



PURCHASING TERMS AND CONDITIONS

1. **ACCEPTANCE OF THIS ORDER.** This purchase order ("Order") is an offer by Swiss Precision Machining LLC (SPM) (the entity making this offer being the "Purchaser"; the others being third party beneficiaries) to purchase goods and/or services from you ("Seller" or "Supplier") on the terms and conditions stated herein. Notwithstanding the forgoing, if a master agreement ("Master Agreement") covering the goods or services described in this Order exists between Purchaser and Seller, the terms of such Master Agreement prevails over any inconsistent terms herein. If this Order is not accepted, Seller must communicate its rejection promptly, confirming any oral rejection in writing to Purchaser. This Order may be accepted by a written notice delivered to Purchaser. If this Order specifies (1) the performance of services, and/or (2) the supply of goods to be specifically manufactured for Purchaser, this Order must be acknowledged and accepted by Seller in writing within one (1) calendar days of receipt by Seller or Purchaser may, at its option, cancel this Order without notice.
2. **TITLE.** Title to goods covered by this Order passes to Purchaser at Purchaser's receiving dock (F.O.B. or FCA Purchaser's dock) unless otherwise shown on the face of this Order hereof, as set forth in a Master Agreement, or otherwise agreed in writing by the parties hereto. Passage of title under this provision does not limit Purchaser's full right of inspection or constitute final acceptance. If goods are returned by Purchaser to Supplier due to non-compliance with this Order, then title will pass to Seller on delivery of all or the applicable part of the goods thereof being transferred, to a carrier for return to Seller.
3. **PACKAGING.** All goods covered by this order will be suitably packaged or otherwise prepared for shipment so as to secure the lowest transportation rates and to meet the carrier's requirements. No charges will be allowed for packaging or crating unless stated in this Order. Each container must be clearly marked to show quantity, contents, Seller's name, and the number of this Order number. In addition, each container must be marked with the release Order number when requested by Purchaser.
4. **CHANGES.** If the goods or services covered by this purchase Order have changed between the time of this Order and the last time such goods and services were purchased by Purchaser, or if the goods and services covered by this purchase Order change or vary during the performance of this purchase Order, Seller agrees to notify Purchaser of any material changes or variations in the goods or services so that Purchaser may determine whether the changes may affect the safety and quality of its own goods and services. Unless Seller notifies Purchaser in writing, Seller warrants that each good and service provided to Purchaser is identical in all material aspects.
5. **PRICE:** The pricing on the Order reflects the pricing agreed by Seller and Purchaser, and may not, without the prior written consent of Purchaser, exceed the last quotation received by Purchaser from Seller. If Seller does not reject the Order as set forth in Section 1 above, then delivery to Purchaser of goods and services set forth on the Order will be deemed acceptance of all such pricing.
6. **RIGHT OF REJECTION.** Purchaser reserves the right to return to Seller, at Seller's expense, goods delivered hereunder that do not meet the terms of the Master Agreement, if any, or this Order. Purchaser may accept the portion of the goods delivered hereunder that conform and return the balance to Seller at Seller's expense. In such event, Purchaser will pay only the proportionate amount of the total price stated herein that corresponds to the portion accepted regardless of whether such lesser quantity is ordinarily sold at higher price.
7. **DELIVERY.** Time is of the essence for this Order, and Purchaser may reject goods and services not delivered or furnished on the dates herein specified. **100% ON TIME DELIVERY IS REQUIRED.** Delivery must be at the place and within the time stated on the face hereof. Buyer may cancel the order if the delivery is not so made.
8. **CONTINGENCIES/FORCE MAJEURE.** If Purchaser fails to take one or more shipments hereunder because of fire, explosions, earthquake, war, flood, accident, interruption or delay in transportation, labor trouble, or any other circumstances of like or different character beyond Purchaser's reasonable control, or partial or complete suspension of operations, then the total quantity covered by this Order may be reduced by the extent of the omitted shipment(s) or the specified delivery period extended by a time equal to that during which shipment shall be so omitted.

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9.CANCELLATION. Unless otherwise set forth in a Master Agreement, Purchaser may cancel work under this Order in whole or in part at any time on return or telephonic notice. Cancellation will be without prejudice to any claims which one party may have against the other for work performed or materials supplied up to the date of cancellation.

10.INTELLECTUAL PROPERTY. Seller will defend, indemnify, and hold Purchaser harmless from and against any and all liability, damage, cost, or expense (including reasonable attorneys' fees) that may accrue to, or be sustained by, Purchaser on account of any claim, suit, or action made or threatened to be brought against Purchaser, Purchaser's affiliates, or Purchaser's customer(s) for actual or alleged infringement or misappropriation of any patent, trade secret, or copyright by reason of the manufacture of goods or provision of service covered by this Order by Seller or the resale thereof for a reason known to Seller. Unless otherwise agreed in a Master Agreement, Purchaser owns and retain all right, title, and interest in and to any intellectual property (including right of priority) or technology that is conceived, created, or reduced to practice by either party jointly or separately in the course of the performance of this Order, and Seller assigns any and all rights to such intellectual property or technology to Purchaser.

11.LAWS AND REGULATIONS. Seller warrants that all goods delivered pursuant to this Order (i) will be produced, sold, and delivered to Purchaser in compliance with all applicable laws and regulations, (ii) will be produced in strict compliance with the Fair Labor Standards Act, 1983, as amended, applicable child labor laws, and laws against slavery and/or human trafficking. If required, the Seller will comply with Federal Acquisition Regulation (FAR) clause 52.219-8 "Utilization of Small Business Concerns", which is hereby incorporated by reference. The provisions of Executive Order 11246, as amended, along with the rules and regulations of the Office of Federal Contract Compliance Programs (OFCCP), as well as the Small Business Act, as amended, are applicable to this Order unless exempted under applicable Orders and regulations issued thereunder.

12.NO AGENCY. This Order is solely for the purchase of goods and/or services and does not constitute Seller the agent or subcontractor of Purchaser for any purpose. Seller assumes all obligations under all "social security" legislation (e.g., unemployment insurance, old age benefits, or workers' compensation laws) of the United States or any state or other governmental authority with respect to persons employed in the performance of services and/or production of goods under this Order and will indemnify Purchaser against any liability thereof.

13.PURCHASER DESIGNS AND PURCHASER ITEMS. Seller may use (i) all photographs, specifications, drawings, blueprints, or designs. or the like (together "Purchaser Designs"), or (ii) all tools, dies, molds, fixtures, photographs, proofs, printing plates, or the like (together "Purchaser Items"), that are supplied by Purchaser in confidence, or paid for by Purchaser, only for the purpose of fulfillment of this Order. No other use is authorized without Purchaser's prior written consent. Supplier will return all Purchaser Designs or Purchaser Items to Purchaser if so requested. Seller agrees that the Purchaser Designs and Purchaser Items, and any inventions or trade secrets contained therein, are the property of Purchaser. Purchaser may withdraw Purchaser Items or Purchaser Designs from Seller's premises upon demand in writing. Seller is obligated to carefully preserve and maintain, in good operating condition, such Purchaser Designs or Purchaser Items at all times.

14.INVOICE, DISCOUNTS AND TAXES. Seller will provide Purchaser with invoices issued in duplicate, unless otherwise specified. Each invoice must be mailed on the date appearing on the invoice. Each invoice must be provided to Purchaser by the person or business entity, firm, or corporation to which this Order is issued. Discount date will be established from the date on which Seller has complied with all terms of this Order and delivered an invoice to Purchaser. The purchase price herein is exclusive of any and all taxes and other governmental charges now imposed or hereafter becoming effective upon the production, sale, shipment or use of the materials specified in this Order and Seller agrees to indemnify Purchaser against and reimburse Purchaser for any expenditures Purchaser may be required to make on account of Seller's failure to pay such taxes and other governmental charges. The Purchaser shall pay any applicable local, state, and federal taxes, however designated (excluding Seller's income taxes), imposed or based upon the sale, transfer of ownership, installation, license or use of the Products, unless Purchaser provides the Seller with an appropriate certificate of exemption.

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15. **WARRANTIES.** In addition to all warranties, expressed or implied, established by statutes or common law, or elsewhere set forth in this Order, Seller hereby expressly warrants that all goods and/or services covered by this Order will conform to all specifications, drawings, samples, and any other description furnished or adopted by Purchaser and accepted by Supplier, new not refurbished, and will be fit and sufficient for the purpose reasonably intended by Supplier, merchantable, of good material, and free of defect in material and workmanship. Purchaser's failure to give notice to Seller of any breach of any warranty shall not discharge Seller's liability for any such breach. The warranties of Seller together with its services warranties and guarantees, if any, run to Purchaser and Purchaser's customer(s). Notwithstanding the foregoing, Supplier's warranty obligations under this Section 15 will not apply to the extent that such warranty claims arise from Purchaser's negligence or willful misconduct.

16. **INDEMNITY.** Seller will defend indemnify, protect, and hold Purchaser harmless against any and all loss or damage to persons (including death) or to property (including attorneys' fees) resulting from or arising in connection with the goods and/or services furnished hereunder. Notwithstanding the foregoing, Supplier's indemnification obligations under this Section 16 will not apply to the extent that such claims arise from Purchaser's negligence or willful misconduct.

17. **WAIVERS.** Any failure by Purchaser to enforce or require strict performance by Seller of any term or condition of this Order does not constitute a waiver thereof by Purchaser, and Purchaser may at any time avail itself of the remedies Purchaser may have for any breach of the terms hereof.

18. **ASSIGNMENT.** This Order may not be assigned by Seller without the prior written approval of Purchaser.

19. **CHOICE OF LAW, JURISDICTION, VENUE.** The terms of this purchase Order shall be governed by and subject to the laws of the State of California (other than its choice of law principles). The parties agree that the United Nations Convention on Contracts for the International Sale of Goods is specifically excluded from application to this Order. Any action or proceeding arising from this Order will be brought in the state courts located in Santa Clara County or in the federal courts located in the Northern District of California. Each party hereby irrevocably consents to the exclusive jurisdiction and venue in such courts.

20. **ENTIRE AGREEMENT.** Except as set forth herein, or in a Master Agreement, the terms and conditions stated in this Order constitute the entire agreement between Seller and Purchaser regarding the purchases herein. To be clear, and for the avoidance of doubt, Seller and Purchaser agree that any and all terms and conditions contained in Seller's quote, correspondence, or documentation that are attached to, referenced in, or in any way related to a Purchase Order are null and void and expressly superseded in their entirety by the terms and conditions contained herein.

21. **CONFIDENTIAL INFORMATION AND PUBLICITY.** If Purchaser and Seller have entered into a non-disclosure agreement ("NDA") applicable to the disclosure of confidential information under this Order, and if the term of the NDA expires before the expiration or termination of this Order, then the term of the NDA will be automatically extended to match the term of this Order. The parties will treat the terms, conditions, and existence of this Order as confidential and proprietary information of Purchaser as defined in the NDA. In any case, each party agrees to treat any confidential or proprietary information disclosed to it as strictly confidential for the duration of the transaction under this Order and for a period of 5 years thereafter, unless such information becomes public through no fault of the receiving party. Seller shall obtain Purchaser's written consent prior to any publication, presentation, public announcement, or press release concerning its relationship as a supplier to Purchaser.

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