



# PROCESS SERVICE SPECIALISTS, LLC

## Purchase Order Standard Terms and Conditions

### **DEFINITIONS:**

**"Company" or "PSS"** refers to Process Service Specialists, a Delaware corporation.

**"Seller"** means the person or entity providing Goods or Services to the Company pursuant to this Purchase Order.

**"Goods"** means the products or other deliverables (e.g., parts, tools, materials, or equipment) provided by the Seller pursuant to this Purchase Order.

**"Facility"** means the Company location to which the Goods are to be delivered and/or related Services performed.

**"Purchase Order" or "PO"** means the document issued by the Company for specific Work, whether entitled as a Purchase Order, Work Order, Contract or otherwise. Any additional or conflicting terms and condition in Seller's confirmation thereof, or Seller's documentation, including invoices, are hereby expressly rejected and excluded from the PO, are inapplicable to the PO, shall not be considered part of the PO, and shall be of no force and effect.

**"Party"** means the Company or the Seller.

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**"Services"** means those services and other activities to be performed by Seller pursuant to this PO.

**"Work"** shall mean the Goods and/or Services provided by Seller to Company pursuant to this PO.

**ACCEPTANCE OF OFFER:** Seller's shipment of Goods or commencement of Services shall be deemed acceptance of Company's offer to purchase on these express Purchase Order Standard Terms and Conditions ("Terms") only. If this Purchase Order shall be deemed an acceptance of a prior offer by Seller, such acceptance is limited to these Terms. Seller, by accepting this Purchase Order, agrees that it is fully responsible to Company to furnish the goods and/or services supplied under this Purchase Order, in accordance with these Terms. These Terms constitute the entire agreement between the parties with respect to the subject matter hereof and supersede all other prior and contemporary agreements, understandings, and commitments between the parties regarding the subject matter of this PO. No additions, changes, modifications or different terms will be accepted by Company without its written consent. Company will not be bound by any provisions, printed or otherwise at variance with this Purchase Order, that may appear on any proposal or acknowledgment form used by Seller, such provisions being hereby expressly rejected.

**TECHNICAL REQUIREMENT:** Seller is fully responsible to understand the instructions in this Purchase Order and perform the Work pursuant to the technical requirements in this PO. Any question shall be reviewed with the Company before the start of performance of the Work. Seller agrees to perform Work strictly in accordance with the technical requirements set forth in this PO, including, but not limited to, drawings, any revisions to drawings, specifications, and performance requirements. Work delivered in deviation to the technical requirements may be subject to rejection of non-conforming Work by Company as set forth in these Terms. Such rights will be in addition to any other remedies provided by law or in this PO.

**ACCEPTANCE OR REJECTION OF WORK:** Company shall have the right, but not the obligation, to inspect any Goods at the place of manufacture or distribution and upon receipt at its premises and review any Services performed, and may reject all or any part or commercial unit thereof that is defective, in breach of any warranty, or otherwise nonconforming to the PO. Seller shall bear the risk and cost of handling and return shipment of non-conforming Goods. Upon rejection, unless the Company has elected to cancel this PO, Seller shall, at Seller's sole cost and expense, promptly repair or replace any

such defective or nonconforming Goods or re-perform deficient Services. Acceptance of Work by the Company shall not apply to latent or other defects that could not have reasonably been discovered by an inspection. Payment before receipt or inspection does not constitute acceptance. Nothing in this provision shall alter or affect the right of the Company to revoke acceptance of Work, and nothing in this PO shall alter or affect the obligations of the Seller or the rights of the Company under the paragraph entitled "WARRANTY." Company reserves the right to return at Seller's expense any over shipments or items that deviate from the requirements of this PO.

**PRICE:** Unless otherwise specified, the price includes all charges and expenses of Seller, such as packing, boxing, cartage and any and all applicable taxes of Federal, State or Local Government, including, but not limited to, duty, excise tax, sales and use tax, occupational tax, processing tax and manufacturing tax. Seller will accept in lieu of any tax that may be included in this PO, a tax exemption certificate or other evidence acceptable to the Federal, State or Local Government, and reduce the price stated in this PO by the amount of such exempt tax. Any discount terms provided in this PO, will date from the date of delivery at the destination or the date of receipt of invoice(s) or date of settlement of disputes or claims, whichever is later.

**PAYMENT TERMS:** Invoices will be rendered after shipment and will be accepted after shipment has been received. Company shall pay all undisputed charges indicated in properly itemized and supported invoices for Work performed by Seller and accepted by Company in accordance with the terms of the PO, within sixty (45) days after receipt of a valid invoice, unless otherwise specified in the Purchase Order. If Company disputes a portion of an invoice, at Company's request Seller shall submit a revised invoice for the undisputed amount and Company shall pay such undisputed portion within sixty (60) days after receipt thereof.

**WAIVER OF LIENS:** Seller for itself and all persons or corporations doing labor or furnishing materials for Seller in and about the erection and construction of any Goods covered under this PO, hereby expressly waives any and all liens of any kind or nature to which it and/or they are, or may be, entitled under any statute or otherwise. Seller further agrees and covenants to disclose this provision to all persons or corporations doing labor or furnishing materials before any labor or material is furnished and before any other sub-contract is made by Seller.

**PRICE WARRANTY:** The price shall not exceed the last price quoted or charges, unless otherwise agreed to in writing. The prices indicated on this Purchase Order are firm, and no change, adjustment or surcharge application will be allowed unless authorized in writing by Company. Seller represents that the price(s) set forth in this PO do not exceed the current selling price for similar materials having the same or similar quality, in like quantity. In the event of such excess price, or in the event prices charged hereunder will exceed prices permitted by any applicable law or regulation or is reduced between the time of order and delivery, Seller agrees to forthwith refund any excess price(s) to Company.

**DELIVERY:** Unless otherwise specified in this PO, delivery of the Goods shall be F.O.B. Destination. Title and risk of loss or damage will pass to the Company upon delivery and acceptance.

**SCHEDULE:** Seller shall deliver the Goods or perform the Services purchased by Company both in quantities and at terms specified on the face hereof, or on release or performance schedules furnished against the Purchase Order, time being of the essence for each such delivery for which a date or a length of time is fixed for delivery. Seller will immediately notify Company in writing if Seller has reason to believe that performance or any scheduled delivery will be late.



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Company shall be entitled to recover and/or offset any and all costs, losses, and damages, against Seller including any and all consequential damages, incurred by Company and/or its customers in the event of late performance or delays in completion schedules. Risk of loss for conforming Goods will be on Seller until the goods are delivered to and accepted by Company. Risk of loss for non-conforming goods will be on Seller at all times. Company reserves the right to cancel this PO and refuse delivery of Goods and return same at Seller's risk and expense if Seller defaults in the manner and time of delivery or in the rate of shipment. In addition, Company may reject any shipments made in advance of the date specified for delivery. Company further reserves the right to reject and return at Seller's risk and expense all quantities of materials and equipment delivered in excess of the stated PO quantity. All costs incurred by Company as a result of Seller's failure to make delivery at the time and place specified in this PO will be charged to Seller. Where installation is required by Seller, Seller will engineer, furnish and install all materials included or reasonably implied by this PO or any specification incorporated in this PO, and delivery will not be considered complete until Company has given its final acceptance.

**RIGHT TO OFFSET:** The Company, without waiver or limitation of any other rights or remedies, shall be entitled from time to time to deduct from any amounts due or owing by Company to Seller in connection with this PO (or any other agreement with Company), any and all amounts owed by the Seller to Company for damages resulting from breach, deficiencies or delays in performance or otherwise in connection with this Agreement.

**QUANTITY VARIATIONS:** There will be no variations from the stated PO quantity without PSS's prior written consent.

**LAWS/REGULATIONS:** Seller represents that the Goods and/or Services covered by this PO are produced, in the case of Goods, sold and delivered in accordance with all applicable Federal, State and Local laws, rules and regulations, including but not limited to any requirements of the Occupational Safety and Health Act of 1970 and Equal Employment Opportunities Act of 1972 and, in each case, related rules and regulations, as well as any governmental regulation or order referencing maximum or minimum prices.

**GOVERNMENT CONTRACTS:** If the Goods and/or Services purchased hereunder are to be used in the performance of a U.S. Government contract or orders then, in addition to all other obligations hereunder, all applicable laws, regulations, provisions and all effective Government contract clauses are made a part hereof as fully as if set out in this PO.

**PRIME CONTRACT:** Seller, in addition to observing the Terms of this PO, will observe and comply with all of the undertakings and obligations of Company set forth in any prime contract or subcontract pursuant to which this Purchase Order is issued, excepting however such undertakings and obligations as are not applicable to the Work required of Seller hereunder. Subject to any security regulations, Company will make a copy of the applicable prime contract or subcontract clauses available for inspection by Seller upon written request.

**LABELING AND SERIALIZATION:** In accordance with PSS's specifications, Seller packing lists and material labels for Goods, components, parts, materials, equipment, tooling and all other similar items furnished under this Agreement shall display applicable labeling information in both human readable and bar code font. Seller shall load and secure all shipments to comply with all tariff rules and regulations to ensure adequate protection from in-transit damage or loss to the applicable delivery destination. In addition, Seller shall serialize each product, component and part in accordance with PSS's serialization specifications, or foundry marking and date code as applicable. Seller hereby acknowledges receipt of a copy of the current version of PSS's serialization specifications. Seller shall not use any trademark, trade name or trade dress of PSS in

connection with this PO except as permitted by this PO. Nothing in this PO shall be construed to grant to Seller any right in any trademark, trade name or trade dress of PSS.

**TOOLING:** All property, tooling, equipment, and/or materials (collectively, "Tooling") created specifically for use in the production of the Goods for PSS or paid for or furnished by PSS, if any, shall be owned by and remain the sole property of PSS. Without the consent of PSS, the Tooling shall be used exclusively for Seller's performance of its obligations hereunder, and Seller shall not encumber or dispose of the Tooling in any way. Seller shall use commercially reasonable efforts to maintain in good working condition and handle and store carefully while in its possession any Tooling owned or furnished by PSS, and Seller shall be liable for damage or loss thereof. Seller shall deliver any and all Tooling in its possession to PSS promptly on request, together with any and all related specifications, drawings, manuals, documentation and records (e.g., pertaining to the operation, maintenance and repair of the Tooling). PSS will determine the manner and procedure for return, and Seller will bear all return costs including packaging and freight.

**WARRANTY:** In addition to Seller's express warranties, Seller warrants that the Work shall (a) conform to this PO, including any specifications, drawing, samples furnished or other descriptions furnished or adopted by Company, (b) be new, unless otherwise specifically agreed in writing by Company, (c) be free from all defects in material and workmanship, (d) be manufactured in compliance with all applicable laws and regulations, (e) be of merchantable quality and fit for the particular purpose for which it will be used, (f) if of Seller's design, be free of defects in design, and (g) not infringe on the rights of any third party. No limitation or attempted limitation of the foregoing warranty shall be effective unless separately acknowledged in writing by the Company. Seller further warrants that the Work shall be free from defects in title, workmanship, and materials for a period of not less than three (3) years from date of final payment by Company. All Goods ordered are subject to final inspection and approval at Company's plant or elsewhere. In the event that any Goods prove unsatisfactory on account of inferior quality, workmanship or failure to conform to specifications, drawings, samples or other descriptions mentioned in this PO, Company reserves the right to reject the same at any time, and in the event said rejected Goods have been paid for by Company, they may be returned and charged back to Seller, in which event Seller will allow a credit to pay the charge back, including, but not limited to, Company's inspection and handling expenses, transportation both ways, or other incidental damages incurred by Company. Goods are not to be replaced except on written instructions from Company. Acceptance of or payment for all or any part of the Goods furnished under this PO will not be deemed to be a waiver of Company's right to cancel or return all or any part thereof because of failure to conform to the PO or by reason of defects, latent or patent, or other breach of warranties, or to make any claim for damages, including manufacturing costs and loss of profits or other consequential damages incurred by Company. Such rights will be in addition to any other remedies provided by law or in this PO. Where Goods that are already installed are rejected by Company, Seller will immediately replace such Goods and cover all costs directly or indirectly associated with replacing the same with Work or materials satisfactory to Company and will repair all damage associated with repair and replacement. All work to be performed by Seller will be performed in a professional, workmanlike manner in accordance with applicable industry standards and with applicable laws.

**COMPLETION OF WORK:** Seller agrees that where installation is required, if its workmen leave the Work before its completion for any reason whatever, Company may, three (3) days after serving written notice on the Seller, employ any other means of completing the Work covered by this PO and deduct all associated costs from the PO price. Seller agrees to reimburse Company for said costs in the event the PO price has already been paid or there remains unpaid an insufficient



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amount to cover Company's costs. Unless otherwise noted in this PO, completion of Work includes the furnishing by Seller of all labor, materials, transportation, scaffolding, sheathing, apparatus, ways, works, machinery, water, light, heat, licenses, permits, or similar items reasonably implied by this PO as necessary to complete the work in a safe and acceptable manner.

**INDEMNITY:** Seller agrees (1) to indemnify and hold harmless Company, its directors, officers, employees, agents, successors, assigns, customers, users and those for whom it acts as agent (together, the "Indemnified Parties"), from all loss, damage or liability arising out of any alleged or actual breach of these Terms or any alleged or actual infringement of third party property rights covering or pertaining to the manufacture, sale or use of any Goods furnished in connection with this PO, and (2) to defend (at its expense) all actions covered by this paragraph, provided that the Indemnified Parties will be entitled to participate and be represented (at its expense and through counsel of its choice) in the defense of, or settlement of, such action. For the purpose of this paragraph, the term third party property rights include, but is not limited to, patents, trademarks, copyrights, right in data and trade secrets, and rights protected by the laws of unfair competition. Seller agrees to indemnify and hold the Indemnified Parties harmless from any loss, damage or expense whether to persons or property to which Company may be subjected by reason of any act, omission or default on the part of Seller, its agents or its employees arising out of performance of this PO, to assume at its own expense, the defense of any suit or other proceedings brought against the Indemnified Parties by reason of any such act, omission or default, and to pay all expenses and all judgments that may be incurred by or obtained against the Indemnified Parties by reason of such suits or other proceedings.

**INSURANCE:** In the event this PO covers Work to be performed on the premises of Company or one of its affiliates or Goods to be resold by Company, Seller will maintain and provide evidence of the following insurance policies: (i) statutory workers' compensation coverage in accordance with the laws of the state in which the work is performed, including employer's liability coverage with a limit of \$1,000,000 per accident, each employee, each disease or as required by local law, (ii) commercial general liability coverage, including premises, operations, independent contractors, products, completed operations, personal and advertising injury and contractual liability with a limit of \$5,000,000 per occurrence and in the aggregate, and (iii) automobile liability coverage, including coverage for owned, non-owned and hired autos with a limit of \$2,000,000 per each accident. All insurance policies will be endorsed to include Company, its directors, officers, agents and affiliates as additional insured(s), be primary and non-contributory, waive rights of subrogation, include severability in interest with no exclusions for cross liability and respond to claims made in the United States or any other country where the Goods are sold. Prior to Seller gaining access to Company's premises or delivering any such Goods, Seller will furnish evidence of the above coverage and confirm that said coverage will remain in full effect until the Work has been completed and accepted.

**DEFAULT:** If Seller should (i) be in default of any provision of this PO, and such default is not cured within seven (7) days after receipt of notice from Company of said default, (ii) be adjudged bankrupt, or if it makes a general assignment for the benefit of creditors, or a receiver is appointed on account of its insolvency, (iii) persistently or repeatedly refuse or fail to supply the Work that is the subject of the PO, or enough properly skilled workmen or proper materials, deliver said Work, or (iv) fail to make prompt payment to its subcontractors or materialmen, then Company in each case may without prejudice to any other right or remedy and after giving Seller seven (7) days written notice terminate the engagement of Seller and, in the case of Services, take possession of the premises and of all materials, tools and appliances thereon and furnish the Work by whatever method it deems expedient. In such case, Seller will not be entitled to receive further payments until the Work is finished. If the unpaid balance of

the PO price will exceed the expense of finishing the Work, the excess will be paid to Seller. If the expense will exceed the unpaid balance, Seller will pay the difference to Company. All rights and remedies of Company set forth in this order are in addition to and not in lieu of any rights or remedies provided by law.

**TERMINATION:** Company may terminate this PO in whole or in part at any time for any reason. In the case of special orders for Goods made in accordance with Company's unique specifications, Company will be liable only for marginal or variable cost and expense (excluding, without limitation, liability for fixed or period cost, selling, general or administrative expenses, interest or profits) incurred by Seller prior to the date of termination, less full credit for direct materials or tooling reusable by Seller and the full scrap or salvage value for materials or tooling that cannot be reused by Seller. For other Goods, Company will be liable for the PO price only for Goods delivered and accepted prior to the termination date. The foregoing represents Seller's sole and exclusive remedy hereunder.

**CONFIDENTIALITY:** Seller and PSS agree that in connection with this PO and their relationship, they may obtain Confidential Information. The receiving party shall at all times keep in trust and confidence all such Confidential Information and shall not use such Confidential Information other than as expressly authorized by the disclosing party under this PO, nor shall the receiving party disclose any such Confidential Information to third parties without the disclosing party's written consent. Notwithstanding the above, PSS shall be authorized to disclose Seller's Confidential Information to contractors or employees of PSS who have a business need to have access to such information. Seller shall immediately return to PSS all Confidential Information (including copies thereof) in the Seller's possession, custody, or control upon termination or expiration at any time and for any reason of this PO. The obligations of confidentiality shall not apply to information which

(a) has entered the public domain, except where such entry is the result of the receiving party's breach of this PO; (b) prior to disclosure hereunder was already rightfully in the receiving party's possession; or (c) subsequent to disclosure hereunder is obtained by the receiving party on a non-confidential basis from a third party who has the right to disclose such information to the receiving party. The receiving party will be authorized to disclose Confidential Information pursuant to a valid order issued by a court or government agency, provided that the receiving party provides (i) prior written notice to the disclosing party of such obligation and (ii) the opportunity to oppose such disclosure. This section shall terminate five (5) years from the date of expiration or termination of this PO, whichever occurs later in time. Notwithstanding the foregoing, all Confidential Information that is also a "trade secret", as defined under applicable law, shall not be disclosed by either party for so long as such Confidential Information shall remain a trade secret. Seller shall not disclose, advertise, or publish the Terms of this PO without the prior written consent of PSS. Any press release or publication regarding this PO is subject to prior review and written approval of PSS.

**COMPANY'S PROPERTY:** Company will retain title to any designs, sketches, drawings, blueprints, patterns, models, tools, dies, jigs, molds, special appliances and materials (together, "Materials") furnished or paid for by Company in connection with this PO, and Materials will be deemed as held by Seller on consignment. Materials will be at Seller's risk and will be replaced by Seller if lost, damaged or destroyed. Materials will be maintained in good condition at Seller's expense (ordinary wear and tear excepted) and kept insured by Seller with loss payable to Company. Facilities used by Seller for this purpose will be used exclusively in the production for Company of Goods required by this or any other PO of Company, and will not be used in the production, manufacture, design or sale of goods for any other person or firm without the prior written consent of Company. Materials will be subject to disposition by Company at any and all times and upon demand they will be returned to Company. Seller agrees to pay on demand for all such Materials spoiled, damaged or



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otherwise not satisfactorily accounted for at Company's cost plus Company's other charges applicable thereto such as, but not limited to, transportation charges. No unauthorized copies are to be made and Seller will not furnish or disclose such blueprints or other data or copies thereof to unauthorized person.

**RIGHTS IN DATA:** Company retains ownership of all proprietary data disclosed to Seller by Company in connection with this PO. Seller will not disclose such proprietary data to others, except where prior to disclosure to Seller by Company: (1) the proprietary data was already known to the general public or (2) Seller had knowledge of the proprietary data. For these purposes, proprietary data means all designs, engineering and technical information (whether patentable or not) and other information concerning Company's trade secrets and such other information including, but it not limited to, secrets of manufacturing contained in Company's manufacturing methods or processes, treatment and chemical composition, plant layout and roofing, to the extent that such other information is not disclosed by inspection or analysis of the Goods covered by this PO. Seller represents and warrants that the Goods provided hereunder will not infringe or contribute to or induce infringement of any U.S. or foreign patent, trademark or copyright or other intellectual property right.

**CONFLICT MINERALS:** To enable Company and its affiliates to comply with the Dodd-Frank Act, Seller hereby represents that the goods supplied by it hereunder (i) do not contain or utilize any conflict minerals (tantalum, tin, tungsten, and gold), (ii) contain conflict minerals that originate other than from a covered country (Democratic Republic of Congo and adjoining countries) or (iii) contain conflict minerals that are from recycled or scrap sources. Supplier agrees to notify Company immediately in writing if the status of its supply base changes during the term of this contract such that the foregoing representation is no longer complete and accurate. Supplier agrees to indemnify, hold harmless and defend Company to the extent Company is liable for fines, penalties, violations or other liability related in any way to Supplier's use of conflict minerals as outlined in this provision.

**PACKING:** No charges will be made for crating, packaging or packing materials unless agreed to and specified as part of this PO. Each shipment must be accompanied by a packing slip showing PO number. Packaging for international shipments shall have international heat stamp referencing fumigated wood.

**RIGHT TO AUDIT:** Company shall have the right at all reasonable times and at its expense to inspect and audit the books and records of Seller insofar as they pertain to the Work performed or supplied or charges payable under this PO as set forth in invoices furnished hereunder.

**WAIVER:** No waiver of any of the provisions contained in this PO will be valid unless made in writing and executed by both parties. No charges beyond the purchase price specified in this PO will be allowed except with Company's written consent. Failure of Company to insist upon strict performance will not constitute a waiver of any of the provisions of this PO or waiver of any other default.

**ASSIGNMENTS AND SUBCONTRACTS:** This PO will not be assigned or transferred without written consent of Company. Seller agrees that it will not subcontract the furnishings of any of the completed or substantially completed articles required by this PO without approval of Company. No assignment of monies due or to become due hereunder will be binding upon Company until its written consent thereto is obtained.

**FORCE MAJEURE:** This PO is subject to modification or cancellation by Company in the event of Force Majeure beyond Company's reasonable control, including without limitation, acts of God or the elements, civil insurrection, acts of war or terrorism, unusual health and safety situations, disease, pandemics, epidemics, quarantine restrictions, riots, boycotts, civil or military authority, transportation and/or supply distribution disruption, fires, floods, or other severe

weather, governmental actions (including without limitation, tariffs, embargos, trade war or similar charges), or another situation which by its nature could not have been reasonably foreseen by Company.

**CHANGES:** Company may at any time by written change order, make changes in the drawings, designs or specifications, applicable to the Goods or Service covered by this Purchase Order. If any such change affects the cost of manufacturing such Goods or the cost of furnishings such Services an equitable adjustment will be made promptly in the purchase price or prices by agreement of the parties. Changes in cost must be brought to the attention of Company by written notice within seven (7) days of the request for change. No change will be made without prior written approval of Company.

**APPLICABLE LAW:** These Terms will be governed by and construed in accordance with the laws of the State of Louisiana, USA (without giving effect to conflict of law principles) as to all matters. The parties hereby irrevocably submit to the exclusive jurisdiction and venue of state or federal courts of appropriate jurisdiction sitting in Baton Rouge, Louisiana or the United States District Court for the Middle District of Louisiana, Baton Rouge Division, and any appellate courts therefrom.