

## GENERAL TERMS AND CONDITIONS FOR PURCHASE OF GOODS AND SERVICES

These General Terms and Conditions for Purchase of Goods & Services, together with the [Contractor Safety & Environmental Rules](#), any Owner specifications for equipment and materials handled, and applicable Viterra Order Form(s) and Purchase Orders, which are incorporated into these General Terms and Conditions for Purchase of Goods & Services, constitute the entire agreement between the Parties, with respect to the subject matter of the agreement., the "**Agreement**"). This Agreement is between Viterra USA Ag Holdings, LLC, the ("**Owner**") and the contractor or supplier name specified on the ordering document/order form supplied by Owner ("**Contractor**"), (each a "**Party**" and collectively, the "**Parties**"), and supersedes all prior or contemporaneous oral or written agreements between the Parties with respect to the subject matter of this Agreement (except where the parties have executed a separate written agreement that governs this transaction, in which case the terms and conditions of that written agreement shall apply in the event of inconsistency between the terms of these General Terms and Conditions for Purchase of Goods and Services and that written agreement). No inconsistent terms, provisions, or conditions of any Contractor-issued purchase order, quote or terms and conditions will have any effect on the obligations of the Parties under or otherwise modify this Agreement.

1. **The Work:** From time to time, Owner and Contractor may execute an "**Order Form**," that generally defines the products and services to be provided by Contractor to Owner (the "**Work**"), time frame during which the Work must be completed ("**Performance Period**") and quoted rate and/or maximum cost for such Work ("**Price**").

This Agreement provides for Work provided directly by Contractor to Owner and/or Affiliates (*defined below*).

Contractor shall comply with applicable Federal, State, and local laws and regulations, for its performance of the Work. Unless specifically provided in the Order Form, Contractor must furnish and maintain all required permits and licenses related to the Work. Additionally, Contractor must furnish its own labor and materials, competent supervision, tools, and equipment necessary for such Work.

Time is of the essence of the contract and the Work must be completed within the Performance Period and on the Schedule set forth in the Order Form, unless the Agreement extended in accordance with Section 10 (Force Majeure) below.

Where Contractor creates or obtains technical information necessary to complete the Work (e.g. drawings, manuals, and know-how), Contractor shall ensure that Owner has an irrevocable, unqualified, and perpetual right to use such technical information without additional charge.

2. **Affiliates:** Owner enters into this Agreement on its own behalf and for the benefit of all its affiliates and subsidiaries. The term "**Affiliate**" means any entity controlled by Owner or under common control with Owner. All references in this Agreement to Owner refer equally to each Affiliate for whom Contractor performs Work during the term of this Agreement, unless the context requires otherwise. Only the Affiliate for whom Contractor performs Work under an Order Form will have any obligation to Contractor for such Work.
3. **Payment:** Contractor shall send Owner invoices at least monthly based upon the work completed. Each invoice will denote that Sales Tax is included. Undisputed payments thereon shall be made in thirty (30) days from the date of Contractor's invoice. No work shall be performed in excess of the Price under a particular Order Form and Contractor shall not be entitled to receive compensation beyond the Price for extra work (whether labor, services or materials) or changes of any kind. If additional work is required, which is not reasonably anticipated within the scope of the Work under an Order Form, Contractor and Owner may mutually agree upon an additional Order Form.

4. **Work Coordination:** Where the Work is to be performed at Owner's Work Site, identified on the Order Form, Contractor shall:
- a. promptly provide Owner with such reasonable information as it may request, including information regarding scheduling the work during the Performance Period;
  - b. cooperate with Owner, keep the premises reasonably clean of any debris resulting from the performance of Work, and avoid interruption of Owner operations; and
  - c. be solely responsible for all means, methods, techniques, sequences and procedures and for coordinating all portions of the Work.
5. **Safety and Compliance:** Contractor agrees that, for all work at Owner's Work Site:
- a. Contractor, its employees and agents shall be informed of and comply with all rules which may be in effect at the Work Site including, but not limited to the [Owner's Contractor Safety & Environmental Rules](#), which are incorporated by reference;
  - b. if Contractor or any of Contractor's employees or agents elect to wear a respirator, then such employee or agent shall complete a document substantially similar to the [Non-Mandatory Respirator Use](#) for Owner;
  - c. Contractor will ensure that qualified individuals perform the Work and complete a Contractor Training Verification Form, as requested by Owner, so that Owner is informed of the qualifications and limitations on Work for Contractor's employees or agents. If Contractor's employee or agent has not completed one of the categories of training specified on the Contractor Training Verification Form, Owner will not consider them qualified for that category of work and such employee or agent shall not perform that category of Work at the Work Site.

Owner's Work Site rules are the minimum requirements for Contractors performing Work at Owners Work Site. Contractor shall take any additional precaution necessary or proper under the circumstances to prevent injury or death of persons or damage to property. Contractor shall immediately notify Owner of any damages to property and/or injury to or death of persons which occur in connection with or is in any way related to the Work at Owner's Work Site. Contractor shall promptly furnish Owner with a written report of any damages or injuries within three (3) days of occurrence.

Contractor may not subcontract any portion of the Work without identification of any/each subcontractor and prior written agreement of Owner. Owner reserves the right to refuse the use of a specified subcontractor or person, and Contractor expressly agrees to comply with any such Owner request. Contractor will ensure, and expressly warrants, that Contractor and its all of its subcontractors and personnel hold a valid work permit and are properly trained and qualified. Contractor also warrants and represents that it, and any subcontractors, do not have any adverse judgment or pending lawsuit for wage taxes and social security contributions, all which are regularly paid and contributed to in accordance with applicable law.

6. **Warranty:** Contractor warrants that for one (1) year, or such longer period as provided by law that:
- a. the Work complies with the requirements of this Agreement and any legal requirements applicable in the place of production and delivery of the Work;
  - b. the Work will be free from faults in workmanship, construction, production and materials and to the extent involving products, such products are fit for their intended purpose and/or for the purpose and use intended by Owner;
  - c. conform to all specifications, drawings, samples, descriptions and Owner specifications provided by or approved by Owner's authorized representative in writing;
  - d. the Work will be executed promptly, in a professional manner, with highest professional standards and due skill and care; and
  - e. the Work is free of and does not violate any third-party rights, including industrial and intellectual property rights.

Upon Owner request, Contractor shall allow Owner (or Owner's third-party agent) to fully inspect any products included in the Work prior to delivery. Inspection prior to delivery does not amount to acceptance and does not deprive or diminish any of Owner's rights or claims with respect to any faults or defects discovered after delivery.

Any faults or defects relating to the Work must be remedied by the Contractor as soon as possible, however not later than within ten (10) working days following notification by Owner. At its sole discretion, Owner may require the provision of temporary or emergency services, and/or the delivery of replacement goods instead of repair. All costs arising in connection with remedying faults or defects are Contractor's sole responsibility, except where the Contractor proves that such faults or defects were solely due to Owner's willful misconduct or gross negligence.

Such warranty shall survive acceptance and payment and shall not be deemed to be exclusive. Any manufacturer's warranties received by Contractor which are applicable to any items furnished by Contractor as a part of the Work shall survive acceptance and payment and shall run to Owner, its successors, and assigns, and shall not be deemed to be exclusive. Contractor shall obtain any warranties that vendors would give in normal commercial practice. Contractor shall cooperate with Owner in the enforcement of any third-party warranty. At Owner's option, Contractor shall promptly, upon receipt of Owner's written notice, either repair or replace, at no cost to Owner, defective or non-conforming items or Work.

7. **Indemnity:** Contractor shall indemnify, defend, and hold harmless the Owner, its employees, officers, affiliates and successors against:
  - a. any mechanic's liens and supplier's liens resulting from Contractor's performance of the Work; and
  - b. all claims, suits, actions and proceedings arising out of the performance of the Work for any loss, damage, or expense (including reasonable attorney's fees) based upon:
    - i. any alleged injury or death to any person(s) or damage to property, to the extent not caused by the willful misconduct or negligent acts or omissions of Owner;
    - ii. breach of any obligation, representation or warranty of Contractor under this Agreement; and
    - iii. actual or alleged infringement of any Canadian, United States copyrights or patents resulting from the sale or use of any item delivered, used, or designated for use hereunder.
8. **Insurance:** The Contractor shall at their own expense secure and maintain for the duration of the project (including all warranty periods) Such limits include the following (unless a higher limit is required by law).
  - a. Commercial General Liability, including blanket contractual liability coverage:
    - i. against claims for bodily injury, death, and property damage
    - ii. affording single limit protection of one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) aggregate
  - b. Workers Compensation Insurance, in accordance with the statutory requirement of the state where the Work Site is located.
  - c. Employers Liability Insurance affording coverage of one million dollars (\$1,000,000) each accident
  - d. Commercial Automobile Liability (for all vehicles licensed for road use) affording bodily injury and property damage of two million dollars (\$2,000,000) each occurrence.
  - e. Builder's Risk Insurance to be furnished by Contractor, which shall include Owner as a named insured.

Owner shall be named as an Additional Insured with a Waiver of Subrogation on each of the foregoing policies (except worker's compensation) to the extent of Contractor's contractual indemnification obligations hereunder. In the event of any cancellation, non-renewal, or modification of Contractor's required insurance to limits below the levels provided for in this Agreement, Contractor shall provide Owner 30 days advance written notice. For workers compensation coverage, the Contractor and Contractor's

insurance company must agree to waive all subrogation rights, but such waiver shall only apply to the extent permitted by law and to the extent of Contractor's contractual indemnification obligations hereunder. Any insurance coverage limits above one million dollars (\$1,000,000) may be provided in the form an umbrella liability insurance policy.

The Contractor shall forward Certificates of Insurance evidencing all required coverages to the Owner prior to the commencement of services under this Contract. The statement of limits of insurance coverage shall not be in any way limiting the Contractor's liability under this Agreement.

9. **Work Site Investigation:** To the extent that the Work involves improvement, maintenance, or repair of Owner's Work Site and/or associated equipment or facilities, Contractor acknowledges that it: has visited Owner Work Site; has made sufficient investigation and reviewed sufficient documents to apprise itself of the reasonably discoverable surface and subsurface obstructions and of the conditions in all relevant existing equipment and structures; and is responsible for visually checking work previously or contemporaneously done in any way relating to the Work to be performed hereunder and reporting to the Owner in writing of any condition that would adversely affect the Work within fifteen (15) days. Failure to report any adverse condition that the Contractor discovered, or should have discovered, will relieve the Owner of all claims by Contractor for costs, expenses or damages to the extent resulting therefrom. Contractor agrees that the Price and its plan for completion of the Work accounts for all such factors.
10. **Termination:** Owner may terminate this agreement immediately if the Contractor:
  - a. should file or have filed against it a petition in bankruptcy; makes a general assignment for the benefit of its creditors; has a receiver appointed as a result of its insolvency; or
  - b. fails to comply with the terms of this Agreement after ten (10) days' written notice and opportunity to correct such non-compliance.

In the event of termination or expiration of this Agreement without completion of the Work, Owner may remove the Contractor from the Work Site and take possession of all materials, tools, equipment and other facilities on the Work Site for which Owner has paid or committed to pay and finish the Work by whatever method it may deem expedient and Contractor shall be responsible for Owner's reasonable costs to complete the Work.

11. **Delay:** If performance or completion of the Work is delayed as a result of causes beyond the reasonable control of Contractor, then Owner may grant a reasonable extension of time to perform or complete the Work in writing. The term "causes beyond the reasonable control" includes acts of God or the public enemy, fires, floods, epidemic, quarantine restriction, strikes, embargoes, and unusually severe weather, and without the fault or negligence of Contractor. No extension of time will be granted unless Contractor has made a written request to Owner for a reasonable extension within forty-eight (48) hours after the event giving rise to such request. In the event of any such delay, Contractor shall, at no cost to Owner, exercise due diligence to shorten the delay and shall keep Owner advised as to the continuance of the delay and steps taken to shorten or resolve the delay. Contractor shall not be entitled to additional or extra compensation by reason of Contractor having been delayed in performance of its obligations due to the foregoing causes or events.
12. **Title:** Title of any products, materials, or goods incorporated into the Work and all phases of it, and any such products, materials, substances or goods delivered and stored at the Work Site, shall be in the Owner's name. However, Contractor shall have the risk of loss for any such materials or portion of the Work completed until the Work is completed and accepted by Owner.
13. **Assignment:** Contractor shall not assign this Agreement or the payments due under this Agreement, nor shall it subcontract all or any part of the work to be performed hereunder. The manufacturers or vendors of any off-the-shelf goods provided hereunder shall not be considered Contractors' subcontractors, assignees, employees, servants, or agents hereunder.

14. **Confidential Information:** The Parties acknowledges that in the course of performing under this Agreement, each Party may be provided with or given access to information, in oral, recorded or written form, that is proprietary and confidential to the other Party, whether or not such information is marked as "confidential", (collectively the "Confidential Information") and accordingly agree to disclose such Confidential Information only to its personnel who have a need to know such information in connection with the performance of Work. Each Party will use Confidential Information of the other only in connection with the performance of Services. Contractor represents that it has agreements in place with its personnel sufficient to protect Owner's rights under this section. Contractor agrees to take all reasonable precautions, including the establishment of appropriate procedures and protections to safeguard the confidential information.

15. **Damages; Remedies:** Payment may be withheld on account of:

- a. defective performance of Work not remedied;
- b. claims filed by third parties;
- c. damage to Owner or another contractor; or
- d. failure of Contractor to make payments properly for any labor, materials or equipment.

Owner's remedies set forth in this section are in addition to any other remedy Owner may have in law or in equity to address Contractor's failure to perform the Work to Owner's reasonable satisfaction.

16. **Limitation on Liability:** **NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES WILL EITHER PARTY BE LIABLE HEREUNDER, UNDER ANY LEGAL THEORY, FOR INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, LIQUIDATED, EXEMPLARY OR PUNITIVE DAMAGES.**

17. **Independent Contractor:** It is understood and agreed that the relationship between Owner and Contractor under this Agreement is that of independent contractor, and that neither Party intends for this Agreement to create or establish any relationship of employee-employer, joint venture, agency, or partnership. Neither Party will have the power to bind the other or incur obligations on the other Party's behalf.

18. **Miscellaneous:** This Agreement and the incorporated Documentation set forth the entire agreement pertaining to the subject matter hereof. Notwithstanding anything to the contrary in Documentation provided by Contractor, in the event of any inconsistency between this Work Order Agreement and the Documentation provided by Contractor, this Work Order Agreement and Documentation provided by Owner shall control. Termination of this Agreement will not affect any of the rights, obligations or liabilities of the parties that have accrued before termination. If any provision of this Agreement is found invalid or unenforceable, that provision will be enforced to the maximum extent permissible, and the other provisions of this Agreement will remain in force. Owner's delay or failure to exercise of any right or remedy with respect to the Agreement will have no effect over the provisions or over the rights or powers specified herein, nor constitute a waiver thereof. Any waiver or a right or remedy must be in writing and signed by Owner's authorized representative.

19. **Governing Law; Waiver of Jury Trial:** This Agreement shall be governed by and construed in accordance with the laws of the state in which the Work is located, without regard to its conflict of laws principles. **EACH PARTY WAIVES ITS RIGHT TO A JURY TRIAL IN ANY COURT ACTION ARISING BETWEEN THE PARTIES, WHETHER UNDER THIS AGREEMENT OR OTHERWISE RELATED TO THE SERVICES, AND WHETHER MADE BY CLAIM, COUNTERCLAIM, THIRD PARTY CLAIM OR OTHERWISE.**