

## Protomatic, Inc. - Terms and Conditions for Purchase of Goods and/or Services

**1. TERMS.** This Purchase Order constitutes the exclusive statement of PROTOMATIC'S offer to Seller to purchase the Goods or Services specified on said Purchase Order, and supersedes any previous written or oral communications or understandings between the parties. Any additional or different terms or conditions stated by Seller in acknowledging receipt of this Purchase Order or in any other writing are hereby objected to and shall be void unless expressly agreed to in writing by PROTOMATIC. Notwithstanding the foregoing, if PROTOMATIC and Seller have entered into a separate agreement with respect to PROTOMATIC'S purchase of the Goods and/or Services, then the agreement shall govern PROTOMATIC'S purchase of such Goods and/or Services; in the event of any inconsistencies between the terms of the agreement and the terms of this Purchase Order, the terms of the agreement shall prevail.

**2. ACCEPTANCE.** Acceptance by Seller of PROTOMATIC'S Purchase Order under the terms and conditions stated hereon shall be indicated by either written acceptance or commencement of performance pursuant to this Purchase Order.

**3. DELIVERY.** Time and date of deliveries and performance are of the essence on this Purchase Order. Seller shall not be allowed additional time outside of the time stated for delivery/completion in this Purchase Order without the express written consent of PROTOMATIC. Goods shipped in advance of delivery schedule or unauthorized partial shipments may also be rejected or returned to Seller at Seller's expense. All Goods shall be shipped F.O.B. destination. That is, risk of loss shall pass to PROTOMATIC upon delivery of the Goods to PROTOMATIC at PROTOMATIC'S place of business in an undamaged condition.

**4. INSPECTION AND REJECTION.** PROTOMATIC reserves the right to make final inspection of the Goods and Services for up to 90 Days after receipt by PROTOMATIC (notwithstanding any prior payment or prior acceptance thereof) and, in addition to any other rights and remedies available under law, to cancel this Purchase Order and reject the Goods or Services upon any default by Seller in meeting or satisfying delivery/completion dates, scheduled amounts, specifications, quality, or performance. Seller shall bear all risks and expenses for returns including, but not limited to, storage, freight, insurance, packaging, materials and labor as to rejected Goods or Goods requiring correction after notice of rejection. PROTOMATIC shall have the right, upon reasonable advance notice and during normal business hours, to inspect Seller's premises and operations which pertain to the Goods and Services in order to insure conformity with specifications, adequate quality control and ability to meet designated delivery and completion dates.

**5. ADDITIONAL QUALITY CONTROL.** PROTOMATIC shall have the right and Seller agrees that upon written request by PROTOMATIC, a First Article Inspection (FAI) shall be conducted in compliance with the requirements of AS9102 as developed by the International Aerospace Quality Group (IAQG). Seller agrees that PROTOMATIC may request Seller to complete the FAI and submit acceptance documentation on AS9102 compliant forms and that PROTOMATIC may request that Seller conduct the FAI after the production of a pre-production sample, prior to Seller's full production of Goods specified on this Purchase Order. Seller agrees that failure of Goods to pass the FAI shall constitute a rejection by PROTOMATIC of the Goods for quality reasons as detailed in Paragraph 3, above. PROTOMATIC shall have the right and Seller agrees that, upon written request by PROTOMATIC, Seller shall provide with delivery of Goods a Certificate of Analysis signed by a corporate officer or other designated

individual of Seller, including: original manufacturer's name and address, purchase order number, part number, drawings and/or specification numbers and revisions, traceability of material: including, serial numbers, date code, lot number or batch code, and Test Data. Test Data shall include discrete test results of physical properties, chemical analysis or any other test specified by PROTOMATIC in its written request for a Certificate of Analysis, conducted on both the batch and lot of Goods supplied under this Purchase Order and including the actual measured value of the test and the acceptable range of measured value results for each batch and lot requirement.

**6. PACKING AND SHIPMENT.** Unless otherwise agreed, all Goods shipped hereunder (and all materials, parts and components incorporated therein) shall be in new and unused condition. No substitutions shall be allowed without the prior written consent of PROTOMATIC. All items shall be packed by Seller in suitable containers for protection in shipment and storage. Unless otherwise agreed to by the parties, no charge shall be made for cartons, wrappings, boxing, crating, delivery, insurance, drayage or other cost. Each container shall be marked to show PROTOMATIC'S Purchase Order number, and a packing sheet showing the Purchase Order number must be included in each package. Where prepaid transportation charges are authorized by PROTOMATIC, these charges have to be shown separately on Seller's invoices and should be accompanied by the original freight bill or a copy of a bill of lading. If the inclusion of prepaid transportation charges makes it impossible for Seller to render its invoice within 24 hours of shipment, an invoice to cover transportation charge shall be sent promptly thereafter.

**7. NOTIFICATION OF HAZARDOUS PRODUCT.** Seller hereby agrees to notify PROTOMATIC of any inherent hazard related to the Goods being purchased herein or any hazards that would arise during: handling; transportation; storage; use; resale, disposal; or scrap. Said notice shall specify: the product name and part number; the nature of the hazard; proper precautions that must be undertaken by PROTOMATIC or others; and any additional information that PROTOMATIC should reasonably know to protect its interest.

**8. PAYMENT.** Unless otherwise agreed to in writing by PROTOMATIC, payment shall be made to Seller thirty (30) days after the later of (i) receipt of Goods or completion of Services, or (ii) PROTOMATIC'S receipt of Seller's invoice; provided, however, that payment shall not constitute acceptance of the Goods or Services or impair PROTOMATIC'S right of inspection and rejection.

**9. DISCOUNT.** Unless otherwise agreed to in writing by PROTOMATIC, PROTOMATIC shall apply a 1% discount to any payment made within fifteen (15) days of the later of (i) receipt of Goods or completion of Services or (ii) receipt of Seller's invoice.

**10. PRICES.** Seller's prices for the Goods or Services ordered shall not be higher than those stated hereon. In the event that this Purchase Order does not state a price, PROTOMATIC will not be bound by any total Purchase Order price exceeding \$1000.00 to which PROTOMATIC has not expressly agreed in writing. Seller warrants that the prices charged to PROTOMATIC are no higher than prices charged on orders placed by other purchasers for similar quantities under similar conditions. In the event that Seller breaches this warranty, the prices of the Goods or Services shall be reduced accordingly, retroactively to the date of the breach. In addition, Seller agrees that any price reduction in the Goods or Services subsequent to placement of this Purchase Order, but prior to shipment of Goods or completion of Services, will apply to this Purchase Order.

**11. TITLE TO GOODS.** Title to all Goods purchased hereunder shall pass directly to PROTOMATIC from the Seller at the point of delivery specified hereon.

**12. TAXES.** All applicable Federal, State and local taxes shall be stated separately on Seller's invoice.

**13. WARRANTIES.** Seller warrants that the Goods provided hereunder shall be (i) in full conformity with all specifications, drawings, and/or other descriptions or samples, (ii) merchantable, (iii) fit for their intended purposes, (iv) free from defects in design, materials and workmanship, and (v) free of any lien, encumbrance or other defect in title. Seller warrants that any Services provided hereunder shall be performed in a good, workmanlike and professional manner in compliance with all applicable laws and regulations, any written instructions provided by PROTOMATIC, and the highest standards in the industry for performing services of a similar nature. Seller warrants that its quality management system is in compliance with the current version of ISO 9001. Such warranties shall be in addition to any other warranties given by Seller, shall survive inspection, acceptance and payment therefor and shall run to PROTOMATIC, its successors, assigns and customers. PROTOMATIC may, at its option, either obtain a full refund of all amounts paid to Seller hereunder or require prompt correction or replacement of defective or nonconforming Services, Goods or parts, which rights shall be in addition to such other rights as PROTOMATIC may have under applicable law.

**14. PATENT PROTECTION.** Seller shall defend and hold harmless PROTOMATIC, its subsidiaries and affiliates, and their respective customers, from all expenses, liabilities and losses of any kind (including attorneys' fees), growing out of claims, suits or proceedings alleging any patent, trademark, or copyright infringement arising from the manufacture, sale or use of any Goods ordered or Services provided hereunder. Seller shall promptly assume the defense of any such claim, suit or proceeding and shall pay all costs, damages, royalties or profits which may be decreed or awarded against PROTOMATIC, its subsidiaries, affiliates, agents or customers in connection therewith. Seller shall, at its own cost and expense, either procure for PROTOMATIC the right to continue using the Goods or Services or any part thereof, or modify the Goods or Services so that they become non-infringing, provided that such modified Goods or Services shall conform in every respect to the applicable specifications and terms and conditions of this Purchase Order. If neither of these alternatives is possible, then Seller shall promptly refund to PROTOMATIC the purchase price paid for such Goods or Services. Seller shall further indemnify and hold harmless PROTOMATIC, its subsidiaries and affiliates, and their respective officers, directors, employees, agents and customers, from all other claims, demands, liabilities, costs and expenses (including attorneys' fees) arising from any actual or alleged (i) defect in the Goods or Services provided by Seller hereunder, (ii) failure of the Goods or Services to comply with all specifications or with the express or implied warranties of Seller, or (iii) Seller's violation of any statute, ordinance, rule or regulation in the manufacture, sale, delivery or completion of the Goods or the provision of the Services. The indemnification and hold harmless obligations of this paragraph shall survive completion, expiration or termination of this Purchase Order.

**15. TRADEMARKS.** All trademarks of PROTOMATIC that PROTOMATIC requests Seller to affix to the Goods purchased hereunder are owned by PROTOMATIC and Seller shall not acquire or claim any right, title or interest therein or use any such trademarks of PROTOMATIC for any other purpose.

**16. DESIGNS, TOOLS, ETC. FURNISHED BY PROTOMATIC.** Any drawings, data, tools, designs, equipment, software programs or other property supplied by

PROTOMATIC to Seller or specifically paid for by PROTOMATIC in connection with the Purchase Order shall be and remain PROTOMATIC'S property. Such property shall be used exclusively in connection with the Goods or Services provided hereunder, maintained in first class condition and returned by Seller to PROTOMATIC at the termination of this Purchase Order, or earlier should PROTOMATIC so request. Further, any data, software or other technical information (including any data or information included in any drawings, specifications or other materials provided by PROTOMATIC to Seller hereunder) are proprietary to PROTOMATIC, shall be held in strictest confidence by Seller, shall not be reproduced or disclosed to others without PROTOMATIC'S prior written consent and shall be used by Seller solely in connection with the fulfillment of this Purchase Order. Any information furnished to PROTOMATIC by Seller relating to or as a result of this Purchase Order shall be considered non-confidential unless otherwise agreed to by PROTOMATIC in a separate written agreement. All new technology (including, but not limited to, inventions, patentable or not), new equipment, or a new manufacturing process resulting from Services performed by Seller under this Purchase Order shall be the exclusive property of PROTOMATIC.

**17. INSURANCE.** Seller agrees to maintain the following insurance policies through an insurance carrier possessing at least an A.M. Best Rating of "A-": (a) statutory Workers' Compensation insurance for its employees, including occupational disease coverage, as required in the jurisdiction in which the work is to be performed and Employer's Liability insurance with limits of at least \$1 million bodily injury each accident or illness; (b) Commercial General Liability insurance, including products and completed operations and contractual liability coverage, written on an "occurrence" basis with a combined single limit of at least \$1 million per occurrence and in the aggregate for bodily injury and property damage liability; (c) Automobile Liability insurance coverage all owned, non-owned and hired automobiles, with a combined single limit of at least \$1 million per accident for bodily injury and property damage liability (this coverage shall be required if the Seller operates a vehicle to perform work under this Purchase Order on PROTOMATIC'S or PROTOMATIC'S customer's premises); and (d) Property insurance for loss or damage to property furnished by PROTOMATIC, or otherwise deemed owned by PROTOMATIC under Paragraph 16, in an amount equal to the replacement value. Seller's insurance shall be primary and non-contributory to any insurance or self-insurance maintained by PROTOMATIC, when responding to Seller's obligation to defend and indemnify PROTOMATIC. With the exception of (a) above, Seller shall include PROTOMATIC as an additional insured to the extent claims arise from Seller's activities performed under this Purchase Order. Seller shall furnish a certificate of insurance evidencing the insurance coverage stipulated above and shall provide at least thirty (30) days prior written notice if the required insurance is cancelled or materially altered.

**18. TERMINATION.** PROTOMATIC may terminate this Purchase Order in whole or in part at any time upon PROTOMATIC'S written notice to Seller (i) for any reason at PROTOMATIC'S convenience, (ii) for any default by Seller hereunder (including but not limited to Seller's failure to deliver completed Goods or provide Services within the time specified by PROTOMATIC), (iii) in the event Seller becomes the subject of any proceeding under state or federal law for the relief of debtors or otherwise becomes insolvent or bankrupt or makes an assignment for the benefit of creditors. In the event of termination, PROTOMATIC may further notify Seller that all right, title and interest in and to all of any portion of material acquired by Seller for the performance of this Purchase Order, work in process and/or completed items or work specified in such notice shall pass immediately to PROTOMATIC.

PROTOMATIC agrees that in the event PROTOMATIC terminates this Purchase Order under (i), above, PROTOMATIC shall pay all costs incurred by Seller as of the date of cancellation. However, when terminating under (i), above, PROTOMATIC shall only pay a 10% restocking fee for any Goods that Seller could reasonably re-sell. In the event of PROTOMATIC'S termination of this Purchase Order under (ii) and (iii), above, PROTOMATIC shall have no liability to Seller for Goods (whether finished or unfinished) that are not readily usable, reusable or saleable by PROTOMATIC. In addition, upon termination under (ii) or (iii) above, PROTOMATIC may purchase substitute Goods or Services elsewhere or secure the manufacture and delivery of Goods by contract or otherwise, and Seller shall be liable to PROTOMATIC for any excess cost incurred by PROTOMATIC. Seller also agrees to indemnify PROTOMATIC in the event that PROTOMATIC'S termination under (ii) and (iii) above, exposes PROTOMATIC to liability for default under PROTOMATIC'S contracts with its customers.

**19. NOTICE OF LABOR DISPUTES AND INABILITY TO DELIVER.** In the event of a labor dispute or other contingency or event which affects Seller's ability to deliver the Goods or perform the Services as ordered hereunder, Seller shall immediately notify PROTOMATIC thereof, in writing. Should said dispute, contingency or event, in PROTOMATIC'S reasonable judgment, materially impair the value of this Purchase Order, without prejudice to any other right or remedy, PROTOMATIC may cancel all remaining deliveries or Services under this Purchase Order.

**20. PURCHASE ORDER AMENDMENTS; CHANGES BY SELLER.** PROTOMATIC shall have the right at any time, by written Purchase Order Amendment, to make changes in any one or more of the following: (i) quantity of Goods to be delivered; (ii) method of shipping or packing; (iii) drawings, designs or specifications; (iv) place of delivery; and (v) delivery/completion schedules for Goods or Services. If any such Purchase Order Amendment causes an increase or decrease in the cost of or the time required for the performance of the work under this Purchase Order, an equitable adjustment shall be made in price and/or delivery schedule, and this Purchase Order shall be modified accordingly. Any claim by Seller for adjustment under this clause shall be deemed waived unless asserted in writing within ten (10) days from receipt by Seller of the Purchase Order Amendment. Price increases, extensions of time for delivery, and quantity changes shall not be binding on PROTOMATIC unless memorialized in a written Purchase Order Amendment issued and signed by PROTOMATIC. In the event that any of the Goods are made pursuant to specifications and/or drawings provided by PROTOMATIC, Seller shall not make any changes to the design or manufacture of the Goods without obtaining the prior written consent of PROTOMATIC. For all other Goods purchased by PROTOMATIC, the Seller shall not make any changes affecting the form, fit, function, properties, purity or any other characteristics of the Goods unless Seller obtains the prior written consent of PROTOMATIC; Seller shall notify PROTOMATIC at least sixty (60) days in advance of any other changes made to the design or manufacture of the Goods.

**21. REPRODUCTION OF DOCUMENTATION.** PROTOMATIC shall have the right, at no additional charge, to use, reproduce, and/or incorporate in PROTOMATIC'S literature all or portions of Seller's applicable literature, such as operating and maintenance manuals, technical publications, prints, drawings, training manuals, and other similar supporting documentation and sales literature. Seller agrees to advise PROTOMATIC of any updated information relative to the foregoing literature and documentation with timely written notice.

**22. SELLER'S EMPLOYEES.** PROTOMATIC assumes no liability for any bodily injury or property damages caused to a person not an employee of PROTOMATIC who is injured while on the premises of PROTOMATIC or a customer of PROTOMATIC. The relationship between PROTOMATIC and Seller is one of independent contractors and nothing herein shall create or imply any relationship or agreement of joint venture, partnership, franchise, or hire. Seller and its employees and agents providing Goods or performing Services hereunder are and will at all times remain qualified and appropriately licensed under all federal, state and local laws, rules and regulations to perform its obligations hereunder. PROTOMATIC shall have the right to request the removal and replacement of any employee of Seller providing Goods or Services hereunder for any one of the following reasons: (i) gross negligence; (ii) inattention to or substandard performance of the services; (iii) excessive unexcused absences from work; (iv) insubordination; (v) failure to observe the rules of PROTOMATIC or PROTOMATIC'S customers while on PROTOMATIC'S or the customers' premises, respectively, and (vi) conduct constituting fraud or dishonesty. Any individual so removed will be promptly replaced by another individual possessing comparable skills, training and experience. In addition, Seller shall notify PROTOMATIC within 3 hours of Seller's termination of employment of any personnel providing services hereunder at any PROTOMATIC or customer facility or site, whether voluntary or involuntary; provided, however, that Seller shall provide reasonable prior notice of any scheduled termination or separation.

**23. ASSIGNMENT AND SUBCONTRACTS.** This Purchase Order is not subject to transfer or assignment by Seller except that the right to receive monies due or to become due hereunder may be assigned upon prior written approval of PROTOMATIC. Seller shall not without the written approval of PROTOMATIC delegate or otherwise subcontract any of its duties and responsibilities under this Purchase Order.

**24. GOVERNMENT CONTRACTS.** If this Purchase Order is stamped "Military," then this Purchase Order constitutes a subcontract subject to the provisions of any Act of Congress heretofore or hereafter enacted that require the flow down of such contract provisions to any subcontract under a prime contract with the United States Department of Defense ("DoD"). All such provisions shall be incorporated into this Purchase Order and Seller shall be required to comply with all obligations under said provisions whether explicitly stated or not. Particularly, but without limiting the generality of the foregoing, the following specialty metals provisions are incorporated into this Purchase Order, as applicable: for prime DoD contracts awarded prior to November 16, 2006 - DFARS 252.225-7014, Alt. I; for prime DoD contracts awarded between November 16, 2006 and October 25, 2007 - DFARS 252.225-7014, Alt. I (DEVIATION); for prime DoD contracts awarded between October 26, 2007 and January 28, 2008 - DFARS 252.225-7014, Alt. I (DEVIATION 2007-00011); for prime DoD contracts awarded between January 29, 2008 and July 28, 2009 - DFARS 252.225-7014, Alt. I (DEVIATION 2008-00002); and for prime DoD contracts awarded on or after July 29, 2009 - DFARS 252.225-7009. Seller is required to flow down the applicable provision listed above to all of Seller's vendors that supply any articles delivered under this Purchase Order that include specialty metals. All the above listed provisions provide the same definition of specialty metals and prohibit PROTOMATIC and all of its suppliers at every tier from incorporating specialty metals into military parts, components and/or end item deliverables unless the specialty metals have been smelted and/or "produced," as defined by the applicable provision, in the United States, its outlying areas, or a qualifying country listed in DFARS 225.872-1. Exemptions to the requirements contained in the above provisions may exist, as outlined in the provisions themselves,

or by operation of applicable Department of Defense Domestic Non-Availability Determinations (DNADs) posted on the DoD's public website for that purpose. If Seller believes an exemption(s) applies, provide a written explanation to PROTOMATIC with supporting documentation and information sufficient to demonstrate Seller's entitlement to the exemption prior to Seller taking any action under this Purchase Order for which PROTOMATIC would incur a cost. Seller agrees that, if requested, the Seller's records shall be subject to audit by any authorized government representative in accordance with applicable laws and regulations. In the event of termination of the prime contract by the government, settlement shall be made in accordance with the provisions thereof. These conditions should be incorporated in any purchase order placed by Seller in connection with this Purchase Order.

**25. SELLER'S CERTIFICATIONS.** The Seller certifies that the Goods, Services or other materials, parts and/or equipment supplied under this Purchase Order shall fully comply with all applicable Federal, State and local laws, regulations, rules and ordinances, including, without limitation, the requirements of the Occupational Health and Safety Act of 1970, as amended, the Fair Labor Standards Act of 1938, as amended, the Clean Air Act of 1993 (CFC Labeling), as amended, and the regulations issued pursuant to said Acts or in connections therewith. The Seller further certifies that it follows Good Manufacturing Practices to the extent applicable. Additionally, Seller certifies that neither Seller nor any of its principals, including, but not limited to its officers, directors, owners, partners, or employees with managerial or supervisory responsibilities, are debarred, suspended or proposed for debarment through inclusion on the "LIST OF PARTIES EXCLUDED FROM FEDERAL PROCUREMENT OR NON-PROCUREMENT PROGRAMS" as published monthly by the U.S. General Services Administration, Office of Acquisition Policy. Acceptance by the Seller of this Purchase Order shall constitute such certification of compliance with all of the foregoing.

**26. EQUAL EMPLOYMENT OPPORTUNITY.** The Executive Order 11246 dated September 24, 1965, the Rehabilitation Act of 1973, the Vietnam Era Veterans Readjustment Assistance Act of 1974, and any amendments thereto or regulations thereunder, are incorporated herein by reference.

**27. IMPROPER PAYMENTS, KICKBACKS, GIFT, GRATUITIES, ETC.** In fulfilling the terms of this Purchase Order, Seller shall not make payment of any salary, fee, commission or compensation of any kind, or grant any gift or gratuity of any kind, either directly or indirectly, to any officer, director, employee, agent or representative of PROTOMATIC. In the event Seller violates the terms of this section, then all payments due Seller under this Purchase Order shall be forfeited and PROTOMATIC shall have the right to immediately terminate this Purchase Order.

**28. WAIVER.** Failure or delay on the part of PROTOMATIC to exercise any right, power or privilege hereunder shall not operate as a waiver thereof.

**29. ATTORNEYS' FEES.** In the event that PROTOMATIC brings suit against Seller to enforce performance of any provision hereof or should PROTOMATIC be forced to defend a lawsuit brought against it by Seller, then Seller shall be liable for all of PROTOMATIC'S costs and expenses, including reasonable attorneys' fees.

**30. GOVERNING LAW.** The rights and obligations of the parties hereunder shall be governed by the laws of the State of Michigan without regard to conflicts of laws or principles.

**31. INDEMNIFICATION.** Seller shall indemnify and hold PROTOMATIC, its officers, directors, employees and agents, harmless from and against any and all loss, damage, liability or expense resulting from damage to property of a third party, or injuries, including death, to third parties to the extent caused

by a negligent act or omission of the Seller, its subcontractors, agents or employees. Seller, upon notice from PROTOMATIC, shall resist and defend, at Seller's sole cost and expense, any such action or proceeding with counsel reasonably satisfactory to PROTOMATIC. In addition, at its option, PROTOMATIC may engage, at its own expense, separate counsel to appear on its behalf in such action or proceeding without waiver of its rights or Seller's obligation hereunder.