

PURCHASE ORDER TERMS AND CONDITIONS PCI

Polycarbon Industries, Inc. ("PCI") hereby retains the supplier ("Supplier") set forth in the work order or order form into which these terms and conditions are incorporated by reference (including attachments thereto, the "Order Form") on the terms and conditions hereinafter stated (including terms and conditions that are incorporated herein by reference, the "Purchase Order Terms and Conditions," and together with the Order Form, the "Purchase Order") to supply the materials, supplies, items or equipment (the "Products") and/or perform the services (the "Services"), as the case may be, described in the Order Form. Nothing in this Purchase Order shall be interpreted to prevent PCI from obtaining from any other third party, or providing to itself, any or all such Products or Services or from ceasing to use Supplier to provide such Products or Services.

This Purchase Order constitutes the entire agreement of the parties with regard to the subject matter, and supersedes all previous written or oral representations, agreements and understandings between PCI and Supplier and any different or additional terms and conditions. In the event of a conflict or inconsistency between any of the provisions of the Purchase Order Terms and Conditions and any provisions of the Order Form covering the subject matter of this Purchase Order, the provisions of the Purchase Order Terms and Conditions shall govern and supersede any such conflicting or inconsistent provisions of the Order Form.

Supplier's acceptance of this Purchase Order may be in writing, email or other manifestation of acceptance such as Supplier's initiation of performance, or through Supplier's provision of any Products or Services covered by this Purchase Order, or through Supplier's acceptance of any payment made pursuant to this Purchase Order, whichever occurs first. Except to the extent expressly accepted in writing by PCI, PCI hereby affirmatively rejects any different or additional terms and conditions proposed by Supplier or contained in any acknowledgement, invoice or other form of Supplier, notwithstanding PCI's acceptance or payment for any Products or Services or any similar act of PCI.

1. PRICE; INVOICING; PAYMENT

(a) Price. The price for the Products shall, as applicable, cover the net weight of the Products, and no extra charge of any kind, including charges for boxing, packaging or crating, shall be allowed unless specifically agreed to in advance in writing by PCI. The price for Services shall cover all activities required to perform the Services as contemplated in this Purchase Order.

(b) Taxes. The amount of taxes imposed will be separately stated on any related invoice and all amounts shown will include all federal, state and local sales, use, excise and similar taxes applicable to the Products or Services sold or provided under this Purchase Order or the materials used in connection therewith; and Supplier shall pay any and all such taxes, except taxes required by Law (as defined in Section 6(a) below) to be paid or borne by PCI. Notwithstanding the foregoing, each of PCI and Supplier shall bear sole responsibility for all taxes of any kind imposed by a federal, state, local or foreign governmental authority, directly on said party, including, but not limited to, those on, or measured by or referred to as income, gross receipts, financial operations, franchise, profits, license, excise, premium, windfall profits taxes,

duties or similar fees, and assessments or charges of any kind whatsoever, together with any interest and any penalties, additions to tax or additional amounts imposed by such governmental authority with respect to that party's income, operations, employment, property (whether owned, leased or deemed to be owned or leased) or business operations.

(c) Invoice; Payment; Billing Disputes. Unless otherwise specified by PCI, Supplier shall invoice PCI for the Products or Services provided under this Purchase Order only after the Products or the Services are received by PCI. Final payment shall not be made until the Products or Services provided meet the requirements specified in this Purchase Order. Unless otherwise specified by PCI on the applicable Order Form, payment terms shall be net forty-five (45) days after PCI's receipt of the applicable invoice submitted in accordance with, and containing any information specified on, the applicable Order Form. PCI may withhold payment of any invoiced amounts that it disputes in good faith and the parties shall work in good faith to resolve any such billing disputes. Such withholding of payment during any dispute shall never be the basis of a PCI default hereunder. Any such billing disputes shall not be cause for Supplier's nonperformance of Services and/or non-delivery of Products, as the case may be, under this Purchase Order. Payment by PCI shall not result in a waiver of its rights under this Purchase Order. In order to be eligible for reimbursement by PCI of reasonable out-of-pocket travel and travel-related expenses incurred by Supplier Personnel (as defined in Section 6(a) below) in providing the Products and/or Services hereunder, all such expenses incurred by Supplier: (i) must have been pre-approved by PCI in writing prior to the date such expenses are incurred; and (ii) must be in compliance with PCI's travel and entertainment guidelines, as supplemented and/or amended from time to time. Supplier will (i) provide truthful and complete documentation supporting, in reasonable detail, the delivery of the Products or the Services performed and any expenses incurred, (ii) maintain true, accurate, and complete invoices, reports, statements, books, and other records, and (iii) secure pre-authorization in writing from PCI for any extraordinary expenditure.

2. DELIVERY; CANCELLATION; INSPECTION; ACCEPTANCE

(a) Product Delivery. Supplier shall be responsible for packaging, loading and shipping the Products in accordance with any packaging specifications, shipping methods and other related requirements set forth in this Purchase Order or otherwise communicated in writing to Supplier by PCI. If no such specifications, methods or requirements are so specified, Supplier shall be responsible for packaging, loading and shipping the Products in a manner sufficient to prevent damage and loss to the Products during shipment. Shipments must equal quantity ordered, unless otherwise agreed to by PCI in writing. Supplier shall provide a packing list to PCI (which shall be securely attached to the outside of the package) for all shipments referencing this Purchase Order number. Unless otherwise specifically provided for herein, Supplier shall be responsible for freight and delivery to the destination specified on the applicable Order Form. All freight and delivery charges will be borne by Supplier, unless specifically agreed to in advance, in writing by PCI. Provided PCI agrees to accept such freight and delivery charges in advance, the amount

allocated for product freight delivery will be separately stated on the Order Form and any related invoice, and all amounts shown will include all packaging, loading and shipping applicable to the Products or Services sold or provided under this Purchase Order or the materials used in connection therewith. Under no circumstances will Supplier include in such charges, or will PCI bear, additional or charges related to the freight and delivery of covered Products and/or Services, including, but not limited to, fuel surcharges, energy surcharges, or seasonal surcharges, whether originated by Supplier or on behalf of any third party. Notwithstanding any provision in this Purchase Order to the contrary, Supplier shall bear all risks of loss and damage to the Products until final acceptance by PCI at PCI's "ship to" destination specified on the applicable Order Form. Further, Supplier shall bear the same risks with respect to any Products rejected by PCI or as to which PCI has revoked its acceptance from the time of such rejection or revocation.

(b) Cancellation. The delivery of Products and/or Services shall strictly comply with the delivery date or delivery schedule, if any, specified by PCI. If at any time it appears that Supplier will not meet such delivery date or schedule, Supplier shall promptly notify PCI in writing of reasons for, and the estimated duration of, the delay. If requested by PCI, Supplier shall ship delayed Products by means to avoid or minimize delay to the maximum extent possible, any added cost to be borne by Supplier. In addition to its other remedies, PCI reserves the right to cancel all or any part of any Purchase Order for the undelivered Products or unperformed Services if Supplier does not deliver the Products or perform the Services as specified in this Purchase Order.

(c) Changes. Supplier acknowledges and agrees that PCI may provide Supplier with a written request for changes to the Services and/or Products, as the case may be, from time to time. PCI and Supplier shall review all such requests to determine the effect, if any, such requested changes may have upon fees payable, delivery schedule, and other terms and conditions of this Purchase Order. After such effects have been assessed, PCI may decide, in its sole discretion, whether to implement such changes. If PCI elects to implement such changes, the parties shall enter into a written agreement signed by both parties that describes such changes, which agreement shall constitute an amendment to this Purchase Order.

(d) Inspection; Acceptance of Products and Services. All Products or Services delivered or performed shall be subject to final review, inspection and acceptance by PCI, notwithstanding any payment or initial inspections. Acceptance of Products and Services shall occur when the Products or Services delivered under this Purchase Order have been inspected by PCI and determined to meet the requirements specified in this Purchase Order. PCI shall make such inspection within a reasonable period of time after the applicable Products have been delivered or Services completed by Supplier. For the avoidance of doubt, there shall be no time restrictions applicable to PCI's provision of notice of rejection of any Product with respect to any latent defects, which shall include any defects that may not be detected by PCI through standard inspection and testing of a Product sample or that may affect only a portion of Product. If the Products or Services do not meet such requirements, PCI shall give Supplier detailed written notification of the deficiency or non-conformance and a direction to Supplier to promptly: (i) repair, replace or re-perform the deficient or non-conforming Products or Services; or (ii) cease all Supplier activities related to Products or Services; and/or (iii) refund to PCI all fees paid by PCI hereunder for the deficient or non-conforming Products or Services and those Products or Services that are dependent on such

deficient or non-conforming Products or Services. Any such corrected Products or Services shall be subject to the same inspection and acceptance terms provided for in this Section 2(d). If PCI directs Supplier to repair, replace or re-perform the deficient or non-conforming Products or Services and Supplier fails to complete same within thirty (30) days after PCI's direction, then Supplier shall refund to PCI all fees paid by PCI hereunder for the deficient or non-conforming Products or Services and those Products or Services that are dependent on such deficient or non-conforming Products or Services. Inspection and acceptance of any Products or Services by PCI shall not affect Supplier's warranties or PCI's remedies under Section 6(a), below. The foregoing shall not be construed to limit or exclude any other rights or remedies of PCI at law or in equity.

3. ENVIRONMENTAL, HEALTH AND SAFETY MATTERS

Supplier shall have and implement a documented health and safety policy which addresses, among other things, elimination of workplace injuries.

4. AUDIT

Supplier shall provide (and shall cause each Supplier subcontractor to provide) to PCI or its representatives, including its external auditors and to any governmental authority access at all reasonable times and after reasonable notice (except in the case of an audit by a governmental authority) to any facility of Supplier (and each Supplier subcontractor), Supplier Personnel, and to data and records, in each case relating to the Products and/or Services provided hereunder and Supplier's performance under this Purchase Order.

5. CONFIDENTIAL INFORMATION

(a) Supplier understands and acknowledges that, in the provision of Services or Products pursuant to this Purchase Order, PCI may disclose to Supplier or Supplier may otherwise obtain information that PCI (or any of its subsidiaries, affiliated companies, vendors or customers) considers confidential. Such information may include all information relating to the subject matter of this Purchase Order, whether furnished to or obtained by Supplier or its representatives before, on or after the date of this Purchase Order, in any form, including, but not limited to, written, verbal, visual, electronic or in any other media or manner ("Confidential Information"). Supplier shall not disclose Confidential Information without the prior express written consent of PCI to any person or entity not a party to this Purchase Order (other than as required by applicable Law) in any manner whatsoever, in whole or in part, and shall not be used by Supplier other than in connection with the purposes permitted by this Purchase Order.

(b) Upon completion or termination of this Purchase Order, and at PCI's written request at any time, Supplier shall promptly return to PCI or destroy (at PCI's election) all copies of all documents or other materials, in whatever form, that contain Confidential Information and are in the possession or under the control of Supplier or any Supplier Personnel and shall certify to PCI in writing that Supplier has done so in accordance with applicable Laws.

6. REPRESENTATIONS, WARRANTIES AND COVENANTS

(a) General. Seller warrants and guarantees to PCI that the Goods or Services: (i) shall conform to all applicable specifications, drawings, samples, descriptions, brochures and manuals furnished by Seller or PCI, (ii) shall be merchantable, (iii) shall be of good material and workmanship, (iv) shall be free from defects, (v) are fit and sufficient for the particular purposes intended by PCI; and (vi) shall comply with all applicable global, federal, country, state, local, foreign and other laws, rules and regulations, ordinances, decrees, orders, codes and requirements (including, but not limited to, any

requirements for consents, permits, certificates, approvals and inspections), as the same are promulgated, supplemented and/or amended from time to time ("Laws") that apply to or govern the Services or Products to be provided by Supplier or any of the employees, contractors, subcontractors or agents of Supplier and its subcontractors (collectively, "Supplier Personnel") pursuant to this Purchase Order Terms and Conditions.

(b) Seller's Qualifications and Licenses. Seller represents and warrants that: (i) Seller and its employees are, and at all times shall be, qualified by training and experience with appropriate expertise to perform their obligations, and (ii) Seller and its employees have, and at all times shall have, appropriate licenses, approvals and certifications necessary to perform safely, adequately and lawfully their obligations.

(c) Non-Infringement. Seller warrants that the Goods or Services covered by the Purchase Order shall not infringe on any patent, trademark, copyright, industrial design or other proprietary rights of, or constitute misuse or misappropriation of a trade secret of any third party.

(d) Title. Seller warrants full and unrestricted title to all Goods and Services furnished by Seller under the Purchase Order, are free and clear of any and all liens, restrictions, reservations, security interests and encumbrances.

(e) Remedies. Supplier shall, without additional cost to PCI, within thirty (30) days of receipt of written notification of any non-conformance with the warranties set forth above in this Section 6, as directed by PCI, correct any such non-conformance by promptly:

(f) repairing, replacing or re-performing the non-conforming Products or Services; or (ii) refunding to PCI all fees paid by PCI hereunder for the non-conforming Products or Services and those Products or Services that are dependent on such non-conforming Products or Services. The foregoing shall not be construed to limit or exclude any other rights or remedies of PCI at law or in equity. The warranty with respect to any such corrected Products or Services shall be subject to the same terms as the warranty provided for in this Section 6.

7. INDEMNIFICATION

Seller shall upon PCI's demand defend, hold harmless and indemnify PCI from and against any liability, claims, demands, damages or expenses (including reasonable attorney or other professional fees and disbursements) caused by, arising from, relating to or in connection with: (i) any third party claims or demands to recover for personal injury or death, property damage or economic loss caused by any of the Goods or Services supplied by Seller (regardless of whether such claim or demand arises under tort, negligence, contract, warranty, strict liability or other legal theories), except to the extent such injury, damage or loss results from PCI's specifications as to design or materials or from alteration or improper repair, maintenance or installation by any party other than Seller, (ii) the performance of any Services by Seller or its employees, agents, representatives and subcontractors on PCI's premises or the use of the property of PCI, except to the extent such liability arises out of the negligence or willful misconduct of PCI, (iii) Seller's breach of any representation, warranty or covenant of Seller in this Purchase Order, and (iv) Seller's failure to perform under or failure to comply with any term of this Purchase Order applicable to Seller. Seller's indemnification obligations hereunder shall survive PCI's acceptance of the Goods and Services and payment therefor. Seller shall not enter into any settlement without PCI's prior written consent.

8. INSURANCE

Seller shall maintain at its own expense appropriate insurance coverage in amounts adequate to cover its acts and omissions and as required by applicable laws or as reasonably requested by PCI with carriers reasonably acceptable to PCI.

9. LIMITATION OF LIABILITIES

Notwithstanding the form (e.g., contract, tort or otherwise) in which any legal or equitable action may be brought, under no circumstances shall PCI or its affiliates be liable for consequential, indirect, special, punitive, or incidental damages or lost profits, whether foreseeable or unforeseeable, based on claims of Supplier or any other party arising out of breach or failure of express or implied warranty, breach of contract, misrepresentation, negligence, strict liability in tort, failure of any remedy to achieve its essential purpose, or otherwise. Notwithstanding the form (e.g., contract, tort or otherwise) in which any legal or equitable action may be brought, in no event shall PCI or its affiliates be liable for any damages or losses that exceed, in the aggregate, the amount of fees paid and payable by PCI for the Products or Services that gave rise to such damages or losses for each respective breach or series of related breaches. This Section 9 shall not apply only when and to the extent applicable Law specifically requires liability despite the foregoing disclaimer, exclusion and limitation.

10. TERM AND TERMINATION

(a) Term. This Purchase Order shall commence upon Supplier's acceptance of this Purchase Order and shall continue through PCI's acceptance of such Services or Products, as may be further specified in this Purchase Order.

(b) Termination. In addition to PCI's termination rights set forth elsewhere herein, PCI may terminate this Purchase Order, in whole or in part, in its sole discretion: (i) upon fifteen (15) days prior written notice to Supplier for any reason; (ii) immediately upon written notice to Supplier if Supplier breaches this Purchase Order; (iii) if reasonable grounds for insecurity arise with respect to Supplier's performance and Supplier fails to furnish adequate assurances within five (5) days after written demand by PCI for such assurance; or (iv) immediately upon written notice to Supplier if Supplier becomes insolvent or otherwise makes an assignment for the benefit of creditors, commits an act of bankruptcy or files or has filed against it a petition in bankruptcy or reorganization proceedings. During any notice period, Supplier shall cease to provide the cancelled Services or Products, as the case may be, to PCI as soon as commercially practicable after receiving such notice.

(c) Effect of Termination/Expiration. Upon termination or expiration of this Purchase Order: (i) PCI shall be entitled to the ownership, possession, use and license of any and all work in process under this Purchase Order to which it is entitled pursuant to Section 11 below; (ii) Supplier shall invoice PCI for all outstanding fees and expenses incurred for Services satisfactorily performed and/or Products delivered under this Purchase Order through and including the date of any such termination or expiration; and (iii) Supplier shall comply with its obligations under Section 5(c) above.

(d) Survival. The provisions of Sections 1(b) and (c), 4-7, 9, 10(c) and (d), 11-12 and any other provisions which are expressly or by implication intended to continue in force after such termination or expiration shall survive the termination of this Purchase Order.

11. INTELLECTUAL PROPERTY

For all work products and deliverables created under this Purchase Order through the performance of the Services, Supplier and Supplier Personnel hereby assign and transfer to PCI all rights to possession of, and all right, title, and interest, including all patent, copyright, trademark, trade secret and other proprietary and

intellectual property rights ("Intellectual Property Rights") in and to such work products and deliverables created under this Purchase Order.

12. MISCELLANEOUS

(a) Use of PCI Trademark/Name; Publicity. Supplier shall not issue any press release or other publicity materials, or make any presentation with respect to the existence of this Purchase Order or the terms and conditions hereof without the prior written consent of PCI in each instance.

(b) Governing Law; Venue. The validity, interpretation and performance of this Purchase Order shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts without regard to the principles of conflicts of law. THE PARTIES EXPRESSLY AGREE THAT THE APPLICATION OF THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS (1980) IS SPECIFICALLY EXCLUDED AND SHALL NOT APPLY TO THIS PURCHASE ORDER. All actions and proceedings under this Purchase Order shall be brought exclusively in a state or federal court of competent subject matter jurisdiction in Suffolk in the Commonwealth of Massachusetts.

Each Party hereby waives (i) any objection which it may have at any time to the venue of the proceedings in any such court, (ii) any claim that such proceedings have been brought in an inconvenient forum and (iii) the right to object, with respect to such proceedings, that such court does not have any jurisdiction over such Party. IN ANY CONTROVERSY OR CLAIM, WHETHER BASED IN CONTRACT, TORT OR OTHER LEGAL THEORY, ARISING OUT OF OR RELATING TO THIS PURCHASE ORDER, ITS NEGOTIATION, ENFORCEABILITY OR VALIDITY, OR THE PERFORMANCE OR BREACH HEREOF OR THE RELATIONSHIPS ESTABLISHED HEREUNDER, ALL PARTIES HEREBY WAIVE THEIR RIGHT TO TRIAL BY JURY.

(c) Relationship of the Parties. PCI engages Supplier only for the purposes and to the extent set forth in this Purchase Order and, accordingly, Supplier shall not be considered a partner, co-venturer, agent, employee, or representative of PCI, but shall remain in all respects an independent contractor, including for purposes of the Occupational Safety and Health Act or state equivalent.

(d) Assignment; Subcontracting. This Purchase Order or any right or obligation arising therefrom shall not be assigned or transferred or subcontracted by Supplier in the absence of PCI's prior written consent thereto and any purported assignment or transfer or subcontract absent such consent shall be automatically deemed null and void.

(e) Severability. If and solely to the extent that any court or tribunal of competent jurisdiction holds any provision of this Purchase Order to be unenforceable in a final non-appealable order, such unenforceable provision shall be stricken and the remainder of this Purchase Order shall not be affected thereby. In such event, the parties shall in good faith attempt to replace any unenforceable provision of this Purchase Order with a provision that is enforceable and that comes as close as possible to expressing the intention of the original provision.

(f) Waiver; Partial Invalidity. The failure of PCI to insist in any instance upon strict performance by Supplier of any provision of this Purchase Order shall not be construed as a continuing waiver of such item, or waiver of any other provision of this Purchase Order. If any provision of this Purchase Order shall be held illegal or unenforceable by any governmental authority having jurisdiction over this Purchase Order, the validity of the remaining portions shall not be affected thereby.

(h) Headings. Headings are included herein for convenience of reference only, and shall not constitute a part of this Purchase Order or change the meaning of this Purchase Order.