

PURCHASING AND SUB-CONTRACTING GENERAL TERMS PCM USA Inc.

These terms & conditions, together with the purchase order and any attachments, exhibits, specifications, drawings and other information applicable to all purchases made by PCM USA, a Delaware corporation located at 11940 Brittonmoore Park Drive, Houston, Texas 77041-USA (.Buyer.) shall collectively be referred to herein as the Purchase Order. The supplier of goods and/or services identified in the Purchase Order is the Seller. Seller shall fully comply with these terms upon acceptance of any Purchase Order as provided herein. These terms prevail over any other agreement unless such agreement is signed by the Buyer.

1. BUYER'S OFFER AND SELLER'S ACCEPTANCE.

- 1.1. The Purchase Order shall constitute an offer by Buyer to purchase from Seller the specified goods and/or services set forth in the Purchase Order subject to these terms. The Purchase Order shall only be binding on the Buyer if it is in writing signed by an authorized agent of the Buyer. All purchases are subject to written confirmation by the Buyer. Any communication by Buyer asking for price, delivery dates or technical specifications is a request to enter into an offer only and is not an offer and is not binding on the Buyer.
- 1.2. All technical specifications in Seller's documents are deemed contractual representations and shall constitute a material term of any purchase by the Buyer.
- 1.3. The Purchase Order may be an oral or written communication or electronic document and may include additional shipping or delivery terms in addition to those provided in Section 4.
- 1.4. Notwithstanding the foregoing, the Purchase Order does not constitute a firm offer within the meaning of Section 2-207 of the Uniform Commercial Code and may be revoked by the Buyer at any time before Seller's acceptance without liability.
- 1.5. Seller's electronic acceptance, acknowledgement of this Purchase Order or commencement of performance shall constitute Supplier's acceptance to the terms and conditions herein.
- 1.6. Buyer's acceptance of any shipment of goods shall not be construed as an acceptance of any previous offers or proposals or acceptance of any different or additional terms proposed by the Seller. All such different terms proposed by Seller are expressly rejected unless accepted in writing by the Buyer.

2. PRICE.

Unless otherwise stated and accepted in writing, prices are firm and cannot be changed. Seller shall be bound by all price quotes as conveyed to Buyer and as listed on Seller's catalogs, prospectus, circulars, advertisements and price sheets.

3. RIGHT TO INSPECTION.

The Seller shall allow Buyer's duly appointed agent to visit Seller's premises to inspect the supplies and any outstanding Purchase Orders on request. The right to inspect is not contingent on the placing of a Purchase Order with the Seller.

4. DELIVERY.

Time is of the essence in Seller's performance of its obligations under these terms, including delivery. Unless otherwise agreed in writing by the Buyer, all goods shall be shipped .DDP, Houston, Texas (INCOTERMS® 2010). Title to the goods shall not pass to the Buyer until delivery at Buyer's warehouse and acceptance of the goods as provided herein. Seller shall immediately notify Buyer if Seller's performance is delayed or likely to be delayed. Buyer's acceptance of Seller's notification of delay shall not constitute a waiver of any of Supplier's obligations or any other remedies available to Buyer. Seller assumes responsibility for all shipping and delivery charges including, without limitation, customs, duties, costs, taxes and insurance. Risk of loss does not pass to the Buyer until acceptance of the goods occurs in accordance with these terms. If Seller fails to comply with Buyer's delivery schedule, Buyer may require delivery by fastest means and all such resulting charges shall be on Seller's account.

5. REJECTIONS.

Buyer shall be entitled to reject any goods and/or services which in its sole discretion are not in conformity with the specifications of the Purchase Order, or are unmerchantable and/or unfit for Buyer's (and Buyer's customers) intended use. Seller is responsible for any and all damages Buyer incurs as a result of a delivery that is rejected for Seller's failure to comply with the specifications of the Purchase Order, including, without limitation, all cost of cover, lost profits and reasonable value of Buyer's time spent securing alternative products.

6. DEFAULT. Seller shall be deemed in default if it violates any of the terms herein or fails to perform any of its covenants, duties or obligations hereunder, or if it performs or fails to perform any other act which gives Buyer commercially reasonable grounds to feel insecure as to Seller's ability to perform its obligations hereunder. Upon Seller's default, Buyer shall have the right, without limitation, and after written notice of default to Seller, to (i) terminate the Purchase Order in whole or in part; and/or (ii) reject or revoke acceptance of the goods. Buyer's remedies under this section are not exclusive and are in addition to any other rights and remedies provided herein.

7. LIABILITY.

BUYER SHALL NOT BE LIABLE TO SELLER WITH RESPECT TO THE SUBJECT MATTER OF THE PURCHASE ORDER UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY AMOUNTS IN EXCESS OF THE AMOUNT PAID TO SELLER IN THE TRANSACTION GIVING RISE TO SUCH LIABILITY. IN NO EVENT WILL BUYER BE LIABLE TO SUPPLIER FOR ANY INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS OR REVENUE ARISING OUT OF OR IN CONNECTION WITH THE PURCHASE TRANSACTION, REGARDLESS OF WHETHER BUYER WAS AWARE OR ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. THE LIMITATIONS HEREIN WILL APPLY REGARDLESS OF THE FAILURE OF ANY OTHER PROVISIONS HEREIN, EXCEPT SUCH LIABILITY WHICH CANNOT BE EXCLUDED UNDER APPLICABLE LAW.

8. WARRANTY

8.1. Seller warrants it has clear title to all items furnished to Buyer and that all items delivered to Buyer are free and clear of any encumbrances. The Seller warrants that all pricing and costs charged to Buyer, whether from Seller or its subcontractors, is accurate and all prices charged to Buyer for goods and services are not higher than those charged to any other of Seller's customers for materials of like grade and quality. Seller warrants that it is in full compliance with all applicable laws and regulations in the performance of its obligations hereunder, including, without limitation, the Fair Labor Standards Act of June 30, 1938, as amended and the Occupation Safety and Health Act of 1970, as amended. Seller further warrants that all items delivered to Buyer conform to Seller's specifications and the requirements of the Purchase Order and that all such goods sold are merchantable and fit for the Buyer's or its customer's intended use and that such items are free from defects in design, material and workmanship and that all goods conform to all applicable laws (collectively, the .Seller's Warranty.)

8.2. Seller's Warranty shall remain in effect for a one (1) year period after acceptance of the goods by Buyer or Buyer's customer, or for such longer period of time as the item is normally warranted. Neither approval by the Buyer of the Seller's design nor Buyer's acceptance of the goods as set forth herein shall release or discharge Seller from liability or damages resulting from a breach of Seller's Warranty.

8.3. If any defect, failure or non-conformity appears, Buyer shall have the right to take the following actions: (1) retain the defective goods conditioned on Seller's providing a credit or refund in an amount Buyer reasonably determines to represent the diminished value of the non-conforming goods; (2) require Seller to replace the non-conforming goods so that the delivery meets the requirements of Buyer's Purchase Order; (3) return the non-conforming goods to Seller for a credit or full refund in Buyer's sole discretion. 8.4. All aforesaid warranties shall survive acceptance and payment and shall run to the Buyer, its customers and their successors in title and shall not be deemed to be exclusive, but instead shall be in addition to any other rights Buyer may have in law or equity.

9. INSURANCE.

Seller shall obtain and will at all times maintain general commercial liability insurance with a company capable of providing coverage for liabilities to third parties for bodily injury and damage to property in amounts sufficient to protect Buyer in the event of injury or loss. Seller is required to maintain insurance coverage in the minimum amount of \$2,000,000 per occurrence. The required insurance shall be evidenced by a Certificate of Insurance naming the Buyer as .additional insured., and such Certificate of Insurance shall be produced to Buyer from Seller upon request.

10. INVOICING - PAYMENT.

Each delivery must correspond to a different invoice for every Purchase Order featuring the number of the order form and that of the delivery. Every invoice shall feature the breakdown of the basic price, the discounts (if any), and, if needed, the additional charges. The amount due before tax and taxes shall be specified separately. Upon submission of the proper invoices, Buyer shall make payments on all such invoices by check payable to the Seller within forty-five (45) days net after receipt of the invoice. However, payments may be withheld or portions deducted as a set-off for any amounts owing at any time from Seller to Buyer against any amount payable at any time by Buyer in connection with the Purchase Order.

11. CANCELLATION OR TERMINATION.

Buyer shall have the right to terminate the Purchase Order in whole or in part at any time, by written or electronic notice (.Notice of Termination.) with termination effective upon receipt by the Seller, for no reason or for any reason and regardless of whether Seller is in breach of any obligation hereunder. Upon receipt of the Notice of Termination, Seller shall immediately discontinue performance and shall comply with Buyer's instructions concerning disposition of completed and partially completed items, goods or works in progress and materials acquired pursuant to the Purchase Order.

In the event of termination, Seller shall advise Buyer in writing within ten (10) business days after receipt of the Notice of Termination of the costs, if any, caused by the termination. Failure to provide such notification shall constitute a waiver of any right to payment. In the event of termination, Buyer shall only be obligated to pay Seller for its reasonable expenses incurred up to the effective date of the termination and any and all lost profits or other damages incurred by Seller are expressly excluded. Buyer shall have no further payment obligation or other liability to Seller in connection with any termination.

12. OWNERSHIP/CONFIDENTIALITY. A Seller cannot quote the name of Buyer's company in the list of its clients without Buyer's prior written consent. Seller agrees to treat all data, materials and information received from Buyer in connection with the Purchase Order and the performance of Seller's obligations hereunder as confidential. For purposes of this section, all trade secrets, know-how, non public and/or proprietary information of the Buyer, including, without limitation, business information derived from reports, investigations, research, work in progress, codes, marketing and sales programs, customers, vendors, suppliers, capital expenditure projects, cost summaries, pricing formulae, contract analyses, financial information, projections, confidential filings with any governmental authority and all other confidential, non-public concepts, methods of doing business, ideas, materials or information prepared for, by or on behalf of the Buyer shall be deemed .Confidential Information. Seller shall implement any necessary measures to avoid improper disclosure of the Confidential Information and shall, at all times, exercise the same degree of care with regard to the protection of such Confidential Information as Seller uses in protecting its own confidential and proprietary information. The obligations in this section shall survive the performance obligations of the Purchase Order and only terminate when the Confidential Information belongs by law to the public domain. If Seller, or any person employed by or working as a Subcontractor for Seller pursuant to section 18 below, conceives or first reduces to practice (i) any invention, patentable or not, whether made by the Seller or its properly designated subcontractor when completing one of Buyer's Purchase Orders, or (ii) any reduction to practice of subject matter (actual or constructive), application or discovery that could be copyrighted or patented, or (iii) any improvements in design of the Buyer's Purchase Order or any alternative or improved method of accomplishing the objectives set forth in the Purchase Order (collectively .Inventions.) Seller shall immediately disclose such Inventions to the Buyer. Seller shall cooperate in executing any documents and taking other actions necessary to patent, copyright, assign to Buyer or otherwise perfect or protect the Inventions for the benefit of the Buyer. The Seller and/or its subcontractor will only be authorized to use the Invention and the Confidential Information supplied by Buyer for the completion of the Purchase Order. Seller shall return all of Buyer's property and Confidential Information, including copies and originals, to Buyer at its request within five (5) business days of such request or at the expiration or termination of the Purchase Order.

13. GOVERNING LAW. The Purchase Order and all transactions between the Buyer and Seller shall be construed in accordance with, and all disputes will be governed by, the laws of the State of Texas without regard to its conflict of law rules. The parties expressly waive the application of the United Nations Convention on Contracts for the International Sale of Goods.

14. VENUE. Seller irrevocably consents to the personal jurisdiction of the state and federal courts of, in and for Harris County, Texas, and irrevocably waives any claim it may have that proceedings brought in such courts are in an inconvenient forum.

15. ENTIRE AGREEMENT.

This Purchase Order constitutes the entire agreement between the parties and may not be added to, modified or superseded except in writing signed by the Buyer's authorized agent.

16. INDEMNIFICATION. To the fullest extent permitted by law, Seller agrees to indemnify, hold harmless and defend Buyer (and its affiliated companies, customers, directors, officers, shareholders, employees and agents) from and against any loss, liability, cost, expense, suits, claims, actions and all other proceedings whatsoever, including judgments and fines imposed on Buyer and any reasonable attorneys fees and costs arising out of any injuries to persons or damage to property caused by Seller (and its affiliated companies, customers, directors, officers, shareholders, employees and agents), including, without limitation, breach of warranty, product liability and direct and/or contributory infringement claims. Seller's obligation to indemnify Buyer shall not apply to any liabilities arising from Buyer's sole negligence.

17. ASSIGNMENT. Seller shall not delegate, assign or otherwise perform its obligations through any third-party, subcontractor or other party without the express written approval of the Buyer which shall not be unreasonably withheld. The Seller shall remain at all times responsible for the satisfactory performance of completing Seller's obligations to Buyer.

18. SUBCONTRACTORS. Notwithstanding the above paragraph prohibiting delegation and assignment of duties, the Buyer and Seller may agree to enter into a subcontracting agreement for the provision of goods and/or services to the Buyer. Such relationship must be reduced to a writing signed by the Buyer. If Seller intends to subcontract all or part of its performance of these terms to a third-party, Seller will: (i) inform Buyer in advance in writing of the identity of the Subcontractor; and (ii) obtain Buyer's written consent to the subcontracting and the identified Subcontractor; and (iii) Seller agrees to at all times be liable for and indemnify Buyer for any damages caused by the conduct of the Subcontractor and for all payments due the Subcontractor.