WESTERN GLOBAL
Response ready fuel solutions

WESTERN INTERNATIONAL, INC - TERMS AND CONDITIONS OF SALE

Western International, Inc. D/B/A Western Global ("**Seller**") designs, manufactures and sells portable tanks and dispensing equipment. Seller is only willing to provide such products upon the terms and conditions contained herein, and Seller expressly rejects any different terms whether written or oral.

1. APPLICABILITY

1.1 These terms and conditions of sale (these "**Terms**") are the only terms which govern the sale of the goods ("**Goods**") and/or services ("**Services**") by Seller to the buyer ("**Buyer**") named on the accompanying quotation or confirmation of sale/invoice (the "**Sales Confirmation**"). Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the Goods and/or Services covered hereby, the terms and conditions of said contract shall prevail to the extent they are inconsistent with these Terms.

1.2 The Sales Confirmation and these Terms (collectively, this "**Agreement**") comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms prevail over any of Buyer's general terms and conditions of purchase regardless whether or when Buyer has submitted its purchase order or such terms. Fulfilment of Buyer's order does not constitute acceptance of any of Buyer's terms and conditions and does not serve to modify or amend these Terms.

2. DELIVERY OF GOODS AND PERFORMANCE OF SERVICES

2.1 The Goods will be delivered within an agreed time, as specifically set out in the Sales Confirmation, after the receipt of Buyer's purchase order. Seller shall not be liable for any delays, loss or damage in transit.

2.2 Seller shall deliver the Goods to its location unless a different location is otherwise specified in the Sales Confirmation (the "**Delivery Point**") using Seller's standard methods for packaging and shipping such Goods. Buyer shall take delivery of the Goods within three days of Seller's written notice that the Goods have been delivered to the Delivery Point. Buyer shall be responsible for all loading and unloading costs and provide equipment and labor reasonably suited for receipt of the Goods at the Delivery Point.

2.3 Seller may, in its sole and absolute discretion, without liability or penalty, make partial shipments of Goods to Buyer. Each shipment will constitute a separate sale, and Buyer shall pay for the units shipped whether such shipment is in whole or partial fulfilment of Buyer's purchase order.

2.4 If for any reason Buyer fails to accept delivery of any of the Goods on the date fixed pursuant to Seller's notice that the Goods have been delivered at the Delivery Point (the "**Deemed Delivery Date**"), or if Seller is unable to deliver the Goods at the Delivery Point on the Deemed Delivery Date because Buyer has not provided appropriate instructions, documents, licenses or authorizations, then on the Deemed Delivery Date (i) risk of loss to the Goods shall pass to Buyer; (ii) the Goods shall be deemed to have been delivered; and (iii) Seller, at its option, may store the Goods at a location of its choice until Buyer picks them up, whereupon Buyer shall be liable for all related costs and expenses incurred by the Seller (including, without limitation, storage and insurance).

2.5 Seller shall use reasonable efforts to meet any performance dates to render the Services specified in the Sales Confirmation, and any such dates shall be estimates only.

2.6 With respect to the Services, Buyer shall (i) cooperate with Seller in all matters relating to the Services and provide such access to Buyer's premises, and such office accommodation and other facilities as may reasonably be requested by Seller, for the purposes of performing the Services; (ii) respond promptly to any Seller request to provide direction, information, approvals, authorizations, or decisions that are reasonably necessary for Seller to perform the Services in accordance with the requirements of this Agreement; (iii) provide such customer materials or information as Seller may reasonably request and Buyer considers reasonably necessary to carry out the Services in a timely manner and ensure that such customer materials or information are complete and accurate in all material respects; and (iv) obtain and maintain all necessary licenses and consents and comply with all applicable laws in relation to the Services before the date on which the Services are to start.

3. NON-DELIVERY

3.1 The quantity of any instalment of Goods as recorded by Seller on dispatch from Seller's place of business is conclusive evidence of the quantity received by Buyer on delivery unless Buyer can provide conclusive evidence to the Seller proving the contrary within three days of the date when the Goods were delivered to the Delivery Point.

3.2 Seller shall not be liable for any non-delivery of Goods (even if caused by Seller's negligence) unless Buyer gives written notice to Seller of the non-delivery within three days of the date when the Goods would in the ordinary course of events have been received.

3.3 Any liability of Seller for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or adjusting the invoice respecting such Goods to reflect the actual quantity delivered.

3.4 Buyer acknowledges and agrees that the remedies set forth in Section 3 are Buyer's exclusive remedies for the non-delivery of the Goods. Except as provided under Section 3.3, all sales of Goods to Buyer are made on a one-way basis and Buyer has no right to return Goods purchased under this Agreement to Seller.

4. SHIPPING TERMS

Unless otherwise specified in the Sales Confirmation, shipping of the Goods is EXW Incoterms 2010 from the Seller premises notified to the Buyer.

5. Title and Risk of Loss

Title and risk of loss passes to Buyer upon delivery of the Goods at the Delivery Point. As collateral security for the payment of the purchase price of the Goods, Buyer hereby grants to Seller a lien on and security interest in and to all of the right, title and interest of Buyer in, to and under the Goods, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a purchase money security interest under the Michigan Uniform Commercial Code.

6. BUYER'S ACTS OR OMISSIONS

If Seller's performance of its obligations under this Agreement is prevented or delayed by any act or omission of Buyer or its directors, officers, agents, subcontractors, consultants, or employees, Seller shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges, or losses sustained or incurred by Buyer, in each case, to the extent arising directly or indirectly from such prevention or delay.

7. INSPECTION AND REJECTION OF NONCONFORMING GOODS

7.1 Buyer shall inspect the Goods within three days of receipt ("**Inspection Period**"). Buyer will be deemed to have accepted the Goods unless it notifies Seller in writing of any Nonconforming Goods during the Inspection Period and furnishes such written evidence or other documentation as required by Seller. "**Nonconforming Goods**" means only the following: (i) product shipped is different than identified in Buyer's purchase order; or (ii) product's label or packaging incorrectly identifies its contents.

7.2 If Buyer timely notifies Seller of any Nonconforming Goods within the Inspection Period, Seller shall, in its sole discretion, (i) replace such Nonconforming Goods with conforming Goods, or (ii) credit or refund the Price for such Nonconforming Goods, together with any reasonable shipping and handling expenses incurred by Buyer in connection with the delivery of the Nonconforming Goods to the Delivery Point. Buyer shall ship, at its expense and risk of loss, the Nonconforming Goods to Seller's facility. If Seller exercises its option to replace Nonconforming Goods, Seller shall, after receiving Buyer's shipment of Nonconforming Goods, ship to Buyer, at Buyer's expense and risk of loss, the replaced Goods to the Delivery Point.

7.3 Buyer acknowledges and agrees that the remedies set forth in Section 7.2 are Buyer's exclusive remedies for the delivery of Nonconforming Goods. Except as provided under Section 7.2, all sales of Goods to Buyer are made on a one-way basis and Buyer has no right to return Goods purchased under this Agreement to Seller.

8. PRICE

8.1 Unless otherwise specified in the Sales Confirmation, Buyer shall purchase the Goods and/or Services from Seller at the price(s) (the "**Price(s)**") set forth in Seller's published price list in force as of the date that Seller accepts Buyer's purchase order.

8.2 All Prices are exclusive of all sales, use, GST, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any governmental authority, including, without limitation, any national, federal, provincial, territorial, state, county, municipal, local or foreign government, on any amounts payable by Buyer. Buyer shall be responsible for all such charges, costs and taxes; provided, that, Buyer shall not be responsible for any taxes imposed on, or with respect to, Seller's income, revenues, gross receipts, personal or real property, or other assets.

9. PAYMENT TERMS

9.1 Buyer shall pay all invoiced amounts due to Seller on receipt of Seller's invoice. Buyer shall make all payments hereunder by wire transfer or check and in the agreed on and invoiced currency.

9.2 Buyer shall pay interest on all late payments at the lesser of the rate of 1.5% per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Buyer shall reimburse Seller for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees and the fees of any collection agency and court costs. In addition to all other remedies available under these Terms or at law (which Seller does not waive by the exercise of any rights hereunder), Seller shall be entitled to suspend the delivery of any Goods and/or performance of any Services if Buyer fails to pay any amounts when due hereunder and such failure continues for seven days following written notice thereof.

9.3 Buyer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Seller, whether relating to Seller's breach, bankruptcy or otherwise.

10. LIMITED WARRANTY

Goods

10.1 The Seller warrants that the Goods will correspond with their specification at the time of delivery and will be free from material defects in material and workmanship for the following periods (the **"Warranty"**):

(a) in the case of Steel Tanks (being Western Global steel storage tanks manufactured for the storage and transportation (if applicable) of fuel and/or other industrial liquids), 8 years from the date of delivery; and

(b) in the case of all other products, parts and accessories, 1 year from the date of delivery.

10.2 The Warranty is subject to the terms and conditions set out in Western Global's Warranty Policy (the **"Warranty Policy"**), which is specifically incorporated into these terms by reference. The Warranty Policy is available at https://western-global.com/warranty/.

10.3 THE REMEDIES SET FORTH IN THE WARRANTY POLICY SHALL BE THE BUYER'S SOLE AND EXCLUSIVE REMEDY AND SELLER'S ENTIRE LIABILITY FOR ANY BREACH OF THE WARRANTY SET FORTH IN SECTION 10.1.

Services

10.4 Seller warrants to Buyer that it shall perform the Services using personnel of required skill, experience, and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services.

10.5 EXCEPT FOR THE WARRANTIES SET FORTH IN SECTION 10.4 SELLER MAKES NO WARRANTIES WHATSOEVER WITH RESPECT TO THE SERVICES. ALL OTHER WARRANTIES, EXPRESS AND IMPLIED, ARE EXPRESSLY DISCLAIMED.

10.6 The Seller shall not be liable for a breach of the warranties set forth in Section 10.4 unless: (i) Buyer gives written notice of the defective or non-conforming Services to Seller within 30 days of the time when Buyer discovers or ought to have discovered the defect; and (ii) Seller reasonably verifies Buyer's claim that the Services are defective or non-conforming.

10.7 Subject to Section 10.6 above, with respect to any Services subject to a claim under the warranty set forth in Section 10.4, Seller shall, in its sole discretion, (i) repair or re-perform the applicable Services or (ii) credit or refund the price of such non-conforming Services.

11. LIMITATION OF LIABILITY

11.1 IN NO EVENT SHALL SELLER BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

11.2 IN NO EVENT SHALL SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO SELLER FOR THE GOODS AND/OR SERVICES HEREUNDER.

12. COMPLIANCE WITH LAW

12.1 Buyer shall comply with all applicable laws, regulations and ordinances. Buyer shall maintain in effect all of the licenses, permissions, authorizations, consents, and permits that are necessary for it to carry out its obligations under this Agreement or are otherwise related to the Goods. Buyer shall comply with all export and import laws of all countries involved in the sale of the Goods under this Agreement or any resale of the Goods by Buyer. Buyer assumes all responsibility for shipments of Goods requiring any government import clearance. Seller may terminate this Agreement immediately if any governmental authority imposes antidumping or countervailing duties or any other penalties on Goods.

12.2 The storage, transportation, and dispensing of flammable and combustible fluids is governed by law. BUYER REPRESENTS AND WARRANTS THAT BUYER HAS REVIEWED AND APPROVED ALL TECHNICAL DRAWINGS FOR THE GOODS AND THAT ALL TECHNICAL DRAWINGS HAVE BEEN APPROVED BY THE AUTHORITY HAVING JURISDICTION. BUYER ACKNOWLEDGES THAT IT IS PURCHASING COMPONENTS THAT REQUIRE ASSEMBLY AND THAT FINAL ASSEMBLY AND INSTALLATION PRIOR TO USE ARE BUYER'S SOLE RESPONSIBILITY. BUYER REPRESENTS AND WARRANTS THAT IT WILL UTILIZE A SUITABLY QUALIFIED INSTALLER AND BUYER ASSUMES ALL RESPONSIBILITY FOR THE ASSEMBLY AND INSTALLATION OF GOODS, INCLUDING COMPLIANCE WITH ANY APPLICABLE LAWS, REGULATIONS, OR ANY OTHER REQUIREMENTS IMPOSED BY THE AUTHORITY HAVING JURISDICTION, INCLUDING OBTAINING ANY LICENSES, PERMISSIONS, AUTHORIZATIONS, CONSENTS OR PERMITS REQUIRED IN CONNECTION WITH THE GOODS AND FOR HAVING THE GOODS INSPECTED AS REQUIRED BY APPLICABLE LAWS. Buyer (as "**Indemnifying Party**") shall indemnify, hold harmless, and defend Seller and its officers, directors, employees, representatives, subcontractors, and agents (collectively, "**Indemnified Party**") against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees, that are incurred by Indemnified Party (collectively, "**Losses**"), arising out of or related to a breach of Buyer's representations, warranties, or covenants under this Agreement.

13. TERMINATION

In addition to any remedies that may be provided under these Terms, Seller may terminate this Agreement with immediate effect upon written notice to Buyer, if Buyer: (a) fails to pay any amount when due under this Agreement and such failure continues for seven days after Buyer's receipt of written notice of nonpayment; (b) has not otherwise performed or complied with any of these Terms, in whole or in part; or (c) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization, or assignment for the benefit of creditors.

14. WAIVER

No waiver by Seller of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Seller. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

15. CONFIDENTIAL INFORMATION

All non-public, confidential or proprietary information of Seller, including but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts, or rebates, disclosed by Seller to Buyer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated, or otherwise identified as "confidential" in connection with this Agreement is confidential, solely for the use of performing this Agreement and may not be disclosed or copied unless authorized in advance by Seller in writing. Upon Seller's request, Buyer shall promptly return all documents and other materials received from Seller. Seller shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain; (b) known to Buyer at the time of disclosure; or (c) rightfully obtained by Buyer on a non-confidential basis from a third party.

16. FORCE MAJEURE

The Seller shall not be liable or responsible to Buyer, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Seller including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion, or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lockouts, strikes or other labor disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage, provided that, if the event in question continues for a continuous period in excess of sixty days, Buyer shall be entitled to give notice in writing to Seller to terminate this Agreement.

17. **ASSIGNMENT**

Buyer shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Seller. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Buyer of any of its obligations under this Agreement.

18. **RELATIONSHIP OF THE PARTIES**

The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

19. **NO THIRD-PARTY BENEFICIARIES**

This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of these Terms.

20. **GOVERNING LAW & JURISDICTION**

All matters arising out of or relating to this Agreement is governed by and construed in accordance with the internal laws of the State of Michigan without giving effect to any choice or conflict of law provision or rule (whether of the State of Michigan or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Michigan. Any legal suit, action or proceeding arising out of or relating to this Agreement shall be instituted in the state or federal courts of the State of Michigan located in the City of Detroit, in the case of federal courts, and in the County of Oakland, in the case of state courts, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS WILL NOT APPLY TO ANY SUCH SALE OF PRODUCTS BY THE SELLER OR TO ANY SUCH RELATIONSHIP.

21. **NOTICES**

All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "**Notice**") shall be in writing and addressed to the parties at the addresses set forth on the face of the Sales Confirmation or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission), or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.

22. **SEVERABILITY**

If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

23. **SURVIVAL**

Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Agreement including, but not limited to, the following provisions: Insurance, Compliance with Laws, Confidential Information, Governing Law, Submission to Jurisdiction and Survival.

24. **AMENDMENT AND MODIFICATION.**

These Terms may only be amended or modified in writing stating specifically that it amends these Terms and is signed by an authorized representative of each party.