

GENERAL PROVISIONS OF SALE

Precision Shapes, Inc.

DEFINITIONS. As used herein, the following definitions apply unless otherwise specifically stated:

- a. "Agreement", "Contract", "order" or "purchase order", means this contractual instrument including change notices, supplements, amendments, or modifications hereto.
- b. "Seller" or "Supplier" means **Precision Shapes, Inc.**
- c. "Buyer" means the entity issuing the purchase order or other contractual agreement for the purchase from Seller of goods and/or services.
- d. "Goods", "supplies", or "items" means those part numbers, model numbers and/or descriptions as set forth on the face of this order.
- e. "Services" means any effort supplied by Seller incidental to the sale of Goods by Seller under this order including, without limitation, fabrication, repair, and manufacturing services. The term "Services" shall also include, without limitation, any effort specifically required by this order, construction, consulting, professional or other services.

FORMATION OF CONTRACT. This Contract is Seller's offer to provide the Goods and/or Services described in this offer. Acceptance is strictly limited to the terms and conditions in this offer. Unless specifically agreed to in writing by Seller's Authorized Contracts Representative, Seller objects to, and is not bound by, any term or condition that differs from or adds to this offer, including those that may appear on Buyer's order. Any purchase order issued by Buyer must be accepted in writing by Seller and is subject to these General Provisions of Sale.

DELIVERY, TITLE, AND RISK OF LOSS. Title to and risk of loss of all Goods sold hereunder by Seller shall pass to Buyer upon their delivery f.o.b. factory of manufacturer to an agent of Buyer, including a common carrier or warehouse, as hereinafter provided. Whenever transportation rates and carrier's liability for damage depend upon the value of the shipment as declared by shipper, Seller will declare such value as will entitle Buyer to have Goods shipped at the lowest permissible transportation rates unless otherwise instructed in writing by Buyer. Buyer will furnish written shipping instructions for all Goods as promptly as possible. In the absence of such instructions for all Goods Seller may, at any time beginning ten (10) days after forwarding notice to Buyer by mail or otherwise that the Goods are ready for shipment, do either of the following for the account and at the expense and risk of Buyer:

- (a) arrange for shipment of the Goods by carrier of its own selection
- (b) to Buyer's place of business or other destination reasonably believed to be suitable, or
- (c) warehouse the Goods. Buyer will not hold Seller liable for loss or damage attributed to negligence either in selection of the carrier or the warehouse or in agreeing with either of them to contract terms on Buyer's behalf.

PAYMENT. Payment shall be made by Buyer to Seller in United States Dollars and shall be net thirty (30) days after the date of Seller's invoice. Seller may accelerate the terms of payment without prior notice if Buyer fails to pay when due any amount Buyer owes under any agreement with Seller. Buyer's failure to make perfect tender of any payment when due shall be deemed a fundamental breach of this order. To secure payment of the purchase price of the Goods sold hereunder, Buyer

hereby grants to Seller a continuing security interest in the Goods and in the proceeds of any subsequent resale.

EXCUSABLE DELAYS. Buyer acknowledges that the delivery dates herein are based on the assumption that there will be no delay due to causes beyond the reasonable control of Seller. Seller shall not be charged with any liability for delay or nondelivery when due to force majeure, acts or omissions of the Buyer, delays of suppliers, acts of the public enemy, terrorism, war, compliance in good faith with any applicable foreign or domestic governmental statute, law, regulation, or action which has the force or effect of law and whether or not proven to be invalid; fires, riots, labor disputes, unusually severe weather, or any other cause beyond the reasonable control of Seller. To the extent that such causes actually retard deliveries on the part of Seller, the time for performance shall be extended for as many days beyond the date thereof as is required to obtain removal of such causes. This provision shall not, however, relieve Seller from using its best efforts to avoid or remove such causes and continue performance with reasonable dispatch whenever such causes are removed.

TAXES. In addition to the agreed contract price of the Goods and/or Services any and all taxes (not including any income or excess profit taxes) which may be imposed by any taxing authority, arising from the Goods and/or Services and for which Seller may be held responsible for collection or payment, either on its own behalf or that of Buyer, shall be paid by Buyer to Seller on Seller's demand.

INDEPENDENT RELATIONSHIP. The relationship between Buyer and Seller shall be that of an independent contractor for all purposes, and in no event shall persons employed by either party be held or construed to be employees or agents of the other.

ASSIGNMENT. No right or interest in this order shall be assigned by Buyer without the prior written permission of Seller. Notwithstanding anything to the contrary in this order, the Seller may, without prior written consent and without recourse to Seller, assign this order or the rights and duties hereunder, in whole or in part, to any division, subsidiary or affiliate of Seller, or to any successor entity or to any entity with which the Seller may merge or consolidate or to whom all or substantially all of Seller's assets used for this order may be sold or transferred.

BUYER'S FINANCIAL STATUS. If before completion of performance of this order by Seller a receiver or trustee is appointed for any of Buyer's property, or Buyer be adjudicated a bankrupt, or application for reorganization under the Bankruptcy Act be filed by or against Buyer which shall not be dismissed within thirty (30) days, or if Buyer becomes insolvent or makes an assignment for the benefit of creditors or takes, or attempts to take, the benefit of any insolvency acts, or an execution be issued pursuant to a judgment rendered against Buyer, or should Buyer be unable or refuse to make payment to Seller in accordance with any of its obligations to Seller, Seller may at its option in any of such events terminate this order by giving to Buyer a written notice. Upon such termination Seller shall be relieved of any further obligation to Buyer, and Buyer shall reimburse Seller the Seller's termination costs and expenses and a reasonable allowance for profit.

BUYER-FURNISHED DATA. In connection with any data or other information furnished by Buyer for use hereunder, Buyer warrants and represents that no trade secrets or confidential information of any other person, firm corporation, or Government has been or will be wrongfully disclosed by Buyer to Seller and that all information disclosed by the Buyer to Seller may be used or disclosed by Seller without restriction.

BUYER-FURNISHED EQUIPMENT. Seller shall not be liable for any damage to or destruction of Buyer-furnished equipment loaned to Seller for use in providing Goods or Services hereunder, whether or not such

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damage was caused by the negligence of Seller, its officers, employees or agents. All Buyer-furnished equipment shall be returned to Buyer in "as-is" condition on site at the conclusion of the work provided hereunder.

ACCESS TO PLANTS AND PROPERTIES. Buyer shall comply with all the rules and regulations established by Seller for access to and activities in and around premises controlled by Seller.

ON-SITE LABOR AND EQUIPMENT. Buyer will furnish proper working facilities such as buildings, communications equipment (for local communication only), desks etc., as well as any additional on-site labor, labor supervision, equipment, material, tools and instrumentation found necessary to accomplish the desired task(s), at Buyer's expense.

EVIDENCE OF CITIZENSHIP OR IMMIGRANT STATUS. Seller may be required to obtain information concerning citizenship or immigrant status of Buyer's personnel or Buyer's subcontractor personnel entering the premises of Seller. Buyer agrees to furnish this information before commencement of work and at any time thereafter before substituting or adding new personnel to access Seller's premises. Information submitted by Buyer shall be certified by an authorized representative of Buyer as being true and correct.

GRATUITIES. Buyer warrants that neither it nor any of its employees, agents, or representatives have offered or given, or will offer or give, any gratuities to Seller's employees, agents or representatives for the purpose of securing this contract or securing favorable treatment under this contract.

PROPRIETARY AND TRADE SECRET INFORMATION AND MATERIALS.

1) "Proprietary Information and Materials" shall mean:

i) Information disclosed by one party to the other in written or other tangible form bearing a suitable legend identifying its proprietary or confidential nature; and,

ii) Information which is first transmitted orally if, within thirty (30) days of such first transmission, such information is reduced to written or other tangible form bearing a suitable legend identifying its proprietary nature. The parties will use reasonable efforts at the time of first oral disclosure to identify which information is proprietary; and,

iii) Sample products, equipment, tooling or material, and the information embodied in such sample products, equipment, tooling or materials provided by one party to the other, which are suitably marked to identify them as Proprietary Information and Materials.

2) The parties will keep in confidence and will not use, except in furtherance of performance of and for the purpose of this Agreement, and will not disclose to third parties any Proprietary Information and Materials; provided that the Buyer and Seller shall have no liability to each other for the use or disclosure of any Proprietary Information and Materials if the Proprietary Information and Materials: (a) is in the public domain at the time of disclosure, or is subsequently made available to the general public through no fault of the receiving party; (b) was known to the receiving party at the time of disclosure, by other than disclosure of the disclosing party; (c) becomes known to the receiving party without similar restrictions as to its disclosure or use from a source other than the disclosing party, who has a legal right to disclose; (d) is independently developed by the receiving party and was not acquired directly or indirectly under any secrecy obligation from the disclosing

party; or (e) is furnished to a third party by the disclosing party without similar restriction to its disclosure or use as those required herein.

3) Neither the execution of this Agreement, nor the disclosure to the receiving party of any Proprietary Information hereunder, shall be construed as granting either expressly or by implication, estoppel or otherwise, any license under any invention or patent now or thereafter owned by or controlled by the disclosing party.

4) Each party and any others used by that party in the performance hereunder shall not, directly or indirectly, wrongfully solicit, obtain or use, wrongfully disclose to the other party, any information which is a trade secret, confidential, proprietary, government security classified, or government procurement sensitive (including documents identified prior to the award of a contract as source selection information and any other information which offers or may offer the party an illegal competitive advantage).

The provisions of this article shall survive the performance, completion, termination or cancellation of this Agreement.

RECORDS AND AUDIT. Notwithstanding any other provision to the contrary in this Contract, Buyer shall not have the right to access or audit Seller's books or records.

WARRANTY DISCLAIMER. SELLER OFFERS NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND SELLER DISCLAIMS AND BUYER HEREBY WAIVES ANY OBLIGATION, LIABILITY, RIGHT, CLAIM OR DEMAND IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND PATENT INFRINGEMENT) STRICT LIABILITY OR OTHERWISE WITH RESPECT THERETO. In no event shall Seller be liable for any indirect, punitive, incidental, consequential or special damages.

LIABILITY LIMITATION. Seller's liability and Buyer's sole and exclusive remedy, whether at law or at equity, shall be limited to monetary damages in the maximum amount of the price allocable in this Contract to any Good or Service alleged to be the cause of any loss or damage to the Buyer whether founded in contract, tort (including negligence) or strict liability arising out of, or resulting from: (a) this Contract or the performance or breach thereof, (b) the design, installation, manufacture, delivery, sale, repair, maintenance, replacement or use of any such Good, or (c) the furnishing of any such Service. In no event shall Seller have any liability for any indirect, punitive, incidental, consequential, or special damages.

INDEMNIFICATION. Buyer shall have no recourse against Seller, whether by way of any suit or action, for any liabilities, damages, losses, expenses, claims, actions and judgments, including all costs, and expenses incident thereto, that Buyer may suffer or incur at any time, by reason of Buyer's use of Goods, Services or information provided by Seller hereunder. Buyer agrees to defend, indemnify, and hold Seller, its owners, shareholders, officers, directors, agents and employees harmless from and against any and all liabilities, damages, losses, expenses, claims, actions and judgment, including all costs, and expenses incident thereto, which may be suffered by, accrued against, be charged to or recoverable from Seller, its owners, shareholders, officers, directors, agents or employees, by reason of loss of or damage to property, or injury to or death of any persons arising out of, or in any way connected with the providing of, or the use or implementation of the Goods, Services, or any information provided under this order.

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INTELLECTUAL PROPERTY INDEMNIFICATION. Buyer shall defend, indemnify and hold harmless Seller, its owners, shareholders, officers, directors, agents or employees, from any and all liability, including costs and attorneys' fees, for infringement of any patent, copyright, trademark and other intellectual property right arising out of performance by Buyer under this Agreement. Seller shall inform Buyer as soon as practicable of any suit or claim alleging such infringement and shall give Buyer such opportunity, if afforded by applicable laws, rules or regulations to participate in the defense thereof.

USE OF SERVICES. Seller makes no representation as to and shall not be held responsible for any application or use of the Services, data, or any other thing furnished to Buyer pursuant to this order. Buyer is solely responsible for any interpretation, analysis, application and/or use made of the Services, data, or any other thing furnished hereunder.

This order does not constitute Seller's endorsement of any test, evaluation or demonstration results, or other matters. Seller makes no assurances to Buyer as to performance of the object(s) tested, evaluated or demonstrated pursuant to this order.

EXPORT LICENSE. The Buyer shall be responsible for obtaining any export license or similar authorization, which may be required now or hereafter for the export of data to be used or disseminated in connection with the Goods or Services. A condition precedent to Seller's obligation to perform under this order shall be Buyer's furnishing to Seller proof that such licenses and authorizations are valid, applicable, and given effect by the U.S. Government. The Seller shall not be responsible for the issuance of such export license or the continuance in effect (force) of such license or authorization if issued.

APPROVALS. Any and all approvals required hereunder from Buyer shall not be unreasonably withheld or delayed, shall be in writing and shall be timely so as not to unreasonably burden or delay Seller's progress or work.

MODIFICATION, APPLICABLE LAWS, CONSTRUCTION AND CAPTIONS. No modification of this order shall be binding unless in writing signed by both parties hereto. This order shall be interpreted in accordance with, and the construction thereof shall be governed by, the laws of the State of Florida, excluding its conflict of law principles. The parties agree that the United Nations Convention on Contracts for the International Sale of goods shall not apply.

Preprinted terms on Buyer's contracts or purchase orders will have no effect. Captions, as used in these terms and conditions, are for convenience of reference only and shall not be deemed or construed as in any way limiting or extending the language of the revisions to which such captions may refer.

It shall be the obligation of Buyer to exercise due diligence to discover and to bring to the attention of Seller at the earliest possible time any ambiguities, discrepancies, inconsistencies, or conflicts herein or in or between any specifications, drawings, or other documents attached hereto or incorporated by reference herein. Ambiguities, inconsistencies, or conflicts in this order will not be strictly construed against the drafter of the contract language; rather, they shall be resolved by applying the most reasonable interpretation under the circumstances, giving full consideration to the intentions of the parties at the time of contacting.

PAYMENT TERMS. Unless there is an express written agreement between both parties specifying different payment terms, Seller's invoices will be due thirty (30) days after issuance of invoice by Seller.

Invoices that are past due will bear interest from the due date until paid at the lesser of 18% per annum or the highest rate permitted by applicable law. In the event that Seller initiates collection proceedings for amounts due to Seller, Buyer agrees that it is liable for all collection and other costs incurred by Seller including, but not limited to, reasonable attorneys' fees whether or not litigation is commenced.

VENUE. In the event of a dispute arising out of, or in any way related to, this Agreement, the parties expressly agree to submit the dispute to the courts of the 18th Judicial Circuit, in and for Brevard County, Florida, which courts shall have exclusive jurisdiction over the matter.

RIGHTS AND REMEDIES. Any failures, delays or forbearances of either party in insisting upon or enforcing any provisions of this Contract, or in exercising any rights or remedies under this Contract, shall not be construed as a waiver or relinquishment of any such provisions, rights, or breach of this order or failure to exercise any right hereunder shall not be deemed a waiver of any other breach or right. The failure of any party to take action by reason of any such breach or to exercise any such right shall not deprive such party of the right to take action at any time while such breach or condition occurs. Except as otherwise limited in this contract, the rights and remedies set forth herein are cumulative and in addition to any other rights or remedies that the parties may have at law or in equity.

SEVERABILITY. If any covenant, agreement, term, or provision of this order, or the application thereof to any situation or circumstances, shall be invalid or unenforceable, the remainder of this order, or the application of such covenant, agreement, term, or provision to situations or circumstances other than those as to which it is invalid or unenforceable, shall not be affected.

ENTIRE AGREEMENT. The terms and conditions of this order shall constitute the entire agreement between the parties hereto and shall supersede all previous or contemporaneous statements, communications, or agreements, either oral or written, by or between the parties hereto with respect to the subject matter hereof, and no subsequent agreement or understanding modifying, varying, or expanding the same, shall be binding upon either party hereto unless in writing and signed by a duly authorized representative thereof.