



<b>Standard Form Terms and Conditions of Purchase Rev. 2009-05-04</b>
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Dear Supplier,

Thank you for visiting our website and for reviewing our Standard Form Terms and Conditions of Purchase. We value our relationship with you and appreciate your attention to our contractual requirements.

As you are aware, our customers are demanding in terms of their requirements regarding quality, price, delivery, overall competitiveness, and terms and conditions. In order to successfully meet our customers' requirements, we rely on our suppliers to provide us with the best quality goods and services, on time, and at competitive prices.

Your compliance with the attached Terms and Conditions of Purchase are a necessary part of our ability to meet our customers' requirements and are an integral part of our contractual relationship with you.

Our Terms and Conditions of Purchase are divided into two sections: (a) [Terms and Conditions of Purchase - Material Orders](#), which apply to all purchases by Precision Resource from you of any goods, including equipment, tooling, components, parts, metal, or any raw material; and (b) [Terms and Conditions of Purchase - Service Orders](#), which apply to any services performed on our or our customers' products or any other services performed for Precision Resource. If you provide both goods and services to us then both forms will apply.

We look forward to working together with you to meet our customers' requirements and to achieve a mutually successful business relationship.

Sincerely,

Precision Resource, Inc.



Standard Form Terms and Conditions of Purchase <b>Material Orders</b> Rev. 2009-05-04
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**1. DEFINITIONS.** “Materials” means the materials, tooling, equipment and/or other articles covered by a Purchase Order (an “Order”) issued by the Precision Resource division or subsidiary appearing on the Order (“PR”) to the supplier named in the Order (the “Supplier”).

**2. ENTIRE AGREEMENT, ACCEPTANCE, MODIFICATION.** Unless otherwise agreed to in writing by PR, the terms and conditions contained herein constitute PR’s offer to purchase Materials from the Supplier, constitute the entire agreement between PR and Supplier with respect to the subject matter hereof, and supersede all prior and contemporaneous communications and agreements. These Terms and Conditions shall apply to all orders and releases from PR to Supplier or any other goods manufactured by Supplier for PR. *Acceptance by Supplier of an Order is expressly limited to, and conditioned upon, Supplier’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 under an Order shall not be considered acceptance of any offer or terms provided by Supplier and PR hereby objects to, and rejects, any additional provision or any provision at variance herewith that may appear in Supplier’s quotation, order acknowledgement, or in any other communication from Supplier to PR, whether PR has been notified of such provisions, or however such provisions may be communicated or referenced (including any provisions contained on Supplier’s website, EDI platforms, electronic mail, or any other medium). Without limitation on any other means by which Supplier may signify its acceptance of an Order or these Terms and Conditions, Supplier’s performance hereunder, in whole or in part, acceptance of any payment hereunder, or any other conduct recognizing the existence of a contract, constitutes acceptance of the Order and these Terms and Conditions, whether or not Supplier has acknowledged the Order or these Terms and Conditions. No email, website, or EDI communications or exchanges shall constitute a modification of, or objection to, these Terms and Conditions or any part of an Order.

**3. PRICE AND TAXES.** Orders will not be filled at prices higher than the prices specified on the Order. If price is omitted, the Materials will be billed at the price last quoted or paid or at the prevailing market price on the date of the Order, whichever is lower. Unless otherwise provided in the Order, prices shown on the Order include all federal, provincial, state and local excise, sales, use, value added, gross receipts or other taxes, customs and import duties and other charges as well as all charges, duties, fees, costs and expenses of Supplier. *Without limit on the foregoing, Supplier may not make any change to the price listed on an Order, or add any surcharge or other tax, fee, charge, cost or expense, without first receiving PR’s written agreement.*

**4. PAYMENT.**

(a) Unless otherwise specified in an Order, payment is due within seventy-five (75) days after the date of invoice submitted by Supplier. Any payment made by PR for the Materials will not constitute acceptance of the Materials or act as a waiver of any rights that PR may have hereunder or pursuant to applicable law.

(b) PR may withhold payment against future deliveries or setoff any amounts owed under an Order against any undisputed amounts due PR by Supplier (including any of PR's costs, expenses, legal or professional fees) in the event of Supplier's actual or threatened breach or repudiation of the Order or the terms of any contract between the parties, or in the event of Supplier's filing of a petition for relief in bankruptcy.

(c) Any advances, down payments, deposits or installments made by PR will be maintained by Supplier in a separate account and returned to PR immediately upon PR's demand in the event of Supplier's failure to timely deliver the Materials or PR's rejection or cancellation of delivery under Sections 8 or 9.

(d) The Supplier will pay each sub-supplier and subcontractor engaged in connection with the Work within the terms established between the Supplier and such sub-supplier or subcontractor, or if no terms are established, within a reasonable period of time not to exceed thirty (30) days. Supplier will defend, indemnify and hold PR harmless from and against any claims of sub-suppliers or subcontractors for payment.

(e) In no event will payment be due unless the Order has been completed in accordance with the terms of the Order, including these Terms and Conditions and all applicable warranties, specifications and requirements. Further, Supplier will not be entitled to any payment: (i) with respect to any materials, labor or other charge arising out of any error, omission or failure to comply with the Order by Supplier or its subcontractors, or (ii) if any default of Supplier or any subcontractor has occurred and is continuing.

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

(a) PR is not responsible for any charge for packing, boxing, storage or cartage. Supplier shall be responsible for all damage resulting from improper packing, boxing, storage or cartage. To the extent PR has provided packing specifications to Supplier, Supplier will strictly comply with such specifications. Each package shall contain a memorandum showing the shipper's name, contents of package, quantities, material code number, and PR's Order number.

(b) Each shipment of Materials under an Order shall contain: (i) Supplier's certification that all Materials comply with the terms of the Order, which certification PR shall be entitled to rely upon without independent verification or investigation, (ii) up-to-date, legible and accurate material safety data sheets, and (iii) the bill of lading number.

(c) Supplier will comply with any customs- or NAFTA-related obligations, origin marking or labeling requirements, and local content origin requirements. Export licenses or authorizations necessary for the export of Supplies are Supplier's responsibility. Credits or benefits resulting from the Order, including trade credits, export credits or the refund of duties, taxes, or fees, belong to PR.

(d) Unless otherwise agreed to in writing, all Materials are shipped F.O.B. PR's location. Time is of the essence with respect to production and delivery. If Supplier fails to make shipment or delivery when due, fails to make sufficient progress with respect to the

manufacture of the Materials so that PR may reasonably determine that timely shipment of delivery is in jeopardy, or if any shipment or delivery is made that is not in all respects in accord with the Order (including time of shipment or delivery), PR reserves the right to reject such delivery and, if PR so elects, PR may treat the Order as repudiated by Supplier and cancel it and/or any outstanding deliveries thereunder, without prejudice to PR's rights to claim damages or to enforce any other remedy provided by law. All expenses of transportation and storage, if any, resulting therefrom will be Supplier's responsibility. Any shipments made earlier than the scheduled time or in amounts above ordered quantities may be returned by PR at Supplier's expense. Supplier is solely responsible for keeping PR informed as to its progress in completing the Order and will submit to PR such progress schedules, reports, estimates, records and other data as may be requested concerning work performed or to be performed under the Order. Supplier is further solely responsible for informing PR immediately upon it becoming aware of any events or circumstances that may delay the timeline for completion or delivery.

(e) Unless a carrier or route is specified on the Order, Supplier may select a carrier and route of its choice, but will use only reputable, reliable carriers at the lowest available cost and most direct route.

(f) Unless otherwise specified on an Order, title to, and risk of loss of, each item of Material will pass to PR, and delivery will be deemed complete, upon delivery and unloading of the Material at PR's location. *Supplier will hold PR harmless against any claims asserted against PR on account of any personal injury or property damage caused by such Materials, or by the transportation or handling thereof, prior to the completion of unloading at PR's location.*

## **6. MATERIALS; TITLE.**

(a) Unless otherwise specified in the Order or agreed to in writing by PR, Supplier, at its sole cost and expense, will supply all material, equipment, tools and facilities required to perform the Order. *Supplier will defend, indemnify and hold PR harmless against any and all claims asserted against PR on account of any personal injury or property damage caused by such materials, equipment, tools or facilities, or by the transportation or handling thereof, or any lien on or claim of right thereto.*

(b) All intellectual and other property (including designs, drawings, blue-prints, tools, dies, patterns, printing plates or other materials or equipment) required to perform an Order, furnished by or paid for by PR, will be and remain the property of PR, and Supplier will return the same to PR upon its request or upon completion or cancellation of the Order, and they shall not be copied or used by Supplier (other than in filling orders from PR) without PR's written consent. *Supplier will use such property at its own risk and will be responsible for all loss or damage to the same while in Supplier's custody. Supplier will, at its cost, store and maintain all such property in good condition and repair. PR makes no warranties of any nature with respect to any such property, which is furnished "AS IS" and "WITH ALL FAULTS."*

**7. CHANGES.** At any time prior to delivery of the Materials, PR may change the design (including drawings, blueprints, specifications and materials), quantities, processing, quality control procedures, method of packing and shipping, or the date or place of delivery of the Materials. Any changes will be made by delivery of a written change

order to Supplier. If the change order increases or decreases Supplier's cost or timing, Supplier must notify PR within ten (10) days of receipt of the change order. Any change to the price payable by PR or the timing of delivery will be adjusted equitably by written agreement. Notwithstanding the foregoing, PR will not be responsible for any additional charges not agreed to in writing by PR. Failure to agree upon any additional charges will not relieve Supplier from its obligation to perform in accordance with the changes specified by PR. Under no circumstances may Supplier make any change in design, processing, method of manufacture, control plan, testing, inspection, certification, packing, quality control procedures or any part of an Order without first notifying PR and receiving PR's written approval.

## **8. CANCELLATION; TERMINATION.**

(a) PR may cancel all or any part of an Order at any time upon written notice to Supplier. Such cancellation shall be without liability to Supplier: (i) if such cancellation occurs at any time prior to the later of: the date for commencement of production, if any, specified in the Order, or the date Supplier actually incurs costs in connection therewith, (ii) in the event of the institution of proceedings relating to insolvency, bankruptcy, reorganization, arrangement of liquidation by or against Supplier, or if Supplier shall make an assignment for the benefit of creditors, (iii) if Supplier should so fail to make progress as to endanger the timely completion of the Order or any portion thereof, (iv) if Supplier breaches or otherwise violates any covenant, agreement, representation or warranty contained herein or in connection with the Order, or threatens to do so; or (v) in the event of an Excusable Delay as provided for in Section 13. If PR cancels the Order under circumstances other than those specified above, PR and Supplier will negotiate in good faith an equitable adjustment for reasonable costs incurred by Supplier in connection with the Work prior to the date that Supplier receives notice of cancellation. In no event will any of such costs exceed the purchase price specified in the Order.

(b) Upon receipt of any notice of cancellation, Supplier shall (i) follow the instructions contained in such notice with respect to the completion of any portions of the Order and the disposal of any finished goods, work-in-process, raw material and scrap, (ii) not otherwise incur any costs after receipt of notice of cancellation, (iii) notify and cancel any orders or contracts with its suppliers and subcontractors, and (iv) cooperate with PR with regard to any resourcing or transfer of production under the Order.

(c) Supplier may terminate an Order upon sixty (60) days' notice in the event of a material breach by PR after first notifying PR in writing of the specific provision of the Order that has been breached and giving PR a reasonable opportunity to cure such breach. Supplier's sole remedy for damages due to PR's breach of payment obligations shall be payment in full of all Materials produced and delivered to PR in accordance with the Order, subject to any applicable bankruptcy Laws.

## **9. INSPECTION; REJECTION.**

(a) PR will have the right to inspect the Materials, at its option, either at Supplier's plant or following receipt of the Materials. Supplier will: (i) permit any inspector to perform any inspection, examination or test reasonably required by PR or its customers, (ii) perform any such inspection, examination or test at the direction of the inspector and at Supplier's sole cost and expense, (iii) cooperate fully with respect to any inspection,

examination or test, (iv) furnish the inspector with all reasonably requested documentation, information and data, and (v) at Supplier's sole cost and expense, comply with the results of any such inspection, examination or test or any recommendations made by an inspector in connection therewith and promptly correct any work found to be unsatisfactory within the time limits set by such inspector. The performance of any inspections, examinations or tests shall not relieve Supplier of its obligations under the Order, nor be construed as acceptance by PR.

(b) PR may reject any Materials that do not conform to the requirements of the Order or, if not so specified, that do not conform to standard specifications regardless of when the non-conformity becomes apparent.

**10. WARRANTY.** Supplier warrants that all Materials and their packaging will conform to:

(a) the specifications provided by PR to Supplier and any customer-specific requirements communicated in writing to Supplier, or if none were provided, to standard specifications and requirements;

(b) the description of the Materials provided by Supplier to PR, whether through any written or oral means, including any description contained in the Order, any proposal or quotation submitted to PR, any catalog or brochure or any other communication from Supplier or its representatives to PR; and

(c) any sample or model provided by Supplier to PR.

Supplier further warrants that the Materials will be:

(d) in all respects suitable for the particular purpose or use for which they are purchased by PR if the Supplier knows or has reason to know the purpose or use,

(e) of a merchantable quality,

(f) free from any defects in material and workmanship,

(g) free from any defects in design to the extent that Supplier is responsible for the design,

(h) of good title free of any lien, claim, encumbrance, security interest, or other claim of right,

(i) new and not reconditioned (unless otherwise specified in the Order),

(j) in compliance with all applicable laws concerning the manufacture, inspection, testing, transportation, and delivery of the Materials (including all workplace, environmental and health and safety laws),

(k) sold at not less than fair value under the anti-dumping laws of the countries to which the Supplies are exported, and

(l) free of any claim for patent infringement or violation of the intellectual property rights of a third party. All such warranties shall remain in place for the duration of the warranty provided to the end user of the products into which the Materials are ultimately incorporated. Such warranties will apply regardless of PR's acceptance of any Materials or the results of any inspection of the Materials. Supplier further warrants that it will

maintain its current quality systems certification and comply with its internal quality control systems and procedures as well as any other quality assurance requirements communicated to Supplier or required by its customers. Such warranty will apply as long as any Order is in effect between the parties.

## **11. REMEDIES.**

(a) Upon Supplier's breach of any of the foregoing warranties, Supplier will: (i) at PR's option, repair or replace, without cost to PR, the non-conforming or defective Materials within the timeframe specified in a written notice from PR, and (ii) pay to PR within thirty (30) days of demand therefor all of PR's damages associated with such breach of warranty. If Supplier fails to so repair or replace such Materials within the time required by PR, PR will have the right (but not the obligation) to repair or replace such Materials at Supplier's sole cost and expense.

(b) Supplier agrees that, with respect to any breach or threatened breach of Section 17 or Supplier's obligation to produce and deliver Materials, PR does not have an adequate remedy at law and that PR is entitled to specific performance of Supplier's obligations under the Order.

(c) In the event that Supplier is unable or unwilling to perform an Order or to meet the delivery schedule specified in the Order, PR shall have the right (but not the obligation) to obtain the Materials from any other source and charge Supplier with all costs and expenses related thereto, including any difference in purchase price, costs of delay, expedited shipping, customer charges, labor and overtime charges, and any other costs or expenses incurred by PR.

(d) PR's rights hereunder are cumulative. In addition to any remedies provided hereunder, PR reserves all rights it may have against Supplier, whether at law or in equity, under these Terms and Conditions of Purchase, or under any applicable theory of liability. The exercise of any one right or remedy shall not preclude the exercise of any other right or remedy. In order to enforce its rights hereunder, PR may bring a claim against Supplier, its parent company or affiliates at any time prior to the expiration of the applicable statute of limitations and such parent company and affiliates are hereby made a party to these Terms and Conditions.

## **12. INDEMNIFICATION.**

(a) Supplier will indemnify, defend, and hold PR and its subsidiaries and affiliates, and each of its and their officers, directors, shareholders, members, employees, customers, representatives and agents ("PR Indemnified Parties") harmless from and against any and all claims, demands, liabilities, damages, losses, settlements, debits, costs, fines, penalties, taxes, and expenses (including but not limited to any costs or damages provided for in these Terms and Conditions, the costs of exercising or enforcing any remedies provided for in these Terms and Conditions or otherwise, reasonable legal and other professional fees and court costs, liens, costs of recall, root cause analysis, customer chargebacks or claims, production interruption charges, labor charges, transportation costs, costs for sorting or inspection, and any consequential, incidental, indirect or special damages including lost profits) ("Losses") brought, incurred or threatened against a PR Indemnified Party resulting from or connected with:

(i) any breach of Supplier's warranty, these Terms and Conditions of Purchase, any contract between Supplier and PR, or any other term of an Order (a "Breach"),

(ii) Supplier's negligence, fraud, failure to comply with Law, tort, or willful misconduct,

(iii) any and all liens or claims filed or asserted for services performed or materials, equipment, tools or machinery furnished by Supplier or any subcontractor or supplier or any employee of any of them and from any and all Losses arising out of, resulting from or connected with any such lien or claim,

(iv) PR's inspection and rejection of any Materials under Section 9, and

(v) any injury (including death) to person or damage to property as a result of any of the foregoing.

Notwithstanding the foregoing, Supplier will not be liable for any Losses of PR or any third party that are solely the result of the gross negligence or willful misconduct of PR. Until such time as Supplier takes up its duty to defend under this Section 12(a), PR shall be entitled to retain counsel in order to defend itself, with the fees for such counsel to be reimbursed by Supplier. Until such time as Supplier has indemnified PR in full, all Losses incurred by PR shall bear interest at the statutory rate of interest from the date that is ninety (90) days after PR first notifies Supplier that it has incurred such Losses.

(b) At its own cost and expense, Supplier will cooperate with, and provide reasonable assistance to, PR with respect to any claim against PR, administration of any recall, root cause analysis or investigation, corrective action, or engineering change, involving the Materials and any PR or customer products into which the Materials are incorporated, regardless of whether Supplier is obligated to indemnify PR under Section 12(a).

**13. EXCUSABLE DELAYS.** Neither party will be liable for any delay or failure of performance due solely to fires, floods, wars, acts of terrorism or other similar causes beyond its control and without its fault or negligence, provided that the party subject to such cause will have provided written notice thereof to the other as soon as the same could be anticipated, and if it could not be anticipated, promptly following the commencement thereof. If any excusable delay continues for more than thirty (30) days, PR may cancel any Order subject to the excusable delay without liability to Supplier.

#### **14. INSURANCE.**

(a) Unless otherwise agreed to by PR, Supplier will obtain and maintain, at its sole cost and expense (i) insurance in an amount adequate to cover the replacement cost of the Materials up until delivery to PR, (ii) Comprehensive General Liability insurance covering all operations under the Order, including operation premises liability, Supplier's protective liability and products/completed operations with minimum limits per occurrence of not less than Two Million Dollars (\$2,000,000) for bodily injury or death and One Million Dollars (\$1,000,000) for property damage, (iii) Workers' compensation and employers' liability insurance in compliance with applicable law covering all employees of Supplier or any subcontractor working on the Premises, and (iv) Automotive liability insurance covering all motor vehicles used in connection with the performance of the Order, whether owned, non-owned or hired with minimum limits of not less than Two Million Dollars (\$2,000,000) for bodily injury or death and One

Million Dollars (\$1,000,000) for property damage. If requested by PR, property damage coverage will also include coverage for explosion, collapse and underground property damage.

(b) If requested by PR, Supplier will provide PR with a Certificate of Insurance certifying that such policies of insurance are in full force and effect. All insurance maintained by Supplier will be effected under enforceable policies issued by insurers of recognized responsibility, licensed to do business in the state or province where the Work is to be performed and reasonably satisfactory to PR. Such insurance policies will expressly provide that they may not be cancelled or altered except upon thirty (30) days written notice to PR and a waiver by the insurer of its right of subrogation against PR. If Supplier fails to obtain or maintain such insurance, then PR will have the right (but not the obligation) to procure any such insurance on behalf of Supplier and be immediately reimbursed by Supplier for PR's costs (including premium expense) in procuring such insurance.

**15. LABOR.** *If an Order covers the performance of labor and/or supervision of installation on PR's premises, Supplier agrees to indemnify and hold PR harmless from and against all claims and liabilities for injury or damage to any person or property arising out of the performance of the Order.* Supplier will furnish PR with a certificate or other satisfactory evidence of insurance to the effect that Supplier has and will maintain while on PR's premises adequate insurance coverage (including public liability and property damage, automobile liability and worker's compensation) in such amounts and with such insurance companies as are satisfactory to PR. Supplier also agrees that it, its employees, agents, and subcontractors, will comply with all of PR's safety and other rules covering outside contractors while on PR's premises.

#### **16. COMPLIANCE WITH LAW.**

(a) Supplier is fully informed of, and will comply with, all applicable rules, laws, regulations, ordinances, codes, requirements, restrictions, statutes, decrees, judgments and orders ("Laws") promulgated or issued by any court, agency, department, or other division of any local, state, provincial or federal government, whether foreign or domestic, having jurisdiction over the Materials, PR or the Supplier or its subcontractors or in any manner affecting the employees, work, material or services used in completing the Order.

(b) Without limitation on the foregoing, Supplier will comply with all local, state, provincial and federal Laws relating to: (i) the environment, including those Laws relating to the use, treatment, storage or disposal of any Hazardous Substances (as defined in applicable Laws), (ii) health and safety, including all state and federal OSHA Laws, (iii) workers and workers' rights, including child labor laws, and (iv) the protection of inland wetlands and watercourses. The Supplier will be solely responsible, at its own cost and expense, for any and all remedial action required as a result of its non-compliance with any Law relating to the environment.

(c) Without limit on the foregoing, Suppliers in the United States or subject to the laws of the United States additionally certify to PR that the Materials were produced in compliance with all applicable requirements of the Fair Labor Standards Act of 1938, as amended, including without limitation the requirements as to records. The Equal

Employment Opportunity clause prescribed by Executive Order No. 11246 of September 24, 1965, as amended from time to time, the Affirmative Action for Handicapped Workers clause prescribed by the Rehabilitation Act of 1973, as amended, and the Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era clause prescribed by the Vietnam Era Veterans Readjustment Assistance Act of 1972, as amended, and the Foreign Corrupt Practices Act, are incorporated herein, unless this transaction is exempt, and Supplier agrees to submit reports, certificates and other documents required of subcontractors by such Executive Order, and the aforementioned Acts, and the rules, regulations and relevant orders issued under the authority of any of the foregoing.

**17. CONFIDENTIALITY.** Any information relating to an Order disclosed by PR to Supplier, including information relating to customers of PR, shall be kept confidential by Supplier and shall not be used by Supplier for any purpose other than pursuant to or as required by the Order.

**18. ASSIGNMENT.** No assignment of an Order, the obligations of Supplier hereunder, or of monies due or to become due hereunder will be made without the prior written consent of PR.

**19. FINANCIAL INFORMATION.** In order that PR may make a reasonable determination as to the financial health of Supplier, upon PR's request at any time, Supplier shall provide such financial information as PR shall reasonably request, which information PR shall not disclose to any third party other than its advisors who need to see such information in order to advise PR as to Supplier's financial health.

**20. WAIVER.** Neither the failure nor any delay on the part of PR to exercise any right, remedy, power or privilege under this Agreement will operate as a waiver thereof in any later instance, nor will any such failure or delay invalidate these Terms and Conditions or any portion thereof. No waiver by PR will be effective unless it is in writing and is signed by an authorized officer of PR.

**21. GOVERNING LAW; VENUE.** This contract and the sale of goods contemplated hereby has been made in, and will be construed and enforced in accordance with the laws of, the jurisdiction in which PR is located without regard to its principles of conflicts of laws. Supplier and PR consent to the exclusive jurisdiction of the state and federal courts of such jurisdiction for any actions, suits or other proceedings arising out of, or related to, the enforcement of either party's rights hereunder. Supplier and PR agree not to commence any action suit or proceeding in any other court and hereby irrevocably and unconditionally waive any objection to the laying of venue in any such court. The United Nations Convention on the International Sale of Goods expressly does not apply to any Order.

**22. SURVIVABILITY.** The provisions of Sections 1, 2, 3, 5, 6, 8, 9, 10, 11, 12, and Sections 16-26 will survive the expiration or termination of this contract.

**23. SEVERABILITY.** In case any one or more of the provisions or parts of a provision contained herein are, for any reason, held to be invalid, illegal or unenforceable in any respect in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other provision or part of a provision hereof or any other jurisdiction, but these Terms

and Conditions will be reformed and construed in any such jurisdiction as if such invalid or illegal or unenforceable provision or part of a provision had never been contained herein and such provision or part will be reformed so that it would be valid, legal and enforceable to the maximum extent permitted in such jurisdiction.

**24. INDEPENDENT CONTRACTORS.** Supplier and PR are independent contracting parties and nothing in the Order will make either party the employee, partner, joint venturer, agent or legal representative of the other for any purpose. The Order does not grant either party any authority to assume or to create any obligation on behalf of or in the name of the other.

**25. CONSTRUCTION.** The section headings contained herein are inserted for convenience only and will not affect in any way the meaning or interpretation of these Terms and Conditions . The word “including” will mean “including without limitation”.

**26. LANGUAGE.** The parties acknowledge that it is their wish that these terms and all documents relating thereto be in the English language only / *Les parties aux presents reconnaissent avoir voulu que cette convention ainsi que tous les documents qui s'y rattachent soient rediges en langue anglaise seulement / Las partes reconocen que es su deseo que estos terminos y todos los documentos que se relacionan estén en el idioma ingles solamente.*



Standard Form  
Terms and Conditions of Purchase  
**Service Orders**  
Rev. 2009-05-04

**1. DEFINITIONS.** “Work” means the services and work covered by a purchase order (an “Order”) issued by the Precision Resource division or subsidiary appearing on the Order (“PR”) to the supplier named in the Order (the “Supplier”). “Premises” means the PR location at which the Work is to be performed according to an Order. “Goods” means any products of PR upon which Supplier is to perform services in accordance with the terms of an Order, including any metal parts and assemblies manufactured by PR for sale to its customers.

**2. ENTIRE AGREEMENT, ACCEPTANCE, MODIFICATION.** Unless otherwise agreed to in writing by PR, the terms and conditions contained herein constitute the entire agreement between PR and the Supplier with respect to the subject matter hereof and supersede all prior and contemporaneous communications and agreements. These Terms and Conditions shall apply to all Orders and releases from PR to Supplier or any other services performed by Supplier for PR. *Acceptance by the Supplier of an Order is expressly limited to, and conditioned upon, Supplier’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 offer or terms provided by Supplier and PR hereby objects to, and rejects, any additional provision or any provision at variance herewith that may appear in Supplier’s quotation, order acknowledgement, or in any other communication from Supplier to PR, whether PR has been notified of such provisions, or however such provision may be communicated or referenced (including any provisions contained on Supplier’s website, EDI platforms, electronic mail, or any other medium). Without limitation on any other means by which Supplier may signify its acceptance of an Order or these Terms and Conditions, Supplier’s performance hereunder, in whole or in part, or acceptance of any payment hereunder, or any other conduct recognizing the existence of a contract, constitutes acceptance of the Order and these Terms and Conditions, whether or not Supplier has acknowledged the Order or these Terms and Conditions. No email, website, or EDI communications or exchanges shall constitute a modification of, or objection to, these Terms and Conditions or any part of an Order.

**3. PRICE AND TAXES.**

(a) Orders will not be filled at prices higher than those specified on the Order. If price is omitted, the Work will be billed at the price last quoted or paid or at the prevailing market price on the date of the Order, whichever is lower. Unless otherwise provided in the Order, prices shown on the Order include all federal, provincial, state and local excise, sales, use, value added, gross receipts or other taxes, customs and import duties and other charges as well as all charges, duties, fees, costs and expenses of Supplier. Without limit on the foregoing, Supplier may not make any change to the price listed on

an Order, or add any surcharge or other tax, fee, charge, cost or expense, without first receiving PR's written agreement.

(b) Any Work necessary to be performed outside of regular working hours, on Sundays or holidays, will be performed without additional expense to PR. Supplier represents that it is familiar (as applicable) with the Premises or the Goods, the nature of the Work and conditions relating to performance of the Work and that the price specified for completion of the Work is based on Supplier's own inspection of the site or Goods and the cost and availability of any needed materials, power, fuel, labor, equipment, subcontractors and all other matters that might affect the cost and time of completion of the Work.

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

(a) Unless otherwise specified in an Order, payment is due within seventy-five (75) days after acceptance of the Work by PR and receipt of an invoice submitted by Supplier. Any payment made by PR for the Work will not constitute acceptance of the Work or act as a waiver of any rights that PR may have hereunder or pursuant to applicable law.

(b) PR may withhold payment against future deliveries or setoff any amounts owed under an Order against any undisputed amounts due PR by Supplier (including any of PR's costs, expenses, legal or professional fees) in the event of Supplier's actual or threatened breach or repudiation of the Order or the terms of any contract between the parties related to the Work, or in the event of Supplier's filing of a petition for relief in bankruptcy.

(c) Any advances, down payments, deposits or installments made by PR will be maintained by Supplier in a separate account and returned to PR immediately upon PR's demand in the event of Supplier's failure to timely perform the Work or PR's rejection or cancellation of the Work under Sections 8 or 9.

(d) The Supplier will pay each sub-supplier and subcontractor engaged in connection with the Work within the terms established between the Supplier and such sub-supplier or subcontractor, or if no terms are established, within a reasonable period of time not to exceed thirty (30) days. If an Order is issued on a cost-plus basis, Supplier will avail itself, for the benefit of PR, of all refunds, rebates, credits, trade discounts, prompt payment or other cost saving measures that may be obtained. Supplier will defend, indemnify and hold PR harmless from and against any claims of sub-suppliers or subcontractors for payment.

(e) In no event will payment be due unless the Work has been completed in accordance with the Order, including these Terms and Conditions and all applicable warranties, specifications and requirements, and unless the releases specified below have been received by PR. Further, Supplier will not be entitled to any payment: (i) with respect to any materials, labor or other charge arising out of any error, omission or failure to comply with an Order by Supplier or its subcontractors, or (ii) if any default of Supplier or any subcontractor has occurred and is continuing.

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

(a) PR is not responsible for any charge for packing, boxing, storage or cartage of any Goods. Supplier shall be responsible for all damage resulting from improper packing, boxing, storage or cartage. To the extent PR has provided packing specifications to Supplier, Supplier will strictly comply with such specifications. Each package shall

contain a memorandum showing the shippers' name, contents of package, quantities, material code number, and PR's Order number.

(b) Each shipment of Goods under an Order shall contain: (i) Supplier's certification that all Materials comply with the terms of the Order, which certification PR shall be entitled to rely upon without independent verification or investigation, (ii) up-to-date, legible and accurate material safety data sheets, and (iii) the bill of lading number.

(c) Unless otherwise agreed to in writing, all Goods are shipped F.O.B. PR's location. Time is of the essence with respect to processing and delivery. If Supplier fails to make shipment or delivery when due, fails to make sufficient progress with respect to processing the Goods so that PR may reasonably determine that timely shipment of delivery is in jeopardy, or if any shipment or delivery is made that is not in all respects in accord with the Order (including time of shipment or delivery), PR reserves the right to reject such delivery and, if PR so elects, PR may treat the Order as repudiated by Supplier and cancel it and/or any outstanding deliveries thereunder, without prejudice to PR's rights to claim damages or to enforce any other remedy provided by law. All expenses of transportation and storage, if any, resulting therefrom will be Supplier's responsibility. Supplier is solely responsible for keeping PR informed as to its progress in completing the Work and the Order and will submit to PR such progress schedules, reports, estimates, records and other data as may be requested concerning work performed or to be performed under the Order. Supplier is further solely responsible for informing PR immediately upon it becoming aware of any events or circumstances that may delay the timeline for completion or delivery.

(d) Unless a carrier or route is specified on the Order, Supplier may select a carrier or route of its choice, but will use only reputable, reliable carriers at the lowest available cost and most direct route.

(e) Unless otherwise specified on an Order, risk of loss of each item of Goods will pass to PR, and delivery will be deemed complete, upon delivery and unloading of the Goods at PR's location. *Supplier will hold PR harmless against any claims asserted against PR on account of any personal injury or property damage caused by such Goods, or by the transportation or handling thereof, prior to the completion of unloading at PR's location.*

## **6. MATERIALS; TITLE.**

(a) Unless otherwise specified in the Order or agreed to in writing by PR, Supplier, at its sole cost and expense, will furnish all tools, supplies, materials, equipment, machinery, labor, transportation, power, light and all other items necessary for the safe and timely completion of the Work in accordance with the Order, including these Terms and Conditions. All materials will be new and suitable for the purpose intended. Supplier will not purchase any materials or supplies for the Work that are subject to any security agreement or under a conditional sale contract or other agreement through which an interest is retained by the seller. Supplier warrants that it will have, immediately upon introduction to the Work, good title to all materials, equipment and supplies used by it in the Work, free from all liens, claims, or encumbrances. *Supplier will defend, indemnify and hold PR harmless against any and all claims asserted against PR on account of any personal injury or property damage caused by such materials or equipment, or by the transportation or handling thereof, or any lien on or claim of right thereto.*

(b) All intellectual and other property (including designs, drawings, blue-prints, tools, dies, patterns, printing plates or other materials or equipment) required to perform an Order, furnished by or paid for by PR, will be and remain the property of PR, and Supplier will return the same to PR upon its request or upon completion or cancellation of the Order, and they shall not be copied or used by Supplier (other than in filling orders from PR) without PR's written consent. *Supplier will use such property at its own risk and will be responsible for all loss or damage to the same while in Supplier's custody.* Supplier will, at its cost, store and maintain all such property in good condition and repair. *PR makes no warranties of any nature with respect to any such property, which is furnished "AS IS" and "WITH ALL FAULTS."*

(c) Supplier shall take special care in the custody and control of the Goods and any property of PR in order to preserve such Goods and property in good condition. *Supplier represents to PR that PR's Goods and property in the custody and control of Supplier are insured at their replacement value with PR listed as an additional insured and loss payee. Supplier will indemnify PR against any Losses as a result of the damage or destruction of the Goods while in the custody or control of Supplier.*

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

(a) At any time prior to completion of the Work, PR may change the Work including any design (including drawings, blueprints, specifications and materials), quantities, processing, quality control procedures, method of packing and shipping Goods, or the date or place of delivery of Goods or completion of the Work. Any changes must be made by delivery of a written change order to Supplier. If the change order increases or decreases Supplier's cost or timing, Supplier must notify PR within ten (10) days of receipt of the change order. Any change to the price payable by PR and the timing of delivery will be adjusted equitably by written agreement. Notwithstanding the foregoing, PR will not be responsible for any additional charges not agreed to in writing by PR. Failure to agree upon any additional charges will not relieve Supplier from its obligation to perform the Work hereunder in accordance with the changes specified by PR. Under no circumstances may Supplier make any change in the scope of Work, work plan, schedule, time for delivery, design, processing, control plan, testing, inspection, certification, packing, quality control procedures or any part of an Order without first notifying PR and receiving PR's written approval.

(b) Supplier will not perform any extra work beyond the scope of an Order without the express written consent of PR. PR may at any time, by written order, require the performance of extra work or changes in the work as may be found necessary or desirable. Compensation for extra work will be paid only in accordance with a written agreement based on supplemental work or change orders signed by both parties.

#### **8. CANCELLATION; TERMINATION.**

(a) PR may cancel all or any part of an Order at any time upon notice to Supplier. Such cancellation shall be without liability to Supplier: (i) if such cancellation occurs at any time prior to the later of: the date for commencement of the Work, if any, specified in the Order, or the date the Supplier actually incurs costs in connection therewith, (ii) in the event of the institution of proceedings relating to insolvency, bankruptcy, reorganization, arrangement or liquidation by or against Supplier, or if Supplier shall make an

assignment for the benefit of creditors, (iii) if Supplier should so fail to make progress as to endanger the timely completion of the Work or any portion thereof, (iv) if Supplier breaches or otherwise violates any material covenant, agreement, representation or warranty contained herein or in connection with the Order, or threatens to do so, or (v) in the event of an Excusable Delay as provided for in Section 13. If PR cancels the Order under circumstances other than those specified above, PR and Supplier will negotiate in good faith an equitable adjustment for reasonable costs incurred by Supplier in connection with the Work prior to the date that Supplier receives notice of cancellation. In no event will any of such costs exceed the purchase price specified in the Order.

(b) Upon receipt of any notice of cancellation, Supplier shall (i) follow the instructions contained in such notice with respect to the completion of any portions of the Order, (ii) not otherwise incur any costs after receipt of notice of cancellation, (iii) notify and cancel any orders or contracts with its suppliers and subcontractors, and (iv) cooperate with PR with regard to any resourcing or transfer of the Work.

(c) Supplier may terminate an Order upon sixty (60) days' notice in the event of a material breach by PR after first notifying PR in writing of the specific provision of the Order that has been breached and giving PR a reasonable opportunity to cure such breach. Supplier's sole remedy for damages due to PR's breach of payment obligations shall be payment in full for all Work performed in accordance with the Order, subject to any applicable bankruptcy Laws.

## **9. INSPECTION; REJECTION.**

(a) The Work, including any portion thereof, and all materials, equipment, machinery, records, and documentation will be subject to inspection, examination and testing by PR or its representatives at any and all times during the Work. Supplier will: (i) permit any inspector to perform any inspection, examination or test reasonably required by PR or its customers, (ii) perform any such inspection, examination or test at the direction of the inspector and at Supplier's sole cost and expense, (iii) cooperate fully with respect to any inspection, examination or test, (iv) furnish the inspector with all reasonably requested documentation, information and data, and (v) at Supplier's sole cost and expense, comply with the results of any such inspection, examination or test or any recommendations made by an inspector in connection therewith and promptly correct any work found to be unsatisfactory within the time limits set by such inspector. The performance of any inspections, examinations or tests shall not relieve Supplier of its obligations to perform the Work in accordance with the requirements of the Order, nor be construed as acceptance by PR.

(b) PR may reject the Work, or any portion thereof, that does not conform to the requirements of the Order, or, if not so specified, that do not conform to standard specifications regardless of when the non-conformity becomes apparent.

## **10. COVENANTS; WARRANTY.**

(a) Performance Of Work. Supplier will diligently perform the Work in a good and workmanlike manner strictly in accordance with the Order, including these Terms and Conditions and any applicable specifications and standards. If performing the Work on

the Premises, Supplier will perform the Work in such a way as to minimize any interruption in the operation of PR's business.

(b) Time Of Completion. Time is of the essence. Supplier will complete the Work strictly in accordance with the time schedule on the Order or, if no time is specified, as otherwise agreed to by PR. Supplier will work diligently and without interruption and apply sufficient resources to ensure timely completion of the Work.

(c) Delivery of the Work. If performing the Work on the Premises, upon completion of the Work (or, if applicable, any portion), Supplier will deliver full possession and control of the Premises to PR in clean, neat and orderly condition, free of any temporary structure, tools, machinery, refuse, or debris.

(d) Maintenance. If performing the Work on the Premises, Supplier is solely responsible for maintaining the Premises at all times in a clean, neat and orderly manner free from all refuse, rubbish, scrap and debris caused by the Work. Supplier will dispose of any materials to be removed from the Premises in accordance with all applicable laws and will be responsible for all costs associated therewith.

(e) Reports, Records and Data. If the Order is on a basis other than lump-sum fixed price, Supplier will submit to PR such progress schedules, reports, estimates, records and other data as may be requested concerning work performed or to be performed under the Order. All such records shall be: (i) complete and accurate, (ii) in accordance with U.S. generally accepted accounting principles, and (iii) in sufficient detail to reflect the actual cost of performing the Work under the Order. PR may at any reasonable time inspect and audit Supplier's books and records, including accounts, payrolls, ledgers, invoices and other data relating to the Work.

(f) Releases. Upon completion of the Work but prior to final payment, if requested by PR, the Supplier will deliver to PR: (i) original releases of all liens and of rights to claim any lien from itself and all manufacturers, material suppliers and subcontractors furnishing materials, labor or services in connection with the Work, and (ii) a release discharging PR and each of its officers, directors, employees, agents and customers from any obligation or claim arising out of the Work or the Order. In the event any obligation, lien or claim described above is filed or asserted, Supplier will promptly discharge or remove such lien or claim and provide PR with evidence of such discharge or removal. *If Supplier fails to so discharge or remove such lien or claim, then PR will have the right (but not the obligation) to discharge or remove such lien or claim and be immediately reimbursed by Supplier for PR's costs and expenses (including reasonable legal fees) in doing so.*

(g) Warranty. Supplier represents and warrants that the Work, the Goods and the packaging of the Goods will conform to:

(i) the specifications or design provided by PR to Supplier and any customer-specific requirements communicated in writing to Supplier, or if none were provided, to standard specifications and requirements;

(ii) the description of the Work or the processed Goods provided by Supplier to PR, whether through any written or oral means, including any description contained in

the Order, any proposal or quotation submitted to PR, any catalog or brochure or any other communication from Supplier or its representatives to PR; and

(iii) any sample or model provided by Supplier to PR.

Supplier further warrants that the Work and the Goods will be:

(iv) in all respects suitable for the particular purpose or use for which they are purchased by PR if the Supplier knows or has reason to know the purpose or use,

(v) of a merchantable quality,

(vi) free from any defects in material and workmanship,

(vii) free from any defects in design to the extent that Supplier is responsible for the design,

(viii) of good title, free of any lien, claim, encumbrance, security interest, or other claim of right,

(ix) in compliance with all applicable laws concerning the processing, inspection, testing, transportation, and delivery of the Goods (including all workplace, environmental and health and safety laws) and the performance of the Work, and

(x) free of any claim for patent infringement or violation of the intellectual property rights of a third party.

All such warranties shall remain in place for the duration of the later of: five years after completion of the Work, or the warranty provided to the end user of the products into which the Goods are ultimately incorporated. Such warranties will apply regardless of PR's acceptance of any Goods or the Work (including any portion thereof) or the results of any inspection of the Goods or Work (including any portion thereof). Supplier further warrants that it will maintain its current quality systems certification and comply with its internal quality control systems and procedures as well as any other quality assurance requirements communicated to Supplier or required by its customers. Such warranty will apply as long as any Order is in effect between the parties.

## **11. REMEDIES.**

(a) Upon Supplier's breach of any of the foregoing warranties, Supplier will: (i) at PR's option, repair or replace, without cost to PR, the non-conforming or defective Goods or portion of the Work within the timeframe specified in a written notice from PR, and (ii) pay to PR within thirty (30) days of demand therefor all of PR's damages associated with such breach of warranty. If Supplier fails to so repair or replace such Goods or portion of the Work within the time required by PR, PR will have the right (but not the obligation) to repair or replace such defect or non-conformity at Supplier's sole cost and expense.

(b) Supplier agrees that, with respect to any breach or threatened breach of Section 17 or Supplier's obligation to perform the Work and/or process and deliver the Goods, PR does not have an adequate remedy at law and that PR is entitled to specific performance of Supplier's obligations under the Order.

(c) In the event that Supplier is unable or unwilling to perform an Order or to meet the delivery schedule specified in the Order, PR shall have the right (but not the obligation)

to obtain the Work from any other source and charge Supplier with all costs and expenses related thereto, including any difference in purchase price, costs of delay, expedited shipping, customer charges, labor and overtime charges, and any other costs or expenses incurred by PR.

(d) PR's rights hereunder are cumulative. In addition to any remedies provided hereunder, PR reserves all rights it may have against Supplier, whether at law or in equity, under these Terms and Conditions, or under any applicable theory of liability. The exercise of any one right or remedy shall not preclude the exercise of any other right or remedy. In order to enforce its rights hereunder, PR may bring a claim against Supplier, its parent company, or affiliates, at any time prior to the expiration of the applicable statute of limitations and such parent company and affiliates are hereby made a party to these Terms and Conditions.

## **12. INDEMNIFICATION.**

(a) Supplier will indemnify, defend, and hold PR and its subsidiaries and affiliates, and each of its and their officers, directors, shareholders, members, employees, customers, representatives and agents ("PR Indemnified Parties") harmless from and against any and all claims, demands, liabilities, damages, losses, settlements, debits, costs, fines, penalties, taxes, and expenses (including but not limited to any costs or damages provided for in these Terms and Conditions, the costs of exercising or enforcing any remedies provided for in these Terms and Conditions or otherwise, reasonable legal and other professional fees and court costs, liens, costs of recall, root cause analysis, customer chargebacks or claims, production interruption charges, labor charges, transportation costs, costs for sorting or inspection, and any consequential, incidental, indirect or special damages including lost profits) ("Losses") brought, incurred or threatened against a PR Indemnified Party resulting from or connected with:

(i) any violation or breach of Supplier's warranty, these Terms and Conditions of Purchase, any contract between Supplier and PR, or any other term of an Order (a "Breach"),

(ii) Supplier's negligence, fraud, failure to comply with Law, tort, or willful misconduct,

(iii) any remediation work resulting from the actions or omissions of Supplier,

(iv) any and all liens or claims filed or asserted for services performed or materials, equipment, tools or machinery furnished by Supplier or any subcontractor or supplier or any employee of any of them and from any and all Losses arising out of, resulting from or connected with any such lien or claim,

(v) any penalty or damage incurred by reason of Supplier's failure to obtain required permits or licenses or to comply with any applicable Laws,

(vi) PR's inspection and rejection of the Work or the Goods under Section 9, and

(vii) any injury (including death) to person or damage to property as a result of any of the foregoing.

Notwithstanding the foregoing, Supplier will not be liable for any Losses of PR or any third party that are solely the result of the gross negligence or willful misconduct of PR.

Until such time as Supplier takes up its duty to defend under this Section 12(a), PR shall be entitled to retain counsel in order to defend itself, with the fees for such counsel to be reimbursed by Supplier. Until such time as Supplier has indemnified PR in full, all Losses incurred by PR shall bear interest at the statutory rate of interest from the date that is ninety (90) days after PR first notifies Supplier that it has incurred such Losses.

(b) At its own cost and expense, Supplier will cooperate with, and provide reasonable assistance to, PR with respect to any claim against PR, administration of any recall, root cause analysis or investigation, corrective action, or engineering change, involving the Goods and any PR or customer products into which the Goods are incorporated, regardless of whether Supplier is obligated to indemnify PR under Section 12(a).

(c) Supplier and any of its employees, agents or subcontractors enter upon the Premises at their own risk. IT IS EXPRESSLY UNDERSTOOD THAT PR UNDERTAKES NO LIABILITY WITH RESPECT TO ANY AND ALL INJURIES TO PERSONS OR PROPERTY ENTERING UPON THE PREMISES THAT ARE CAUSED BY OR ARISE OUT OF THE WORK OR THE CONDITION OF THE PREMISES PRIOR TO COMPLETION OF THE WORK. Supplier is solely responsible for the supervision of its employees and all others performing the Work. The Work will at all times be under the charge and control of Supplier and all risks associated therewith will be borne by Supplier. Supplier hereby assumes all responsibility for the Work and for the protection and preservation of its work and materials against damage or loss, including any damage from the weather. Supplier is solely responsible for the safety and preservation of its materials, supplies, machinery and equipment. Supplier will store such items so as to not unduly interfere with the progress of the Work and protect such items from damage from exposure to weather, theft, or breakage. Any work or materials damaged or destroyed by reason of failure on the part of Supplier to so protect its work will be restored and replaced at the expense of Supplier. Supplier will take all precautions for preventing injury to persons in or about the Premises and will have sole responsibility for any such injury, including PR's and Supplier's employees, invitees, and licensees. Without limitation on the foregoing, Supplier will erect and properly maintain at all times, as required by the conditions and progress of the Work, all necessary safeguards for the protection of persons in or about the Premises and will post danger signs warning against the hazards created by such features of construction as protruding nails, hoists, holes, trenches and other excavations and falling materials. Supplier will comply with applicable building codes, all local, state and federal laws regarding safety and all policies of PR regarding safety.

**13. EXCUSABLE DELAYS.** Neither party will be liable for any delay or failure of performance due solely to fires, floods, wars, acts of terrorism or other similar causes beyond its control and without its fault or negligence, provided that the party subject to such cause will have provided written notice thereof to the other as soon as the same could be anticipated, and if it could not be anticipated, promptly following the commencement thereof. If any excusable delay continues for more than thirty (30) days, PR may cancel any Order subject to the excusable delay without liability to Supplier.

#### **14. INSURANCE.**

(a) Unless otherwise agreed to by PR, Supplier will obtain and maintain, at its sole cost and expense (i) insurance in an amount adequate to cover the replacement cost of the Work up until delivery to PR, (ii) Comprehensive General Liability insurance covering all operations under the Order, including operation Premises liability, Supplier's protective liability and products/completed operations with minimum limits per occurrence of not less than Two Million Dollars (\$2,000,000) for bodily injury or death and One Million Dollars (\$1,000,000) for property damage, (iii) Workers' compensation and employers' liability insurance in compliance with applicable law covering all employees of Supplier or any subcontractor working on the Premises, and (iv) Automotive liability insurance covering all motor vehicles used in connection with the Work, whether owned, non-owned or hired with minimum limits of not less than Two Million Dollars (\$2,000,000) for bodily injury or death and One Million Dollars (\$1,000,000) for property damage. If requested by PR, property damage coverage will also include coverage for explosion, collapse and underground property damage.

(b) If requested by PR, Supplier will provide PR with a Certificate of Insurance certifying that such policies of insurance are in full force and effect. All insurance maintained by Supplier will be effected under enforceable policies issued by insurers of recognized responsibility, licensed to do business in the state or province where the Work is to be performed and reasonably satisfactory to PR. Such insurance policies will expressly provide that they may not be cancelled or altered except upon thirty (30) days written notice to PR and a waiver by the insurer of its right of subrogation against PR. If Supplier fails to obtain or maintain such insurance, then PR will have the right (but not the obligation) to procure any such insurance on behalf of Supplier and be immediately reimbursed by Supplier for PR's costs (including premium expense) in procuring such insurance.

**15. LABOR.** *If an Order covers the performance of labor and/or supervision of installation on the Premises, Supplier agrees to indemnify and hold PR harmless from and against all claims and liabilities for injury or damage to any person or property arising out of the performance of the Order.* Supplier will furnish PR with a certificate or other satisfactory evidence of insurance to the effect that Supplier has and will maintain while on PR's premises adequate insurance coverage (including public liability and property damage, automobile liability and worker's compensation) in such amounts and with such insurance companies as are satisfactory to PR. Supplier also agrees that it, its employees, agents, and subcontractors, will comply with all of PR's safety and other rules covering outside contractors while on PR's premises.

#### **16. COMPLIANCE WITH LAW.**

(a) Supplier is fully informed of, and will comply with, all applicable rules, laws, regulations, ordinances, codes, requirements, restrictions, statutes, decrees, judgments and orders ("Laws") promulgated or issued by any court, agency, department, or other division of any local, state, provincial or federal government, whether foreign or domestic, having jurisdiction over the Work, Premises, PR or the Supplier or its subcontractors or in any manner affecting the employees, work, material or services used in the Work.

(b) Without limitation on the foregoing, Supplier will comply with all local, state, provincial and federal Laws relating to: (i) the environment, including those Laws relating to the use, treatment, storage or disposal of any Hazardous Substances (as defined in applicable Laws), (ii) health and safety, including all state and federal OSHA Laws, (iii) workers and workers' rights, including child labor laws, and (iv) the protection of inland wetlands and watercourses. The Supplier will be solely responsible, at its own cost and expense, for any and all remedial action required as a result of its non-compliance with any Law relating to the environment.

(c) Without limit on the foregoing, Suppliers in the United States or subject to the laws of the United States additionally certify to PR that the Materials were produced in compliance with all applicable requirements of the Fair Labor Standards Act of 1938, as amended, including without limitation the requirements as to records. The Equal Employment Opportunity clause prescribed by Executive Order No. 11246 of September 24, 1965, as amended from time to time, the Affirmative Action for Handicapped Workers clause prescribed by the Rehabilitation Act of 1973, as amended, and the Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era clause prescribed by the Vietnam Era Veterans Readjustment Assistance Act of 1972, as amended, and the Foreign Corrupt Practices Act, are incorporated herein, unless this transaction is exempt, and Supplier agrees to submit reports, certificates and other documents required of subcontractors by such Executive Order, and the aforementioned Acts, and the rules, regulations and relevant orders issued under the authority of any of the foregoing.

**17. CONFIDENTIALITY.** Any information relating to an Order disclosed by PR to Supplier, including information relating to customers of PR, shall be kept confidential by Supplier and shall not be used by Supplier for any purpose other than pursuant to or as required by the Order.

**18. ASSIGNMENT.** No assignment of an Order, the obligations of Supplier hereunder, or of monies due or to become due hereunder will be made without the prior written consent of PR.

**19. FINANCIAL INFORMATION.** In order that PR may make a reasonable determination as to the financial health of Supplier, upon PR's request at any time, Supplier shall provide such financial information as PR shall reasonably request, which information PR shall not disclose to any third party other than its advisors who need to see such information in order to advise PR as to Supplier's financial health.

**20. WAIVER.** Neither the failure nor any delay on the part of PR to exercise any right, remedy, power or privilege under this Agreement will operate as a waiver thereof in any later instance, nor will any such failure or delay invalidate these Terms and Conditions or any portion thereof. No waiver by PR will be effective unless it is in writing and is signed by an authorized officer of PR.

**21. GOVERNING LAW; VENUE.** This contract and the sale of goods contemplated hereby has been made in, and will be construed and enforced in accordance with the laws of, the jurisdiction in which PR is located without regard to its principles of conflicts of laws. Supplier and PR consent to the exclusive jurisdiction of the state and federal courts of such jurisdiction for any actions, suits or other proceedings arising out of, or related to,

the enforcement of either party's rights hereunder. Supplier and PR agree not to commence any action suit or proceeding in any other court and hereby irrevocably and unconditionally waive any objection to the laying of venue in any such court. The United Nations Convention on the International Sale of Goods expressly does not apply to any Order.

**22. SURVIVABILITY.** The provisions of Sections 1, 2, 3, 5, 6, 8, 9, 10, 11, 12, and Sections 16-26 will survive the expiration or termination of this contract.

**23. SEVERABILITY.** In case any one or more of the provisions or parts of a provision contained herein are, for any reason, held to be invalid, illegal or unenforceable in any respect in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other provision or part of a provision hereof or any other jurisdiction, but these Terms and Conditions will be reformed and construed in any such jurisdiction as if such invalid or illegal or unenforceable provision or part of a provision had never been contained herein and such provision or part will be reformed so that it would be valid, legal and enforceable to the maximum extent permitted in such jurisdiction.

**24. INDEPENDENT CONTRACTORS.** Supplier and PR are independent contracting parties and nothing in the Order will make either party the employee, partner, joint venturer, agent or legal representative of the other for any purpose. The Order does not grant either party any authority to assume or to create any obligation on behalf of or in the name of the other.

**25. CONSTRUCTION.** The section headings contained herein are inserted for convenience only and will not affect in any way the meaning or interpretation of these terms and conditions. The word "including" will mean "including without limitation".

**26. LANGUAGE.** The parties acknowledge that it is their wish that these terms and all documents relating thereto be in the English language only / *Les parties aux presents reconnaissent avoir voulu que cette convention ainsi que tous les documents qui s'y rattachent soient rediges en langue anglaise seulement. Las partes reconocen que es su deseo que estos terminos y todos los documentos que se relacionan estén en el idioma ingles solamente.*