

LENMAK EXTERIOR INNOVATIONS INC.
("Lenmak")
TERMS AND CONDITIONS OF SALE

1. Acceptance of Terms and Conditions

Please read this agreement carefully. It contains the sole terms and conditions of sale (the "Terms") that apply to the purchase by you of the goods, work and/or services (the "Goods") described in and furnished under a Lenmak sales order (the "Sales Order"). The Sales Order, including these Terms, together with any drawings and specifications, if any, provided by you and attached to the Sales Order (the "Specifications") shall constitute the "Contract". The Contract shall become effective on the earlier of: (a) the date you accept the Terms; and (b) the date you receive an electronic transmission from Lenmak accepting your order for Goods. Any and all provisions on the face or reverse side of any purchase order or work order, other than the Sales Order, which you may send to Lenmak are expressly rejected by Lenmak and waived by you, unless both parties expressly agree in writing to include any such terms and conditions in the Contract. Furthermore, the services to be provided by Lenmak under the Contract shall not include personnel or equipment required to install the Goods and Lenmak has no responsibility to you whatsoever for any installation of the Goods.

2. Purchase Price and Other Charges

2.1 Lenmak agrees to sell and you agree to buy the Goods for the price (the "Purchase Price") and on the terms of payment shown in the Contract. All Goods will be priced in Canadian Dollars unless otherwise stated.

2.2 Unless otherwise provided for in the Contract, the Purchase Price does not include any sales, use, excise, value-added, business taxes or assessments of whatever nature or kind (including, without limiting the generality of the foregoing, the goods and services and harmonized sales taxes levied under the *Excise Tax Act* (Canada) imposed by governing authorities or any jurisdiction applicable in connection with the performance of the Contract (collectively, the "Taxes").

2.3 All Taxes, surcharges, customs, duty, consular fees, assessments imposed by any government authority, additional packaging and processing, insurance charges, shipping or transportation charges, and other applicable charges shall be borne solely by you.

2.4 You shall, at your sole cost and expense, obtain all licenses, permissions or authorizations to use, purchase, import or export the Goods as may be required by any government authority.

2.5 Special packaging and crating may be required for the successful transportation of the Goods which is chargeable as part of the Purchase Price to you. All special packaging and crating costs will be listed in Lenmak's quote and as a line item on the order confirmation and Sales Order.

3. Terms of Payment

Unless otherwise specified in the Contract, the Purchase Price plus Taxes and any other sums owed by you under the Contract shall be paid to Lenmak in Canadian Dollars within thirty (30) days of the issuance of an invoice from Lenmak, without any deductions or setoffs, with the exception of any credit that has been issued by Lenmak to you prior to the due date of the outstanding invoice. Notwithstanding the above, Lenmak shall have the right to setoff and deduct for any sums owed by you to Lenmak under any Contract. Lenmak shall have the right to require you to furnish deposits and/or bonds covering the faithful performance of the Contract and the payment of all obligations arising thereunder.

4. Late Payments

4.1 If you fail to make payment to Lenmak of any sum due under the Contract on the due date for payment, Lenmak may at its sole discretion (in addition and without prejudice to all other claims, rights or remedies which Lenmak may have against you at law or in equity):

4.1.1 charge you interest on any outstanding balance owed compounded monthly and calculated from the due date for payment until the unpaid sum is fully paid at the rate of eighteen (18%) percent per annum or at the maximum lawful rate both before and after default and after judgment. If Lenmak pursues collection or enforcement proceedings or legal action against you to collect any monies owed by you to Lenmak, you agree to pay any and all of Lenmak's expenses, including all legal fees incurred (on a solicitor and its own client full indemnity basis) as a result of or in connection with any such collection or enforcement proceedings or legal action;

4.1.2 withhold performance of any of its obligations under the Contract and any other Contract without liability to Lenmak pending such payment;

4.1.3 seek additional security from you on any amount due to Lenmak for Goods shipped (or to be shipped) or Goods received by you; and

4.1.4 retain a security interest in the Goods and all proceeds therefrom, and you irrevocably authorize Lenmak to execute and file same at the Alberta Personal Property Registry or such other registry as Lenmak may determine in its sole discretion.

5. Customer Credit and Customer Financial Conditions

5.1 Lenmak reserves the right in its absolute discretion to grant, refuse or discontinue any extensions of credit, or reduce or suspend a credit limit to you at any time.

5.2 Lenmak also reserves the right to immediately terminate any Contract, require payment in advance, or require you to provide adequate security or other assurance of performance, without any liability whatsoever to Lenmak, in the event that:

5.2.1 you:

(i) institute or commence proceedings to be adjudicated as bankrupt or insolvent or consent to the filing of a bankruptcy or insolvency proceeding against you;

(ii) file, institute or commence or otherwise take any proceedings relating to reorganization, adjustment, arrangement, composition, compromise, stay of proceedings or relief similar to any of the foregoing under any applicable law regarding bankruptcy, insolvency, reorganization or relief of debtors (including under the *Companies' Creditors Arrangement Act* (Canada));

(iii) consent to the filing of any such proceeding;

(iv) consent to appointment of a receiver, liquidator, trustee or assignee in bankruptcy or similar official or to your liquidation, dissolution or winding-up of all or a substantial part of your property or assets;

(v) make an assignment for the benefit of creditors;

(vi) admit in writing your inability to pay your debts generally as they become due;

(vii) generally not be paying your debts as they come due or otherwise be insolvent; or

(viii) take any corporate or other action authorizing or in furtherance of any of the foregoing; or

5.2.2 any proceeding is filed, instituted or commenced by any person seeking:

(i) to adjudicate you as bankrupt or insolvent or for the liquidation, reorganization, winding-up, adjustment, arrangement, compromise, composition, stay of proceedings or similar relief of or for you under any applicable law regarding bankruptcy, insolvency, reorganization or relief of debtors (including under the *Companies' Creditors Arrangement Act* (Canada) or the *Bankruptcy and Insolvency Act* (Canada)), or

(ii) to appoint a receiver, liquidator, trustee or assignee in bankruptcy or similar official of you or of all or a substantial part of your property and assets.

6. Deliveries and Shipment

6.1 All shipments of Goods shall be "F.C.A. Place of Shipment" from Lenmak's warehouse located at 10404-176th Street, Edmonton, Alberta, T5S 1L3 in accordance with the current International Rules for the Interpretation of Trade Terms of the International Chamber of Commerce in force on the date of this Contract. Title to and risk of loss to the Goods shall pass to you when the Goods are put into the possession of a carrier or are picked up by you or your agent(s), at which point Lenmak shall be deemed to have completed good delivery to you of the Goods.

6.2 Packing (Delivery) slips shall accompany all shipments of Goods and in each case shall identify those Goods shipped or previously shipped, as the case may be, and shall show the Sales Order number, the place from which the Goods were shipped, the name of the carrier and the bill of lading number, if applicable.

6.3 All Goods shall be properly classified, described, packaged, marked and labeled by Lenmak for shipment, and shall be in proper condition for transportation in accordance with any applicable municipal, provincial, state or U.S. and Canadian federal laws, affording reasonable protection to the Goods contained therein. Notwithstanding the above, Lenmak does not guarantee against damage to the Goods caused in transit and the risk of damage to the Goods while in transit or in the possession of any carrier or you or your agents shall be borne solely by you at all times.

7. Shipping Dates and Delivery Dates

Unless otherwise provided for in the Contract, shipping and delivery dates are estimates only and are based on conditions at the time the Sales Order is submitted. Dates shown in the Contract are subject to change for reasons beyond Lenmak's control including, without limiting the generality of the foregoing, the inability of Lenmak to reasonably obtain materials for manufacture. While Lenmak will make commercially reasonable efforts to ship and/or deliver the Goods on the date(s) requested by you, if any, Lenmak assumes no liability whatsoever for damages arising out of the failure by Lenmak to ship and/or deliver the Goods on such date(s). Delays in shipping or delivery shall not give you any right whatsoever to cancel the Contract. You should allow five (5) business days for material processing in addition to shipping time, when applicable, unless otherwise indicated at the time of order. Any costs incurred by Lenmak due to any failure by you to accept the Goods at time of delivery will be reimbursed by you to Lenmak.

8. Specifications

You may at any time **prior** to the commencement of manufacture of the Goods by Lenmak, make modifications or changes to any Specifications provided by you to Lenmak relating to the Goods. In the event that such modifications or changes to the Specifications results in a change to the Purchase Price, Lenmak will promptly advise you in writing of the amended Purchase Price and you shall have three (3) days upon receipt of such notice to accept, in writing, the amended Purchase Price. In the event that you do not accept, in writing, the amended Purchase Price within such three (3) day period, Lenmak may immediately terminate the Contract and in such case Lenmak shall have no further obligations or liability to you whatsoever under the Contract. Lenmak shall be entitled to be reimbursed by you for all costs incurred by it in procuring materials and parts in respect of such Contract (including materials and parts contracted for and for which Lenmak is obligated to make payment) up to and including the date of termination of the Contract in accordance with this section 8.

9. Termination or Modification of Contract by Customer

9.1 Notwithstanding anything contained herein, you may at any time, prior to the commencement of manufacture of the Goods, by giving not less than ten (10) days notice to Lenmak in writing, terminate, modify or reduce the Contract as regards to all or any part or parts of the Goods. Upon such notice being given, Lenmak shall cease the procuring of materials for the fulfillment of your Contract in accordance with and to the extent specified in such notice.

9.2 In the event of any notice being given under the provisions of this section 9:

9.2.1 all Goods completed hereafter pursuant to any notice, shall be paid for as herein provided;

9.2.2 in respect of Goods not completed hereunder before the giving of such notice, and not completed thereafter pursuant to any notice, Lenmak shall be entitled to be reimbursed the actual cost to Lenmak of such uncompleted Goods. For the purposes of this paragraph, "cost" shall include direct labour costs, indirect labour costs and overhead charges, depreciation of facility and equipment and the cost incurred by Lenmak in procuring materials and parts (including materials and parts contracted for and for which Lenmak is obligated to make payment) in respect of and properly apportionable to the performance of the Contract.

9.3 Upon reimbursement being made to Lenmak as herein provided, title to the completed Goods, materials, parts and works in progress in respect of which such reimbursement is made shall pass to and vest in you, unless already so vested under any other provision hereof, and such completed Goods, materials, parts and works shall be shipped to you in accordance with section 6 hereof, but the materials thus taken over shall in no case be in excess of what would have been required for performing the Contract in full if no notice had been given under the provisions hereof.

9.4 Once manufacture of the Goods has commenced, you shall have no right to terminate, modify or reduce the Contract whatsoever and you shall be liable for and shall pay to Lenmak the full Purchase Price together with any other monies payable hereunder including, without limiting the generality of the foregoing, all Taxes.

9.5 Under no circumstances whatsoever will Lenmak have a duty to mitigate its damages.

10. Warranties

10.1 Lenmak warrants to you only that all Goods delivered under the Contract shall:

10.1.1 be manufactured in accordance with and conform to the Specifications, if any;

10.1.2 be of good workmanship; and

10.1.3 be free from defects in title;

for a period of one (1) year from the date of shipping (the "Warranty Period"). **THIS IS LENMAK'S SOLE WARRANTY.**

10.2 No representative or agent of Lenmak has the authority to add to or otherwise modify the warranties given under this section 10.

10.3 Lenmak makes absolutely no warranties or representations, express or implied, with respect to any parts and materials comprising the Goods not manufactured by Lenmak. Such parts and materials may carry an original manufacturer's warranty, and you agree to indemnify and hold Lenmak harmless for any claim arising out of any breach of warranties or claimed defect related to any such parts and materials manufactured by others.

11. Exclusions of Warranties

The warranties set forth in section 10 shall be the exclusive warranties of Lenmak to you and shall exclude all other warranties whether written, oral, expressed or implied, whether or not arising from any course of dealing or performance, usage of trade, custom, tradition or whatsoever. All other warranties including, without prejudice to the foregoing generality, any warranty of merchantability or fitness for purpose are hereby disclaimed by Lenmak (including without prejudice to the foregoing generality the conditions implied by sections 14 to 17 inclusive of the Sale of Goods Act (Alberta)). This section shall survive the expiration, completion or termination of the Contract.

12. Non-conformance or Shortage

12.1 If within sixty (60) days of receipt of the Goods by you, you are of the view that the Goods do not meet the Specifications (except where attributable to misuse, damage during shipping, accident or repair or modification made by a person other than Lenmak) or are not of good workmanship or there is a shortage in the Goods provided, you may, within such sixty (60) day period, notify Lenmak of the nonconforming Goods or shortage by written or electronic mail transmission setting out the following information:

12.1.1 description of the Goods;

12.1.2 description of the alleged nonconforming Goods or shortage; and

12.1.3 date of receipt of Goods by you.

Failure by you to notify Lenmak of any such alleged claim within the time period set out above shall operate as a complete waiver of any and all such claims whatsoever by you against Lenmak, whether for nonconformity or shortage, and shall be deemed conclusive evidence that no nonconformities or shortages existed at the time the Goods were delivered or received by you.

12.2 If notice is given by you in accordance with subsection 12.1 above, the Goods may, upon receipt of written permission from Lenmak and at your sole cost and expense, be returned to Lenmak for inspection. Goods returned without Lenmak's written permission or not received by Lenmak within ten (10) days from the date of the written notice given to Lenmak in accordance with subsection 12.1 will not be accepted. Lenmak reserves the right to require prepaid return of the Goods.

12.3 Notwithstanding subsection 12.2 above, Lenmak may, in its sole and unfettered discretion send or employ an inspector to inspect the alleged nonconforming Goods or shortage.

12.4 In the event that Lenmak, in its sole and unfettered discretion, determines that the Goods do not meet the Specifications (except where attributable to misuse, damage during shipment, accident or repair or modification made by a person other than the Lenmak) Lenmak will at its sole and unfettered discretion, either repair or replace the Goods, or refund the Purchase Price paid for the Goods.

Lenmak's liability shall in no event exceed the Purchase Price of the Goods with respect to which a claim is made by you pursuant to section 12.

12.5 Lenmak shall not be responsible for retrieving or removing nonconforming items or any part thereof or for installing the same when repaired or replaced or for any costs incurred in connection with such retrieval, removal or installation.

12.6 Goods shipped in excess of specified quantities may be returned to Lenmak at Lenmak's sole cost and expense.

13. Limitations on Liability

Subject to sections 10 and 14, Lenmak shall have no liability to you for any claims, losses, liabilities, damages or expenses which you may incur howsoever arising (whether in contract, negligence, actual or imputed, strict liability, absolute liability, tort or otherwise) for any loss or damage arising out of, connected with, or resulting from the Contract or the performance or breach thereof by Lenmak, or from the design, manufacture, sale, delivery, repair, replacement, installation, inspection, operation or use of any Goods covered by or furnished under the Contract or arising out of the performance of the Contract, or for any economic, consequential, indirect, incidental or special damages or loss, or loss of profits or interruption to business incurred by you. This section shall survive the expiration, completion or termination of the Contract.

14. Maximum Liability

If Lenmak is liable to you on any grounds whatsoever (including without prejudice to the foregoing generality breach of contract, breach of statutory duty, negligence or otherwise) under the Contract or arising out of the performance of the Contract or breach thereof by Lenmak, or the sale of the Goods to you, the liability of Lenmak to you shall not under any circumstances exceed the Purchase Price of such Goods. This section shall not apply to any liability in respect of which Lenmak may not by law exclude or limit its liability. This section shall survive the expiration, completion or termination of the Contract.

15. Force Majeure

15.1 For the purposes of this Contract, "Force Majeure" shall mean an act or event that is not within the reasonable control of and is without the fault of Lenmak including, without limitation, acts of God, acts of the public enemy, insurrections, terrorism, riots, labour disputes, strikes, lock-outs, fires, explosions, floods, delays in transportation, shortage of labour or shortage of necessary materials, breakdowns of or damage to major components or equipment of Lenmak, embargoes, acts of judicial or military authorities, acts of governmental authorities, or any other cause which prevents the manufacture or processing of Goods by Lenmak, or the shipping and/or loading of Goods by any carrier.

15.2 Lenmak shall not be liable for any delay, interruption or failure in the performance of its obligations under this Contract if that delay, interruption or failure results from Force Majeure. In the event that a delay, interruption or failure occurs or is likely to occur, Lenmak shall promptly notify you by written or electronic mail, and shall also within ten (10) days thereafter notify you in writing of particulars of the relevant event and supply, if possible, supporting evidence. Lenmak shall use good faith efforts to eliminate such Force Majeure, insofar as is commercially reasonable, and to resume its performance with the least possible delay in compliance with its obligations under this Contract.

16. Assignment

The Contract shall not be assignable by either party without the other party's prior written consent.

17. Severability

Any term, condition or provision hereof which is deemed to be void, prohibited or unenforceable shall be severable herefrom without in any way invalidating the remaining terms, conditions and provisions hereof.

18. Arbitration

Any disputes arising under the Contract that cannot be settled amicably shall be referred to and determined by a single arbitrator chosen by agreement between the parties or failing such agreement, either party shall be entitled to apply to a Justice of the Court of Queen's Bench of Alberta to have him or her appoint an arbitrator. Except as herein modified, the provisions of the Arbitration Act of Alberta for the time being in force shall apply to all arbitration proceedings and such arbitration shall take place in Edmonton, Alberta.

19. Governing Law

The Contract shall be governed by the laws of the Province of Alberta, and subject to section 18, each party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of the Province of Alberta and all courts competent to hear appeals therefrom.

20. Entire Agreement

The Contract constitutes the entire agreement between you and Lenmak with respect to the purchase and sale of the Goods, and supersedes all proposals, quotations, offers to sell, negotiations and counter-proposals, whether oral, electronic or written, in whatever form.

21. Enurement

The Contract shall enure to the benefit of and be binding upon you and Lenmak together with each of their respective heirs, executors, legal representatives, successors and permitted assigns, as applicable.

22. Non-Waiver

Neither the granting of any time or other indulgence to any party nor the failure of any party to insist upon the strict performance of any covenant, term, or condition of the Contract or to enforce its rights under the Contract shall be construed as a waiver of its rights or remedies under the Contract and its rights and remedies under the Contract shall continue in full force and effect.

23. Modifications

No change or modification to the Contract shall be valid unless it shall be in writing and signed by you and Lenmak.

24. Time

Time shall be of the essence.

25. Notices

Any notice required or permitted to be given under the Contract shall be sufficiently given to the party to whom it is addressed if delivered to the party (or if such party is a corporation, to an officer of that corporation), or, if forwarded by registered mail, return receipt requested, or, if sent by facsimile transmission as follows:

To Lenmak Exterior Innovations Inc. at:
10404-176 Street,
Edmonton, Alberta
T5S 1L3
Fax: 780-451-0865
Attention: President

To you:

At the address, fax number and/or email address set forth in the Sales Order.