

1. TRANSACTION TERMS

1.1 General

- (a) These Transaction Terms represent the terms upon which Bolongo Surplus Ltd. (“**Bolongo**”) contracts with the Seller and Buyer, acting in its capacity as agent on behalf of the Seller and Buyer for the purchase and sale of Materials listed for sale on Bolongo’s Website.
- (b) These Transaction Terms are hereby incorporated into and form part of the:
 - (i) Terms of Use;
 - (ii) Privacy Policy
 - (iii) Buyer’s Agreement; and
 - (iv) Seller’s Agreement.

1.2 Use of the Bolongo Marketplace

- (a) If Members are acting as a Buyer, the “Buyer’s Agreement” is applicable, which is incorporated here by reference. Click here to go to the “Buyer’s Agreement.”
- (b) If Members are acting a Seller, the “Seller’s Agreement” is applicable, which is incorporated here by reference. Click here to go to the “Seller’s Agreement”.

1.3 Acknowledgement re: Use of Information

- (a) Except as authorized herein and unless otherwise authorized or consented, Members agree not to use any information regarding other participants which is accessible from the Website or disclosed through the Website except to enter into and complete transactions with respect to the purchase and sale of Materials.
- (b) Members agree not to use any such information for purposes of solicitation, advertising, unsolicited e-mail or spamming, harassment, invasion of privacy, otherwise objectionable conduct or otherwise inconsistent with our Member’s Terms of Use and/or Privacy Policy.

1.4 **Acknowledgment re: Use of Website**

The Website and its Services only may be used for lawful purposes and in a lawful manner. Members agree to comply with all applicable laws, statutes and regulations regarding use of the Website and its Services, including in regard to bidding, and purchasing items.

2. **INTERPRETATION**

- (a) All words importing the singular number shall include the plural and vice versa, and words importing the use of any gender shall include the masculine, feminine and neuter genders and the word “person” shall include an individual, a trust, a partnership, a body corporate, an association or other incorporated or unincorporated organization or entity.
- (b) Unless otherwise provided for herein, all monetary amounts referred to herein shall refer to the lawful money of Canada.

3. **PRIVATE SALES**

In a private sale, Members may:

- (a) agree to purchase the Materials at the stated purchase price, which price may be referred to as the “Buy Now” or “Buy Today” price or something similar; or
- (b) offer to purchase the Materials by making a binding offer for the Materials through the “Make Offer” option, which offer may be accepted and become binding on the Buyer within 30 days of being made by a Buyer at the Seller’s election.

4. **BIDDING RULES**

Buyers may bid on or offer to purchase Materials, and Sellers may offer Materials for sale, on the Website during the term of this Agreement, subject to the following terms and conditions:

4.1 **Registration**

- (a) Every Buyer and Seller shall fully complete the registration process provide the required information to Bolongo, and pay the required membership fee to

Bolongo.

- (b) Every Buyer and Seller will be assigned a unique User ID and/or identification number for the purpose of bidding on Materials offered for sale.
- (c) Buyers and Sellers agree not to use corporate/trade names (unless expressly authorized by the appropriate authority), and/or misleading or inappropriate aliases for their screen name.

4.2 Parties Shall Not Act as Agents

Every Buyer and Seller shall be deemed to act as principal unless Bolongo has acknowledged in writing that the such party is acting as an agent on behalf of a disclosed principal and such agency relationship is acceptable to Bolongo.

4.3 Parties Bound by Terms of Listing

Members are responsible to read and understand, and will be bound by, all terms of sale described in these Transaction Terms and the listing with respect to Materials including, but not limited to, method of payment, application of sales tax, and shipping and handling fees for Materials.

4.4 Bolongo's Authority to Execute Bids

At the request of the Buyer, Bolongo may execute bids on behalf of that Buyer, and such Buyer hereby agrees that neither Bolongo nor its employees nor agents shall be liable to either the Buyer or the Seller for any neglect or default in Bolongo making such bid.

4.5 No Manipulation of Bidding Process or Price

Buyers are prohibited from:

- (a) using a shell (a secondary account or third party); or
- (b) by bidding against themselves or by any other means of placing bids or causing bids to be placed on any item of Materials for the purpose of artificially increasing or otherwise manipulating the bidding process on the Website or the bid price of any item of Materials listed on the Website.

4.6 **Acceptance of Bids**

A transaction on the Website is complete once a bid placed by a Buyer is accepted by the Seller.

4.7 **Legal Obligation of Purchase and Sale**

- (a) Members understand and agree that a bid accepted by the Seller is a legal obligation of purchase and sale with respect to the Materials listed on the Website and Members agree to honour such transactions.
- (b) Bids are not retractable except under circumstances deemed appropriate by Bolongo in its sole discretion.

4.8 **Bids are Exclusive of Costs and Fees**

All bids are exclusive of the Seller's Fees and all other applicable taxes, customs duties and registration fees, shipping, rigging, or other preparation and transportation costs, insurance and other, transaction fees, and any other fees, all of which shall be the sole and complete responsibility of the parties involved in a given transaction unless otherwise agreed.

4.9 **Regulation of Bidding**

Bolongo shall have the right to regulate and control the bidding and to advance the bids in whatever intervals they consider appropriate for the Materials in question.

4.10 **Bolongo's Right to Re-Open Bidding**

Bolongo has the right, in their sole discretion, to reopen bidding with respect to Materials if prospective Buyers have inadvertently missed a bid, or if a Buyer, immediately at the close of a transaction, notifies the Bolongo of their intent to bid.

4.11 **Responsibility for Status of Materials**

- (a) Each Seller is responsible for:
 - (i) keeping up to date the status of all Materials posted by them on the Website, including, but not limited to, all information related to such Materials' location, volume, condition, status, availability, and the like; and

- (ii) notifying Bolongo of any changes with respect to the information related to the Materials posted on the Website by the Seller.
- (b) Upon being notified by the Seller of any changes with respect the information related to the Materials posted on the Website by the Seller, Bolongo will post such changes on the Website as soon as reasonably practicable.
- (c) Each Buyer is solely responsible for checking the Website or taking such other actions as are appropriate to learn of changes to the information about Materials posted by the Seller.

4.12 **Typographical Errors**

In the event Materials are listed at an incorrect price due to typographical error or error in pricing information received from a Seller, Bolongo shall have the right to refuse or cancel any bids placed for such Materials listed at the incorrect price.

5. **MATERIALS**

5.1 **Bolongo's Discretion**

Bolongo shall have absolute discretion as to whether Materials are suitable for sale, the manner in which the transaction is conducted, the descriptions of the Materials, and any other matters related to the purchase and sale of the Materials on the Website.

5.2 **Bolongo's Right to Withdraw Materials**

- (a) **Prior to Transaction.** Bolongo reserves the right to withdraw any Materials at any time prior to the transaction if, in the sole discretion of Bolongo:
 - (i) there is doubt as to the accuracy of any of the Seller's representations or warranties under the Seller's Agreement;
 - (ii) the Seller has breached or is about to breach any provisions of the Seller's Agreement; or
 - (iii) any other just cause exists.
- (b) **Transactions in Progress.** Bolongo may, in its sole discretion, remove any Materials or cancel any transaction in progress if Bolongo determines that such Materials has been posted on the Website in violation of this Agreement or any of

Bolongo's policies and guidelines.

- (c) Bolongo may, in its sole discretion, declare an online transaction or private sale void and re-open bidding with respect to Materials if, for any reason, Bolongo deems a completed online transaction or private sale invalid, including without limitation, where any of the following events have occurred:
 - (i) a material change in the Materials;
 - (ii) technical issues that Bolongo determines has affected a significant number of Buyers;
 - (iii) Bolongo identifies a non-legitimate bidder as a participant in the online transaction or private sale; or
 - (iv) a mistake or error occurs on the part of Bolongo in connection with the posting or terms for any Materials.
- (d) In addition, Bolongo reserves the right to remove Materials from an online transaction or private sale at any time for any reason, including after bids have already been placed or accepted, without any liability for Bolongo whatsoever.
- (e) In the event of a removal of Materials or cancellation of a transaction, Bolongo will not have any liability to any party with respect to the removal of such Materials on the Website or the cancellation of the transaction.

5.3 Bolongo Must Consent to Withdrawn Materials

The Seller may not withdraw Materials from a transaction prior to the completion of such transaction without the written consent of Bolongo.

5.4 Reference to Aggregate Purchase Price

For advertising and promotional purposes, the Seller acknowledges and agrees that Bolongo may, in relation to any sale of Materials, make reference to the aggregate Purchase Price of the Materials, inclusive of any other applicable fees.

5.5 Ownership of Intellectual Materials

The copyright for all illustrations and written matter relating to the Materials shall be and will remain at all times the absolute property of Bolongo and shall not, without the prior

written consent of Bolongo, be used by any other person.

6. PAYMENT OF PURCHASE PRICE

6.1 Payments to Buyers and Sellers

- (a) Buyers agree to pay the applicable Purchase Price pursuant to the Buyer's Agreement with respect to any Materials for which they are the winning bidder.
- (b) Sellers agree to pay the applicable Seller's Fees to Bolongo pursuant to the Seller's Agreement.
- (c) Bolongo will pay to the Seller the Purchase Price, less the Seller's Fees and any other amounts due to Bolongo under the terms of the Seller's Agreement.

6.2 Invoices

The parties acknowledge that invoices generated during the sale or shortly after may not be error free, and therefore are subject to review by Bolongo.

6.3 Responsibility for Taxes

- (a) It is each Member's responsibility to determine whether sales or use taxes apply to any purchase or sale transactions conducted through the Website and to collect, report and remit the correct tax to the appropriate tax authority.
- (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.

7. COMPLETION OF TRANSACTIONS

7.1 Agreement to Complete Transaction on Website

Members agree not to identify and/or engage in negotiations with another Member on our Website and then agree on the rules for the same transaction off Bolongo's Website or otherwise do anything to circumvent the payment of all fees owing to Bolongo.

- (a) Bolongo will notify the successful Buyer and issue a summary statement of the Materials purchased by the Buyer and a summary statement of the Materials sold by the Seller.

- (b) Bolongo's invoice may include, without limitation, any or all of the following fees: the purchase price of the Materials, applicable taxes, Seller's Fees and any other fees as outlined on each Materials and on the invoice.
- (c) Unless otherwise agreed by Bolongo, the Buyer is obligated upon the close of the transaction and receipt of the invoice and purchase order to pay the Purchase Price for the Materials in full to Bolongo, as the disbursing party for the transaction as soon as is practicable after the close of the transaction, but no later than 15 calendar days of the close of the transaction.
- (d) The Seller is obligated upon the close of the transaction and receipt of the invoice and purchase order to pay the Seller's Fees and to assist Bolongo in effecting the transfer of title to the Materials to the Buyer upon receipt of the Purchase Price from Bolongo.

7.2 General Assistance By Bolongo

- (a) Upon request by the Buyer and/or Seller, Bolongo shall be free to provide any assistance it deems necessary to facilitate transactions on the Website.
- (b) All costs and expenses (including, without limitation, the fees and disbursements of legal counsel if necessary) incurred by Bolongo in providing assistance to any party in connection with the transactions on the Website shall be paid by the party requesting such assistance.

8. USE OF WEBSITE

8.1 No Use By Unauthorized Persons

- (a) Members will not to allow other persons or entities to post items on the Website using their membership name.
- (b) Unauthorized use of passwords or user accounts is also prohibited.
- (c) Members agree not to share account information with third parties.
- (d) Bolongo will not be held liable for any activity resulting from compromised account information.

9. LIMITATION OF LIABILITY

9.1 No Representations With Respect to Completion of Transactions

Bolongo has no control over and does not guarantee the quality, safety or legality of Materials offered for sale through the Website, the truth or accuracy of listings, the ability of Sellers to sell Materials, the ability of Buyers to pay for Materials, or that a Buyer or Seller will actually complete a transaction.

9.2 Disclaimer and Limitation of Liability as to Materials Sold on the Website

- (a) Except as expressly stated in these Transaction Terms:
 - (i) Bolongo makes no representations or warranties, either express or implied of any kind with respect to Materials sold on the Website;
 - (ii) Bolongo disclaims all warranties and conditions, express or implied, of any kind with respect to anything sold on the Website, including merchantability and fitness for a particular purpose.
- (b) In no event shall Bolongo, its directors, officers employees and representatives be liable for special, indirect, consequential or punitive damages related to anything sold on the Website.

9.3 Parties to Indemnify Bolongo

The Buyer and Seller 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 or Seller 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 or Seller; 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 or

Seller.

9.4 Notice of Claim

- (a) If an Buyer or Seller becomes aware of a loss or potential loss in respect of which it has agreed to indemnify Bolongo under this Agreement, party will give written notice of the claim or potential claim for indemnification (an “**Indemnity Claim**”) to Bolongo within 10 business days of becoming aware of such Indemnity Claim.
- (b) The notice to Bolongo must specify whether the Indemnity Claim arises as the result of a claim made against the Buyer or Seller by a person who is not a party to the transaction or as a result of a loss that was suffered directly between the Buyer and Seller. The notice must also specify with reasonable particularity (to the extent that the information is available):
 - (i) the factual basis for the Indemnity Claim; and
 - (ii) the amount of the Indemnity Claim, if known.
- (c) The Buyer or Seller involved in an Indemnity Claim:
 - (i) will cooperate fully in the defence of such claim by Bolongo, and shall permit Bolongo, or its insurer, to defend any Indemnity Claim; and
 - (ii) will not compromise or settle any Indemnity Claim without the prior written consent of Bolongo.
- (d) Bolongo’s failure to perform any of its obligation under this Section 9 (*Limitation of Liability*) shall not relieve the Buyer or Seller of any of their obligations under these Transaction Terms or any other agreement incorporated herein.

10. DISPUTE RESOLUTION

10.1 Parties to Settle Disputes Directly

- (a) It is Bolongo’s policy to allow Sellers and Buyers the opportunity to settle differences directly. However, Bolongo may assist the parties to resolve any dispute or complaints with respect to Materials offered for sale through the Website.

- (b) Buyers and Sellers agree to cooperate with any investigation that Bolongo may conduct in response to a claim, and to provide Bolongo with any documentation in their possession or control with respect to any dispute.
- (c) All costs and expenses (including, without limitation, the fees and disbursements of legal counsel if necessary) incurred by Bolongo to assist the parties shall be paid by the party requesting such assistance.

10.2 Release of Bolongo

If a dispute arises between one or more participants, Buyers and Sellers shall each release Bolongo from all claims, demands and damages (direct and indirect) or every kind and nature, known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or in any way connected to such disputes.

11. TERMINATION

11.1 Termination

- (a) Bolongo reserves the right, in its sole discretion, to terminate this Agreement or to suspend use of the Website and/or Service to any Buyer or Seller at any time and for any reason without notice or explanation. The foregoing shall be in addition to any other rights or remedies in the event Members breach this Agreement or the documents it incorporates by reference or if Bolongo believes that such actions may cause legal liability for Bolongo or any Website users.
- (b) Notification of any termination or suspension will be emailed at the address provided in a Member's account settings.

12. MISCELLANEOUS

12.1 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.

12.2 **Governing Law**

These Transaction Terms shall be governed in all respects by the laws of Alberta.