

PURCHASE ORDER TERMS AND CONDITIONS

1. **ORDER PLACEMENT.** Precision Machine, Inc. ("Buyer") may, at its option, place any or all orders for goods and/or services with you ("Seller") by way of mail (conventional or electronic), facsimile, telephone, electronic data Interchange, or other e-commerce transmission. All such orders regardless of media used shall be governed by this Purchase Order Terms & Conditions.
2. **PACKING, MARKING & SHIPPING.** (a) All items shall be properly packed, marked and shipped in accordance with the requirements of the common carrier transporting such items and of this Purchase Order and in a manner which will permit the securing of the lowest transportation rates. Seller shall route shipments in accordance with Buyer's terms and conditions. (b) Any transportation charges paid by Seller with respect to which Seller is entitled to reimbursement shall be added to Seller's Invoice as a separate item and the receipted freight bill shall be attached thereto. (c) Unless otherwise provided in this Purchase Order, no charge shall be made by Seller for containers, crating, boxing, bundling, dunnage, drayage, or storage.
3. **PACKING SLIPS, BILLS OF LADING & INVOICES.** (a) Each packing slip, bill of lading and invoice shall bear the applicable Purchase Order number and the location of the plant to which the items are to be ~~K~~**DU**CING THE ITEMS OR PERFORMING THE SERVICES COVERED BY THIS INVOICE." (b) A numbered master packing slip shall accompany each shipment. (c) Original bill of lading must be attached to invoices when mailed by Seller. (d) If partial shipments are made, a separate invoice must be prepared for each shipment. (e) If two or more orders are shipped together, each order must be invoiced separately and these invoices cross-referenced to each other.
4. **PRICES; PAYMENT.** No price increases shall be allowed without at least 90 days written notice and prior written approval of Buyer. Invoices may be paid by check, credit card, debit card, or electronic transfer, at Buyer's option.
5. **ACCEPTANCE.** Unless otherwise provided herein, it is understood and agreed that the written acceptance by Seller of this Purchase Order (physically or electronically) or the commencement of any work, delivery of any items or the performance of any services hereunder by Seller (including the commencement of work, delivery or the performance of any services with respect to samples) shall constitute acceptance by Seller of this Purchase Order and of all of its terms and conditions, and that such acceptance is expressly limited to such terms and conditions.
6. **SHIPPING RELEASES.** (a) Unless specific delivery/performance dates are provided in this Purchase Order, Seller shall not fabricate any of the items covered by this Purchase Order or procure any of the materials required in their fabrication, or ship any of such items to Buyer, or perform any services, except to the extent that it is authorized in written instructions furnished to Seller by Buyer. Buyer shall have no responsibility for items or services for which delivery dates or such written instructions have not been provided. Shipments of items in excess of those authorized may be returned to Seller and Seller shall pay Buyer for all packing, handling, sorting, and transportation expenses incurred in connection with such shipments. Shipments of items deficient of those authorized shall be shipped by Seller and Seller shall for all packing, handling, sorting, and transportation expenses incurred in connection with such shipments. Buyer may from time to time change shipping/performance schedules specified in this Purchase Order or contained in such written instructions or direct temporary suspension of such scheduled shipments/performance. (b) Delivery/ performance must be made in accordance with the time stated on this Purchase Order; otherwise, Buyer reserves the right to cancel it.
7. **INSPECTION.** All items supplied hereunder shall be subject to inspection and testing at Buyer's facility. All services performed hereunder are subject to Buyer's satisfaction and full approval.
8. **INTELLECTUAL PROPERTY.** (a) Seller shall defend, indemnify and hold harmless Buyer and Buyers agents, customers and other parties with which Buyer deals, from and against any and all liability, loss, damage, fines, penalties, claims, actions, judgments, costs and expenses, including reasonable attorneys' fees, arising out of or relating to any claim that the performance of services or use or sale of any item or item part furnished hereunder constitutes an infringement of any patent, trademark, trade dress, trade secret, copyright or other intellectual property right. (b) If any item or item part, or the use thereof, is held to constitute infringement, Seller shall, at its own expense and at Buyer's option, either procure for Buyer the right to continue using said item or part, or replace sold item or part with a substantially similar non-infringing item or part acceptable to Buyer. If Buyer determines further use of the item or part is not possible or Buyer can no longer take advantage of services due to the infringement, Seller will accept the return of said item or part, and refund to Buyer the purchase price of such item and/or services and any transportation and/or installation costs incurred by Buyer. (c) Seller hereby grants to Buyer a license to repair, rebuild, and relocate, and to have repaired, rebuilt, and relocated patented items purchased by Buyer under this Purchase Order.
9. **TERMINATION AT OPTION OF BUYER.** (a) Performance of work under this Purchase Order may be terminated by Buyer, at its option, in whole or in part, at any time by hand delivery, or by the faxing or mailing, either conventionally or electronically of a written notice of termination to Seller. Buyer shall have such right of termination notwithstanding the existence of any cause or event beyond Seller's control. (b) After receipt of notice of termination, Seller shall, unless otherwise directed by Buyer, immediately terminate all work under this Purchase Order and deliver to Buyer (i) all completed work which conforms to the requirements of this Purchase Order and does not exceed, in quantity, the amount authorized for production by Buyer, and (ii) all reasonable quantities (but not in excess of amounts authorized by Buyer) of work in process and materials produced or acquired in respect of the performance of the work terminated which are of a type and quality suitable for producing items which conform to the requirements of this Purchase Order, and which cannot reasonably be used by Seller in producing items for itself or for its other customers. (c) As a result of termination by Buyer under this paragraph, Buyer shall pay to Seller the following amounts without duplication: (1) the Purchase Order price for all items or services which have been completed in accordance with this Purchase Order and not previously paid for and (2) the actual costs incurred by Seller in accordance with this Purchase Order to the extent such costs are reasonable in amount and are property allocable or apportionable under generally accepted accounting practices to the terminated portion of this Purchase Order, including the actual cost of work in process and materials delivered to Buyer in accordance with Subparagraph (b), above, and including the actual cost of discharging liabilities which are so allocable or apportionable. Payments made under this subparagraph (e) shall not exceed the aggregate price specified in this Purchase Order, less payments otherwise made or to be made. The foregoing items shall be the sole liability of the Buyer for termination. (d) The provisions of this Paragraph 9 shall not apply if this Purchase Order is canceled by Buyer for the default of Seller or a force majeure event sustained by Buyer.
10. **CHANGES.** (a) Buyer may at any time, by written change order, make changes in (1) the drawings, designs, and/or specifications applicable to the items and/or services covered by this Purchase Order, (2) the method of shipment and packing, and/or (3) the place of delivery. (if any such changes affect the time for performance, the cost of manufacturing such items or the cost of furnishing such services, Buyer shall make an equitable adjustment in the purchase price or the delivery schedule, or both. Seller shall not make any changes in the design or composition of any items ordered hereunder without the prior written approval of Buyer.
11. **REMEDIES.** The individual rights and remedies reserved herein shall be cumulative and additional to any other or further remedies or damages provided in law or equity including all damages and remedies provided by the U.C.C. or in this Purchase Order; all of which apply hereunder, and

- specifically including incidental and consequential damages. Waiver of any breach shall only be in writing and shall not constitute a waiver of any other breach of the same or any other provision. Acceptance of any items/services or payments therefore shall not waive any breach.
12. **MODIFICATION OF PURCHASE ORDER & NON-ASSIGNMENT.** This Purchase Order, together with any written instruction issued hereunder, contain the complete and full agreement between Buyer and Seller, with respect to the subject matter hereof, and no agreement or other understanding in any way purporting to modify the terms and conditions thereof shall be binding upon Buyer unless otherwise agreed to by Buyer in writing on or subsequent to the date of this order. Seller shall not, without the prior written approval of Buyer, delegate in any manner to any other person the performance of any work or the supplying of any items or services due under this Purchase Order. Seller may assign monies due and to become due under this Purchase Order; provided, however, that Buyer shall be entitled to assert against the assignee thereof all rights, claims, and defenses of every type (including, without limitation, rights of setoff, recoupment and counterclaim), which Buyer could assert against Seller whether acquired prior or subsequent to such assignment.
 13. **CERTIFICATION.** All materials must have original Mill Certifications upon delivery.
 14. **APPLICABLE LAW; VENUE.** This Purchase Order shall be construed in accordance with, and be governed by the laws of Wisconsin without regard to its conflicts of law provisions. All litigation arising hereunder shall be commenced and prosecuted in the Kewaunee County Circuit Court, Kewaunee, Wisconsin, or the United States District Court for the Eastern District of Wisconsin, Green Bay, Wisconsin. Seller expressly consents to the jurisdiction and venue of Kewaunee County Circuit Court or the United States District Court for the Eastern District of Wisconsin, as applicable.
 15. **INDEMNIFICATION.** The Work performed by the Seller shall be at the risk of the Seller exclusively. To the fullest extent permitted by law, Seller shall indemnify, defend (at Seller's sole expense) and hold harmless Buyer, the Owner (if different from Buyer), affiliated companies of Buyer, their partners, joint ventures, representatives, members, designees, officers, directors, shareholders, employees, agents, successors, and assigns ("Indemnified Parties"), from and against any and all claims for bodily injury, death or damage to property, demands, damages, actions, causes of action, suits, losses, judgments, obligations and any liabilities, costs and expenses (including but not limited to investigative and repair costs, attorneys' fees and costs, and consultants' fees and costs) ("Claims") which arise or are in any way connected with the Work performed. Materials furnished, or Services provided under this Agreement by Seller or its agents. These indemnity and defense obligations shall apply to any acts or omissions, negligent or willful misconduct of Seller, its employees or agents, whether active or passive. Said indemnity and defense obligations shall further apply, whether or not said claims arise out of the concurrent act, omission, or negligence of the Indemnified Parties, whether active or passive. Seller shall not be obligated to indemnify and defend Buyer or Owner for claims found to be due to the sole negligence or willful misconduct of Indemnified Parties. Seller's indemnification and defense obligations hereunder shall extend to Claims occurring after this Agreement is terminated as well as while it is in force, and shall continue until it is finally adjudicated that any and all actions against the Indemnified Parties for such matters which are indemnified hereunder are fully and finally barred by applicable Laws.
 16. **TITLE AND RISK OF LOSS.** Regardless of F.O.B. terms, title to and risk of loss of the items shall not pass to Buyer until Buyer's receipt and acceptance of the items, except that the delivery of the items is to be made to Buyer without moving the items, then title to the items shall pass to Buyer upon Seller's acceptance of the Purchase Order.
 17. **ATTORNEYS' FEES.** In the event of any litigation arising out of this Purchase Order the prevailing party shall be entitled to reimbursement of its reasonable attorneys' fees and costs.
 18. **RIGHT TO RETURN.** Notwithstanding any provision of this Purchase Order or the U.C.C. to the contrary, Buyer shall have the absolute right to return to Seller any items purchased by Buyer that Buyer reasonably concludes present any safety hazard, are defective or so not meet Buyer's specifications. Title to all such items shall revert to Seller upon notification by Buyer to Seller of Buyer's intention to invoke the provisions of this Paragraph. Seller shall immediately refund to Buyer the full invoice amount for such items less costs incurred to return items.
 19. **NON-SOLICITATION.** While Seller is furnishing items and/or services to Buyer and for a period of one year thereafter. Seller agrees not to solicit for employment or as an independent contractor, promise or initiate any discussions concerning employment, or employ or placement as an employee or independent contractor any person currently employed by Buyer, or employed by Buyer at any time while Seller is providing goods and/or services to Buyer. In the event this provision is breached, Seller agrees to pay Buyer a fee equal to 50% of the employee's annual salary with Seller, annual salary with Buyer (in the year the employee left, computed as if the employee had stayed with Buyer) or annual compensation under an independent contractor agreement, whichever is higher. Such fee is due and owing to Buyer immediately upon hiring the employee or contracting with the employee as an independent contractor.
 20. **FORCE MAJEURE.** Buyer shall be excused from performance hereunder, with the exception of payment for items/services furnished and accepted, if such non-performance indirectly or directly results from, is caused by, arises out of, is related to or is contributed to by any temporary or permanent: Act of God; war, terrorism, or hostilities, whether or not there is a formal declaration of war, riots or other civil unrest; acts or omissions of government authorities, including without limitation, quarantine, embargo, or the imposition of any other restrictions of whatever kind; disease, illness, outbreak, or plague, supply shortage as a result of any cause, whether foreseen or unforeseen; or any other cause whatsoever beyond the reasonable control of Buyer, whether the kind enumerated or otherwise.
 21. **INSURANCE.** The Seller shall carry commercial general liability insurance on ISO form CG00 01 10 01 (or a substitute form providing equivalent coverage) and, upon request by Buyer, the Seller shall provide the Buyer with a Certificate of Insurance and Additional Insured Endorsement on ISO form CG 20 10 11 85 (or a substitute form providing equivalent coverage) or on the combination of ISO forms CG 20 10 10 01 and CG 20 37 10 01 (or substitute forms providing equivalent coverage) naming the Buyer as Additional Insured thereunder. The Seller's insurance coverage shall not be less than \$1 million dollars Each Occurrence, \$2 million General Aggregate (subject to a per project general aggregate provision applicable to the project), \$2 million Products/Completed Operations Aggregate and \$1 million Personal and Advertising Injury limits. Such insurance shall cover liability arising from premises, operations, independent Buyers, products-completed operations, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract). Seller also shall maintain Workers' Compensation and Employers' Liability Insurance as required by law of not less than \$100,000 for bodily injury caused by accident and \$100,000 for bodily injury by disease. All coverage shall be placed with an insurance company duly admitted in the State of Wisconsin. All Seller insurance carriers must maintain an AM Best rating of "A-" or better.
 22. **SEVERABILITY.** If any provision of this Purchase Order is held to be unenforceable, the remaining provisions shall remain in effect, to be construed as if the unenforceable provisions were originally deleted.
 23. **SURVIVAL.** The parties' obligations under this Purchase Order which, by their nature would continue beyond the termination or cancellation of this Purchase Order, shall survive termination or cancellation of this Purchase Order.