



**MATCOR METAL FABRICATION INC.**

**STANDARD PURCHASE ORDER  
GENERAL TERMS AND CONDITIONS  
(Equipment and/or Tooling)**

Version GTC.2 issued July 27, 2015

1. Seller has read and understands this purchase order and agrees that Seller's written acceptance or commencement of any work or services under this purchase order shall constitute Seller's acceptance of the purchase order and these terms and conditions only. All terms and conditions proposed by Seller which are different from or in addition to this purchase order are unacceptable to Buyer, are hereby expressly rejected by Buyer and shall not form part of this purchase order. Any modifications to this purchase order shall only be made in accordance with Paragraph 20. "Purchase order" means any purchase order transmitted to Seller electronically or delivered to Seller in a paper format.
2. Buyer purchases goods and/or services in accordance with the terms and conditions set out herein. Seller, by acceptance of this purchase order, accepts all the terms and conditions hereof. The terms and conditions set out herein shall supersede and take priority over any and all previous verbal or written arrangements in connection with this purchase order.
3. Buyer shall have no obligation to make payment to Seller until all goods and/or services purchased hereunder are fully delivered or performed, in accordance with the terms and conditions of this purchase order. Buyer will make payment to Seller upon the stated terms and conditions as indicated in the purchase order.
4. Time is of the essence. Delivery must be effected within the time specified in this order, or in accordance with Buyer's releases or procedures and work progress "milestones", if so indicated in or attached to this purchase order. In the event Seller fails to make deliveries, perform services or timely achieve designated "milestones" at the agreed time as may be stipulated in this purchase order, Buyer reserves the right, without liability, in addition to its other rights and remedies, Buyer reserves the right at its sole discretion to (a) terminate this purchase order, by providing notice to Seller, effective immediately upon delivery of such notice to Seller; or (b) make payment to Seller for the work completed and take possession of said work in progress immediately. Furthermore, in the event of Seller's failure to timely achieve any designated work progress "milestones", all damages suffered by Buyer and any premium transportation or other costs required to meet the specified delivery schedule will be at the expense of Seller. In addition to its other rights and remedies, Buyer further reserves the right, without liability, to purchase substitute goods and/or services from a source other than Seller, and Buyer retains the right to charge Seller with any loss or damages incurred in so doing. No provision of this purchase order for delivery, or rendering of goods and/or services in installments, shall be construed as making the obligations of Seller severable. Notwithstanding the foregoing, neither Buyer nor Seller shall be liable in damages for any delay which may occur arising out of causes beyond the reasonable control of the parties, and without fault or negligence of the parties, including, but not limited to, any act of God, war, revolution, blockade, strike, riot, earthquake, cyclone, fire, flood, rail car a shortage or delay by carrier, fuel shortage, embargo, lockout or other labour disturbance, the operation of statutes of law, interference of civil or military authority or other government or physical cause, existing or future. If Seller has a reason to believe that shipment will not be made pursuant to this purchase order, Seller shall provide written notice to Buyer forthwith, setting forth the cause and extent of the anticipated delay.
5. Buyer reserves the right to make changes at any time and from time to time in the specifications, drawings, samples, or other description to which goods and/or services ordered are to conform, methods of shipment and packaging, or in the time and place of delivery. In the event of such alterations, a reasonable adjustment in price or in time of performance, mutually acceptable to Buyer and Seller, shall be made to cover any change in the costs occasioned thereby. Any claim made by Seller for an adjustment shall be deemed waived unless such claim is made in writing to Buyer within forty-eight (48) hours following receipt by Seller of such changes. Unless Buyer issues a purchase order change, price increases or extensions of time shall not be binding upon Buyer.

**General Terms and Conditions**

6. Any and all property delivered by Buyer to Seller in accordance with the terms of this purchase order is to be preserved in good condition by Seller and Seller shall remain liable for any damage to these items. Seller is responsible for the security, protection and maintenance of said items and Seller shall indemnify Buyer for any and all losses occasioned by the destruction of, or damage to such property. Seller shall furnish Buyer with a certificate of insurance or other satisfactory proof of insurance evidencing that Seller maintains satisfactory insurance covering any and all risks that may arise, and which shows Buyer as "Additional Insured", to the full extent of interest of Buyer. Title to all items loaned or supplied by Buyer to Seller shall remain vested in Buyer and shall not be sold, pledged, leased or otherwise disposed of by Seller. Said items shall be returned immediately to Buyer at request of Buyer.
7. All specifications, drawings, and other data submitted by Buyer to Seller in connection with this purchase order are hereby incorporated into this purchase order. Unless otherwise authorized in writing by Buyer, all goods and/or services ordered to the specifications of Buyer shall comply with such specifications current as of the date of this purchase order. No substitutions may be made on any items, except on the written authority of Buyer. All items shall be delivered subject to inspection, test and approval of Buyer at any and all times and places. If any inspection or test is made on the premises of Seller, Seller shall provide all reasonable assistance and facilities to enable Buyer and/or representatives of Buyer to perform their inspections, without any charge to Buyer. Buyer shall be the final judge of the items inspected and Buyer reserves the right to accept goods or to reject goods which do not conform to the specifications, drawings or other data, or which do not comply with the warranties hereinafter referred to. Where any corrective work is required to meet specification requirements, changes shall be arranged by Seller at no extra cost to Buyer. Payment shall not constitute acceptance as to quality or quantity. Seller shall bear the cost of delivery and inspection of defective items rejected by Buyer and such items shall be returned to Seller at expense of Seller. No rejected item shall be replaced without a new purchase order.
8. Seller expressly warrants that all goods and/or services delivered or performed pursuant to this purchase order shall conform to any sample and any specifications, drawings or other descriptions furnished or adopted by Buyer, and shall be fit and sufficient for their intended purpose, and shall be merchantable and of good material and workmanship, free from defect. This warranty shall be in addition to any other warranties given by Seller to Buyer or applicable by law, and shall survive inspection, test, acceptance of and payment for the goods and services, which warranty shall be for the benefit of Buyer, its successors, assigns and customers. The warranty term shall be coterminous with any warranties provided by Buyer to Buyer's customers. Goods required to be corrected or replaced, in accordance with clause 7 hereof, shall be subject to this warranty to the same extent as goods originally delivered under this purchase order. Seller shall indemnify and save Buyer harmless from any and all liability for loss, damage or injury to person or property of any manner arising out of or incidental to the performance of this purchase order including but not limited to the breach of any warranty of Seller. Such indemnification shall survive the delivery of the goods and/or services supplied under this purchase order
9. As a term and condition of this purchase order, Seller represents and warrants to Buyer that the goods or the production thereof do not constitute infringement of any patents, inventions, trademarks or copyrights. In the event that any suit or proceeding alleging infringement of any patent or alleging unfair competition resulting from similarity in the design or appearance of goods is brought against Buyer or any of its agents or customers on account of any items furnished to Buyer under this purchase order, Seller agrees that it will promptly, on notification of the commencement of any such suit or proceeding, assume defense thereof, and that it will pay and discharge all costs and expenses thereof, and will also pay or satisfy all costs, damages, royalties or profits which may be decreed or awarded against Buyer, its agents or customers for or on account of any of the goods so purchased and furnished by Seller to Buyer in any or all suits or proceedings and shall save and protect Buyer harmless therefrom.
10. Seller shall provide Buyer with all data required under the provisions of applicable law (Ontario) with respect to goods being purchased by Buyer pursuant to this purchase order. Seller shall further supply any material related to the safe use of the goods being purchased as well as hazards associated with its use, including but not limited to, installation procedures and personnel protective equipment requirements. All hazardous components

shall be clearly identified. Data requested by Buyer shall be furnished by Seller to Buyer with the shipment of goods and a copy shall be sent to Buyer at the address indicated on this purchase order. No goods shall be accepted by Buyer for delivery without the above required information.

11. Buyer and Buyer's customers shall have the right to enter Seller's facility at reasonable times to inspect the facility, goods, materials and any property of Buyer covered by this purchase order. Buyer's inspection of the goods, whether during manufacture, prior to delivery or within a reasonable time after delivery, shall not constitute acceptance of any work-in-process or finished goods
12. Seller warrants that it shall at all times comply with all federal, provincial, and municipal laws, rules and regulations in connection with the performance of its obligations pursuant to this purchase order. The laws of the Province of Ontario and the Federal laws of Canada applicable therein shall govern this purchase order. Any and all disputes arising pursuant to this purchase order including the interpretation of the terms and conditions shall be submitted to arbitration under the rules then prevailing of the Arbitration Act of Ontario, as amended from time to time.
13. Seller promptly will notify Buyer in writing of material or components used by Seller in filling this order, which Seller purchases in a country other than the country in which the goods are delivered to Buyer. Seller will furnish Buyer with any documentation and information necessary to establish the country of origin or to comply with the applicable country's rules of origin requirements. Seller promptly will advise Buyer of any material or components imported into the country of origin and any duty included in the purchase price of the goods. Seller will be responsible for any special duties, including but not limited to marking, anti-dumping, and countervailing duties, to the extent permitted under the law of the country of importation. Seller will advise Buyer if the importation or exportation of the goods requires an import or export license. Seller will assist Buyer in obtaining any such license.
14. Buyer reserves the right to immediately terminate all or any part of this purchase order, without liability to Seller, if Seller: (a) repudiates or breaches any terms of this purchase order, including Seller's warranties, (b) fails to perform services or deliver goods as specified by the Buyer, (c) fails to make progress so as to endanger timely and proper completion of services or delivery of goods and does not correct such failure or breach within 10 days (or such shorter period of time if commercially reasonable under the circumstances) after receipt of written notice from Buyer specifying such failure or breach or (d) becomes bankrupt or insolvent, becomes subject to the terms of any bankruptcy, insolvency or winding-up legislation, or makes an assignment for the benefit of its creditors.
15. In addition to any other rights of Buyer to terminate this purchase order, Buyer may, at its option, immediately terminate all or any part of this purchase order, at any time and for any reason, by giving written notice to Seller. Upon such notice being given, Seller shall immediately cease work in accordance with and to the extent specified in such notice. In the event of such termination, Buyer shall pay to Seller the following amounts without duplication: (a) the purchase order price for all goods or services which have been completed in accordance with this purchase order and not previously paid for; and (b) the actual costs of work-in-process and raw materials incurred by Seller in furnishing the goods or services under this purchase order to the extent such costs are reasonable in amount and are properly allocable or apportionable under generally accepted accounting principles to the terminated portion of this purchase order; less, however, the sum of the reasonable value or cost (whichever is higher) of any goods or materials used or sold by Seller with Buyer's written consent, and the cost of any damaged or destroyed goods or material. Except as provided in this Paragraph, Buyer shall not be liable for and shall not be required to make payments to Seller, directly or on account of claims by Seller's subcontractors, for loss of anticipated profit, unabsorbed overhead, interest on claims, product development and engineering costs, facilities and equipment rearrangement costs or rental, unamortized depreciation costs, or general and administrative burden charges from termination of this purchase order. Within thirty (30) days from the effective date of termination, Seller shall submit a comprehensive termination claim to Buyer, with sufficient supporting data to permit Buyer's audit, and shall thereafter promptly furnish such supplement and supporting information as Buyer shall request. Buyer or its agents shall have the right to audit and examine all books, records, facilities, work, material, inventories and other items relating to any termination claim of Seller.

**16.** It is understood that all drawings, designs, manufacturing data and other information, samples, models and prototypes of parts, products, process and equipment and design ideas obtained by Seller from Buyer, whether orally or in documented form, or developed by Seller for Buyer pursuant to this order and all copies thereof, shall be and remain the exclusive property of Buyer. All such items shall be provided to or returned to Buyer, as the case may be, when Seller has no further need thereof in the performance of this order, and in any event, upon the delivery of the goods or services hereunder. Confidential information also includes all Buyer processes, procedures and equipment observed by Seller when in Buyer facilities for the installation, servicing or maintenance of equipment, or the delivery of goods or services, or for any other purpose. Seller agrees not to use (otherwise than for the purpose of this order) or disclose to any other party for a period of five (5) years after the completion of this order, any Buyer confidential information heretofore or hereafter obtained from Buyer in connection with this order, or after receipt of the Confidential Information, whichever is longer. Seller's obligation to hold Buyer Confidential Information in confidence shall not apply to information which:

- (a) is known to Seller prior to its receipt from Buyer and Seller has written records to document such fact; or
- (b) can be shown by Seller's written records to have been obtained by Seller from a third party source that did not receive it in confidence or otherwise unlawfully; or
- (c) is, or becomes publicly available other than as a result of a breach of this obligation.

Seller acknowledges that because of the unique and proprietary nature of the Confidential Information, in the event of any breach of this Section by Seller, Buyer shall have the right to seek and obtain injunctive relief to protect its rights herein and Seller shall be responsible for all legal and other costs incurred by Buyer in pursuing that or any other remedy at law or in equity. Any knowledge or information which Seller shall have disclosed or may hereafter disclose to Buyer in connection with this order, shall not, unless otherwise specifically agreed upon in writing by Buyer, be deemed to be confidential or proprietary information, and Buyer shall have the right to use, thereafter, or disclose such information as Buyer may deem appropriate.

**17.** All payments made under this purchase order shall not be treated, used and/or interpreted as a "contract payment" for the purposes of subsection 127(9) of the Income Tax Act, Canada.

**18.** Items shipped in excess of specified quantities may be returned to Seller at expense of Seller.

**19.** This purchase order may not be subcontracted, transferred or assigned, in whole or in part, without the prior written consent of Buyer.

**20.** This purchase order constitutes the entire agreement of the parties with respect to the subject matter hereof and may not be amended or otherwise modified without the prior written consent of the Buyer.

**21.** The terms of this purchase order shall be governed by and construed in accordance with the laws of the Province of Ontario and the Federal laws of Canada applicable therein. The terms and conditions of the United Nations Convention for the International Sale of Goods are expressly excluded.

**22.** This purchase order shall enure to the benefit of and be binding upon the successors or assigns of Seller and Buyer respectively.

**23.** All notices required to be given under the terms of this purchase order shall be deemed to be properly given if made in writing and delivered: (a) by registered mail, addressed to the receiving party at its recognized address appearing elsewhere in this purchase; or (b) by telecopy to the receiving party at the telecopy number appearing elsewhere on this purchase order.