

voestalpine Nortrak Inc.

Quotation No: 2019-038-CO-002

Date: 06/04/21

Nortrak Contact: Shaun Harris

Customer: NORTA

Telephone: 205-380-4516

Contact: Michael Riviere

Fax: 205-854-2885

Email: mriviere@infinityec.com

Project: Project RTA No.2018-005

Please find our quote below for the materials you requested. If you have any questions or need additional information please give me a call.

Description	Qty	UM	Unit Pricing	Extended Pricing
A15-27001A WITH THE MODIFICATIONS BELOW The modifications to the existing special trackwork procurement contact are as follows: 1. Provide as required longer straight track sections between turnouts and crossing diamond due to the track widening and in the station area due to the shifting of the DXO. 2. RTA is Now requesting that Nortrak include in this contract the provision of the switch ties for the widened DXO. 3. Provide Irwin's services of technical assistance to the installation contractor during switch machine installation, testing and commissioning. Additional field support is necessary due to the special trackwork installation now being performed under separate contracts and schedules. 4. Provide training to RTA maintenance personal on the installation, inspection and maintenance of the new switch machines now being installed under separate contracts. The modification of the S-curve on the outbound track will be performed in the field and is not part of this contract modification.	1	EA	\$ 180,621	\$ 180,621
			TOTALS: \$	180,621

CONDITIONS OF ACCEPTANCE:

1. QUOTATION TERM:

1.1. Pricing Firm for 30 days.

2. PAYMENT TERMS; LATE PAYMENTS; SECURITY INTEREST

2.1. See attached voestalpine Nortrak Inc. Standard Terms and Conditions.

2.2. All prices quoted are in USD currency.

2.3. Any subsequent purchase for the above materials is subject to credit approval.

2.4. Quote is based on prime contractor's agreement to grant voestalpine Nortrak, via rider to payment bond, the right to file claim against payment bond in the event voestalpine Nortrak is not paid for materials supplied.

3. TAXES:

3.1. Price quoted does not include any taxes.

4. DELIVERY:

4.1. To be determined by operations at time of award.

5. FREIGHT

5.1. FOB: Destination; Freight costs included in price to jobsite

6. INSPECTIONS:

6.1. Turnout Inspection to be done by Nortrak QA personnel

6.2. Cost of Outside independent Inspection is not included.

6.3. All turnouts will be laid out for inspection and Preplated for shipping purposes.

Any requests for reparations shall be made within 30 days of delivery, in writing, and must be accompanied by document of claims. Valid requests will be honored at Nortrak's discretion for actual costs only, and shall not include any punitive amounts.

Sincerely,

voestalpine Nortrak Inc.

A handwritten signature in black ink, appearing to read "Shaun Harris".

Shaun Harris
Senior Sales Manager

TERMS AND CONDITIONS for SALES

1. **Definitions and Interpretation.** As used herein, “**Agreement**” means these Terms and Conditions for Sales (“**Terms**”), together with the document issued by Buyer setting forth Products and Services ordered by Buyer, and their respective quantities (“**PO**”) and a Sales Order Acknowledgment, if any, issued by Seller in response to such PO (“**SOA**”); “**Carrier**” means Buyer or the third party carrier engaged by Buyer to deliver Products to Buyer’s site, except as otherwise specified in an SOA, “**Delivery**” means making part or all of Products specified in an SOA, or in the absence of an SOA, a PO, available to Buyer at the Shipping Site, or performance of Services specified in an SOA, or in the absence of an SOA, a PO; “**Laws**” means all applicable laws, codes, rules, regulations, and orders of any legal authority of competent jurisdiction; “**Prices**” means the prices set forth in the Quotation, **which are valid for 30 days after the date of such Quotation**; “**Products**” means the goods and materials specified in a PO and, if an SOA is issued, confirmed in an SOA; “**Quotation**” means a quotation, if any, submitted by Seller to Buyer listing Products offered for sale to Buyer together with their quantities and prices; “**Services**” means the services specified in an SOA, or in the absence of an SOA, a PO; and “**Shipping Site**” means Seller’s plant where Products are received by the Carrier for transportation to Buyer’s site, as specified in an SOA, or in the absence of an SOA, a PO. In interpreting this Agreement: (a) the singular includes the plural and vice versa; (b) reference to a document or Law means such document or Law as amended from time to time; (c) the term “or” is not exclusive; (d) “include” or “including” means including without limiting the generality of any description preceding such term; (e) headings are for convenience only and do not constitute a part of this Agreement; (f) all references to money refer to United States currency unless otherwise indicated on an SOA; (g) the terms “herein,” “hereunder,” “hereby,” and derivatives or similar words refer to the entire Agreement; and (h) references to **Seller** are deemed to be to the legal entity indicated on a PO or SOA as the party supplying Products or performing Services.

2. **Entire Agreement.** All Deliveries of Products or Services are subject to these Terms, regardless of whether these Terms are attached to the Quotation, PO, SOA, or shipping document or are delivered separately. Buyer shall be deemed to have irrevocably accepted these Terms upon the earliest of (a) delivery of a PO to Seller, (b) acceptance of Delivery, or (c) payment of any amount due for a Product or Service. Any terms contained in a PO are accepted by Seller only upon Seller’s issuance of an SOA explicitly confirming such acceptance. If there are inconsistencies (i) between these Terms and the terms of a PO or an SOA, these Terms shall control, or (ii) between the terms of a PO and the terms of an SOA, the terms of the SOA shall control. If any terms additional to, or different from, these Terms, are contained in a PO or other documentation issued by Buyer (“**Proposed Terms**”), these Terms shall govern regardless of when such Proposed Terms are received by Seller, unless Seller agrees in writing to the Proposed Terms by delivering an SOA explicitly confirming such acceptance; otherwise, Seller rejects all Proposed Terms, and will not be deemed to have accepted any Proposed Terms by any course of action taken by Buyer or Seller. Any Proposed Terms purporting to make Buyer’s acceptance conditional on Seller’s varying these Terms to reflect the Proposed Terms will be void, and any PO or other documentation issued by Buyer will be interpreted as if such Proposed Terms were

struck out. If the parties have entered into another agreement as provided in an SOA (the “**Other Agreement Terms**”), these Terms and such Other Agreement Terms will both be applicable to the extent consistent with each other; however, to the extent of any conflict, such Other Agreement Terms will control. An Agreement, and any Other Agreement Terms, if any, comprise an entire agreement between the parties with respect to the subject matter thereof, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. Seller’s corporate parents, subsidiaries, and affiliates, of any level or degree, although not parties to any Agreement, shall have the benefit of, and the right to enforce, the rights of Seller under any Agreement.

3. **Payment Terms; Taxes; Late Payments.** Buyer shall pay the amount set forth on each invoice within 30 days after the date thereof. Prices exclude all federal, state, provincial, and local taxes (including sales and use tax), all of which shall be timely paid by Buyer directly to the applicable governmental authority, or to such authority through Seller if so required by Law. Buyer shall not deduct any taxes from any payment unless Seller has accepted a valid resale or tax exemption certificate from Buyer. To the full extent permitted by Law: (a) Seller will not accept or honor any resale or tax exemption certificate unless Buyer provides such certificate to Seller prior to, or together with, the PO to which it applies; and, (b) Seller reserves the right, at any time and in its sole discretion, to refuse to accept or honor any such certificate provided by Buyer. Past due amounts shall bear interest at the rate of 1.5 percent, or the maximum rate permissible under Law if such maximum rate is lower, calculated daily and compounded monthly. Buyer shall perform its obligations hereunder without setoff, deduction, recoupment, or withholding of any kind for amounts owed or payable by Buyer, whether relating to Seller’s breach, bankruptcy, or for any other reason. If changes in market pricing for Product material inputs or transportation during Seller’s performance of its obligations hereunder render such performance commercially unreasonable, Buyer will negotiate in good faith with Seller to establish an equitable adjustment to the Prices.

4. **Security Interest.** Seller may require Buyer to pay all or a portion of the Price, or to provide adequate security for payment of the Price, prior to Delivery. In respect of the Delivery of Products before Buyer’s payment in full of the Price for Products, if permitted by Law, Buyer hereby: (a) grants to Seller a purchase money security interest in Products, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds, including, without limitation, insurance proceeds, of the foregoing; and (b) authorizes Seller to file Uniform Commercial Code financing statements, amendments, and continuation statements, or filings under the applicable personal property security legislation of the jurisdiction in which Products are located, in connection therewith, and to take all other actions Seller deems necessary or desirable to perfect, maintain, protect, and foreclose on the security interest so granted. If Buyer is prohibited by Law or its contractual obligations to third parties from granting a purchase money security interest to Seller, or, in respect of the Delivery of Services, Buyer shall issue to Seller an irrevocable payment bond in the amount of the unpaid Price for such Products or Services

promptly upon Delivery and maintain the bond in full force and effect until the Price is paid in full. Buyer shall promptly execute and deliver any such further instruments and documents and take such further action as Seller may reasonably deem desirable for Seller to obtain the full benefits of this Section.

5. **Change Orders.** Buyer may modify the quantity or types of Products or Services specified in an SOA, or in the absence of an SOA, a PO, by the issuance of a change order, so long as the change order is received by Seller prior to Delivery of Products or Services and does not purport to otherwise alter this Agreement. Seller shall confirm acceptance of a change order by notice to Buyer, which notice may include equitable adjustments in the Prices and Delivery dates for the affected Products and Services, and Seller will be deemed to have accepted such equitable adjustments.

6. **Shipment; Title; Risk of Loss.** Unless otherwise specified the relevant SOA, Products shall be delivered Ex-Works Shipping Site, with Buyer responsible for transportation insurance. Buyer shall assume risk of loss of Products at the Shipping Site, but title to Products shall remain with Seller until Buyer's payment of the Price for Products in full.

7. **Deliveries.** Delivery dates are estimates only. Seller shall attempt to notify Buyer of anticipated Delivery delays, but Seller shall not be in default due to any such delays. Seller shall notify Buyer when Products, or any portion thereof, are available for Delivery. Buyer shall, or shall cause its Carrier to, receive Products at the Shipping Site within 5 business days after Seller notifies Buyer that Products, or any portion thereof, are available for Delivery ("**Delivery Window**"). Any right of Buyer, or its Carrier, to visit the Shipping Site for Delivery is conditioned on (a) such visit occurring on, or within the Delivery Window, and (b) such visitors (i) not interfering with Seller's activities at the Shipping Site and (ii) complying with all rules and regulations of Seller applicable to persons at the Shipping Site. Buyer shall be responsible for any damage to the Shipping Site to the extent caused by Buyer or its Carrier. Within 10 days after Delivery ("**Inspection Period**"), Buyer shall inspect Products tendered for Delivery to confirm they conform with the number and description of Products specified in the relevant SOA, or in the absence of an SOA, the relevant PO. Buyer will be deemed to have accepted Products unless it notifies Seller of in writing, during the Inspection Period, that the and furnishes such written evidence or other documentation, as reasonably required by Seller, that the number or description of such delivered Products do not conform with the number or description of Products specified in the relevant SOA, or in the absence of an SOA, the relevant PO ("**Nonconforming Products**"). Seller shall, in its sole discretion, (i) replace such Nonconforming Products with conforming Products, or (ii) credit or refund the Price for such Nonconforming Products, together with any reasonable shipping and handling expenses incurred by Buyer between the Shipping Site (or other site designated by Seller) and Buyer's site in connection therewith. At Seller's discretion, Buyer shall ship the Nonconforming Products to the Shipping Site. If Seller exercises its option to replace Nonconforming Products, Seller shall, after receiving Buyer's shipment of Nonconforming Products, notify Buyer when the replacement Products are available for Delivery in accordance with the procedures set out above. **THE REMEDIES SET FORTH IN THIS SECTION ARE BUYER'S EXCLUSIVE REMEDIES FOR THE DELIVERY OF NONCONFORMING**

Effective: January 2021

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PRODUCTS. EXCEPT AS PROVIDED UNDER THIS SECTION AND SECTION 9, BUYER HAS NO RIGHT TO RETURN PRODUCTS TO SELLER.

8. **Installation; Safety; Insurance.** Except for Services specified in an SOA, or in the absence of an SOA, a PO, Seller will not install or supervise or otherwise assist Buyer with the installation of Products, or perform any other Services. Buyer shall be solely responsible for (a) investigating installers and determining the qualifications of installers for particular Products, and (b) compliance by Buyer and any installer with all Laws and industry best practices during installation, including, without limitation, OSHA standards and requirements and installation codes, and all instructions provided by Seller. Buyer shall carry commercially reasonable insurance coverage with financially sound and reputable insurers, covering general liability, and errors and omissions, for risks of loss, damage, and injury before, during, and after installation.

9. **Limited Warranty on Products.** Seller warrants that upon Delivery and for: a period of one year thereafter, or until accumulation of 100 million gross tons in service use on Product, whichever occurs first (the "**Limited Warranty Period**"), Products shall meet the specifications agreed upon in writing by Seller and Buyer (the "**Limited Warranty on Products**"). The Limited Warranty on Products will not cover: (a) Products, or parts or attachments thereof, manufactured by third parties; or, (b) noncompliance with the specifications, or defects of any kind, if arising from or related to: (i) damage that occurs during transportation, other than transportation for which Seller is responsible under any applicable Other Agreement Terms, regardless of distance or mode of transport; (ii) cosmetic damage, including, without limitation, scratches to exposed parts of Products; (iii) handling, installation, use, alteration, repair, storage, servicing, disposal, cleaning, operation, or exposure to environmental conditions, other than in strict compliance with instructions provided by Seller, or if no instructions are issued, with no less than reasonable care; (iv) use, installation, alteration, repair, or operation of the Product in conjunction with goods that are not Seller goods or goods from Seller-approved vendors, other than in strict compliance with instructions provided by Seller; (v) a Force Majeure Event; or, (vi) errors or omissions in specifications or other instructions of any kind provided by, or on behalf of, Buyer to Seller ("**Excluded Scenarios**"). Effective upon Delivery of Products, Seller hereby assigns to Buyer all assignable warranties on Products provided by third-party manufacturers of Products or any parts thereof, to the extent the Seller has the right to do so. **EXCEPT FOR THE LIMITED WARRANTY ON PRODUCTS, WITH RESPECT TO PRODUCTS: (A) NEITHER SELLER NOR ANY PERSON ON SELLER'S BEHALF HAS MADE OR MAKES FOR BUYER'S BENEFIT ANY EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY WHATSOEVER WHETHER ARISING BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PURPOSE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED; AND, (B) BUYER ACKNOWLEDGES THAT IT HAS NOT RELIED ON ANY REPRESENTATION OR WARRANTY MADE BY SELLER, OR ANY OTHER PERSON ON SELLER'S BEHALF.**

10. **Limited Warranty on Services.** Seller warrants Services will be performed substantially in compliance with: (a) all

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ONE STEP AHEAD.

permits, licenses, and third party approvals necessary for the performance of Services, all of which shall be obtained by Buyer at Buyer's sole expense, as a precondition to Seller's obligation to perform the Services; (b) all Laws; (c) policies of Buyer regarding safety measures to be taken at the location where Services are performed; and, (d) in accordance with the specifications agreed upon in writing by Seller and Buyer, or in the absence of such specifications, in a professional manner, with the standard of care, skill, and diligence normally provided by a person in the performance of services similar to Services. **EXCEPT FOR THE WARRANTY SET OUT IN THIS SECTION, TO THE FULLEST EXTENT PERMITTED BY LAW, WITH RESPECT TO SERVICES: (A) NEITHER SELLER NOR ANY PERSON ON SELLER'S BEHALF HAS MADE OR MAKES FOR BUYER'S BENEFIT ANY EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY WHATSOEVER WHETHER ARISING BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED; AND, (B) BUYER ACKNOWLEDGES THAT IT HAS NOT RELIED ON ANY REPRESENTATION OR WARRANTY MADE BY SELLER, OR ANY OTHER PERSON ON SELLER'S BEHALF.**

11. **Remedies.** If, within the Limited Warranty Period, Buyer notifies Seller of any Products that do not comply with the Limited Warranty on Products ("**Defective Products**"), Seller shall, at its sole discretion, and at no charge to Buyer, repair or replace the Defective Products within a reasonable time after notification. At the sole discretion of Seller, (a) Buyer shall ship, at Buyer's expense, all Defective Products to the location designated by Seller and (b) all replaced parts and Products may become the property of Seller at any time following reception at such location. For Services, Buyer shall, within 10 business days following Delivery of such Services, notify Seller of any Services that fail to satisfy the standards set forth in Section 10 ("**Defective Services**"), and, as Buyer's sole remedy for Defective Services, at Buyer's option and at no cost to Buyer, Seller shall correct, re-perform, or refund all payments made by Buyer for, Defective Services. The remedies set out in this Section are Buyer's exclusive remedies and Seller's sole liability for Defective Products and Defective Services. Except as provided in this Section or Section 7, Buyer has no right to return Products. **THE REMEDIES SET FORTH IN THIS SECTION SHALL BE BUYER'S SOLE AND EXCLUSIVE REMEDY AND SELLER'S ENTIRE LIABILITY FOR ANY BREACH OF THE WARRANTIES SET FORTH IN THIS AGREEMENT. EXCEPT AS PROVIDED IN THIS SECTION, AND WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, SELLER SHALL NOT BE LIABLE TO BUYER FOR ANY LOSS, INCONVENIENCE, OR DAMAGE, WHETHER DIRECT, INCIDENTAL, CONSEQUENTIAL, OR OTHERWISE, INCLUDING, WITHOUT LIMITATION LOSS, INCONVENIENCE, OR DAMAGE RESULTING FROM: (A) THE TRANSPORTATION, INSTALLATION, OR REMOVAL OF REPLACEMENT OR DEFECTIVE PRODUCTS; (B) THE FAILURE OF PRODUCTS TO CONFORM TO ANY SPECIFICATIONS OR STANDARDS; OR, (C) BE FREE FROM DEFECTS IN MATERIAL AND WORKMANSHIP; OR, (D) DEFECTIVE SERVICES.**

12. **Compliance with Laws.** Buyer shall comply with all Laws in effect from time to time governing Products in any manner and to any extent.

13. **No Liens.** Buyer shall not allow the creation of any lien or security interest on any Products, other than any such lien

or interest granted to Seller, until the later of Seller's Delivery of Products and Buyer's payment in full of the Price for Products.

14. **Indemnification.** Buyer shall indemnify, hold harmless, and defend Seller and its affiliates and their respective employees, officers, directors, shareholders, members, partners, contractors, and consultants, and the successors and assigns of all of the foregoing (each an "**Indemnified Party**") from and against all losses, costs, expenses, liabilities, damages, fines, or penalties, including court costs, reasonable attorneys' and professionals' fees and expenses and other litigation or settlement expenses sustained or incurred by the Indemnified Party, arising from, or related to, a claim, demand, or action (a "**Claim**") made by a third party against an Indemnified Party, if such Claim: (a) arises from or is related to Buyer's breach of this agreement; (b) alleges defects in Products, and such defects arose from or were related to an Excluded Scenario; (c) alleges environmental harm caused by Products; or, (d) arises from or relates to Buyer's provision to a third party recipient, transferee, or user of Products or Services of any warranty greater in scope than that provided by Seller to Buyer, or Buyer's failure to disclaim liability to a third party transferee or user of Products or Services to at least the same extent as Seller disclaims liability to Buyer.

15. **Disclaimer of Consequential Damages; Limitation on Liability.** **SELLER SHALL NOT BE LIABLE TO BUYER FOR LOSS OF PROFITS, LOSS OF BUSINESS, OR OTHER INDIRECT, SPECIAL, EXEMPLARY, CONSEQUENTIAL, LIQUIDATED, OR PUNITIVE DAMAGES. IN NO EVENT SHALL SELLER BE LIABLE FOR DAMAGES UNDER ANY AGREEMENT THAT EXCEED THE TOTAL AMOUNT ACTUALLY PAID BY BUYER TO SELLER FOR THE SPECIFIC PRODUCT ITEM OR SERVICE ITEM DIRECTLY GIVING RISE TO SUCH DAMAGES, AS OF THE DATE SUCH DAMAGES AROSE.**

16. **Intellectual Property Rights.** As used in these Terms, "**Intellectual Property Rights**" means all current and future rights in copyrights, trade secrets, trademarks, domain names, patents, design rights, and any other intellectual property rights that may exist anywhere in the world; and "**Seller's Intellectual Property Rights**" means all Intellectual Property Rights owned by or licensed to Seller, whether prior to, during, or after the performance of any Agreement. Seller's Intellectual Property Rights in Products and Services are the sole and exclusive property of Seller, or Seller's licensors. All Intellectual Property Rights not expressly granted by Seller hereunder are expressly reserved to Seller, or Seller's licensors, and Buyer shall not acquire any ownership interest in any such Intellectual Property Rights. Buyer shall not: (a) take any action that may interfere with any of Seller's, or Seller's licensor's, rights in or to Seller's Intellectual Property Rights; (b) challenge any right, title, or interest of Seller, or Seller's licensor, in or to Seller's Intellectual Property Rights; or, (c) engage in any action that disparages, dilutes the value of, or reflects negatively on Products, Services, or any of Seller's trademarks.

17. **Cancellations.** Seller may, at any time, without liability or penalty and without limiting its other rights available under any Agreement, at law, or in equity, terminate its performance of any Agreement, in whole or in part, if Seller: (a) discontinues its sale or provision, or reduces or reallocates its inventory, of applicable Products, or provision of applicable

Services; or, (b) determines that Buyer has breached, or will breach, its obligations hereunder.

18. **Confidentiality.** Buyer shall not disclose, to any person or entity, any non-public documents and information Seller treats as confidential or proprietary, or that Buyer knows or has reason to know Seller treats as confidential or proprietary, including, without limitation: (a) business or investment opportunities disclosed by Seller; or, (b) business plans and methods, customer information, financial, engineering, operating, and technical data of Seller. Buyer's obligation to keep the foregoing confidential is perpetual and survives the expiration or termination of any Agreement.

19. **Notices.** All notices, consents, approvals, change orders, and other communications that are required or permitted to be given under this Agreement shall be sufficient in all respects if given in writing and delivered in person or by electronic mail, facsimile, overnight courier, or certified mail, postage prepaid, return receipt requested, to the receiving party at the address shown on the SOA, or to such other address as such party may have given to the other by notice pursuant to this Section. Notices, consents, approvals, change orders, and other communications shall be deemed delivered, given, and received on the date of delivery, in the case of personal delivery, electronic mail, or facsimile, or on the delivery or refusal date, as specified on the return receipt in the case of certified mail or on the tracking report in the case of overnight courier.

20. **Force Majeure.**

20.1 Definition. Under this Agreement, "Force Majeure Event" means any event beyond the control of Seller: (a) that could not have been reasonably foreseen at the time Seller entered into this Agreement as having the potential to affect; and, (b) from which Seller could not reasonably have protected itself to an extent sufficient to enable; Seller's performance under this Agreement; or (c) that causes Seller's performance under this Agreement to become commercially unreasonable or impossible; whether such event takes the form of: (i) any natural disaster or act of God, including, without limitation, fire, flood, earthquake, unusually severe storm, lightning strike, tornado, volcanic eruption or other natural explosion, or hurricane; (ii) epidemic or pandemic; (iii) act of terrorism or war, whether such war was declared or not; (iv) insurrection or riot; (v) wildcat strike, spontaneous work stoppage or slowdown, or lock-out; (vi) act of government in its sovereign capacity, or intervention by civil or military authorities, whether or not such intervention was lawful; or, (viii) declaration by a third party that occurrence of any of the foregoing events has limited in whole or in part its ability to supply goods and services that Seller intended to form the basis for, or incorporate or utilize in the manufacture or performance of, Goods and Services that are the subject matter of this Agreement (and such declaration will be deemed to make Seller's performance of this Agreement commercially unreasonable or impossible).

20.1.1 Event in Process. Notwithstanding Section 20.1(a), or anything else in this Agreement to the contrary, if, at the time at which Seller entered into this Agreement:

(a) an event described in Section 20.1 was in the process of occurring; and, (b) it was not reasonably possible for such party to know or estimate with reasonable certainty the ultimate duration, full scale, or future impact of such event on such party's performance under this Agreement; then such event will be deemed a Force Majeure Event despite Section 20.1(a).

20.2 Limitation of Liability. **TO THE FULLEST EXTENT PERMITTED BY LAW, SELLER WILL NOT HAVE COMMITTED A BREACH OF THE AGREEMENT OR BE LIABLE FOR ANY DAMAGE, OR DELAY, IF SUCH BREACH, DAMAGE, OR DELAY ARISES FROM OR RELATES TO A FORCE MAJEURE EVENT.**

21. **Governing Law and Forum.** Any dispute arising under or related to this Agreement shall be submitted: (a) if Buyer is domiciled in the United States of America, to the courts of the State of Wyoming or the United States District Court for the District of Wyoming, in each case sitting in the County of Laramie, and the laws of the State of Wyoming will govern this Agreement; (b) if Buyer is domiciled in Canada, to the courts of the Province of British Columbia, sitting in the County of Vancouver, and the laws of the Province of British Columbia will govern this Agreement; or, (c) if Buyer is domiciled elsewhere, to arbitration administered by the International Centre for Dispute Resolution in accordance with its International Arbitration Rules, and: (i) the International Expedited Procedures of the International Centre for Dispute Resolution shall apply regardless of the amount in dispute; (ii) such dispute shall be heard by a single arbitrator; (iii) the place of arbitration shall be in Greater Vancouver, British Columbia, Canada; (iv) the language of the arbitration shall be English; and, (v) the laws of the State of Wyoming will govern this Agreement. Nothing in this Section will prevent Seller from applying for equitable relief from any court of competent jurisdiction. Buyer irrevocably submits to the law, jurisdiction, and forum selected under this Section.

22. **Attorney's Fees.** If Seller is required to take any action to enforce the terms of this Agreement, Seller shall be entitled to reasonable attorneys', consultants', expert witnesses', and other professionals' fees and costs, costs of collection, and interest at the statutory rate on any unpaid amount from the date due.

23. **No Waiver; Amendments; No Assignment; Severability.** Failure of Seller to enforce Seller's rights under any Agreement on one occasion will not be construed as a waiver of those rights on any other occasion. Buyer shall not assign any Agreement without Seller's prior consent, and any attempt to assign the same without such consent will be absolutely void. If any of the provisions in any Agreement shall for any reason be held void or unenforceable, the remaining provisions shall remain in full force and effect.