

These terms and conditions ("**Agreement**") is a legal agreement between You ("**Customer**") and Arro Crushing for the performance of Services as listed in a Quotation and described further herein. BY (A) SIGNING THE QUOTATION, (B) ASSENTING TO THE PERFORMANCE OF SERVICES WHETHER BY WRITTEN OR VERBAL CONFIRMATION OR (C) ACCEPTING THE SERVICES, YOU ARE REPRESENTING THAT YOU (A) HAVE AUTHORITY TO ACT ON BEHALF OF THE ORGANIZATION WHICH YOU REPRESENT, AND (B) YOU HAVE READ, UNDERSTOOD, AND AGREE TO BE BOUND BY, THE TERMS OF THIS AGREEMENT. If you do not agree with the terms of this Agreement you are required to provide Arro Crushing Ltd. ("**Arro**") with five (5) days prior to the start of services.

1. **Definitions** - Unless the context requires otherwise, the following terms shall have the meanings set out below when used in this Agreement:

a) "**Customer's Representative**" means the person identified as such in a Quotation;

b) "**Confidential Information**" means each Party's confidential information, including, but not limited to, project plans, pricing and cost estimates, invoices, insurance documentation, trade secrets, business strategies, employee and personnel data, the terms of this Agreement, and any Quotation;

c) "**Deliverable**" means any item or material to be delivered by Arro to Customer under this Agreement, including those set out in a Quotation;

d) "**Force Majeure Event**" means an event beyond the reasonable control of the Party affected by it, its subcontractors and/or suppliers, including strikes, lockouts and labor disputes, natural disasters, war, riot, civil commotion, malicious damage, failure of networking equipment, epidemic, accident, fire, flood or storm;

e) "**Indirect Taxes**" means sales taxes, use taxes, value added taxes, goods and services taxes, harmonized sales taxes, export taxes, import taxes or customs duties;

f) "**Services**" means the services to be provided by Arro to Customer as set out in a Quotation, and includes, without limitation, the delivery to Customer of all the Deliverables;

g) "**Quotation**" means a the quotation delivered and accepted by Customer describing the Services Arro will provide to Customer; and

h) "**Taxation Authority**" means any government, state, municipality or any local, provincial, state or other fiscal, customs, excise or taxing authority, body or official anywhere in the world with responsibility for, and competency to, impose, collect, audit, assess, administer or levy any taxes or make any decision or ruling in respect of any taxes.

2. **Services** - Customer and Arro (each, a "**Party**" and collectively, the "**Parties**") wish to enter into an independent contractor arrangement whereby Arro shall perform certain Services on the terms and conditions set forth in this Agreement. Any Quotation accepted by a Customer will incorporate by reference the terms of this Agreement. Arro shall perform the Services and Customer shall pay Arro for these Services in accordance with the terms and conditions set out in this Agreement and any Quotation. Upon completion of the Services, Customer shall conduct a examination of the site within 3 days of such completion to ensure it has been left in proper order. Customer acknowledges that it has the opportunity to perform ongoing testing of the Deliverables during the Services and advise Arro of any deficiencies or changes required to the Deliverables.

3. **Term of Agreement** - This Agreement will commence on the Effective Date and will continue in force until termination according to the terms of this Agreement.

4. **Payment and Invoicing** – As consideration for the performance of the Services, Customer shall pay Arro the "Fees" stipulated in a Quotation. Unless otherwise indicated in a Quotation, Customer shall pay the Fees due to

Arro within thirty (30) days after receipt by Customer of a proper invoice (as specified in Section 5 herein).

5. **Invoices** - Each invoice submitted to Customer by Arro shall: (i) identify the Quotation to which the invoice relates; and (ii) detail the nature of the Services performed, the Fees payable, and the basis on which the calculation of the Fees has been made. Unless otherwise agreed to in writing by the Parties or as indicated in a Quotation, Arro shall be entitled to submit weekly invoices for Services performed and upon completion of the Services.

6. **Expenses** – Except for travel expenses pre-approved in writing by Customer, including those identified in a Quotation, Arro shall be responsible for all expenses incurred as a direct or indirect result of the performance of the Services.

7. **Taxes** - All amounts payable by Customer to Arro are exclusive of Indirect Taxes and will be increased by the amount of any Indirect Taxes. For greater certainty, each Party shall be responsible for any taxes (other than Indirect Taxes) that are lawfully payable by such Party to any Taxation Authority.

8. **Independent Contractor Status** - Arro shall perform the Services as an independent contractor, and nothing contained in this Agreement shall be construed to create or imply a joint venture, partnership, principal-agent, or employment relationship between the Parties. Arro shall not enter or purport to enter into any agreement on behalf of Customer or otherwise bind or purport to bind Customer or cause Customer to incur liability in any manner whatsoever.

9. **Representations and Warranties** - Arro represents and warrants to Customer that:

a) Arro and its employees have the necessary knowledge, training, experience and skills to perform the Services and the Services will be performed in a competent and professional manner;

b) Arro will observe and comply with all applicable laws and regulations;

c) The Deliverables shall conform to the specifications set out in a Quotation;

Customer understands and acknowledges that Arro makes no representation or warranty as to the use or function of the Deliverables or their compliance with the Ontario Provincial Standard Specifications ("**OPSS**") or the Ministry of Transportation of Ontario ("**MTO**").

THE WARRANTIES SET FORTH IN THIS SECTION 9 ARE THE EXCLUSIVE WARRANTIES MADE BY ARRO. EXCEPT AS SET FORTH IN THIS SECTION 9, ARRO DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES OR CONDITIONS OF MERCHANTABILITY, MERCHANTABILITY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, DURABILITY, OR ANY OTHER WARRANTY OR CONDITION ARISING BY STATUTE, CUSTOM OR USAGE OF TRADE RELATED TO THE SERVICES AND DELIVERABLES PROVIDED HEREUNDER.

10. **Limitation of Liability** – NOTWITHSTANDING ANY OTHER SECTION OF THIS AGREEMENT, ARRO'S CUMULATIVE LIABILITY FOR ALL CLAIMS ARISING OUT OF OR IN CONNECTION WITH THIS

AGREEMENT OR QUOTATION WILL NOT EXCEED THE AMOUNT PAID BY CUSTOMER UNDER THE QUOTATION GIVING RISE TO SUCH DAMAGES OR CLAIM. FURTHER, IN NO EVENT SHALL ARRO BE LIABLE TO CUSTOMER FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES OR LOSSES UNDER THIS AGREEMENT, A QUOTATION, OR ARRO'S PERFORMANCE UNDER THIS AGREEMENT, WHETHER FOR BREACH OF CONTRACT, IN TORT OR OTHERWISE, EVEN IF CUSTOMER ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

11. **Indemnity** – Each Party shall defend, indemnify and save harmless the other Party, and their directors, officers and employees (each, an "Indemnified Party") from and against any and all damages, injuries, claims, demands, actions, liabilities, costs and expenses (including reasonable legal fees) incurred or made against an Indemnified Party ("Claim") arising from or connected with: (i) gross negligence, willful misconduct, fraudulent misrepresentation and fraud by a Party; (ii) bodily injury, death or property damage caused by a Party; and (iii) breach of applicable laws and regulations in performing its obligations under this Agreement. Customer shall further defend, indemnify and save harmless Arro from any Claim arising from Customer's use of the Deliverables.

12. **Force Majeure** - Arro will not be liable for failures caused by Force Majeure Events, provided that it uses reasonable endeavors to perform regardless of the advent of the Force Majeure Event. Arro shall, as soon as may be reasonably practicable, inform Customer of the occurrence of the Force Majeure Event and its impact on Arro's performance of its obligations under this Agreement.

13. **Insurance** - Arro shall, at its own expense, procure and maintain, for the Term of this Agreement, the following insurance coverage:

a) Workers' Compensation as required by all applicable laws and regulations, and Employers' Liability Insurance for a minimum limit of one million dollars (1,000,000) per occurrence or as otherwise may be required by the laws of the country where the Services are provided;

b) Comprehensive General Liability Insurance with a limit of five million dollars (5,000,000) per occurrence and in the annual aggregate including coverage for property damage, broad form property damage, bodily injury (including wrongful death), personal injury, independent contractors, non-owned or hired automobiles, products and completed operations hazards, contractual liability for this Agreement;

c) Where Arro-owned vehicles are used in the performance of the Services, Motor/Automobile Liability Insurance with combined single limit of two million dollars (2,000,000) per occurrence for injuries, including accidental death and property damage; and

d) Property Insurance as required with coverage extending to Arro-owned equipment used in the Services.

Upon request by Customer, Arro shall furnish Customer with a copy of a certificate confirming the requisite insurance is in place and all related premiums have been paid.

14. **Termination of Agreement for Convenience** - Notwithstanding any other provision in this Agreement, either Party may terminate this Agreement, at any time during the Term, upon written notice of at least fourteen (14) calendar days. In the event Customer terminates this Agreement in accordance with this section 14, Arro shall be entitled to perform Services (and received payment thereon) until the Agreement is terminated.

15. **Termination of Agreement for Cause** - Notwithstanding any other provision in this Agreement, either Party may terminate this Agreement upon delivery of notice of termination to the other Party if:

a) the other Party is in material breach of this Agreement or a Quotation and, if the breach is capable of remedy, fails to rectify the situation

within fourteen (14) calendar days after receipt of written notice giving the particulars of the breach and requiring them to be remedied;

b) a Force Majeure Event, which prevents the performance of the other Party's obligations under this Agreement in a material respect continues for 30 calendar days or more; or

c) the other Party becomes insolvent, or a receiver or receiver-manager is appointed for any part of the property of such Party, or it makes an assignment, proposal or arrangement for the benefit of its creditors, or files an assignment in bankruptcy, or any proceedings under any bankruptcy or insolvency laws are commenced against it.

All of the Parties' remedies under this Section 15 shall be cumulative with all other rights or remedies that they may have.

16. **Consequences of Termination** – Upon termination of this Agreement, Customer shall pay to Arro, in accordance with the payment terms specified in Section 4, any amount earned for Services rendered up to the effective date of termination.

Sections 7 (Taxes), 9 (Representations and Warranties); 10 (Limitation of Liability); 11 (Indemnity); 16 (Consequences of Termination); 17 (Confidentiality), and 23 (Governing Law) will survive the termination or expiry of this Agreement and will continue in full force and effect.

17. **Confidentiality** – Each Party agrees to: (a) keep confidential all Confidential Information disclosed by the other party; (b) only use, reproduce and disclose the Confidential Information to facilitate this Agreement and the Services contemplated hereunder; and (c) protect the Confidential Information from unauthorized use, reproduction or disclosure in the same manner it protects the confidentiality of similar information of its own, but not less than a reasonable degree of care. It shall not be considered a breach of the confidentiality obligations hereunder if the receiving Party discloses Confidential Information if an only to the extent: (a) it is required to do so by law; or (b) the disclosing Party provides written authorization of the disclosure.

#### Miscellaneous

18. **Assignment and Subcontracting** - A Party shall not assign any and/or all of its rights or obligations under this Agreement to any third party without first obtaining the other Party's written consent.

19. **Severability** - If any one or more of the provisions of this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, any such provision shall be severable from this Agreement, in which event this Agreement shall be construed as if such provision had never been contained herein.

20. **Notice** - Any notices required or permitted to be given under this Agreement shall be delivered (i) in writing; (ii) at the address shown on a Quotation or to such other address or individual as one Party may notify in writing to the other Party; (iii) to the attention of Customer's Representative or the Arro's Representative, as applicable. Any such notices shall be deemed received and effective: (i) on the date of receipt of facsimile, mail, email or courier, where a confirmation of receipt is provided for such mail, email, courier or facsimile; or (ii) in the absence of evidence of earlier receipt, on the date of delivery, when delivered personally.

21. **Entire Agreement and Variation** - This Agreement and a Quotation constitute the entire agreement between the Parties relating to the subject matter of this Agreement. No variation of this Agreement shall be effective unless in writing and signed by each of the Parties.

22. **Order of precedence** - In the event of any conflict or discrepancy between this document and a Quotation, the terms of the Quotation shall prevail.

23. **Governing Law** - This Agreement shall be governed by and interpreted in accordance with the laws of the province of Ontario, Canada. The courts of Ontario shall have the exclusive jurisdiction to settle any matter arising out of or in connection with this Agreement. The Parties further hereby waive any right to a trial by jury with respect to any lawsuit or judicial proceeding arising or relating to this Agreement.

24. **Dispute Resolution/Mediation** - Customer's Representative, the Arro's Representative and the signatories to this Agreement (or their successors or designates) shall work in good faith to amicably resolve any disputes that arise under this Agreement. Where a dispute arises out of or in connection with this Agreement that cannot be amicably resolved by these persons within thirty (30) days after either Party requests amicable resolution

under this Section in writing, in accordance with Section 20 (Notice), the Parties agree to seek a settlement of that dispute by mediation. If the Parties cannot agree on a mediator within ten (10) days after either Party requests mediation under this Section in writing then either Party may make application to court to appoint one. The mediation shall be held in Kitchener, Ontario, Canada in accordance with the *Commercial Mediation Act, 2010*, S.O. 2010, c. 16, Sched. 3, as amended and the costs of mediation shall be shared equally between the Parties.

25. **Counterparts** - This Agreement may be executed in two or more identical counterparts (including by way of facsimile or electronic transmission), each of which when executed by a Party shall be deemed to be an original and such counterparts shall together constitute one and the same Agreement.