

For this PURCHASE AGREEMENT and BILL OF SALE  
Reference Sale Account No.: EP243-020xxx/xxx- ROS-xx-xxx(Smith) made this date \_\_\_\_\_ 2008  
(hereinafter referred to as “the Agreement”)

Between

**CLIENT GOVERNMENT AGENCY**

(hereinafter referred to as the “Purchaser”)

**OF THE FIRST PART**

And:

Canada, represented by the Minister of Public Works and Government Services Canada acting through Crown Assets Distribution (CAD) or it’s marketing representative, Billy Smith operating under the name of Smith Consulting Group (hereinafter referred to as “CAD” or “SCG”).

**OF THE SECOND PART**

(hereinafter collectively referred to as “the Parties”)

WHEREAS the Purchaser desires to purchase a Qty of **(describe the vehicles)** described in article 9.1 below (hereinafter referred to as “Asset or Assets), and CAD is willing to sell the Assets described herein in as “AS IS, WHERE IS” condition without any warranty whatsoever expressed or implied by Canada or its assets marketing representative, Billy Smith operating under the name of Smith Consulting Group (hereinafter referred as SCG);

NOW, THEREFORE, the Parties respectively agree to both the Conditions of Sale and the Release of Documentation Agreement attached and forming part of this Agreement.

**CONDITIONS OF SALE**

**ARTICLE 1.0 – ENTIRE AGREEMENT**

1.1 This Agreement supersedes all prior communications, negotiations, arrangements or agreements between CAD and Purchaser and their representatives or agents, and represents the entire Agreement between the Parties with respect to the subject matter hereof.

## **ARTICLE 2.0 – EFFECTIVE DATE**

2.1 This Agreement shall have full force and take effect on the date of execution by the Parties (the “Contract Date”).

## **ARTICLE 3.0 – EVENT OF LOSS**

3.1 In this Article, “Event of Loss” with respect to the Assets listed at Article 9.1 shall mean the actual or constructive total loss or destruction of any of the Assets or damage to any Asset rendering it impracticable or uneconomical to repair to an operational state.

3.2 Should an Event of Loss occur prior to transfer of title and risk of loss and damage of any of the Assets to the Purchaser, the Parties shall have no further liability to each other with respect to the sale and purchase of that Asset. In the Event of Loss, the total sale price would be reduced by the Purchaser’s offer for the affected Asset.

## **ARTICLE 4.0 – OBLIGATIONS OF THE PURCHASER**

4.1 The Purchaser shall be responsible for fulfilling its obligations in accordance with the terms and conditions set forth herein of this Agreement, which shall include the following:

- a) Upon delivery of the Assets described herein to the Purchaser, all responsibilities in respect of the Assets, including but not restricted to pre-delivery preparations and removal shall rest with the Purchaser.
- b) The sale of the Assets to the Purchaser is subject to the United States Department of State approval. The Purchaser shall obtain all other necessary permits/approvals to own, import/export, operate, re-sell or other disposition of the Assets in the country where they will be registered, operated, stored, re-sold or other disposition to a third party. Copies of such correspondence shall be provided to the CAD/Department of National Defence (DND) Project Authorities through SCG prior to the release of the Assets.
- c) The Purchaser is responsible for all charges and disbursements imposed by or associated with the application of any regulatory requirement or with the removal of the Assets.
- d) The Purchaser may remove the Assets listed herein only after final payment for the Assets listed herein has been received in accordance with Article 6.0 herein, receipt of confirmation from SCG that all required approvals/permits have been obtained and a written authorization for the release of the assets to the Purchaser from the Canadian Department of National Defence (DDSAL) addressed to the responsible authority at 25 Canadian Forces Supply Depot in Montréal, Québec has been submitted.
- e) The Purchaser shall provide a removal plan within five working days of receipt of such request from SCG.
- f) Prior to the commencement of removal activities, a completed Visit Clearance Information Form for each individual that will participate in the removal process shall be provided to DND Project Authority identified in article 6.3.1, through SCG, a minimum of five (5) working days prior to the commencement of removal activities at each location.

- g) The Assets shall be removed in accordance with the delivery schedule at Article 9.0 herein, or as may be agreed upon in writing by the Parties. The Assets are available for pick-up between 7:30 A.M. to 3:30 P.M., Monday to Friday, excluding Canadian statutory holidays or such other times as may be arranged. DND reserves the right to charge a storage fee of \$100.00 per day for each Asset should the removal of the Assets be delayed beyond the date(s) identified at Article 9.0. The Purchaser must pay for the storage charges in full prior to the departure of the Assets. Payment shall be made to the DND custodian in the form of a certified cheque, bank draft or wire transfer made payable to the Receiver General for Canada.
- h) If applicable, prior to the removal of the Assets, the Purchaser shall advise, through SCG, what services it requires from DND to effect the removal of the Assets. Should such services be required, and if DND in its sole judgement determines it has the capacity to provide such services, they would be supplied through a separate Provision of Services agreement with the custodian. This agreement will detail the services to be rendered, estimated cost and completion date. Note that actual costs will be invoiced and, the completion may be delayed to accommodate DND's operational requirements. All costs associated with the removal of the Assets are the responsibility of the Purchaser. The Purchaser must pay for the services rendered by DND in full prior to the departure of the Assets. Payment will be in the form of by a bank draft or certified cheque made payable to Receiver General of Canada. Should the required services not be available or if the Purchaser is unable to reach an agreement for the services it requires from DND, it would be the Purchaser's responsibility to obtain them from the private sector.

#### **ARTICLE 5.0- PURCHASE PRICE**

Item 1: Qty of (enter number) units of (enter description) at a unit price of US\$(enter amount) U.S. for an extended cost of \$(enter extended dollar amount) United States Dollars exclusive of all applicable Canadian export duties, taxes, or other charges as specified in articles 4.1 g), 4.1 h) and 8.0. The assets are sold "as is where is" at the 25 Canadian Forces Supply Depot in Montréal, Québec (or at Farnham as applicable) CFR numbers are in accordance with article 9.1 herein, Demilitarization Code C applies.

## ARTICLE 6.0 – PAYMENT

6.1 A deposit equal to ten percent (10%) of the Offer (**enter the dollar amount of sale**) in the form of a certified cheque, bank draft or wire transfer made payable to the Receiver General of Canada has been submitted in accordance with article 6.3 below.

The deposit will be:

- a) applied to the total sale price of the Asset included in the sale, or,
- b) returned, if the sale is not completed due to Force Majeure, Asset withdrawal by the Department of National Defence (DND), or if the United States and/or Canadian governments do not approve the sale of the Assets, or,
- c) forfeited - should the required government approvals be obtained for a tentatively accepted Offer to Purchase and the Offeror fails to complete the transaction (as offered and accepted) within the validity period for any reason except as noted above, the sale shall be voided and the deposit or the applicable portion thereof will be forfeited.

**NOTE: Interest will not accrue to the deposit amount.**

6.2 Final payment shall be made by cheque or bank draft or wire transfer made payable to the Receiver General for Canada and shall be in accordance with article 6.3 below. Final payment is due within seven (7) working days of receipt of U.S. Dos Approval and the Canadian Department of Foreign Affairs & International Trade approval. The balance owing for the Assets is (**the gross sale amount minus the 10% deposit entered here**) United States dollars (US \$ **The extended amount entered here**).

6.3 Payments by the Purchaser of the amount owing for the Assets listed herein shall be made by cheque or bank draft or wire transfer made payable to the Receiver General for Canada.

6.3.1 Payments by cheque or bank draft shall be delivered to the following address

Department of National Defence  
Louis St. Laurent Building  
555 boulevard de la Carrière  
Gatineau, Québec, Canada J8Y 6R5

Attention: DSCO - DSAL, Mr. John Vincent, Phone: [819] 994-8808

6.3.2 Payments by wire transfer are to be made using the following information

<u>Remitting Country</u>	<u>Currency</u>	<u>Instructions to Remitting Bank</u>
Uruguay	United States Dollars  (USD)	<p>Please Pay Thru: Fedwire Payments ABA # XXXXXX Bank of America, N.A. New York, U.S.A.</p> <p>Chips Payments ABA # xxxx Bank of America, N.A. New York, U.S.A. UID No. xxxxxx</p> <p>SWIFT CODE: XXXXXXXX</p> <p>Beneficiary Bank: A/C No. 6xxxxxxx Bank of America, N.A. Canada Branch Foreign Currency Services</p> <p><b>Beneficiary:</b> <b>Customer # 1xxxxx</b> <b>Receiver General for Canada</b></p> <p><b>Beneficiary Information:</b> <b>Canadian Forces Invoice number/ Contact name and telephone # - xxxxxxx</b></p> <p>Instructions for Pay Thru Bank: Please advise beneficiary bank via SWIFT.</p> <p>By Order Of: Name of Originator or Remitting Party</p> <p>Details of Charges: OUR</p>

If payment is made by wire transfer, the Purchaser shall immediately notify the Department of National Defence, Attention: DSCO - DSAL, Mr. John Vincent, Phone: [819] 994-8808, E-mail: [Vincent.JPT@forces.gc.ca](mailto:Vincent.JPT@forces.gc.ca) at the time that the wire transfer is made. Wire transfers are preferred and will speed processing.

**ARTICLE 7.0 – TITLE AND RISK**

7.1 Title and risk of loss and damage for each Asset shall pass to the Purchaser at the time of payment for the Assets as provided in Article 6. Once title and risk of loss and damage is transferred to the Purchaser, it will be the Purchaser responsibility to insure the Assets, notwithstanding the fact that the Assets will remain in storage at DND premises until the Purchaser effects removal.

**ARTICLE 8.0 – TAXES AND DUTIES**

8.1 All applicable Canadian export duties, tax or other charges are for the account of the Purchaser, and all import duties, levies, dues, taxes or other charges imposed by that nation are for the account of the Purchaser.

**ARTICLE 9.0 – DELIVERY AND DOCUMENTS**

9.1 Delivery **AS IS – WHERE IS** shall be made 30 days following receipt of U.S. Dos Approval approval and the Canadian Department of Foreign Affairs & International Trade approval. Subject to Article 9.2, the terms of delivery of the Assets listed below shall be **AS IS – WHERE IS**, at 25 Canadian Forces Supply Depot in Montréal, Québec, Canada upon receipt of payment as provided in Article 6.0.

ECC_ID	CFR_YRCFR #	HUIC_NAME	QE_NSN	ECC_DESCRIPTION	CFR SERIAL #
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9.2 CAD/SCG shall have the right to extend any of the delivery dates for up to thirty (30) days upon written notification to the Purchaser subject to the provisions of article 4.1 g).

9.3 Upon receipt of payment for the Assets as provided in Article 6.0,

- a) SCG shall execute and deliver to the Purchaser a Bill of Sale document for the Asset(s) purchased.
- b) The Purchaser shall execute and deliver to CAD/SCG the Release of Documentation Agreement at Schedule 1.
- c) DND will provide the documentation listed at Schedule 1.

#### **ARTICLE 10.0 – PERMITS, LICENSES, AND APPROVALS**

10.1 The Purchaser shall be responsible for obtaining the necessary passes, visas, approvals and other permits required by the Canadian or other governments to perform its obligations described herein.

#### **ARTICLE 11.0 – FORCE MAJEURE**

11.1 If any party shall be prevented from timely performance of its obligations described herein by an event of Force Majeure, the time for execution of this Agreement shall be extended by a period equal to the effect of that event.

11.2 For purposes of this Agreement, “Force Majeure” means an event beyond the reasonable control of the prevented party and not involving that party’s fault or negligence. Such events may include, but are not restricted to, acts of civil or military authority, acts (including failure to act of any government) wars or revolutions, fires, floods, epidemics, quarantine restrictions, labour disputes, freight embargoes, and delays in transportation and issuance of visa, customs clearances, licenses etc.

11.3 If a Force Majeure occurs, the prevented party shall as soon as possible, but in any event within three (3) days, notify the other party by facsimile and shall, as soon as possible after giving such notice, but in any event within two (2) days thereafter, send by registered airmail to the other party a certificate evidencing such Force Majeure issued by the relevant authorities, if any, or by a senior officer of the prevented party. While the effect of the Force Majeure continues, the prevented party shall continue to perform its obligations under this Agreement as far as is reasonably practicable, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

11.4 Should the effect of the Force Majeure continue for more that 14 consecutive days, both Parties shall agree upon a modified plan for execution of this Agreement.

#### **ARTICLE 12.0 – LIMITATION OF LIABILITY AND INDEMNITY**

12.1 The performance by CAD/SCG of its obligations described herein shall be subject to all terms and conditions of this Agreement and to the performance by the Purchaser of all its respective obligations and responsibilities described herein.

12.2 Except as expressly stated in this Agreement none of CAD, SCG, Canada, as represented by her Ministers of Public Works and Government Services Canada and National Defence, her heirs and successors, her officers servants, agents and members of her Canadian Forces, its employees, agents or any of their respective subcontractors or suppliers shall not in any way be liable or responsible for any and all losses, costs, damages, expenses, and liabilities suffered or incurred by the Purchaser which are in any way connected with the performance or non-performance of this Agreement.

12.3 The Purchaser shall indemnify and save harmless CAD/SCG, Canada, as represented by her Ministers of Public Works and Government Services Canada an National Defence, her heirs and successors, her officers servants, agents and members of her Canadian Forces, its employees, agents or any of their respective subcontractors or suppliers in respect of any demands, suits, proceedings, awards, judgements, penalties, expenses, charges, costs or fees, of any nature that may be made by any third party against any or all of the said named parties arising out of or occasioned in any way by the use or operation by the Purchaser of the Assets and associated assets subsequent to their delivery to the Purchaser hereunder.

12.4 These Articles 12.2 and 12.3 shall survive the expiry or the termination of this Agreement as well as any other provision of the Agreement, which by the nature of the obligations set out, therein, might reasonably be expected to be intended to so survive.

#### **ARTICLE 13.0 – ASSIGNMENT AND SUBLETTING**

13.1 Neither the Purchaser nor CAD/SCG shall assign this Agreement without the written consent of the other.

13.2 This Agreement shall be for the benefit of and bind the Parties hereto and their respective successors and permitted assigns.

#### **ARTICLE 14.0 – WARRANTY**

14.1 The Assets are offered in an “AS IS – WHERE IS” condition and, without limiting the generality of the foregoing, the Government of Canada and SCG make no representation, warranty or covenant implied or expressed with respect to the status or condition, including the airworthiness, of the Assets or their fitness or suitability for any particular purpose. The Purchaser acknowledges that it has been provided with full opportunity to inspect the Assets and that it has fully satisfied itself with respect to their condition.

14.2 The Assets will be delivered free and clear of all liens and encumbrances.

#### **ARTICLE 15.0 – AMENDMENTS**

15.1 Any amendments to this Agreement shall be in writing and signed by both Parties.

#### **ARTICLE 16.0 – NOTICES**

16.1 Any notice required or permitted to be given between Parties under this Agreement shall be treated as validly given if delivered or confirmed by facsimile to the other Party at the addresses shown below. All Parties shall be copied on all notices.

16.2 Any notice so given shall be deemed to be effective on the date of delivery to the other Party.

16.3 CAD shall be addressed as follows:

Carole Davidson

Public Works and Government Services Canada  
Crown Assets Distribution Directorate  
Place du Portage, Phase III, 12C1  
11 Laurier Street  
Gatineau, Quebec, Canada, K1A 0S5  
Attention: Carole Davidson  
Fax: 819-956-5165

SCG shall be addressed as follows:

Billy Smith  
Smith Consulting Group  
736 Eagle Mill Court  
Marietta, Georgia  
30068  
United States  
Attention: Mr. Billy Smith  
Fax: 678-921-2173

The Purchaser shall be addressed as follows:

Client Government agency and contact information here.

#### **ARTICLE 17.0 – LAWS**

17.1 This Agreement shall be interpreted in accordance with the laws of the province of Ontario and the laws of Canada applicable thereto.

#### **ARTICLE 18.0 – DISPUTES**

18.1 In the event of any dispute between the Purchaser and CAD under this Agreement, the Parties shall attempt to settle the matter amicably. In the event that the matter is not so settled and either party wish to pursue the matter further, it shall be referred to arbitration in accordance with the Commercial Arbitration Act (R.S.C.1985, c.17, 2nd Supp.). The arbitration decision shall be final and binding upon the Parties.

#### **ARTICLE 19.0 – COUNTERPARTS**

19.1 This Agreement may be executed in two counterparts and by different parties in separate counterparts, each of which when so executed shall be deemed to be an original and both of which taken together shall constitute one and the same instrument.

#### **ARTICLE 20.0 – GENERAL CONDITIONS OF SALE**

20.1 WITHDRAWAL – CAD/SCG reserves the right to withdraw from the sale any Asset, which has not been removed by the Purchaser, without incurring any liability except to refund to the Purchaser the amount paid on account of such property.

20.2 FAILURE TO REMOVE – Should the Purchaser fail to remove the Assets in accordance with this Agreement, CAD/SCG, without prejudice to any other remedies, may cancel the Agreement without notice to the Purchaser and retain as liquidated damages any deposit or amount paid on account of the Assets. The Purchaser shall lose all claim to and interest in the property and may be held responsible for all loss, cost and expense incurred due to his failure or default.

20.3 DAMAGE TO PROPERTY – The Purchaser shall be responsible for any damage to property resulting from the removal of the Assets sold.

20.4 RETURN TO THE UNITED STATES – If the Assets described herein is of United States origin, your attention is directed to the fact that, under United States law, excess United States Government property sold abroad may not be imported into the United States except upon determination of the Secretary of Agriculture, in the case of agricultural commodities, foods or cotton or woollen goods, or the Secretary of Commerce, in the case of other property, that such importation would relieve domestic shortages or otherwise be beneficial to the economy of the United States. The sale of the Assets to the Purchaser is subject to the United States Department of State approval. It is the Purchaser's responsibility to obtain any and all other approvals and authorities applicable or related to this sale.

20.5 The Assets listed herein may be subject to the US Government's International Traffic in Arms Regulations and the Canadian Government's Controlled Goods Program (CGP). The sale of the Assets to the Purchaser is subject to the United States Department of State approval. As applicable, it is the Purchaser's responsibility to obtain any and all required approvals for all subsequent sales of the Assets from the United State's Department of State. The U.S. State Department will seek End Use Certification from the appropriate Government official of the country in which the Purchaser resides. The United States Government's International Traffic in Arms Regulations (ITAR) 22 CFR 123-130 applies.



## SCHEDULE 1

### **RELEASE OF DOCUMENTATION AGREEMENT**

This Agreement confirms the acceptance by **Client Country Agency entered here** (hereinafter referred to as the "Recipient ") of the following conditions regarding the release of technical documentation (hereinafter referred to as the "Documentation") for the (**Description of the vehicles here**) will be provided to (**The contact name authorized to accept document for the Client Country**). The Documentation is more particularly described in Appendix A hereto.

In consideration of the provision of the aforesaid Documentation, (receipt of which is hereby acknowledged) the Recipient covenants and agrees as follows:

1. The Documentation was designed for use by Her Majesty only, and there is no warranty, express or implied, as to the quality or fitness for purpose of the said Documentation by any subsequent user.
2. The Recipient hereby releases and forever discharges the Minister of National Defence, Her Majesty the Queen in right of Canada, her heirs and successors, her officers, servants, agents, and members of her Canadian Forces, its employees, agents or representatives and their heirs, executors, administrators or assigns from all claims, demands, damages, actions or causes of action including all claims or demands whatever in law or equity arising or to arise, by reason of the use of the said Documentation.
3. The Recipient covenants to indemnify and hold harmless the Minister of National Defence, Her Majesty the Queen in right of Canada, her heirs and successors, her officers, servants, agents, and members of her Canadian Forces, its employees, agents or representatives against all actions, damages, debts, accounts, claims and demands which may be brought against them arising from the use by the Purchaser, its servants, agents or successors of the said Documentation.
4. The Documentation is provided AS IS - WHERE IS. By using the said Documentation the Recipient assumes all risk associated with its use.
5. The Recipient acknowledges that some of the Documentation has not been updated for some time and as a result thereof, Her Majesty, the Minister of National Defence nor its employees shall be held liable for the use by Purchaser of such Documentation.
6. The Recipient acknowledges and agrees that all of the Documentation is proprietary to Her Majesty and all rights to the copyright therein belong solely to Her Majesty and that all such Documentation shall be kept confidential by the Recipient and shall not be disclosed to others, reproduced or used for

any other purpose, except for the sole purpose of permitting the Recipient to use such Documentation to maintain, operate or repair its asset.

7. Should the Recipient sell or dispose of the asset together with the Documentation (or sell or dispose of the Documentation alone) to a third party, the Purchaser shall then indicate to said third party, the rights of Her Majesty as stated herein with respect to the Documentation, and shall require of the said third party the same acknowledgement and agreement as imposed on the Purchaser herein. The Documentation is subject to Internal Traffic in Arms Regulations (ITAR) and as such any release of subject documentation shall be made only upon retransfer approval by the United States Department of State.

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Authorized Signature

Date

**Appendix A:**

**List of Documentation Provided:**

**Manual and other documents will be listed here**