

## SCHEDULE "A"

### VANKO ANALYTICS LIMITED STANDARD TERMS AND CONDITIONS

The following Standard Terms and Conditions shall apply to all Work provided by Vanko Analytics Limited (hereinafter referred to as "Vanko") to the Buyer:

#### 1. DEFINITIONS

1.1 The following capitalized terms herein mean:

- (a) "Anti-Bribery Laws" means the *Criminal Code* (Canada), *Corruption of Foreign Public Officials Act* (Canada), *Foreign Corrupt Practices Act of 1977* (United States), *Bribery Act 2010* (United Kingdom) and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (each as amended from time to time) and all other applicable international, national, regional, provincial, state, municipal or local laws and regulations that prohibit the bribery of, or the providing of unlawful gratuities, facilitation payments or other benefits to, any government official or any other person;
- (b) "Buyer" means the person, firm, company, or other entity purchasing the Work from Vanko;
- (c) "Delivery Terms" means those terms relating to the delivery of the Goods and Services including, but not limited to, the method of delivery, the risk of delivery, cost and scheduling;
- (d) "Ex Works" has the meaning ascribed to it by Incoterms 2010 (ICC Rules for the Use of Domestic and International Trade Terms);
- (e) "Goods" means all goods, materials, equipment, components or other tangible items required to be supplied by Vanko in accordance with the Quotation;
- (f) "Law" means collectively all valid applicable common law, federal, provincial, state and municipal and other local laws, orders, codes, rules and regulations;
- (g) "Party" means one of the Parties to the Quotation and "Parties" means Vanko and the Buyer, collectively;
- (h) "Personnel" means officers, directors, employees, contractors, subcontractors, agents, representatives or invitees (as the case may be) of Vanko or the Buyer;
- (i) "Point of Delivery" means the warehouse of Vanko or the location otherwise specified in the Quotation;
- (j) "Quotation" means the quotation issued by Vanko to the Buyer that summarizes the Work to be performed, the pricing of the Work and all other attachments identified in or attached to such documents provided by Vanko to the Buyer including, without limitation, these Standard Terms and Conditions;
- (k) "Services" means all labour, supervision, administration and such other services to be supplied or performed by Vanko in accordance with the Quotation, excluding all Goods;
- (l) "Tax" and "Taxes" means all present and future taxes, surtaxes, duties, fines, levies, imposts, rates, fees, assessments, withholdings, dues and other charges of any nature imposed by any governmental authority together with all fines, interest, penalties on or in respect of, or in lieu of or for non-collection of those taxes, surtaxes, duties, levies, imposts, rates, fees, assessments, withholdings, dues and other charges;
- (m) "Work" means, collectively, the Goods and Services to be provided by Vanko to the Buyer in accordance with the Quotation; and
- (n) "Work Site" means the site where the Work is to be performed by Vanko, as applicable.

#### 2. INTERPRETATION

2.1 In the event of a conflict or inconsistency among or between the documents comprising the Quotation, the following priority, in descending order, shall govern: (a) the Quotation, exclusive of these Standard Terms and Conditions, where applicable, and attachments; (b) these Standard Terms and Conditions; (c) any quote or payment schedule provided by Vanko to the Buyer for the Work; (d) technical specifications; and (e) drawings.

2.2 The construction, application and interpretation of the Quotation shall be governed by the laws of the Province of Alberta and the Federal laws of Canada, without giving effect to any choice or conflict of law rules or provisions thereof that may direct the application of the law or rules of another jurisdiction. The Parties irrevocably consent to the exclusive jurisdiction of the courts of the Province of Alberta in the judicial district of Edmonton for any claim arising out of or related to the Quotation and irrevocably waive, to the fullest extent permitted by law, any assertion of inconvenient or inappropriate forum or other objection respecting conflict of laws.

2.3 If any term, covenant or condition of the Quotation, to any extent, is invalid or unenforceable, the remainder of the Quotation other than those

provisions held invalid or unenforceable shall not be affected. If the Buyer discovers any errors, omissions, or inconsistencies between the documents included in the Quotation, it shall resolve all such errors, omissions or inconsistencies with Vanko before Vanko proceeds with the affected portion of the Work.

- 2.4 The Quotation, these Standard Terms and Conditions and all schedules thereto (including any quotations provided by Vanko for the Work) are complimentary and what is required by one shall be required by all. Failure of Vanko to exercise or enforce any rights under the Quotation shall not be deemed to be a waiver of any such rights and shall not operate so as to bar the exercise or enforcement of such rights at any later time or times.
- 2.5 Vanko may assign, license, or subcontract any of its rights and obligations hereunder. The Buyer may not assign or in any way dispose of its rights or obligations under the Quotation without the prior written consent of Vanko.
- 2.6 The relationship between the Buyer and Vanko under the Quotation is that of Vanko being an independent contractor of the Buyer, notwithstanding anything to the contrary. Vanko and the Buyer expressly deny that it is their intention to create any joint venture, partnership, agency or other relationship.
- 2.7 Any notice provided for hereunder shall be sent to those addresses for Vanko and the Buyer set forth in the Quotation, unless written notice has been provided by either Vanko or the Buyer amending its address.
- 2.8 No amendments to the Quotation shall be effective unless specifically agreed to in writing by Vanko's authorized representative. Unless specifically agreed to in writing by Vanko's authorized representative, the following are hereby expressly excluded and extinguished from the Quotation: (a) terms and conditions in any work order, quotation, correspondence, catalogue, circular, or other document used, prepared, or provided by the Buyer (excluding the Quotation); (b) terms and conditions implied by trade custom, practice or course of dealing; and (c) terms and conditions implied by Law (to the fullest extent that any such Law may be waived by the Buyer). Prior to the Buyer's acceptance of the Quotation, the Buyer may, by written notice to Vanko, request that Vanko amend particular terms and conditions set forth in the Quotation; however, such amendments will only be effective by Vanko's written acceptance of the Buyer's proposed revisions and such amendments may result in price increases.
- 2.9 The Quotation constitutes the entire agreement between the Parties relating to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of the Parties and there are no warranties, representations or other agreements among the Parties in connection with the subject matter hereof except as specifically set forth herein.

#### 3. SCOPE OF WORK

- 3.1 Vanko shall provide the Work in accordance with the terms of the Quotation. The Quotation is subject to any terms imposed upon Vanko by any manufacturer or supplier of the Goods as stated in the Quotation. In the event of any conflict or inconsistency between the terms of the Quotation and the terms imposed upon Vanko by any manufacturer or supplier of the Goods, the more stringent provision, as determined in Vanko's sole discretion, shall apply.
- 3.2 Vanko shall not be responsible for, nor does the Quotation include, any Work that is not specifically listed or described in the Quotation.

3.3 No substitutions, changes in price or changes in the Work will be permitted, except pursuant to a written agreement between Vanko and the Buyer. In the event the Buyer requests a change to the Work, Vanko shall present the Buyer with a method of adjustment or an amount of adjustment to the prices payable for the Work, if any, and any adjustment to the Delivery Terms, if any, resulting from the proposed change to the Quotation. When Vanko and the Buyer agree to the adjustments to be made to the Quotation, such agreement shall be effective upon being signed by both the Buyer and Vanko and shall be governed by these Standard Terms and Conditions.

- 3.4 It is the Buyer's responsibility to determine the suitability of the Goods and Services for their intended use. Should the Buyer determine that the Goods or Services provided are not suitable for the Buyer's intended use, Vanko shall bear no liability.
- 3.5 Unless specifically stated otherwise in the Quotation, any agreement by Vanko to install and service the Goods shall be expressed in writing in a separate Quotation.

#### 4. DELIVERY

- 4.1 Unless specifically stated otherwise in the Quotation, all shipments shall be delivered Ex Works (EXW) Point of Delivery. Vanko shall deliver the Goods by placing them at the disposal of the Buyer at the Point of Delivery.
- 4.2 The Buyer bears all costs and risks involved in taking the Goods from the Point

of Delivery. Vanko has no obligation to the Buyer to load the Goods on any collecting vehicle. If Vanko does load the Goods, it does so at the Buyer's risk and expense.

- 4.3 Delivery schedules are determined from the date of receipt of the written Quotation and specifications, approved drawings, etc., if required, or receipt of material if Buyer is to furnish, whichever is later. Every effort will be made to deliver as scheduled.
- 4.4 Delivery is contingent upon any strikes or stoppages caused by any labour dispute, accidents, fire, flood, acts of God or the public enemy, riots, civil disturbance, police actions, martial law, wars, acts of government, shortages of fuel or raw materials, delays or stoppages in transportation or other causes beyond the control of the Parties, including the bankruptcy, receivership or other demise of the manufacturer. In such event, Vanko will take all reasonable steps to find an alternative to the Goods specified, or method or manner of delivery; and failing same reserves the right to cancel the Quotation.
- 4.5 The Buyer shall provide a suitable means of access to the Point of Delivery if such location is not the warehouse of Vanko. Should the Buyer fail to provide such access and should damage of any kind whatsoever result, the Buyer agrees to accept responsibility for such damage and to indemnify and hold harmless Vanko for any loss or damage incurred as a result of such access being unsuitable.
- 4.6 Vanko shall provide the Buyer, at the Buyer's request, risk and expense, assistance in obtaining any export license, or other official authorization necessary for the export of the Goods.

## **5. TERMS OF PAYMENT**

- 5.1 The prices payable for the Work shall be those contained in the Quotation (exclusive of all Taxes unless specifically stated otherwise). All prices are in Canadian dollars unless specifically stated otherwise.
- 5.2 Vanko may require the Buyer to provide a non-refundable deposit or require the Buyer to make milestone progress payments prior to performance of the Work. Such deposit or any milestone progress payments received shall be subject to forfeiture if the Buyer is in breach of the Quotation or if the Buyer refuses to accept delivery of the Goods.
- 5.3 All prices are subject to modification due to changes in the Work Site, Taxes, circumstances or job requirements of the Work or the assumptions upon which Vanko provided the Quotation to the Buyer including without limitation changes resulting from the Buyer furnishing incorrect data, design or equipment.
- 5.4 Unless specifically agreed to in writing by Vanko's authorized representative, invoices shall be paid in full within thirty (30) days of the invoice date. Vanko shall be entitled to invoice the Buyer once the Goods are deemed ready for shipment by Vanko regardless of the Buyer accepting delivery of or inspecting the Goods. A late charge equal to twenty five (25%) percent per annum calculated and compounded daily shall accrue on all past due invoices from the date such invoices become due until paid. The Buyer shall have no right of set-off or withholding against any amounts owing to Vanko hereunder as a result of other Work provided by Vanko to or on behalf of Buyer or any other claim or dispute between Vanko and the Buyer. In the event that Vanko brings a collection action against the Buyer and prevails, in addition to invoice amounts and interest due hereunder, Vanko shall be entitled to recover its costs (including legal costs on a solicitor and his own client basis).
- 5.5 In addition to any other rights that Vanko may have under the Quotation or at Law, if the Buyer is delinquent in its payment for the Work, Vanko reserves the right to do one or more of the following: (a) revoke any credit extended to the Buyer; (b) retain or dispose of any inventory or other assets owned by the Buyer that are under Vanko's care, custody, or control; and (c) enter the Buyer's premises and remove the Goods. Vanko shall have the right to stop all Work and demand payment from the Buyer for Work performed before providing any additional Work to the Buyer, and in the event of any Work stoppage, the times for completion of the Work shall be extended by the length of the delay.
- 5.6 All Taxes assessed in connection with the Work shall be added to the amount owed by the Buyer (and shall be in addition to those amounts payable by the Buyer as set forth in the Quotation) for the Work and may be billed separately to the Buyer. Vanko will accept a valid tax exemption certificate from the Buyer if applicable; however, if for any reason an exemption certificate is not accepted by the governmental taxing authority involved and Vanko is required to pay the Taxes covered by such exemption certificate, the Buyer agrees to promptly reimburse Vanko for the Taxes paid.

## **6. SECURITY**

- 6.1 Vanko reserves the right, at any time, to require security from the Buyer

in a form and manner to Vanko's satisfaction to secure the performance of the Buyer's obligations hereunder and Vanko shall be entitled to suspend performance of the Work until evidence of such security has been provided to Vanko.

## **7. SUSPENSION AND TERMINATION**

- 7.1 The Buyer shall not be entitled to terminate the Quotation or any portion thereof, at any time, without the prior written consent of Vanko.
- 7.2 If Vanko is delayed in the performance of the Work by the Buyer, its Personnel or any other third parties or by any cause of any kind whatsoever that could not have been reasonably prevented by and is beyond Vanko's control, then the time to complete the Work shall be extended for the period of time that the Work was delayed and Vanko shall be reimbursed for all costs incurred by it as the result of such delay.
- 7.3 In addition to any other rights that Vanko may have under the Quotation or at Law, Vanko may, at any time, terminate the Quotation or any portion thereof by giving the Buyer written notice five (5) days prior to the termination of the Quotation or any portion thereof. In the event that Vanko provides the Buyer with written notice of termination, the Buyer shall promptly return all Goods that are in the Buyer's possession or control to Vanko to which Vanko has title. The accrued rights of the Parties as of the date of such written notice shall not be prejudiced, and Section 15 of the Quotation shall survive such notice and termination. The Buyer shall promptly pay Vanko for all Work performed up to the date of termination of the Quotation.

## **8. INSTALLATION**

- 8.1 Unless otherwise provided for in the Quotation, Vanko shall not be responsible for installation of the Goods. Installation of the Goods shall be at the sole risk and expense of the Buyer. The Buyer shall install and operate the Goods in accordance with any manufacturer instructions or guidelines, applicable warranties, governing codes or regulations and applicable Law.
- 8.2 If Vanko has agreed to provide installation of the Goods in the Quotation, the Buyer shall prepare the Work Site for installation to Vanko's satisfaction. The Buyer shall provide access to the Work Site, equipment and its Personnel, as requested by Vanko. The Buyer shall assist in repairs, modifications and tasks, as requested by Vanko.

## **9. INSPECTION AND TESTING**

- 9.1 Unless otherwise provided for in the Quotation, Vanko shall not be responsible for providing or conducting any tests or inspections of the Work.
- 9.2 In the event the Buyer requests that Vanko provide or conduct any tests or inspections on the Work, the Buyer acknowledges and agrees that the costs of such inspections and tests shall be in addition to the amounts set forth in the Quotation, such amounts shall be increased by an amount equal to all additional costs, expenses and fees (including all applicable Taxes) of any kind and nature.

## **10. TITLE AND RISK OF LOSS**

- 10.1 Full risk of loss for Goods shall pass to Buyer upon delivery of such Goods to the Point of Delivery, regardless of whether Vanko or the Buyer pays freight. However, with regard to all Goods sold hereunder, Vanko shall retain title and shall have a purchase money security interest, for security purposes only, to all such Goods until paid for in full by the Buyer, and Vanko may, at its option, repossess such Goods upon the Buyer's default in payment hereunder and charge the Buyer for any deficiency. In the case of Goods or other assets of the Buyer howsoever left in Vanko's possession, care, custody, or control, Vanko is granted a security interest in such Goods or other assets to ensure payment in full of all amounts owing to Vanko, and Vanko may, at its option, possess or enforce its rights against same upon Buyer's default in payment hereunder, and charge Buyer for any deficiency.
- 10.2 The Buyer shall solely be responsible for obtaining insurance for any risks which it may wish to insure and the expense thereof.

## **11. WORK SITE**

- 11.1 The Buyer acknowledges and agrees that Vanko has not inspected or investigated the Work Site in any manner whatsoever prior to providing the Quotation and therefore has not satisfied itself as to: (a) the nature of the Work; (b) the location of and all conditions relating to, the Work Site including, but not limited to, accessibility, general character, surface and subsurface conditions, utilities, roads, uncertainties of seasonal weather and all other physical, topographical and geographic conditions; (c) general character, quality, quantity and availability of equipment and materials required to execute the Work; and (d) any environmental risks, conditions, Law and restrictions applicable to the Buyer, the Work Site, the Work and Vanko.
- 11.2 The Buyer further acknowledges and agrees that the Quotation or any portion

thereof may be revoked or amended by Vanko, in its sole discretion, as a result of Vanko having to incur additional costs, fees and expenses due to the actual nature or condition of the Work or Work Site including, but not limited to, those conditions set forth in Section 11 hereof.

- 11.3 During the performance of the Work, the Buyer shall protect the Work from any damage which may arise as a result of the Buyer's operations, the Buyer's Personnel or any other third parties, excluding Vanko and its Personnel, and shall take all steps required to completely repair all such damage to the Work in a timely manner at its sole cost.
- 11.4 Vanko shall have the right to refuse to perform the Work if the Work Site is unsafe, as determined by Vanko in its sole discretion.

## **12. WARRANTIES AND LIABILITIES**

12.1 Vanko does not guarantee results. All terms, conditions, warranties, or representations, either express (by advertisement, catalogue, other Vanko publication or otherwise) or implied (by Law or otherwise), including, without limitation, warranties relating to the accuracy, merchantability, fitness for a particular purpose or otherwise in relation to the provision of the Work hereunder, are disclaimed and excluded to the greatest extent permitted by law. The Buyer acknowledges and agrees that the Work performed by Vanko is based solely on information provided by the Buyer to Vanko and Vanko has not performed any independent investigations to verify the accuracy or completeness of such information and Vanko has relied solely on such information in performing the Work. EXCEPT AS EXPRESSLY STATED IN THE QUOTATION, ALL WORK PROVIDED BY VANKO IS PROVIDED ON AN AS IS BASIS, AND VANKO HEREBY EXPRESSLY DISCLAIMS AND EXCLUDES ANY AND ALL WARRANTIES INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OR CONDITIONS, WITH RESPECT TO THE WORK INCLUDING WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY.

12.2 Any claim by the Buyer relating to a deficiency in the Services, or any portion thereof, shall be waived by the Buyer unless it is presented within one (1) year of completion of the Services. Upon receipt of such notice, Vanko may, at Vanko's option, replace, repair, or refund the portion of the Services that the Buyer claims to be defective, provided that: (a) within one (1) year of the date of completion of the Services, the Buyer provides Vanko with written notification (and any other documents Vanko requests from the Buyer) specifically describing the nature of any claimed defects; and (b) such Services have not been subjected to accident, negligence, incompetence, alteration, modification, abuse or misuse, whether by the Buyer, the Buyer's Personnel, representatives, agents or any third parties; and (c) such deficiency in the Services is not the result of normal wear and tear.

- 12.3 The Buyer acknowledges and agrees there is absolutely no warranty provided by Vanko for any deficiencies discovered in any Goods provided by Vanko to the Buyer, and Vanko shall have no liability or responsibility for correcting any such deficiencies. Any claim by the Buyer relating to a deficiency in the Goods or any portion thereof, shall be directly against the manufacturer of the Goods.
- 12.4 Notwithstanding any other provision contained herein, Vanko's liability, however arising, in connection with the performance of the Work hereunder or any portion thereof (whether for breach of contract, negligence, misrepresentation, or otherwise), shall under no circumstances exceed the lesser of (a) the total amount charged to the Buyer by Vanko in connection with such Work and (b) the amount recoverable under a policy or policies of insurance maintained by Vanko.
- 12.5 Notwithstanding any other provision contained herein, under no circumstances shall Vanko be liable to the Buyer, or anyone claiming through or under it, whether by way of indemnity or by reason of breach of contract or in tort, including liability for negligence and breach of statutory duty, or on any other legal or equitable basis, for: special, indirect or consequential loss or damage; punitive damage; loss of use, whether complete or partial, of the Work or existing facilities of the Buyer or third parties; loss of product; loss of production; loss of revenue, overhead or profit; or loss of any contract that may be suffered by the Buyer.
- 12.6 The Buyer shall indemnify and hold harmless Vanko and its Personnel, consultants, suppliers, their agents from and against claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of the performance of the Work, which are attributable to: (i) the Buyer's breach of the Quotation; (ii) the design, manufacture, installation, repair, service, use, possession, operation or dismantling of the Work or any portion thereof by the Buyer; (iii) a lack of or defect in title or an alleged lack of or defect in title to the Work Site; (iv) any act or omission or wilful default of the Buyer, its Personnel, any other third parties that the Buyer is responsible for in law (including any invitee or licensee of the Buyer), or

any family members of any of the foregoing persons; or (v) any unsafe practice at, element of, or hazard at the Work Site. The Buyer shall comply with all Law including, without limitation, all occupational health and safety legislation.

- 12.7 The Buyer acknowledges and understands that the Work Site is a potentially hazardous site and that Vanko shall not be liable or responsible in any way whatsoever with respect to any loss, injury, or damages suffered by the Buyer, its Personnel, any other third parties that the Buyer is responsible for in law (including any invitee or licensee of the Buyer), or any family members of any of the foregoing persons, whatsoever suffered by them resulting from any cause whatsoever during any visit to, time spent at or inspection of the Work Site.
- 12.8 The Buyer acknowledges and represents that the Work Site is safe for the performance of the Work, and shall indemnify and hold harmless Vanko and its Personnel, consultants, suppliers, their agents from and against claims, demands, losses, costs, damages, actions, suits, or proceedings attributable to the Work Site being unsafe.
- ## **13. FORCE MAJEURE**
- 13.1 Except for the Buyer's obligation to pay those amounts set forth in the Quotation, neither Party shall be responsible for failure of or delay in performance hereunder if such failure or delay is caused by acts of God, strikes, lockouts, wars, insurrections, earthquakes, storms, fires, arrests, restraints by any government, civil disturbances, orders, laws, or proclamations of government authorities, and other causes of a similar nature which are not reasonably within the control of the Party claiming suspension ("Event of Force Majeure"). Upon the existence of an Event of Force Majeure, the time to complete the Work shall be extended by the length of the Event of Force Majeure.

## **14. ANTI-BRIBERY LAWS**

- 14.1 Vanko has an Anti-Bribery and Anti-Corruption Policy. The Buyer shall, and shall ensure that its Personnel, comply with all applicable Anti-Bribery Laws. The Buyer shall immediately report any breach of applicable Anti-Bribery Laws to Vanko.
- 14.2 If Vanko reasonably believes that the Buyer or any of its Personnel, has engaged or will engage in improper conduct in breach of this Section 14, Vanko may, at its sole discretion, suspend any further performance by Vanko of the Work and terminate the Quotation in accordance with the terms of Section 6.

## **15. CONFIDENTIAL INFORMATION & PROPRIETARY RIGHTS**

- 15.1 Proprietary or confidential information disclosed by Vanko to the Buyer shall be held in strict confidence by the Buyer, and will not, except as required by Law, be disclosed by the Buyer to any third Party without written authorization from Vanko, unless such information is in the public domain
- 15.2 Vanko retains for itself all proprietary rights, arising from, whether directly or indirectly, including, without limitation, patents, trade secrets, and copyrights in and to all engineering designs, construction details, performance or application data, and any and all intellectual property, to the Work.