for purchases of major equipment is due upon delivery unless otherwise approved in writing by Mach 6. Any amount which is not paid when due shall bear interest at the rate of 2.0% per month compounded monthly (26.8% annually) until the date of actual payment. In the event that hold backs are negotiated as part of the Contract, the total amount of applicable taxes, including but not limited to GST, will be due with first invoice.
- b. Except as expressly set out in the Contract, all amounts are stated in and shall be paid in Canadian Dollars.
- c. Prices do not include taxes of any kind. The Customer shall also pay Mach 6 all applicable taxes due and payable in connection with the provision of the Work to the Customer including, without limitation, all Goods and Services Tax, and any other forms of value added or sales tax as are from time to time chargeable and payable at law in connection with the Work.
- d. Mach 6 reserves the right (regardless of any contrary direction) to apply any monies received by it on the Customer's account to such invoices and accounts of the Customer and as to principal or interest as Mach 6 deems fit.
- e. Cheques are not considered payment until honoured. Cheques returned as Non-Sufficient Funds will be subject to a \$50.00 handling fee.
- f. All credit notes issued to the Customer by Mach 6 expire two years from the date of issuance.
- g. All invoices shall be deemed admitted and conclusive against the Customer unless questioned in writing within 15 days of the invoice date.

- h. The Customer agrees to indemnify and hold harmless the Mach 6 Parties from and against any and all losses, liabilities, claims, costs and expenses whatsoever (including legal expenses on a solicitor and his own client basis) suffered or incurred by any of the Mach 6 Parties in the collection (including execution) of any monies due to Mach 6 or in enforcing any of Mach 6's rights under the Contract.
- i. The Customer grants, mortgages and assigns to Mach 6 a security interest in all of the Customer's present and after acquired personal property, and all proceeds thereof, as security for the due payment and satisfaction of any and all obligations and liabilities whatsoever, liquidated or unliquidated, of the Customer to Mach 6, present or future, direct or indirect and howsoever arising (collectively, the "Secured Obligations"). Whenever Mach 6 performs any work or service or sells or installs any attachment, improvement or creation to any real or immovable property of the Customer, the Customer agrees to execute and deliver in favour of Mach 6, within ten (10) business days upon request from Mach 6, a security agreement, mortgage, and/or deed of hypothec in respect of such real or immovable property and such other deeds, acts, instruments, documents and other agreements as may be required by Mach 6 in order to grant to Mach 6 a valid and enforceable security interest, charge and/or hypothec over such real or immovable property, in each case upon such terms and conditions as are satisfactory to Mach 6. Mach 6 shall be entitled to register financing statements or publish registration forms with respect to any and all security interests or hypothecs granted by the Customer in favour of Mach 6. To the extent permitted by applicable law, the Customer waives the right to be notified of registration of any financing statements or other public filings. The provision of Work is subject to Mach 6's lien rights under the applicable lien legislation in the province or territory in which the Work is performed or provided.
- j. Upon default by the Customer or in the event that Mach 6 at any time determines that its credit position is in any manner insecure, inadequate or in jeopardy, Mach 6 may, without limiting its other remedies hereunder or at law (and notwithstanding any existing contracts or commitments to the Customer including a commenced delivery or performance): (1) deem all amounts owing by the Customer to Mach 6 to be immediately due and payable, (2) take possession of any goods supplied or otherwise enforce its security against the Customer, (3) refuse, stop, cease or suspend further sales, deliveries or services to the Customer including goods in transit, and/or (4) impose prepayments or request other forms of security as Mach 6 deems fit.
- k. If Mach 6 suspends its performance under this Section, then the completion, delivery and other dates contemplated under the Contract shall be adjusted as reasonably required to accommodate the effects of such suspension of performance, and the Customer shall pay Mach 6 additional costs reasonably and necessarily incurred by Mach 6.

## **19. Governing Law**

The Contract, including these Terms, shall be governed by and construed and interpreted in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable therein (but without giving consideration to any conflict of law rules). Mach 6 and the Customer agree that the courts of Alberta have jurisdiction to entertain any legal proceedings in respect of the Contract, including these Terms, and Mach 6 and the Customer hereby irrevocably consent to and attorn to the non-exclusive jurisdiction of such courts. Mach 6 may take proceedings for enforcement in any jurisdiction. The International Sale of Goods Act and the United Nations Convention on Contracts for The International Sale of Goods do not apply to the Contract. For purposes of any assets located or deemed located in the Province of Quebec and for all other purposes pursuant to which the interpretation or construction of the

Contract may be subject to the laws of or a court or tribunal exercising jurisdiction in the Province of Quebec, (a) “personal property” shall include “movable property”, (b) “real property” shall include “immovable property”, (c) “security interest”, “mortgage” and “lien” shall include a “hypothec”, “right of retention”, “prior claim” and a resolutory clause, (d) all references to filing, perfection, priority, remedies, recording or registering financing statements shall include publication under the Civil Code of Quebec, (e) “goods” shall include “corporeal movable property” other than chattel paper, documents of title, instruments, money and securities, and (f) “accounts” shall include “claims”.

## **20. Export Compliance**

Products supplied pursuant to a Contract may be subject to laws and regulations governing the export of goods and/or technology. The Customer shall not ship or divert any of the Products, or any technical information relating thereto, to any country outside of Canada in violation of any laws. If Products supplied hereunder are to be exported, then Mach 6’s performance of its obligations hereunder is subject to and conditional upon the Customer obtaining the necessary approvals, licenses and permits required by law in relation to such export. The Customer shall indemnify and hold harmless the Mach 6 Parties from and against any and all losses, liabilities, claims, costs and expenses whatsoever (including legal expenses on a solicitor and his own client basis) suffered or incurred by any of the Mach 6 Parties as a result of any breach of this provision by the Customer.

## **21. General**

- a. The headings of these Terms are solely for convenience of reference and do not affect the interpretation thereof or define, limit or construe the contents of any provision of these Terms.
- b. Each of the following schedules hereto shall form an integral part of these terms: Schedule “A” Products Warranty; and Schedule “B” Services Warranty.
- c. Notwithstanding any rule or maxim of construction to the contrary, any ambiguity or uncertainty will not be construed against any Party by reason of the authorship of any provision hereof.
- d. Any notice, request, or other document to be given under the Contract shall be in writing and sent to Mach 6 or the Customer, as applicable, at its address as set out in the Contract.
- e. No waiver, alteration, revision or modification of the Contract including these Terms shall be binding on either Party unless made in writing and signed by each of the Parties.
- f. In the event there is a conflict between the terms of the main body of the Contract and these Terms, the terms of the main body of the Contract shall prevail.
- g. The relationship between the Parties shall be that of independent contractors (including for purposes of the Income Tax Act (Canada)) and no partnership, agency, joint venture or any other relationship shall arise pursuant to the Contract.
- h. All remedies set out in the Contract including these Terms are cumulative and in addition to any and all other statutory, common law and equitable remedies available to the parties.
- i. If any provision of the Contract including these Terms is found to be invalid or unenforceable, neither the validity nor enforceability of any other provision of the Contract including these Terms shall

be affected or impaired. The invalid or unenforceable provision shall be severed and replaced with a valid or enforceable provision that accomplishes the same intent to the greatest extent possible.

j. The delay or failure of a Party to exercise a right or remedy under the Contract including these Terms shall not operate as a waiver of that right or remedy. No single or partial exercise of any right or remedy precludes subsequent exercise of that or any other right or remedy.

k. The completion, cancellation or termination of the Contract shall not release or relieve either of the Parties from any obligation or liability under the Contract including those Terms which expressly or by their nature survive such completion, cancellation or termination, including, without limitation, all obligations of the Customer to pay amounts owed to Mach 6 and all rights of Mach 6 in respect thereof, all indemnities in favour of Mach 6 and the Mach 6 Parties, all limitations of liabilities in favour of Mach 6, and all obligations of confidentiality contained herein.

l. Each Party agrees from time to time, subsequent to the date hereof, to execute and deliver or cause to be executed and delivered to the others of them such instruments or further assurances as may, in the reasonable opinion of any other of them, be necessary or desirable to give effect to the provisions of the Contract including these Terms.

m. The Parties confirm that it is their wish that this Contract and any other document executed in connection with the transactions contemplated herein be drawn up in the English language only. Les parties aux présentes ont expressément exigé que la présente convention et tous les autres contrats, documents ou avis qui y sont afférents soient rédigés en langue anglaise.

## Schedule “A” – Products Warranty

**WARRANTY OFFERED BY:** This warranty (the “Warranty”) applies to the sale of all goods, materials, equipment, parts and/or products (“Products”) by Mach 6 Mechanical Ltd. and/or any of its respective affiliates or related entities from time to time (each a “Mach 6 Entity”). The specific Mach 6 Entity which will be bound by this Warranty with respect to the sale of any particular Products shall be the Mach 6 Entity which is a party to the relevant contract or purchase or service order with the customer (the “Customer”) pursuant to which such Products are sold, and in this Warranty the term “Mach 6” means such specific Mach 6 Entity.

**DEFECTS WARRANTED – THIRD PARTY MANUFACTURED PRODUCTS:** For Products sold by Mach 6 which are manufactured by third party manufacturers (“Distributed Products”), Mach 6 will extend to the Customer the manufacturer’s warranty for such Distributed Products in effect at the time of purchase, if any. Mach 6 will assist the Customer to secure the benefits of any applicable manufacturer’s warranty when inspection proves the Distributed Products to be defective, all subject to the terms and conditions, including as to warranty length, that are contained in the manufacturer’s warranty. Mach 6 does not provide any warranties or guarantees, express or implied, with respect to any such Distributed Products. For details regarding the terms and conditions of the manufacturer’s warranty for any particular Distributed Products, please contact your Mach 6 representative.

**DEFECTS WARRANTED – MACH 6 MANUFACTURED SYSTEMS AND MANUFACTURED PARTS:** Subject to the provisions set out in this Schedule “A”, Mach 6 warrants that Products which are systems manufactured by Mach 6 or are parts manufactured by Mach 6 (“Mach 6 Products”) are of good workmanship, are free of defects in manufacture and material, and are in conformance with Mach 6’s specifications as expressly set out in the relevant contract or purchase or service order, subject to Mach 6’s standard tolerances for specifications. If Mach 6 determines in its sole discretion that any Mach 6 Product (or part thereof) fails to conform with such warranty during the applicable warranty period, and that the terms and conditions of this Warranty have been satisfied, Mach 6, in its sole discretion, shall promptly repair or replace such Mach 6 Product (or part thereof) at Mach 6’s expense and deliver the same Ex Works Mach 6’s facilities, or refund the purchase price thereof. The obligations of Mach 6 under this Warranty shall be strictly limited to repair or replacement of any Mach 6 Product which in Mach 6’s sole opinion is defective at the time of delivery of the Mach 6 Product to the Customer, or refund of the purchase price thereof. This Warranty shall apply only to Mach 6 Products sold by Mach 6 which have been paid for by the Customer. If Mach 6 elects to repair the Mach 6 Product subject to the warranty claim, the Customer shall be responsible for the removal and transportation thereof to Mach 6’s designated facility, provided that if the Customer requests that the repair be done at the Customer’s site, the Customer will be responsible for the removal thereof and Mach 6 will only cover the repair time spent on the site. All other expenses will be at the Customer’s expense. Any required repair shall be performed during Mach 6’s normal business hours and if repair is required outside of normal business hours overtime rates shall apply and the Customer shall pay Mach 6’s cost differential for the same. This Warranty is subject to the limitations, warranty period, exclusions and other terms and conditions set out herein. Mach 6 shall warrant any repaired or replaced parts until the expiration of the original Warranty.

**Warranty Period:** This Warranty shall be restricted to defects in Mach 6 Products present at the time of delivery thereof to the Customer which become manifest during the applicable warranty period as follows: (a) for all Mach 6 Products which are systems manufactured by Mach 6, a period of six (6) months from the date of the Customer's acceptance or deemed acceptance of such Mach 6 Products; and (b) for all Mach 6 Products which are parts manufactured by Mach 6, a period of six (6) months after the date of delivery of such Mach 6 Products to the Customer. Such period shall: (y) be as set out unless otherwise stated in the contract between Mach 6 and the Customer; and (z) not be extended by the performance of any subsequent repairs or other remedial work.

**Exclusion for Components of Mach 6 Products which are Distributed Products:** Notwithstanding any other provision of this Warranty, this Warranty shall not cover any parts or components of Mach 6 Products which are Distributed Products. Only the manufacturer's warranty for such Distributed Products in effect at the time of purchase, if any, shall apply as set out above under the heading "Third Party Manufactured Products". The Warranty of Mach 6 applicable to Mach 6 Products shall in no way alter, replace or supplement any manufacturer's warranty applicable to any Distributed Products which form part of any Mach 6 Product. The terms and conditions, including as to warranty length, that are contained in any manufacturer's warranty applicable to any portion of any Mach 6 Products shall take precedence over the terms of Mach 6's Warranty and Mach 6's Warranty is limited and subject to the terms and conditions of any applicable manufacturer's warranty.

**Other Exclusions:** This Warranty shall not cover, and Mach 6 shall not be liable under this Warranty for any damages, costs or expenses of the Customer or any third party caused or contributed to in whole or in part by any defects caused by or related to:

- Any labour not performed by Mach 6 or defects or faults occurring or emanating as a result of the same.
- Any event or circumstance which arises through no fault of Mach 6 including, without limitation, disaster, force majeure, accidents, abuse, neglect, chemical, electro-chemical or electrical influences, any form of overload of any Mach 6 Product or any abnormal physical stress or environmental conditions.
- Any incorrect, improper or inadequate installation, assembly, use, storage, inspection, maintenance, handling, removal or transportation of any Mach 6 Product according to any recommendations and/or instructions of Mach 6 regarding the Mach 6 Product, or any recommendations and/or instructions of the manufacturer of any part or component thereof, or standard industry practices.
- Any failure of the Customer to comply with any recommendations and/or instructions of Mach 6 regarding any Mach 6 Product, or with any recommendations and/or instructions of the manufacturer of any part or component thereof, including, without limitation, any failure of the Customer to service or maintain the Mach 6 Product or any part or component thereof in accordance with the recommended service/maintenance intervals and procedures specified by Mach 6 or the manufacturer, or any use of fuels, oils, additives or any other consumable of a standard not compatible with any such recommended specifications.
- Any specifications, instructions or designs specified or provided by or on behalf of the Customer.
- Any acts or omissions of the Customer.

- Normal wear and tear, or parts that, owing to their inherent material properties or their specified use, are subject to premature wear.
- Any materials or substances being processed by, or by the entry of materials or substances into, any Mach 6 Products including, without limitation debris, moisture, dust, grease or other contamination.

In addition, except for the repair, replacement or refund obligation as expressly provided herein, Mach 6 shall not be liable for any damages, losses, costs or expenses suffered by the Customer or any other third party of any nature or kind including, without limitation, any direct, indirect, consequential or incidental damages or loss of any kind for any reason, including down-time, loss of revenue or profits, loss of production, loss or diminution of value of property, loss of use of property or facilities, loss of economic opportunity or loss of life or injury by the Customer or any other party whether or not caused by the defective Mach 6 Product or the removal thereof.

**Grounds for Warranty Invalidity:** The failure of the Customer to observe and perform any of the following shall automatically invalidate this Warranty with respect to a Mach 6 Product:

- The Customer must comply with all requirements set out in this Warranty and any applicable contract or purchase or service order and related terms and conditions with respect to such Mach 6 Product.
- Such Mach 6 Product must be installed, assembled, handled, stored, used, operated, inspected, maintained, removed and transported in a proper and prudent manner in accordance with: (a) the recommendations and/or instructions of Mach 6; (b) the recommendations and/or instructions of the manufacturer of any part or component thereof; (c) standard industry practices; and (d) applicable laws.
- In the event of any incident or event giving rise to, or likely to give rise to, a claim under this Warranty, the Customer must take precautions to prevent further damage to such Mach 6 Product. Mach 6 shall not be liable for any further damage to such Mach 6 Product until it has been repaired to the satisfaction of Mach 6.
- This Warranty shall be void if, whether before or after a loss, the Customer has willfully concealed or misrepresented any material fact or circumstance concerning this Warranty or such Mach 6 Product, or in case of any fraud or false statement by the Customer relating thereto.
- If the Customer transfers title to such Mach 6 Product to a third party or lends, leases, rents or otherwise releases possession of the same, in any manner whatsoever, or becomes bankrupt or placed in receivership such that such Mach 6 Product is seized or taken by a creditor or a third party claiming rights, title or ownership in such Mach 6 Product.
- If the Customer causes or permits any reconstruction, repair, alteration or modification of such Mach 6 Product to be made by any person not authorized by Mach 6, or if any parts or components not supplied by Mach 6 are used in connection with any of the foregoing.

**NOTICE OF WARRANTY CLAIMS:** Notice of claims under this Warranty must be made in writing during the applicable warranty period and sent to Mach 6 at the Mach 6 branch where the Product was purchased. For clarity, to be effective a notice of claim under this Warranty must be received by Mach 6 within the warranty period.

**ADDITIONAL LIMITATIONS:**

Mach 6's total liability under this Warranty with respect to any Mach 6 Product, whether through repair or replacement of the Mach 6 Product or refund of the purchase price thereof, is limited to the amount of the purchase price actually received by Mach 6 from the Customer for the defective Mach 6 Product.

The Warranty set out herein is the only warranty applicable to the Products. **MACH 6 EXPRESSLY DISCLAIMS, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL OTHER REPRESENTATIONS, WARRANTIES, COVENANTS, CONDITIONS, GUARANTEES OR SIMILAR OBLIGATIONS, WHETHER EXPRESS OR IMPLIED BY FACT, BY LAW (INCLUDING ANY STATUTE OR REGULATION), BY CUSTOM OR TRADE USAGE OR BY ANY COURSE OF DEALING, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF QUALITY, MERCHANTABILITY, FITNESS FOR PURPOSE AND FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR OTHERWISE, ALL OF WHICH ARE EXCLUDED AND ARE INAPPLICABLE.**

The remedies set out herein are the Customer's sole remedies, and are Mach 6's only obligations (whether based on breach of contract, warranty, indemnity or statutory duty or in tort or otherwise), arising out of or in connection with defective or deficient Products.

No suit or action on this Warranty for the recovery of any claim may be sustained in any court of law or equity unless the Customer has complied with all the requirements of this Warranty and unless such suit or action is commenced within three (3) months from the date on which the Customer originally made such claim under this Warranty.

**GOVERNING LAW:** This Warranty is governed by the laws of the Province of Alberta.

## Schedule “B” – Services Warranty

**WARRANTY OFFERED BY:** This warranty (the “Warranty”) applies to the performance of all labour services (“Services”) performed by any of Mach 6 Mechanical Ltd. and/or any of its respective affiliates or related entities from time to time (each a “Mach 6 Entity”). The specific Mach 6 Entity which will be bound by this Warranty with respect to the performance of any particular Services shall be the Mach 6 Entity which is a party to the relevant contract or purchase or service order with the customer (the “Customer”) pursuant to which such Services are to be performed, and in this Warranty the term “Mach 6” means such specific Mach 6 Entity.

**DEFECTS WARRANTED – SERVICES:** Subject to the provisions set out in this Schedule “B”, Mach 6 warrants that the Services will be performed in a good and workmanlike manner in accordance with a standard of care and skill exercised by competent service providers who would ordinarily provide services of the nature and type of the Services under similar conditions in the locality in which the Services are being performed on projects of type, size and complexity equivalent to the type, size and complexity of the project in respect of which the Services are being performed. If Mach 6 determines in its sole discretion that any Services (or part thereof) fail to conform with such warranty during the applicable warranty period, and that the terms and conditions of this Warranty have been satisfied, Mach 6, in its sole discretion, shall promptly repair or re-perform such Services (or part thereof) at Mach 6’s expense, or refund the price thereof. The obligations of Mach 6 under this Warranty shall be strictly limited to re-performance of any Services which in Mach 6’s sole opinion are defective at the time of performance thereof for the Customer or refund of the price thereof. This Warranty shall apply only to labour performed by Mach 6 on Customer’s equipment or components (“Equipment”) for which Mach 6 has solely provided service and which has been paid for by Customer. If Mach 6 elects to re-perform the Services subject to the warranty claim, the Customer shall be responsible for the removal and transportation of the Equipment to Mach 6’s designated facility, provided that if the Customer requests that the re-performance be done at the Customer’s site, the Customer will be responsible for the removal of the Equipment (or, if it is not possible to remove the Equipment it can remain in place) and Mach 6 will only cover the re-performance time spent on the site. All other expenses will be at the Customer’s expense. Any required re-performance of Services shall be performed during Mach 6’s normal business hours and if re-performance is required outside of normal business hours overtime rates shall apply and the Customer shall pay Mach 6’s cost differential for the same. This Warranty is subject to the limitations, warranty period, exclusions and other terms and conditions set out herein.

**Warranty Period:** This Warranty shall be restricted to defects in Services present at the time of performance thereof which become manifest during the ninety (90) day period commencing upon the date, in Mach 6’s sole opinion, that the applicable parts of the Services have been completed. Such period shall not be extended by the performance of any subsequent re-performance or other remedial work.

**Exclusions:** This Warranty shall not cover, and Mach 6 shall not be liable under this Warranty for, any damages, costs or expenses of the Customer or any third party caused or contributed to in whole or in part by any defects caused by or related to:

- Any labour not performed by Mach 6 or defects or faults occurring or emanating as a result of the same.
- Any event or circumstance which arises through no fault of Mach 6 including, without limitation, disaster, force majeure, accidents, abuse, neglect, chemical, electro-chemical or electrical influences, any form of overload of the Equipment, or any abnormal physical stress or environmental conditions.
- Any incorrect, improper or inadequate installation, assembly, use, storage, inspection, maintenance, handling, removal or transportation of the Equipment according to any recommendations and/or instructions of Mach 6 regarding the Equipment, or any recommendations and/or instructions of the manufacturer thereof, or standard industry practices.
- Any failure of the Customer to comply with any recommendations and/or instructions of Mach 6 regarding the Equipment, or with any recommendations and/or instructions of the manufacturer thereof including, without limitation, any failure of the Customer to service or maintain the Equipment or any part or component thereof in accordance with the recommended service/maintenance intervals and procedures specified by Mach 6 or the manufacturer, or any use of fuels, oils, additives or any other consumable of a standard not compatible with any such recommended specifications.
- Any specifications, instructions or designs specified or provided by or on behalf of the Customer.
- Any acts or omissions of the Customer.
- Normal wear and tear, or parts that, owing to their inherent material properties or their specified use, are subject to premature wear.

Any materials or substances being processed by, or by the entry of materials or substances into, the Equipment including, without limitation, debris, moisture, dust, grease or other contamination.

In addition, except for the re-performance or refund obligation as expressly provided herein, Mach 6 shall not be liable for any damages, losses, costs or expenses suffered by the Customer or any other third party of any nature or kind including, without limitation, any direct, indirect, consequential or incidental damages or loss of any kind for any reason, including down-time, loss of revenue or profits, loss of production, loss or diminution of value of property, loss of use of property or facilities, loss of economic opportunity or loss of life or injury by the Customer or any other party whether or not caused by the defective Services.

**Grounds for Warranty Invalidity:** The failure of the Customer to observe and perform any of the following shall automatically invalidate this Warranty with respect to any Services:

- The Customer must comply with all requirements set out in this Warranty and any applicable contract or purchase or service order and related terms and conditions with respect to such Services.
- The Equipment in respect of which such Services are performed must be installed, assembled, handled, stored, used, operated, inspected, maintained, removed and transported in a proper and prudent manner in accordance with: (a) the recommendations and/or instructions of Mach 6; (b) the recommendations and/or instructions of the manufacturer of any part or component thereof; (c) standard industry practices; and (d) applicable laws.

- In the event of any incident or event giving rise to, or likely to give rise to, a claim under this Warranty, the Customer must take precautions to prevent further damage to the Equipment in respect of which such Services are performed and Mach 6 shall not be liable for any further damage to any of such Equipment until the applicable Services have been re-performed by and to the satisfaction of Mach 6.
- This Warranty shall be void if, whether before or after a loss, the Customer has willfully concealed or misrepresented any material fact or circumstance concerning this Warranty or the Services or the Equipment in respect of which such Services are performed, or in case of any fraud or false statement by the Customer relating thereto.
- If the Customer transfers title of the Equipment in respect of which such Services are performed to a third party or lends, leases, rents or otherwise releases possession of the same, in any manner whatsoever, or becomes bankrupt or placed in receivership such that such Equipment is seized or taken by a creditor or a third party claiming rights, title or ownership in such Equipment.
- If the Customer causes or permits any reconstruction, repair, alteration or modification of the Equipment in respect of which such Services are performed to be made by any person not authorized by Mach 6, or if any parts or components not supplied by Mach 6 are used in connection with any of the foregoing.

**NOTICE OF WARRANTY CLAIMS:** Notice of claims under this Warranty must be made in writing during the warranty period and sent to the Mach 6 branch which performed the Service. For clarity, to be effective a notice of claim under this Warranty must be received by Mach 6 within the warranty period.

#### **ADDITIONAL LIMITATIONS:**

Mach 6's total liability under this Warranty with respect to any Services, whether through re-performance of Services or refund of the price thereof, is limited to the price actually received by Mach 6 from the Customer for the defective Services.

The Warranty set out herein is the only warranty applicable to the Services. **MACH 6 EXPRESSLY DISCLAIMS, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL OTHER REPRESENTATIONS, WARRANTIES, COVENANTS, CONDITIONS, GUARANTEES OR SIMILAR OBLIGATIONS, WHETHER EXPRESS OR IMPLIED BY FACT, BY LAW (INCLUDING ANY STATUTE OR REGULATION), BY CUSTOM OR TRADE USAGE OR BY ANY COURSE OF DEALING, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF QUALITY, MERCHANTABILITY, FITNESS FOR PURPOSE AND FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR OTHERWISE, ALL OF WHICH ARE EXCLUDED AND ARE INAPPLICABLE.**

The remedies set out herein are the Customer's sole remedies, and are Mach 6's only obligations (whether based on breach of contract, warranty, indemnity or statutory duty or in tort or otherwise), arising out of or in connection with defective or deficient Services.

No suit or action on this Warranty for the recovery of any claim may be sustained in any court of law or equity unless the Customer has complied with all the requirements of this Warranty and unless such suit or action is commenced within three (3) months from the date on which the Customer originally made such claim under this Warranty.

**GOVERNING LAW:** This Warranty is governed by the laws of the Province of Alberta.