

GENERAL TERMS AND CONDITIONS

In this Agreement, Vendor is referred to as "Seller" and PCS is referred to as "Buyer."

1. **GENERAL PROVISIONS.** Terms and conditions appearing on the face of this order, any exhibits attached hereto and all specifications, drawings, samples, models, formulas or other descriptions (collectively "Specifications") attached hereto or furnished to, specified or approved by Buyer are incorporated herein by reference. **THE OFFER TO PURCHASE ALL GOODS AND SERVICES BY BUYER PURSUANT TO THIS ORDER SHALL BE SUBJECT TO THESE TERMS AND CONDITIONS. BUYER HEREBY REJECTS AND OBJECTS TO ANY MODIFIED, ADDITIONAL OR DIFFERENT TERMS OR CONDITIONS, WHETHER IN ANY PRINTED FORM OF SELLER OR ELSEWHERE, AND SUCH MODIFIED, ADDITIONAL OR DIFFERENT TERMS OR CONDITIONS SHALL BE DEEMED MATERIAL AND SHALL NOT BE RECOGNIZED BY OR BINDING UPON BUYER UNLESS SPECIFICALLY AGREED TO IN WRITING BY BUYER'S AUTHORIZED REPRESENTATIVE. SELLER'S ACCEPTANCE OF THIS ORDER IS EXPRESSLY LIMITED TO THE TERMS AND CONDITIONS HEREIN AND THIS ORDER UPON ACCEPTANCE SHALL CONSTITUTE THE ENTIRE AGREEMENT OF THE PARTIES. IF THIS ORDER IS OR IS CONSTRUED TO BE AN ACCEPTANCE BY BUYER OF A PRIOR OFFER FROM SELLER, BUYER'S ACCEPTANCE IS EXPRESSLY CONDITIONED UPON SELLER'S ASSENT TO THE MODIFIED, ADDITIONAL AND DIFFERENT TERMS AND CONDITIONS CONTAINED HEREIN. EACH DELIVERY SHALL BE DEEMED TO BE ONLY UPON THE TERMS AND CONDITIONS CONTAINED HEREIN WHICH SHALL CONSTITUTE THE ENTIRE AGREEMENT OF THE PARTIES.** Prior courses of dealing or trade usage shall not change, add to or detract from the provisions of this order.
2. **ACCEPTANCE OF ORDERS.** Buyer's order shall be deemed accepted subject exclusively to these terms and conditions upon the earliest of Seller's acknowledgement or statement of intent to furnish any goods or services ordered, or the furnishing or shipment thereof, or the commencement of performance by Seller pursuant to this order.
3. **PACKING AND SHIPPING.** Each package shall: (a) be numbered and labeled with Buyer's order number, stock number, contents and weight; (b) contain an itemized packing slip; (c) be properly packed, marked and shipped to meet legal and common carrier requirements, provide for efficient handling and insure adequate protection against damage; and (d) be packed, shipped and routed in accordance with Buyer's instructions. Unless otherwise specified, shipments via limited liability carriers and those subject to released value ratings shall be declared at actual value. Seller shall forward an original bill of lading or signed delivery receipt with Seller's invoice as evidence of shipment. Buyer shall not pay for packing, crating, freight, express cartage or other additional costs unless specified on the face hereof.
4. **DELIVERY AND PERFORMANCE.** Time is of the essence for any order of Buyer. Deliveries of goods shall be made at the location(s), on the date(s) and in the quantity(ies) specified on the face of this order. If delivery of conforming goods or the performance of conforming services is not completed by the time(s) specified (or within a reasonable time if no time is specified), or if Seller breaches any other term or condition of this order, Buyer may, at its option, without liability and in addition to its other rights and remedies, cancel this order for cause and/or refuse to accept or reject in whole or in part the goods or services not yet rendered, and purchase substitute goods or services elsewhere and charge Seller and hold Seller liable for any loss, expense or damage incurred, or require delivery or completion by the most expeditious means at no additional cost to Buyer. Buyer assumes no obligation for goods shipped in excess of quantities ordered hereunder and may return such excess at Seller's expense. Any provision herein for the delivery in installments shall not be construed as making Seller's obligations severable.
5. **PRICES, TAXES, INVOICES AND PAYMENT.** Except as expressly provided on the face hereof, prices are fixed and firm, provided that Buyer shall receive the benefit of any general reductions in Seller's prices prior to the later of the date of delivery or completion of installation. In no event shall Buyer be charged higher prices than Seller's other customers that purchase similar quantities. Seller is responsible for prompt payment of all applicable federal and provincial taxes, shall indemnify and hold Buyer harmless against any claims arising therefrom, and shall separately itemize such taxes on all invoices submitted. All credits or other benefits from payment of such taxes shall be the sole property of Buyer. Seller's invoices shall specify Buyer's order or release number, be rendered separately for each delivery and each order, clearly identify the goods and/or services provided, and include proper support documents. Discounts and invoice payment periods shall begin on the date of Buyer's receipt of a correct invoice, the delivery date of the goods, or completion of installation services, whichever is the latest date. Payment terms shall be those specified on the face of this order. C.O.D. shipments will not be accepted and drafts will not be honored. Seller waives any right it may have under applicable law to demand cash on delivery or to otherwise change or add to either the payment terms specified on the face hereof or any other terms or conditions. Payment for any goods or services shall not be deemed acceptance. Buyer may, without obligation to, withhold amounts owed by Seller to subcontractors or other third parties. Any counterclaim against Seller or any of its related entities by Buyer or any of its related entities which arises out of this or any other transaction maybe set off against money due Seller under this order.
6. **CANCELLATION, ORDER CHANGES.** Buyer may cancel this order or any part hereof, at any time without cause, by giving Seller written notice, without prejudice to Buyer's other rights and remedies. Upon notification of cancellation, Seller shall protect all property in its possession in which Buyer has an interest, and shall terminate all work and commitments pursuant to this order as quickly and expeditiously as possible. Cancellation charges shall be to Seller's account. Buyer on canceling this order or any part thereof shall be released from any obligation or liability it may have with respect to this order or the part thereof so cancelled, other than payment for satisfactorily completed work. Buyer may at any time make changes in types or quantity of goods, scope of services, specifications in other terms hereof, by written notice to Seller from Buyer's authorized representative. Equitable adjustments to this order shall be made for changes in price or in delivery or performance times caused by such changes upon express agreement in writing signed by both parties.
7. **TITLE, RISK OF LOSS.** Seller represents and warrants that it has good and marketable title to the goods covered by this order and that such goods are free and clear of any and all liens, security interests, charges and other encumbrances. Without limiting Seller's indemnity or other obligations under this order, title to, risk of loss and damage with respect to goods shall pass from Seller to Buyer when such goods have been delivered to Buyer at the F.O.B. (or other delivery) point specified on the face hereof or when the goods have been installed, whichever is later; provided that the passage of title and risk of loss and damage upon such delivery/installation shall not constitute acceptance by Buyer. **Seller hereby waives for itself, its subcontractors, and its and their employees, any statutory, common law, mechanics, suppliers, laborers, or other liens, privileges or claims ("Encumbrances") against Buyer, the goods, Buyer's property, or otherwise and any right to file or enforce any such Encumbrances related to this order.**
8. **WARRANTIES.** In addition to all other express and implied warranties prescribed by law, Seller warrants that: (a) all goods and materials furnished hereunder shall (i) be free from defects in design, material, manufacture and workmanship, (ii) conform to Specifications, (iii) meet accepted industry

codes and standards; (iv) be genuine and as represented, and (v) be merchantable and fit for the intended purpose and (b) all installation services shall (i) be rendered in a good and workmanlike manner by skilled personnel, (ii) be free from any defects, and (iii) meet and be performed in accordance with accepted industry codes and standards. All these warranties and other warranties as may be prescribed by law shall explicitly extend beyond delivery and run for a period of 12 months after delivery or installation, whichever is applicable or occurs later, and benefit Buyer and its successors, assigns, customers, and employees. All goods, materials and services provided by Seller shall at all times be subject to Buyer's inspection, but Buyer's inspection, failure to inspect or acceptance shall not relieve Seller of any obligations, or constitute a waiver of any claim, right or remedy to which Buyer may be entitled under this order, at law or equity.

9. **DEFECTIVE ITEMS.** Buyer reserves the right to place in Seller's plant at Buyer's expense an inspector or inspectors who will be permitted to inspect before shipment or during the process of manufacture any materials on this order. All goods shall be received subject to Buyer's right of inspection and rejection. If Buyer determines that any goods, materials or services are defective, deficient, counterfeit, or nonconforming in any way, or are not otherwise as ordered, or if Seller otherwise breaches any term or condition of this order, then Buyer may, at its sole option, without liability and in addition to its other rights and remedies: (i) cancel any undelivered and unperformed portion of this order and any other order with Seller, (ii) reject or revoke acceptance of such defective or nonconforming items and require, at Buyer's option, correction (at Buyer's location) or replacement thereof, all at Seller's expense, (iii) accept such items with an equitable adjustment in price or (iv) reject or revoke acceptance of such items and, at Seller's risk and expense, hold them (pending Seller's shipping instructions) or return them and in either event charge Seller with the cost of inspection, storage, handling, transportation and any like expense. Correction or replacement of defective or nonconforming items (i) shall be made upon Buyer's request in writing and (ii) shall be performed as promptly as possible, including use of overtime and all expedited procedures. Acceptance of all or part of any defective items, use thereof and/or payment therefor or failure to notify Seller promptly that such items are defective or nonconforming shall not constitute a waiver of or diminish any of Seller's obligations or Buyer's rights and remedies under this order, at law or equity.
10. **SUBCONTRACTORS** Seller, if permitted to subcontract, shall be fully responsible for all services performed by subcontractors. Any subcontractor that provides goods or services shall be subject to these terms and conditions.
11. **INTELLECTUAL PROPERTY.** Seller represents and warrants that the sale, provision, use or resale of any of the goods, materials, services or service results will not violate or infringe upon any patent, copyright, trademark or other proprietary or intellectual property right. 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 hereunder or any of its agents or vendees on account of articles or devices furnished to the Buyer under this 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 in defense thereof, and will also pay or satisfy all costs, damages, royalties or profits which may be decreed or awarded against said Buyer, its agents or Vendees for or on account of any of the articles or devices so purchased and furnished by Seller or Buyer in any or all suits or proceedings, and will save and protect said Buyer harmless therefrom. If it so desires, Buyer may be represented by its own counsel in any such suit or proceeding.
12. **INDEMNIFICATION.** To the fullest extent permitted by applicable law, Seller shall indemnify, defend and hold harmless Buyer and its affiliates and all of their employees, agents, representatives and other sellers and contractors, from and against, any and all damages, claims, liabilities, losses, costs and expenses (including but not limited to legal fees and litigation costs) arising out of, or resulting in any way from (i) any actual or alleged nonconformance, defect or deficiency in the goods, materials or services purchased hereunder; (ii) any act or omission of Seller, its agents, representatives, employees, subcontractors, subcontractor employees or any other person under the control, whether direct or indirect, of the Seller, including, if any, individuals employed by the Buyer; (iii) the presence of any of the foregoing at Buyer's locations; or (iv) actual or alleged infringement of any patent or other intellectual property right or unfair competition, relating to the goods, materials, services, or service results. In addition to any rights or remedies of Buyer hereunder, at law or equity, Seller shall, upon Buyer's request and at Seller's expense, secure a license to allow Buyer to continue to use the alleged offending item without interruption or additional expense. Seller acknowledges that its liability and indemnity obligations under this paragraph shall be without regard to the negligence of the Buyer, whether Buyer's negligence is a joint, concurrent or a partial cause of the incident, occurrence or resulting loss, destruction, damage, injury, sickness, disease or death and without monetary limit.
13. **OWNERSHIP OF INFORMATION.** All drawings, reports, design and technical data and all other information emanating from the goods or installation services provided by Seller or any subcontractor hereunder shall be provided to Buyer and shall become its sole property. Any Specifications and any other documents, information or other items that are supplied to or shared with Seller shall be and remain the sole property of Buyer and shall not be divulged by the Seller to any other party (except to subcontractors on a strict "need to know" basis). Seller shall keep confidential all information about Buyer, its affiliates, Buyer's/affiliates' assets, processes and businesses, except and to the extent that such information: (a) has lawfully become public knowledge; (b) has been obtained lawfully (without confidentiality obligation) prior to this agreement, or (c) is required to be disclosed by a court or government agency with proper jurisdiction. Seller agrees not to release any advertising copy mentioning Buyer or quoting the opinion of any of Buyer's employees.
14. **INSURANCE.** Seller, at its sole cost, shall maintain (and cause its subcontractors to maintain) the following minimum insurance: (a) Workers' compensation insurance, both statutory limits and employers' liability insurance with a limit of CDN \$5,000,000 for each occurrence, both coverages to apply to liability as applicable under any provincial or federal statute or through any common law process; (b) Business or commercial automobile liability insurance with a combined bodily injury and property damage limit of CDN \$2,000,000 for each occurrence; (c) Commercial general liability insurance with a combined bodily/personal injury and property damage limit of CDN \$5,000,000 for each occurrence; (d) Pollution legal liability with a combined single limit of CDN \$5,000,000 per claim; (e) until passage of risk of loss, as appropriate, casualty, cargo and/or stock throughput (transit) insurance in amounts equal to value of in-process, completed and in-transit goods; (f) during any period of installation, repair or restoration, builder's "all risk" insurance in an amount equal to not less than the full insurable value of Seller's goods and services. (g) for professional services, professional liability insurance (CDN \$5,000,000 for each claim); and (h) any other insurance Buyer may require at any time and from time to time. Such insurance must cover liabilities of Seller and any subcontractors. Each subcontractor must carry insurance in these amounts. Seller and its insurers shall be responsible for any amount not covered by the insurance policies required of subcontractor under this section. All insurance policies required pursuant to this paragraph shall: (a) be issued by companies approved by the Buyer and licensed to do business in the state/province where Buyer is located, with a claims paying ability of "BBB" or better by Standard & Poor's Rating Services and a rating of "A-" or better in the current Best's Insurance Reports; (b) name Buyer, its affiliates and their successors and/or assigns, as additional insureds of the policy; (c) be satisfactory in form and substance to Buyer and shall be approved by Buyer as to amounts, form (including endorsements), risk coverage, deductibles, loss payees and insureds; (d) be furnished to Buyer prior to Seller commencing any service at Buyer's plant and from time to time thereafter as requested by Buyer; (e) contain waivers of subrogation in favor of Buyer, its affiliates and their successor/assigns; and (f) be regarded as primary insurance and not be limited by the indemnity provisions herein.
15. **INSTALLATION SERVICES.** Seller shall provide installation services upon request and shall cause Seller's and each subcontractor's employees, agents, licensees and permittees to take all necessary precautions (including but not limited to those required by Buyer's rules and regulations) to protect the

premises and all persons and property thereon from damage or injury. Seller and subcontractors shall comply with rules and regulations of Buyer on Buyer's premises. Seller hereby acknowledges that copies of said rules and regulations have been received and reviewed by it and subcontractors. Seller indemnifies and saves harmless Buyer from all loss or payment of all sums of money by reason of all accidents, injuries or damages to persons or property that may happen or occur in connection herewith.

16. CONTINGENCY. If Seller or Buyer is prevented from carrying out the provisions hereof by reason of any act of God, war, revolution, blockade, strike, riot, earthquake, cyclone, fire, flood, car shortage or delay by carrier, fuel shortage, embargo, lockout or other providential, governmental or physical cause, existing or future, beyond the reasonable control of the parties, interfering with the production or receipt of goods as herein contemplated, the party so interfered with upon prompt written notice to the other party in advance of actual shipment shall be excused from making or taking deliveries to the extent of such interference.
17. COMPLIANCE WITH LAWS. Seller agrees that the performance of this order shall be subject to, and Seller shall comply with, all applicable federal, provincial and municipal laws, rules, codes, bylaws and regulations.
18. DUMPING DUTY. If the Seller intends to manufacture or purchase any materials or equipment from outside Canada, the Seller must insure that the Seller, its agent or representative is the importer of record for custom purposes. The Seller shall indemnify the Buyer in respect of any dumping (provisional or otherwise) which may be levied on Buyer under the provision of the *Anti-Dumping Act* of Canada upon any goods imported into Canada for the purpose of enabling the Seller to perform its obligations. The Seller will provide the Buyer with an affidavit by an officer or other person with management authority to the effect that any goods imported into Canada for the purpose of fulfilling Seller's obligation hereunder are not being dumped in Canada as "dumping" is defined in the provisions of the *Anti-Dumping Act* of Canada.
19. INDEPENDENT CONTRACTOR/STATUTORY EMPLOYER. Seller is an independent contractor and subject to these terms and conditions, shall control the means, method and manner of providing goods and services. Neither Seller nor its subcontractors nor Seller's or subcontractor's employees, agents or representatives shall be deemed to be an agent, partner, venturer, representative or employee of Buyer.
20. MISCELLANEOUS. This order, the performance hereof, and any right or obligation hereunder, including the right to receive monies due or to become due hereunder, may not be assigned, delegated or subcontracted by Seller without the prior written consent of Buyer, and any purported assignment, delegation or subcontracting without such consent shall be void. This purchase order shall be governed by and construed in accordance with, and all disputes hereunder shall be governed by, the laws of the province specified in Buyer's address on the face of this order (without regard to conflicts-of-laws provisions). The rights and remedies of Buyer hereunder shall be cumulative and in addition to any other or further rights or remedies provided in law or equity. Seller hereby submits and shall cause its subcontractors to submit to personal jurisdiction of the provincial and federal courts presiding in and over the province in which Buyer is located and Seller hereby waives and agrees not to assert that: (a) Seller is not subject to such jurisdiction; (b) the action, suit, proceeding or litigation is brought in an inconvenient forum; or (c) the venue of the action, suit, proceeding or litigation is improper. This order constitutes the entire agreement between the parties, and there are no other understandings, terms or conditions affecting this agreement. If any provision of this agreement is declared invalid or unenforceable, the remainder thereof shall be given effect to the fullest extent permitted by law. Headings are for convenience only and shall not affect the interpretation of this agreement. Whenever any action in this agreement is subject to Buyer's approval or consent, Buyer shall have the right to withhold its approval or consent, in Buyer's sole and absolute discretion. No claim of waiver, modification, supplement, amendment, consent or acquiescence with respect to any provision of this order or the transactions contemplated hereunder shall be made against Buyer except on the basis of a written instrument executed by an authorized representative of Buyer. No waiver of any of the provisions of this order by Buyer shall be deemed or shall constitute a waiver of any other provision, nor shall such waiver constitute a continuing waiver. No delay or failure on the part of the Buyer in exercising any rights or remedies hereunder or at law shall constitute a waiver by Buyer of any rights or remedies. In no event shall Buyer be liable for anticipated profits or for incidental or consequential damages.
21. SURVIVAL. All representations, warranties, and other obligations and undertakings of Seller, whether statutory, implied or contained herein, and all claims, rights, and remedies of Buyer shall survive delivery, installation, performance, testing, acceptance and payment.