

## **Buyer's Agreement**

### **1.1 General**

- (a) This Agreement sets forth the terms and conditions that govern the relationship between Bolongo Surplus Ltd. ("**Bolongo**") and Members of the Website with respect to process, terms and conditions under which Members may bid, offer to purchase or otherwise participate as a potential buyer (a "**Buyer**") in transactions on Bolongo's Website for the purchase of inventory, property or other materials ("**Materials**").
- (b) If Buyers wish to access or use the Website to bid on or offer to purchase any Materials through the Website (the "**Services**"), Buyers must accept the terms and conditions of this Agreement.
- (c) By registering and/or using the Services of the Website, Buyers agree to be bound by all of the terms and conditions of this Buyer's Agreement and all policies and agreements guidelines incorporated by reference herein.

### **1.2 Registration**

To register, Buyers must:

- (a) provide Bolongo with the Buyer's full legal name, address, phone number, e-mail address, along with other information that may be required by Bolongo from time to time (providing inaccurate registration information constitutes a breach of this Agreement and the Terms of Use); and
- (b) pay the Membership Fee as required by Bolongo from time to time.

### **1.3 Capacity to Enter Contract**

Use of the Bolongo transaction portion of the Website and the Services is limited to Buyers, including individual representatives on behalf of Buyers, that lawfully can enter into and form contracts under applicable law. Every Buyer who uses the Services hereby represents and warrants to Bolongo that they can enter into and form binding contracts.

## **2. PURCHASE PRICE**

### **2.1 Buyer to Pay Purchase Price**

- (a) The Buyer shall pay the Purchase Price to Bolongo.
- (b) Payment of the Purchase Price must be made by 4:30 p.m. on or before the 15th day following the completion of the transaction by:
  - (i) bank wire direct to Bolongo's account;
  - (ii) certified cheque or bank draft;
  - (iii) a personal or corporate cheque.

### **2.2 Collection Rights**

Bolongo reserves the right to collect on accounts due by various means including but not limited to the use of collection agencies, legal counsel, and direct charge to payment methods that are on file. Buyers will be responsible for all costs of collection (including solicitor-client costs) in the event Buyers fail to pay any amounts due to Bolongo hereunder.

## **3. TAXES**

### **3.1 Buyer's Responsibility for Taxes**

- (a) It is the Buyer's responsibility to pay any sales or use taxes apply to any purchase transactions conducted by Buyers through the Website.
- (b) Bolongo is not obligated to determine whether sales or use taxes apply and is not responsible to collect, remit, pay or report any sales or use taxes arising from any such sale transaction.

## **4. COMPLETION OF TRANSACTIONS**

### **4.1 Title Transfer**

Bolongo will make reasonable efforts to transfer title of the Materials to the Buyer upon payment of the Purchase Price in full to Bolongo.

## 4.2 Risk

- (a) The purchased Materials shall be at the Seller's risk in all respects until title has been transferred to the Buyer pursuant to Section 4.1 (*Title Transfer*), after which the Materials will be at the Buyer's risk. The Buyer may arrange insurance coverage for the Materials through Bolongo.
- (b) Neither Bolongo nor its employees nor its agents shall be liable for any loss or damage of any kind to the Materials, whether caused by negligence or otherwise.

## 4.3 Non-Payment

If the Buyer fails to pay for any Materials by 4:30 p.m. on the 15th day following the closing of the transaction, Bolongo may in its absolute discretion be entitled to one or more of the following remedies without providing further notice to the Buyer and without prejudice to any other rights or remedies that Bolongo may have:

- (a) issue judicial proceedings against the Buyer for damages for breach of contract together with the costs of such proceedings on a full indemnity basis;
- (b) rescind the sale of that or any other Materials sold to the Buyer;
- (c) resell the Materials or cause the Materials to be resold, with any deficiency to be claimed from the Buyer and any surplus, after expenses, to be delivered to the Buyer;
- (d) release the Materials to the Buyer only after payment of the Purchase Price and expenses to Bolongo;
- (e) charge interest on the Purchase Price at the rate of 1.5% per month (18% *per annum*);
- (f) apply any Purchase Price of any Materials then due or at any time thereafter becoming due to the Buyer towards settlement of the Purchase Price, and Bolongo shall be entitled to a lien on any other Materials of the Buyer which are in Bolongo's possession for any purpose;
- (g) apply any payments made by the Buyer to Bolongo towards any sums owing from the Buyer to Bolongo without regard to any directions received from the Buyer or his agent, whether express or implied; and

- (h) In the absolute discretion of Bolongo, to refuse or revoke the Buyer's registration in any future transactions held on Bolongo's Website.

#### **4.4 Seller Fails to Complete**

- (a) In the event a Seller is unable or otherwise fails to complete the transaction with a Buyer that was selected by the Seller as the successful bidder, Buyers should contact Bolongo to obtain a refund with respect to the Purchase Price paid by Buyers with respect to such transaction.
- (b) Any request for a refund of the Purchase Price must be made within 60 days of the conclusion of the applicable transaction.

### **5. DESCRIPTIONS OF MATERIALS**

#### **5.1 Information about Materials**

- (a) With the assistance of the Seller, Bolongo will post Materials for sale on the Website. All Materials are listed as accurately as possible based on information provided by the Seller; however, all descriptions and representations of items on the Website are subject to change.
- (b) Information provided by Bolongo on the Website is given for guidance only and the absence of information does not imply that Materials are free from defects, nor does any reference to particular defects imply the absence of others.

#### **5.2 Buyer's Responsibility to Inspect Materials**

- (a) The Buyer must satisfy themselves as to all matters with respect to the Materials by inspection, other investigation or otherwise prior to the sale of the Materials.
- (b) If the Buyer is unable to personally view any Materials, Bolongo may, upon request, e-mail or fax a condition report describing the Materials to the Buyer.
- (c) The Buyer accepts the Materials with any faults or defects. The Buyer in no way holds Bolongo responsible for any defects, inaccuracies or errors in any way with respect to the Materials, and releases Bolongo from any claims in respect of alleged defects, inaccuracies or errors with respect to such Materials.

### 5.3 **Proper Handling of Materials**

In some cases, Materials sold on the Website may contain hazardous substances or materials – it is solely the obligation of the Buyer to make appropriate arrangements for handling such Materials.

### 5.4 **Materials Sold “As Is Where Is”**

All Materials sold on the Website are sold ‘AS IS, WHERE IS, WITH ALL FAULTS’ without warranty or guarantee, either written, stated or implied.

### 5.5 **Arrangements for Removal of Materials**

- (a) The Buyer shall be responsible to make all arrangements to remove, or cause to be removed, the Materials from its sale location.
- (b) For the avoidance of doubt, the Buyer shall remain obligated under and subject to this Buyer’s Agreement even if the Buyer transfers the Materials to another party prior to receipt of the Materials.
- (c) The Buyer acknowledges and agrees that the Seller’s or any yards holding Materials for pick up may require the Buyer to possess insurance and proof of such insurance prior to collecting the Materials. It is the Buyer’s sole responsibility to obtain and provide proof of such insurance requirements, whether such insurance requirements are detailed along with the Materials posted on the Website or not.
- (d) The Buyer is solely responsible for all freight, transportation, shipping and other costs and any required documentation related to transporting the Materials from the posted location, including but not limited to any costs associated with certificates and/or permits required to move the Materials within or across provincial, state and/or country borders.
- (e) Subject to Section 5.5(f) below, the Buyer may arrange transportation of Materials on the Website through a third party, but Bolongo will not be liable for any acts or omissions arising from such third party transportation and claims no responsibility for the actions of any transportation provider.

- (f) The Buyer may not transport the Materials until full payment of the Purchase Price (including any applicable sales tax and all transaction fees) and all required documentation have been received by and posted to a secure payment account designated by Bolongo.
- (g) The Buyer is solely responsible for determining the logistics and paying the costs of storage, inspection, shipping/pick up of purchased Materials or other services relating to the acquisition and removal of the purchased Materials.

## **6. INDEMNITY**

The Buyer shall indemnify and hold harmless Bolongo, its employees and agents against:

- (a) all claims made or proceedings brought by persons entitled or purporting to be entitled to the Materials;
- (b) all claims made or proceedings brought due to any default of the Buyer in complying with any applicable legislation;
- (c) all expenses or any other loss or damage whatsoever made, incurred or suffered by Bolongo as a result of any breach by the Buyer; and
- (d) all claims whatsoever by any third party which may be brought or made against Bolongo or which Bolongo may suffer, sustain, pay or incur as a result of and to the extent of the acts, faults, errors, omissions or negligence of the Buyer.

## **7. MISCELLANEOUS**

### **7.1 Severability**

If any provision of this Agreement or the application thereof to any circumstances shall be held to be invalid or unenforceable, the remaining provisions of this Agreement, or the application thereof to other circumstances, shall not be affected thereby and shall be held valid to the full extent permitted by law.

### **7.2 Governing Law**

This Buyer's Agreement shall be governed in all respects by the laws of Alberta.