



Standard Form  
Terms and Conditions of Sale  
Rev. 2009-05-04

**1. DEFINITIONS.** “Products” means the tooling, equipment, parts and/or other articles covered by a Purchase Order (an “Order”) issued by the customer named in the Order (the “Customer”) to the Precision Resource division or subsidiary appearing on the Order (“PR”).

**2. ENTIRE AGREEMENT, ACCEPTANCE, MODIFICATION.**

(a) Unless otherwise agreed to in writing by PR, the terms and conditions contained herein, together with any terms on PR’s Quotation (except as may be later modified by a Sales Order Acknowledgement) or Sales Order Acknowledgement, constitute PR’s entire offer to sell the Products to the Customer (“Offer to Sell”), constitute the entire agreement between PR and the Customer with respect to the subject matter thereof, and supersede all prior or contemporaneous communications and agreements. These Terms and Conditions shall apply to all orders and releases received from Customer. *Customer’s acceptance of PR’s Offer to Sell and PR’s performance of the Order (in whole or in part) are expressly limited to, and conditioned upon, Customer’s acceptance of these Terms and Conditions, which may not be changed or waived except in a writing signed by both parties.* Without limitation on the foregoing, PR’s performance on an Order shall not be considered acceptance of any counter-offer or terms provided by Customer and PR will not be bound by, hereby objects to, and rejects, any additional provision or any provision at variance with these Terms and Conditions or any other part of PR’s Offer to Sell that may appear in Customer’s purchase order, standard terms and conditions, acknowledgments, form agreements, supplier or quality manuals, notices or in any other document or communication from Customer to PR, or any updates or amendments thereto, whether PR has been notified of such provisions, or however such provision may be communicated or referenced (including any provisions contained on Customer’s website, EDI platforms, electronic mail, or any other medium), and whether appearing in hard copy, electronic, or graphic form, or with respect to any online bids or online quote packages that purport to require acceptance of terms and conditions in order to access the bid or quote documents. No email, EDI, on-line access to bids or quote packages, or website communications or exchanges shall constitute a modification of, or objection to, these Terms and Conditions. Without limitation on any other means by which Customer may signify its acceptance of PR’s Offer to Sell, Customer’s performance hereunder, in whole or in part, or acceptance of any Products or payment hereunder, or any other conduct recognizing the existence of a contract, constitutes acceptance of PR’s Offer to Sell. No email, website, or EDI communications or exchanges shall constitute a modification of, or objection to, these Terms and Conditions or any other part of PR’s Offer to Sell.

**3. PRICES; TAXES.**

(a) Unless otherwise agreed to in writing by PR, the prices quoted or acknowledged by PR do not include any federal, provincial, state or local excise, sales, use, value added,

gross receipts or other taxes, customs or import duties or any other charges, duties, fees, costs or expenses. Customer will pay the full amount of any such taxes, duties or charges now or hereafter imposed by law upon, with respect to, or measured by, the manufacture, sale, shipment, use or price of any Product sold or manufactured hereunder. Prices quoted or acknowledged herein are based on: (i) PR's costs of tooling, equipment, material, energy and labor as of the time of Quotation; (ii) the volumes specified on the Sales Order Acknowledgement; (iii) the manufacturing process described in PR's PPAP submission, or if there is no PPAP submission, PR's then current manufacturing process, and (iv) Customer's acceptance of these Terms and Conditions, including particularly the provisions relating to price, warranty and indemnification.

(b) Prices are subject to change upon notice to Customer in the event of: (i) tooling, equipment, labor, energy or material cost increases, (ii) a significant drop in the volumes below those specified on the Sales Order Acknowledgement, or (iii) any change to PR's manufacturing or inspection process.

#### **4. PAYMENT.**

(a) Unless otherwise specified on PR's Sales Order Acknowledgement, subject to PR's rights hereunder or otherwise, payment is due within thirty (30) days after the date of invoice as long as additional releases of Material are outstanding or anticipated. Unless otherwise specified on PR's Sales Order Acknowledgement, all payments are to be made United States dollars. Any failure of PR to insist upon such payment terms or any course of dealing inconsistent with such payment terms shall not constitute a waiver or modification of this provision. Customer acknowledges and agrees that payment within the credit terms established between PR and Customer is intended as a substantially contemporaneous exchange for new value within the meaning of Section 547(c)(1) of the United States Bankruptcy Code since such credit terms are provided only under the understanding that PR will provide new value to Customer in filling currently outstanding or anticipated releases.

(b) PR is under no obligation to provide credit to Customer, and PR reserves the right to restrict or alter the terms of payment or to require payment at or prior to time of shipment if, in PR's judgment, Customer's financial condition or other circumstances do not provide PR with adequate assurance of performance or otherwise do not warrant shipment on the terms originally specified in the contract. If any payment is not received by PR in full on or before the due date thereof or if Customer fails or refuses to pay any increased price upon notice thereof as provided for in Section 3, then Customer's account will be deemed delinquent and the balance due will thereafter bear interest from and after such due date or the effective date of such price increase at the rate of one percent (1%) per month.

(c) PR reserves the right, without any liability whatsoever to Customer or any other person or entity, to suspend performance, refuse to accept additional releases, stop delivery of Products in transit, decline to deliver except for cash, and/or modify payment terms whenever Customer's account is delinquent or PR has reason to doubt Customer's financial condition or ability to pay. *Customer will defend, indemnify and hold PR harmless from any and all claims, costs, expenses, losses and damages brought, incurred by, or threatened against PR as a result of its exercise of any of the foregoing remedies.*

## **5. PACKING; SHIPPING; DELIVERY OF GOODS.**

(a) To the extent that Customer has provided packing specifications to PR, PR will comply with such specifications. *PR is not responsible for any loss, cost, or expense for damaged Products as a result of the manner of packing, except to the extent that PR failed to comply with Customer's specifications, or if no specifications were provided, to the extent of PR's gross negligence in packing the Products.*

(b) To the extent that Customer has provided containers for packing the Products and has made them available for use, PR will use such containers. *PR is not responsible for any loss, cost or expense associated with the use or handling of such containers, except in the event of PR's gross negligence in packing the Products.*

(c) If PR fails to make shipment or delivery when due or fails to make sufficient progress with respect to the manufacture of the Products so that timely shipment or delivery is in jeopardy, Customer's sole and exclusive remedy shall be that PR use and pay for expedited delivery.

(d) Unless a carrier or route is specified on the Order, PR may select a carrier and route of its choice.

(e) Unless otherwise agreed to in writing, all Products are shipped F.O.B. PR's location. Customer is solely responsible for all shipping and delivery charges. Any shipment or delivery date specified on PR's Sales Order Acknowledgement will be the date of shipment from PR's plant. Delivery of Products is contingent on PR receiving, with the Order, complete and detailed current specifications (including any prints or drawings) satisfactory for production with sufficient lead time for PR to perform the Order.

(f) Subject to the purchase money security interest granted under Section 6, title to, and risk of loss of, each Product purchased hereunder will pass to Customer, and delivery will be deemed to be complete, upon transfer of the Products to a carrier for shipment at PR's location or the Products otherwise leave the possession or control of PR.

(g) Unless otherwise agreed to by PR in writing, Customer agrees to accept overrun or underrun quantities not exceeding fifteen percent (15%) of the quantities ordered.

**6. SECURITY INTEREST.** Customer hereby grants PR a purchase money security interest in each Product sold to Customer, as well as all products and proceeds arising from the sale of such Products. Customer hereby authorizes PR to file financing statements, send notices to third parties, and take such other steps as are necessary or desirable in order for PR to perfect and maintain the first priority of its security interest. PR shall retain title to all tooling used by PR in the manufacture of the Products to be sold hereunder until Customer has paid the full purchase price for such tooling.

## **7. CHANGES; CANCELLATIONS; EXTRA WORK.**

(a) No order that has been accepted by PR may be changed or cancelled by Customer (in whole or in part) unless PR agrees to such change or cancellation in writing or such cancellation is due to breach by PR as provided below. Changes may result in a delay in the scheduled delivery date and a change in price. Any change in price or delivery will be as agreed to by Customer and PR.