



PAC-L100 - Purchase Order Terms and Conditions

- 1. Acceptance of Terms and Conditions.** Acknowledgment of any order, shipment of any goods, or rendering of any services pursuant to a purchase order shall be deemed an acceptance of these terms and conditions. If Seller accepts an order in any other manner, any additional or differing terms stated in Seller's acceptance shall be of no effect.
- 2. Modification.** No modification of this Contract, including any addition, deletion, or other modification proposed in Seller's acceptance shall be binding on Buyer unless agreed to by Buyer's authorized Purchasing Representative in writing.
- 3. Complete Agreement.** All the terms and conditions in this document (PAC-L100), requirements of PAC-ST003 – Supplier Quality Requirements Manual, and where applicable PAC-ST006 – Additional Quality Requirements for Noncertified Machining Suppliers, and any additional terms, conditions, and requirements of specifications on Buyer's purchase order to Seller constitute the complete Contract agreement.
- 4. Governing Law.** The purchase order and this Contract shall be governed and construed under the laws of the state of Michigan without regard to its conflicts of laws provisions.
THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS (CISG) SHALL NOT APPLY TO TRANSACTIONS OR AGREEMENTS BETWEEN BUYER AND SELLER.
- 5. Compliance with Law.**
 - a) Seller shall comply with all applicable provisions of Federal, state, and local laws; ordinances and all lawful orders; FAA, DOT and other transportation regulations and Hazard Communication Standards promulgated pursuant to the Occupational Health and Safety Act.
 - b) Seller shall control the dissemination of and access to technical data, information and other items received under this Contract in accordance with U.S. export control laws and regulations.
 - c) Such laws are incorporated by reference as if set forth at length herein. It is Seller's responsibility to identify, locate, review, understand and ensure compliance with the latest revision of any law.
 - d) Seller submission of a proposal and/or acceptance of the purchase order is considered Seller's certification of compliance with law.
- 6. Government Contracts.** For contracts placed in support of and charged to a U.S. Government Contract:
 - a) PAC Supplements 1, 2 and 3 list clauses set forth in the Federal Acquisition Regulation (FAR) and the Defense Federal Acquisition Regulation Supplement (DFARS)



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- b) Such clauses are incorporated by reference as if set forth at length herein. It is Seller's responsibility to locate, review, understand and ensure compliance with the latest revision of any clause.
 - c) In all clauses listed, the terms "Government", "Contracting Officer" and "Contractor" shall be revised to suitably identify the contracting parties herein and affect the proper intent of the provision except where further clarified or modified in PAC Supplements 1, 2 and 3. "Subcontractor", however, shall mean "Seller's Subcontractor" in the purchase order.
 - d) Seller submission of a proposal and/or acceptance of the purchase order is considered Seller certification of compliance with this term.
 - e) Seller agrees to flow-down, as required, FAR and DFAR clauses to its lower-tier suppliers. Seller further agrees that all notifications and other communications required by these clauses shall be made through the Buyer's Purchasing Representative, unless the Purchase Order specifically provides otherwise.
- 7. Contract Changes.** By written order at any time, Buyer may make changes within the general scope of this Contract. However, Buyer reserves the right to obtain a quote for the cost and/or delivery impact of the change prior to making the change. If such changes cause a need for price modification or will adversely impact delivery, equitable adjustments shall be negotiated and the Contract shall be modified in writing accordingly. Seller shall proceed to perform the Contract as changed. Any claim by Seller for adjustment under this clause must be asserted within 20 days from the date of receipt by the Seller of the notification of change or within such further period as Buyer may allow. Where the cost of property made obsolete or excess as the result of a change is included in Seller's claim for adjustment, Buyer shall have the right to prescribe the manner of disposition of such property. Nothing in this clause shall excuse Seller from proceeding with the Contract as changed.
- 8. Termination for Default and Force Majeure.**
- (a) Buyer may, subject to the provisions of subparagraph (c) below, by written notice of default to Seller, terminate the whole or any part of this Contract in any one of the following circumstances: (i) if Seller fails to make delivery of the goods or to perform this Contract within the time specified herein or any extension thereof; or (ii) if Seller fails to perform any of the other provisions of this Contract, or so fails to make progress as to endanger performance of this Contract in accordance with its terms, and does not cure such failure within a period of ten (10) days (or longer period as Buyer may authorize in writing) after receipt of notice from Buyer specifying such failure.
 - (b) In the event Buyer terminates this Contract in whole or in part as provided in subparagraph (a) above, Buyer may procure, upon such terms and in such manner as Buyer may deem appropriate, supplies or services similar to those so terminated, and Seller shall be liable to Buyer for any excess costs for the same, including without limitation all costs and expenses



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- of the type specified in the "Supplier's Warranties" paragraph of this Contract; provided, that Seller shall continue the performance of this Contract to the extent not terminated hereunder.
- (c) Except with respect to defaults of subcontractors, Buyer shall not be liable for any excess costs if the failure to perform this Contract arises out of causes beyond the control and without the fault or negligence of Seller. Such causes may include, but are not limited to, acts of God, or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, flood, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather, but in every case the failure to perform must be beyond the control and without the fault or negligence of Seller. If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both Seller and the subcontractor, and without the fault or negligence of either of them, Seller shall not be liable for any excess costs for failure to perform, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit Seller to meet the required delivery schedule. The term(s) "subcontractor(s)" shall mean subcontractor(s) at any tier.
- (d) If this Contract is terminated as provided in subparagraph (a) above, Buyer, in addition to any other rights provided in this Contract, may require Seller to transfer title and deliver to Buyer, in the manner and to the extent directed by Buyer, (i) any completed goods, and (ii) such partially completed goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and Contract rights (hereinafter called "manufacturing materials") as Seller has specifically produced or specifically acquired for the performance of such part of this Contract as has been terminated; and Seller shall, upon direction of Buyer, protect and preserve property in the possession of Seller in which Buyer has an interest. Payment for completed goods delivered to and accepted by Buyer shall be at the Contract price. Payment for manufacturing materials delivered to and accepted by Buyer and for the protection and preservation of property shall be in an amount agreed upon by Buyer and Seller. Buyer may withhold from amounts otherwise due Seller for such completed supplies or manufacturing materials such sum as Buyer determines to be necessary to protect Buyer against loss because of outstanding liens or claims of former lien holders or for damages otherwise caused by Seller's failure to perform its obligations under this Contract.
- (e) The rights and remedies of Buyer provided in this paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

- 9. Termination for Convenience.** In addition to any other rights, Buyer further reserves the right to terminate Seller's performance under this purchase order in whole or in part at any time without cause by giving written notice of termination, whereupon Seller will cease performance on the date and to the extent specified in the notice and will take such actions as are reasonably necessary to protect property in Seller's possession in which Buyer has an interest until disposition instructions from Buyer have been received. Seller will promptly advise Buyer of any



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items acquired in anticipation of completion of its performance and the most favorable disposition that Seller can make thereof. Seller will comply with Buyer's instructions regarding the disposition of such items. Seller will submit all claims resulting from such termination within sixty (60) days of its receipt of such notice. Buyer shall have the right to inspect Seller's records, facilities, work and materials relating to its performance or anticipated performance of the purchase order for the purpose of establishing the value of Seller's claims upon reasonable advance notice. Buyer will pay Seller, without duplication, the purchase order price for finished work accepted by Buyer and the cost to Seller of work in progress and raw materials allocable to the terminated work based on Buyer's audit of Seller's records, using generally accepted accounting principles; however, the amount due Seller shall be reduced by the following:

- (a) The market value or cost (whichever is higher) of any items used or disposed of by Seller without Buyer's consent;
- (b) The agreed value of any items used or disposed of by Seller with the Buyer's consent; and
- (c) The cost of any defective or destroyed materials.

Buyer will make no payments for finished work, raw material or other items fabricated or procured by Seller in excess of the lesser of (i) that ordered; (ii) that for which Buyer has issued shipment releases as of the date of the notice of termination released; or (iii) fifteen days supply. Notwithstanding the foregoing, payments under this section shall not exceed the price for the entire performance specified in this purchase order less payments that would otherwise be made to complete performance hereunder. Payment under this section of this Contract will constitute Buyer's sole and exclusive liability in the event Buyer elects to terminate this purchase order without cause by notice. This section shall not apply to cancellation by Buyer hereunder.

10. Cancellation. Buyer may cancel this purchase order and Seller's performance hereunder immediately without incurring liability to Seller (A) immediately upon (i) Seller's insolvency; (ii) filing of a voluntary petition in bankruptcy by Seller; (iii) filing of an involuntary petition in bankruptcy against Seller; (iv) appointment of a receiver or trustee for Seller; (v) execution or assignment for the benefit of creditors by Seller; or (vi) any comparable event, and (B) upon thirty days written notice to Seller in the event of Seller's breach of contract or failure to perform.

11. Insurance. Seller represents that it has and will maintain the following types and amounts of insurance coverage and agrees to furnish certificates of insurance showing that Seller has insurance coverage in the following minimum amounts:

- Workers Compensation - Statutory limits for the state(s) in which the work will be performed
- General/Products Liability - \$1,000,000 per occurrence/\$2,000,000 in the aggregate
- Automobile Public Liability - \$1,000,000 (per any one accident)

These certificates of insurance shall set forth the amount of coverage, the number of the policy and the date of expiration. Upon Buyer's request, Seller shall name Buyer or the Buyer Entities as an additional insured on its policies. If Seller is a self-insurer for workers compensation purposes, Seller shall provide Buyer with a copy of the self-insured certificate issued by the state(s) where work will be performed. If this purchase order includes a sale of goods



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manufactured in whole or in part to Seller's designs or specifications, Seller agrees to provide Buyer, upon request, with a current certificate of product liability insurance and a supplier's endorsement naming Buyer as an additional insured on Seller's policy.

- 12. Patent Indemnity.** Seller shall defend Buyer, Buyer's Customers and the users of Buyer's goods against all claims and proceedings alleging infringement of any United States or foreign patent for goods delivered under this Contract, and Seller shall hold them harmless from any resulting liabilities and losses including attorney fees, provided Seller is reasonably notified of such claims and proceedings. Seller's obligation shall not apply to goods manufactured pursuant to detailed designs developed and furnished by Buyer nor to any infringement arising from the use or sale of goods in combination with goods not delivered by Seller if such infringement would not have occurred from the use or sale of such goods solely for the purpose for which they were designed or sold to Buyer.
- 13. Assignments.** No assignment of any rights, including rights to monies due to become due hereunder, or delegation of any duties under this Contract shall be binding upon Buyer until written consent thereto has been obtained.
- 14. Subcontracting.** Except when Seller is a Distributor as defined in PAC-ST003, section 5.1a, Seller shall not procure any product, process or service to be delivered under this Contract from a third party without Buyer's prior written permission. In the event Seller is permitted to subcontract, see the PAC-ST003 section titled Subcontracting for requirement details.
- 15. Product Acceptance/Rejection.** All purchased products and services will be subject to Buyer's inspection and approval IAW the PAC-ST003 section titled Verification of Supplied Product within a reasonable time after delivery, irrespective of payment date. Verification by Buyer shall not absolve the Seller of the responsibility to provide conforming product, nor shall it preclude subsequent rejection by Buyer. Buyer may reject goods not in accordance with the instructions, specifications, standards, drawings, data or Seller's warranty (expressed or implied). Buyer may return rejected goods to Seller at Seller's expense and Buyer shall have no further obligation for such goods. Payment for any article shall not be deemed acceptance and in no event shall Buyer incur liability for payment for rejected goods. Seller shall assume responsibility for and will pay any and all loss, cost, damage, or expense, including attorney fees, and cost of replacement incurred by Buyer attributed to Buyer's rejection of goods due to nonconformance to specifications or untimely late delivery. Buyer shall submit payment for goods only after goods are deemed to meet all purchase order and drawing requirements. If goods are found to be nonconforming for any reason after payment has been made, Buyer shall debit Seller's account on the next Precision Aerospace Corp. payment cycle. If Seller's account payable amount is less than the debit memo then Seller shall reimburse Buyer in full with a check for the debit amount.
- 16. Nonconforming Product.** Seller shall handle nonconforming product IAW the PAC-ST003 and PAC-ST006 sections titled Nonconforming Material including subsections, as applicable to the product. Delivered nonconforming product for which it is determined the Seller is responsible,



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and which was not pre-approved on a waiver from Buyer prior to shipment, or sent to Seller to use for setup will result in a Quality Administration charge to Seller of \$150 for each occurrence, and possible additional Quality Fees based on product value, which will be negotiated fairly for each occurrence.

- 17. Shipment, Title and Delivery.** Seller shall deliver in accordance with the delivery date(s) specified in this purchase order or, if a delivery date or dates are not specified, then only as authorized in shipment releases issued by Buyer to Seller. Shipment shall be via UPS Collect unless specifically directed otherwise, or unless Seller is delinquent, in which case Seller shall cover freight costs. Failure to adhere to Buyer's routing instructions will affect supplier performance ratings and may result in charges for additional costs to the Buyer. Title and risk of loss will pass upon receipt of products by the Buyer. If it appears Seller will not meet schedule, Seller shall promptly notify Buyer in writing and, if requested by Buyer, ship via air or expedited routing to avoid or minimize delay to the maximum extent possible, the added cost borne by the Seller. This is in addition to Buyer's other remedies. The dates specified on the purchase order are stock dates, not ship dates. Deliveries will not be accepted more than five (5) business days before the date specified. Any shipment arriving after 4:00pm Eastern Time on the due day shall be considered late. Only shipments arriving inside of this window will be counted as On Time deliveries unless otherwise approved in writing by Buyer prior to shipment.
- 18. Invoice and Payment.** A separate invoice shall be issued for each shipment. Unless otherwise allowed by Buyer in this Contract, no invoice shall be issued prior to shipment of goods and no payment shall be made prior to receipt of goods and correct invoice. Credit, discount and payment periods will be computed from the date of receipt of the correct invoice.
- 19. Traceability and Certification Documents Required.** To mitigate counterfeit material risk in the supply chain IAW AS6174 - Counterfeit Materiel; Assuring Acquisition of Authentic and Conforming Materiel, Seller shall provide traceability documents and a Certificate of Conformance with each shipment on the Contract IAW the PAC-ST003 section titled Counterfeit Material Risk Mitigation, and its subsections. Failure to provide correct and complete traceability and certification documents with shipment may result in a Quality Administration charge to Seller of \$50 for each occurrence.
- 20. Information Availability and Retention.** Unless otherwise specified in the purchase order, information retained by Seller IAW the PAC-ST003 section titled Information Retention shall be made available to Buyer within 24 business hours of receiving a written request. Seller shall maintain this information in a way that minimizes deterioration or damage, and ensures that it is legible, readily retrievable, and identifiable to applicable shipments made to Buyer, and to pertinent suppliers, products, and/or processes. Radiographic records on film may be recycled or otherwise destroyed by the best available method after a period of 10 years. Unless otherwise specified in the purchase order, records in any other media shall be retained indefinitely. In the event Seller ceases to do business before the end of the retention period, Seller shall notify Buyer in writing, and allow the opportunity for Precision Aerospace Corp. to gain possession of the records before they are destroyed or moved to a different facility.



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21. Access to Facilities, Audit and Inspection.

When purchase order (a) includes specifications, or (b) is for the procurement of either (i) goods to be incorporated into Buyer's products or (ii) services to be used in the production of Buyer's products, then Seller's (and Seller's permitted subcontractor's) production areas, books and records pertinent to this or any related order (to the extent consistent with applicable laws and regulations) shall at all practical times be subject to review, inspection and audit by Buyer, its authorized representative and any authorized representative of Buyer's customer to the extent necessary to verify compliance with Buyer's specifications or to enable Buyer to comply with its obligations to its customer(s).

Seller's Warranties

- A) **Duration.** Seller warrants that after the acceptance of the end product or parts thereof by Buyer, and if applicable the Buyer's Customer, all product furnished under this Contract will be free from defects in material and workmanship that will cause the items to fail to conform to all requirements of the contract.
- B) **Remedies:**
- 1) **Rights to Correction or Replacement Action.** When required by Buyer, in the event of a breach of Seller's warranty in paragraph A above, Seller shall, at no increase in the Contract price, either:
 - a. correct to meet Contract requirements or replace, at Seller's election, nonconforming delivered product at the location of Buyer's choice, or
 - b. furnish to Buyer all components and instructions as may be required to successfully accomplish the correction, and credit Buyer for Buyer's costs incurred in accomplishing the correction. Buyer shall provide Seller an accurate accounting of such costs incurred.Data and reports applicable to any correction required under this clause, including revision and updating of all affected records called for under this Contract, shall be included in this corrective or replacement action.
 - 2) **Rights to Equitable Adjustment.** If Buyer does not require correction or replacement of nonconforming product, Buyer shall be entitled to an equitable reduction in the price of the contract.
- C) **Notification.** Seller shall be notified in writing of any breach of warranty in paragraph B above within thirty (30) days after discovery of the defect by Buyer. Within ten (10) days thereafter, Seller shall submit to Buyer a written recommendation of the corrective action required to remedy the breach. After the notice of breach, but no later than thirty (30) days after receipt of Seller's recommendation for corrective action, Buyer may in writing direct correction or replacement as set forth in paragraph B above, and Seller shall, notwithstanding any disagreement regarding the existence of a breach of warranty, comply with such direction. In the event it is later determined that Seller did not breach the warranty in paragraph A above, the Contract price will be equitably adjusted.



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- D) **Corrected or Replaced Product.** Any product or parts corrected or furnished in replacement pursuant to this clause shall also be subject to all the provisions of this clause to the same extent as product initially delivered.
- E) **Implied Warranties of Merchantability and "Fitness for a Particular Purpose".** These warranties are not excluded from any obligation contained in this Contract. The rights and remedies of the Buyer provided in this clause are in addition to and do not limit any rights afforded to the Buyer by any other clause of this Contract.