



Prime Machine, Inc.

QFM-254 Terms and Conditions of Purchase

Revision	Reason for Change	Date	Approval
B	Revised by Legal Department	12/16/20	KBB

1. Definitions.

"Materials" means the materials, tooling, services, subcontracted manufacturing processes, equipment, machinery, and/or other articles covered by a Purchase Order and all documents and exhibits attached thereto (an "Order") issued by Prime Machine, Inc ("PMI") to the supplier named in the Order ("Supplier").

2. Entire Agreement; Terms and Conditions of Contract.

Whether construed as an offer, acceptance or confirmation, these terms and conditions of purchase ("T&Cs") are included as part of the Order. These T&Cs and the Order shall constitute the final, complete and exclusive statement of the contract between PMI and Supplier and may not be modified or rescinded except by a written change order issued by PMI. If these T&Cs and the Order constitutes an offer by PMI to purchase the goods and/or services specified upon the T&Cs and at the price(s) and with the delivery date(s) specified in the Order, Supplier may indicate its acceptance of the Order by verbal acceptance communicated to PMI, by written acceptance on the face of the Order received by PMI, by other written confirmation received by PMI, by commencing work on the Order in any manner, expressly conditioned on notice of such commencement of work received by PMI, or by the delivery of the goods or services within the time for such delivery as stated in the Order.

Regardless of the manner or medium of acceptance, time is of the essence. As an offer, the Order and these T&Cs expressly limit acceptance to the Order and these T&Cs, and notification of objection to any different or additional terms in any response to these T&Cs from Supplier is hereby given. If the Order is construed as an acceptance of Supplier's offer, this acceptance is expressly conditioned on Supplier's assent to any additional or different terms contained in the Order and these T&Cs. If the Order and these T&Cs are construed as a confirmation of an existing contract, the parties agree that the Order and these T&Cs constitutes the final, complete and exclusive terms and conditions of the contract between the parties.

If the parties have otherwise completed a signed, written contract, the parties agree that the use of the Order and these T&Cs to place orders for goods or services pursuant to such a contract shall be construed to supplement the terms of such written contract only to the extent that the terms and conditions of the Order and these T&Cs are not inconsistent with such written contract. Regardless of its construction as an offer, acceptance, confirmation or use to place orders for goods or services pursuant to an earlier contract, this Order and these T&Cs incorporate by reference all terms of the Uniform Commercial Code providing any protection for PMI, including, without limitation, all express and implied warranty protection and all of PMI' remedies under the Uniform Commercial Code.

3. Price and Taxes.

Orders will not be filled at prices higher than the prices specified on the Order. If price is omitted, the Materials will be billed at the price last quoted or paid or at the lowest competing quotation obtained by PMI on or around the same date of the Order, whichever is lower. Unless otherwise provided in the Order, prices shown on the Order include all federal, provincial, state and local excise, sales, use, value added, gross receipts or other taxes, customs and import duties and other charges as well as all charges, duties, fees, costs and expenses of Supplier. Without limit on the foregoing, Supplier

may not make any change to the price listed on an Order, or add any surcharge, or other tax, fee, charge, cost or expense, without first receiving PMI' written agreement or written change to such Order.

4. Payment.

a. Unless otherwise specified in an Order, payment is due within Sixty (60) days after the date of invoice submitted by Supplier. Any payment made by PMI for the Materials will not constitute acceptance of the Materials or act as a waiver of any rights that PMI may have hereunder or pursuant to applicable law.

b. PMI may withhold payment against future deliveries or setoff any amounts owed under an Order against any undisputed amounts due PMI by Supplier (including any of PMI's costs, expenses, legal or professional fees) in the event of Supplier's actual or threatened breach or repudiation of the Order or the terms of any contract between the parties, or in the event of Supplier's filing of a petition for relief in bankruptcy.

c. Any advances, down payments, deposits or installments made by PMI will be returned to PMI immediately upon PMI's demand in the event of Supplier's failure to timely deliver the Materials or PMI's rejection or cancellation of delivery as permitted herein.

d. Supplier will pay each sub-supplier and subcontractor engaged in connection with obtaining or manufacturing the Materials within the terms established between Supplier and such sub-supplier or subcontractor, or if no terms are established, within a reasonable period of time not to exceed thirty (30) days. Supplier will defend, indemnify and hold PMI harmless from and against any claims of sub-suppliers or subcontractors for payment.

e. In no event will payment be due unless the Order has been completed in accordance with the terms of the Order, including these T&Cs and all applicable warranties, specifications and requirements, unless PMI expressly agrees to accept partial completion of the Order through written change on the Order. Further, Supplier will not be entitled to any payment: (i) with respect to any materials, labor or other charge arising out of any error, omission or failure to comply with the Order by Supplier or its subcontractors, or (ii) if any default of Supplier or any subcontractor has occurred and is continuing.

5. Packing; Shipping; Delivery.

a. PMI is not responsible for any charge for packing, boxing, or storage. Supplier shall be responsible for all damage resulting from improper packing, boxing, or storage. To the extent PMI has provided packing specifications to Supplier, Supplier will strictly comply with such specifications. Each package shall contain a memorandum showing the shipper's name, contents of package, quantities, material code number, and PMI's Order number.

b. Each shipment of Materials under an Order shall contain: (i) Supplier's certification, (ii) up-to-date, legible and accurate material safety data sheets, if applicable, and (iii) the bill of lading number, if applicable.

c. Supplier will comply with any customs or related obligations, origin marking or labeling requirements, and local content origin requirements. Export licenses or authorizations necessary for the export of Materials are Supplier's responsibility. Credits or benefits resulting from the Order, including trade credits, export credits or the refund of duties, taxes, or fees, belong to and will be immediately granted to PMI.

d. Unless otherwise agreed to in writing, all Materials are shipped F.O.B. PMI's location or specified destination on the Order. Time is of the essence with respect to production and delivery. If Supplier fails to make shipment or delivery when due, fails to make sufficient progress with respect to the manufacture or delivery of the Materials so that PMI may reasonably determine whether timely shipment or delivery is in jeopardy, or if any shipment or delivery is made that is not in all respects in accord with the Order (including time of shipment or delivery), PMI reserves the right to reject such delivery and, if PMI so elects, PMI may treat the Order as repudiated by Supplier and cancel it and/or any outstanding deliveries thereunder, without prejudice to PMI's rights to claim damages or to enforce any other remedy provided by law. All expenses of transportation and storage, if any, resulting therefrom will be Supplier's responsibility. Any shipments made earlier than the scheduled time or in amounts above ordered quantities may be returned by PMI at Supplier's

expense. Supplier is solely responsible for keeping PMI informed as to its progress in completing the Order and will submit to PMI such progress schedules, reports, estimates, records and other data as may be requested concerning work performed or to be performed under the Order. Supplier is further solely responsible for informing PMI immediately upon becoming aware of any events or circumstances that may delay the timeline for completion or delivery.

e. Unless a carrier or route is specified on the Order, Supplier may select a carrier and route of its choice, but will use only reputable, reliable carriers at the lowest available cost and most direct route.

f. Unless otherwise specified on an Order, title to, and risk of loss of, each item of Material will pass to PMI, and delivery will be deemed complete, upon delivery and unloading of the Material at PMI' location or specified destination on the Order. Supplier will hold PMI harmless against any claims asserted against PMI on account of any personal injury or property damage caused by such Materials, or by the transportation or handling thereof, prior to the completion of unloading at PMI' location.

6. Materials; Title.

a. Unless otherwise specified in the Order or agreed to in writing by PMI, Supplier, at its sole cost and expense, will supply all personnel, material, equipment, tools and facilities required to perform the Order. Supplier will defend, indemnify and hold PMI harmless against any and all claims asserted against PMI on account of any personal injury or property damage caused by such personnel, materials, equipment, tools or facilities, or by the transportation or handling thereof, or any lien on or claim of right thereto.

b. All intellectual and other property (including designs, "know-how", drawings, software licenses, blueprints, tools, dies, gages, inspection equipment, patterns, printing plates or other materials or equipment) required to perform an Order, furnished by or paid for by PMI, will be and remain the property of PMI, and Supplier will return the same to PMI upon its request or upon completion or cancellation of the Order, and they shall not be copied or used by Supplier (other than in filling Orders from PMI) without PMI' written consent. Supplier will use such property at its own risk and will be responsible for all loss or damage to the same while in Supplier's custody. Supplier will, at its cost, store and maintain all such property in good condition and adequately maintained. PMI makes no warranties of any nature with respect to any such property, which is furnished "AS IS" and "WITH ALL FAULTS."

7. Changes.

At any time prior to delivery of the Materials, PMI may change the design (including drawings, blueprints, specifications and materials), quantities, processing, quality control procedures, method of packing and shipping, or the date or place of delivery of the Materials. Any changes will be made by delivery of a written change order to Supplier. If the change order increases or decreases Supplier's cost or timing, Supplier must notify PMI within five (5) calendar days of receipt of the change order. Any change to the price payable by PMI or the timing of delivery will be adjusted equitably by written agreement once reflected on the Order. Notwithstanding the foregoing, PMI will not be responsible for any additional charges not agreed to in writing by PMI. Failure to agree upon any additional charges will not relieve Supplier from its obligation to perform in accordance with the changes specified by PMI. Under no circumstances may Supplier make any change in design, processing, method of manufacture, control plan, testing, inspection, certification, packing, quality control procedures or any part of an Order without first notifying PMI and receiving PMI' written approval.

8. Cancellation; Termination.

a. PMI may cancel all or any part of an Order at any time upon written notice to Supplier. Such cancellation shall be without liability or financial obligation on the part of PMI to Supplier: (i) if such cancellation occurs at any time prior to the last to occur of the following: : the date for commencement of production, if any, specified in the Order, or the date Supplier actually incurs costs in connection therewith, (ii) in the event of the institution of proceedings relating to insolvency, bankruptcy, reorganization, arrangement of liquidation by or against Supplier, or if Supplier shall make an assignment for the benefit of creditors, (iii) if Supplier should so fail to make progress as to endanger the timely completion of the Order or any portion thereof, (iv) if Supplier breaches or otherwise violates any covenant, agreement, representation or warranty contained herein or in connection with the Order, or threatens to do so; or (v) in the event of

an Excusable Delay as provided for in Section 13. If PMI cancels the Order under circumstances other than those specified above, PMI and Supplier will negotiate in good faith an equitable adjustment for reasonable costs of labor and materials incurred by Supplier in connection with Supplier's production of Materials prior to the date that Supplier receives notice of cancellation. In no event will any of such costs exceed the purchase price specified in the Order.

b. Upon receipt of any notice of cancellation, Supplier shall (i) follow the instructions contained in such notice with respect to the completion of any portions of the Order and the disposal of any finished goods, work-in-process, raw material and scrap, (ii) not otherwise incur any costs after receipt of notice of cancellation, (iii) notify and cancel any orders or contracts with its suppliers and subcontractors, and (iv) cooperate with PMI with regard to any resourcing or transfer of production under the Order.

c. Supplier may terminate an Order upon sixty (60) days' notice in the event of a material breach by PMI after first notifying PMI in writing of the specific provision of the Order that has been breached and giving PMI a reasonable opportunity to cure such breach. Supplier's sole remedy for damages due to PMI's breach of payment obligations shall be payment in full of all Materials produced and delivered to PMI in accordance with the Order, subject to any applicable bankruptcy laws.

9. Inspection; Rejection.

a. PMI will have the right to inspect the Materials, at its option, either at Supplier's facility or following receipt of the Materials. Supplier will: (i) permit any inspector to perform any inspection, examination or test reasonably required by PMI or its customers, (ii) perform any such inspection, examination or test at the direction of the inspector and at Supplier's sole cost and expense unless otherwise specified in the Order, (iii) cooperate fully with respect to any inspection, examination or test, (iv) furnish the inspector with all reasonably requested documentation, information and data, and (v) at Supplier's sole cost and expense, comply with the results of any such inspection, examination or test or any recommendations made by an inspector in connection therewith and promptly correct any work found to be unsatisfactory within reasonable time limits set by such inspector. The performance of any inspections, examinations or tests shall not relieve Supplier of its obligations under the Order, nor be construed as acceptance by PMI.

b. PMI may reject any Materials that do not conform to the requirements of the Order or, if not so specified, that do not conform to standard industry specifications regardless of when the non-conformity becomes apparent or evident.

10. Warranty.

Supplier warrants to PMI and to any end users of the Materials that all Materials and their packaging will conform to:

a. the specifications provided by PMI to Supplier and any customer specific requirements communicated in writing to Supplier, or if none were provided, to industry standard specifications and requirements which fully and adequately protect all Materials;

b. the description of the Materials provided by Supplier to PMI, whether through any written or oral means, including and in addition to any description contained in the Order, any proposal or quotation submitted to PMI, any catalog or brochure or any other communication from Supplier or its representatives to PMI; and

c. any sample or model provided by Supplier to PMI.

d. Supplier further warrants to PMI and to any end users of the Materials that the Materials will be in all respects suitable for the particular purpose or use for which they are purchased by PMI if the Supplier knows or has reason to know the purpose or use and in compliance to all specifications and requirements of the Order and all flow down requirements from PMI, of a merchantable quality, free from any defects in material and workmanship, free from any defects in design to the extent that Supplier is responsible for the design, of good title free of any lien, claim, encumbrance, security interest, or other claim of right, new and not reconditioned (unless otherwise specified in the Order), in compliance with all applicable laws concerning the manufacture, inspection, testing, transportation, and delivery of the Materials (including all workplace, environmental and health and safety laws), sold at not less than fair value under the anti-dumping laws of the

countries to which the Supplies are exported, and free of any claim for patent infringement or violation of the intellectual property rights of a third party.

e. All such warranties shall remain in place for the duration of the warranty provided to the end user of the products into which the Materials are ultimately incorporated. Such warranties will apply regardless of PMI's acceptance of any Materials or the results of any inspection of the Materials. Supplier further warrants that it will maintain its current quality systems certification and comply with its internal quality control systems and procedures as well as any other quality assurance requirements communicated to Supplier or required by PMI or PMI's customers. Such warranties will apply as long as any Order is in effect between the parties, and may be enforced by both PMI and PMI's customer(s) for whose benefit and use the Materials were purchased, such customer(s) being intended third party beneficiaries of these T&Cs and the warranties provided herein.

11. Remedies.

a. Upon Supplier's breach of any of the foregoing warranties, Supplier will: (i) at PMI's option, repair or replace, without cost to PMI, the non-conforming or defective Materials within the timeframe specified in a written notice from PMI, and (ii) pay to PMI within thirty (30) days of demand therefore all of PMI's damages associated with such breach of warranty. If Supplier fails to so repair or replace such Materials within the time required by PMI, PMI will have the right (but not the obligation) to repair or replace such Materials at Supplier's sole cost and expense.

b. Supplier agrees that, with respect to any breach or threatened breach of Section 17 or Supplier's obligation to produce and deliver Materials, PMI does not have an adequate remedy at law and that PMI is entitled to specific performance of Supplier's obligations under the Order.

c. In the event that Supplier is unable or unwilling to perform an Order or to meet the delivery schedule specified in the Order after Supplier has accepted the Order, PMI shall have the right (but not the obligation) to obtain the Materials from any other source and charge Supplier with all costs and expenses related thereto, including any difference in purchase price, costs of delay, expedited shipping, customer charges, labor and overtime charges, and any other costs or expenses incurred by PMI.

d. PMI's rights hereunder are cumulative. In addition to any remedies provided hereunder, PMI reserves all rights it may have against Supplier, whether at law or in equity, under these T&Cs, or under any applicable theory of liability. The exercise of any one right or remedy shall not preclude the exercise of any other right or remedy. In order to enforce its rights hereunder, PMI may bring a claim against Supplier, its parent company or affiliates at any time prior to the expiration of the applicable statute of limitations and such parent company and affiliates are hereby a party to these T&Cs.

12. Indemnification.

a. Supplier will indemnify, defend, and hold PMI and its subsidiaries and affiliates, and each of its and their officers, directors, shareholders, members, employees, customers, representatives and agents ("PMI Indemnified Parties") harmless from and against any and all claims, demands, liabilities, damages, losses, settlements, debits, costs, fines, penalties, taxes, and expenses (including but not limited to any costs or damages provided for in these T&Cs, the costs of exercising or enforcing any remedies provided for in these T&Cs or otherwise, reasonable legal and other professional fees and court costs, liens, costs of recall, root cause analysis, customer chargebacks or claims, production interruption charges, labor charges, transportation costs, costs for sorting or inspection, and any consequential, incidental, indirect or special damages including lost profits) ("Losses") brought, incurred or threatened against a PMI Indemnified Party resulting from or connected with: (i) any breach of Supplier's warranty, these T&Cs, any contract between Supplier and PMI, or any other term of an Order (a "Breach"), (ii) Supplier's negligence, fraud, failure to comply with Law, tort, or willful misconduct, (iii) any and all liens or claims filed or asserted for services performed or materials, equipment, tools, services, subcontracted manufacturing processes, machinery or other articles furnished by Supplier or any subcontractor or supplier or any employee of any of them and from any and all Losses arising out of, resulting from or connected with any such lien or claim, (iv) PMI's inspection and rejection of any Materials under Section 9, and (v) any injury (including death) to person or damage to property as a result of any of the foregoing.

Notwithstanding the foregoing, Supplier will not be liable for any Losses of PMI or any third party that are solely the result of the gross negligence or willful misconduct of PMI. Until such time as Supplier takes up its duty to defend under this Section 12(a), PMI shall be entitled to retain counsel in order to defend itself, with the fees for such counsel to be reimbursed by Supplier. Until such time as Supplier has indemnified PMI in full, all Losses incurred by PMI shall bear interest at the statutory rate of interest from the date that is sixty (60) days after PMI first notifies Supplier that it has incurred such Losses.

b. At its own cost and expense, Supplier will cooperate with, and provide reasonable assistance to, PMI with respect to any claim against PMI, administration of any recall, root cause analysis or investigation, corrective action, or engineering change, involving the Materials and any PMI or PMI's Customer products into which the Materials are incorporated, regardless of whether Supplier is obligated to indemnify PMI under Section 12(a).

13. Excusable Delays.

Neither party will be liable for any delay or failure of performance due solely to wars, acts of terrorism or other similar causes beyond its control and without its fault or negligence, provided that the party subject to such cause will have provided written notice thereof to the other as soon as the same could be anticipated, and if it could not be anticipated, promptly following the commencement thereof. If any excusable delay continues for more than fifteen (15) days, PMI may cancel any Order subject to the excusable delay without liability to Supplier.

14. Insurance.

a. Unless otherwise agreed to by PMI, Supplier will obtain and maintain, at its sole cost and expense (i) insurance in an amount adequate to cover the replacement cost of the Materials up until delivery to PMI, (ii) Comprehensive General Liability insurance covering all operations under the Order, including operation premises liability, Supplier's protective liability and products/completed operations with minimum limits per occurrence of not less than Two Million Dollars (\$2,000,000) for bodily injury or death and One Million Dollars (\$1,000,000) for property damage, (iii) Workers' compensation and employers' liability insurance in compliance with applicable law covering all employees of Supplier or any subcontractor working on Supplier's premises, and (iv) Automotive liability insurance covering all motor vehicles used in connection with the performance of the Order, whether owned, non-owned or hired with minimum limits of not less than Two Million Dollars (\$2,000,000) for bodily injury or death and One Million Dollars (\$1,000,000) for property damage. If requested by PMI, property damage coverage will also include coverage for explosion, collapse and underground property damage.

b. All insurance maintained by Supplier will be affected under enforceable policies issued by adequately rated insurers of recognized responsibility, licensed to do business in the state or province where the Supplier performs the work on an Order and reasonably satisfactory to PMI. Such insurance policies will expressly provide: (i) that they may not be cancelled or altered except upon sixty (60) days written notice to PMI, (ii) a waiver by the insurer of its right of subrogation against PMI, and (iii) that PMI is an additional insured and loss payee as its interest may appear. If Supplier fails to obtain or maintain such insurance, then PMI will have the right (but not the obligation) to procure any such insurance on behalf of Supplier and be immediately reimbursed by Supplier for PMI's costs (including premium expense) in procuring such insurance.

c. Supplier will immediately provide PMI with a Certificate of Insurance certifying that all such policies of insurance are in full force and effect and evidencing compliance with the foregoing provisions, if requested by PMI.

15. Labor.

If an Order covers the performance of labor and/or supervision of installation on PMI's premises, Supplier agrees to indemnify and hold PMI harmless from and against all claims and liabilities for injury or damage to any person or property arising out of the performance of the Order. Supplier will furnish PMI with a certificate or other satisfactory evidence of insurance to the effect that Supplier has and will maintain while on PMI's premises adequate insurance coverage (including public liability and property damage, automobile liability and worker's compensation) in such amounts and with

such insurance companies as are satisfactory to PMI. Supplier also agrees that it, its employees, agents, and subcontractors, will comply with all of PMI's safety and other rules covering outside contractors while on PMI's premises.

16. Compliance with Law.

a. Supplier is fully informed of, and will comply with, all applicable rules, laws, regulations, ordinances, codes, requirements, restrictions, statutes, decrees, judgments and orders ("Laws") promulgated or issued by any court, agency, department, or other division of any local, state, provincial or federal government, whether foreign or domestic, having jurisdiction over the Materials, PMI or the Supplier or its subcontractors or in any manner affecting the employees, work, material or services used in completing the Order.

b. Without limitation on the foregoing, Supplier will comply with all local, state, provincial and federal Laws relating to: (i) the environment, including those Laws relating to the use, treatment, storage or disposal of any Hazardous Substances (as defined in applicable Laws), (ii) health and safety, including all state and federal OSHA Laws, and (iii) workers and workers' rights, including child labor laws. Supplier will be solely responsible, at its own cost and expense, for any and all remedial action required as a result of its non-compliance with any Law relating to the environment.

17. Confidentiality.

Any information relating to an Order disclosed by PMI to Supplier, including information relating to customers of PMI, shall be kept confidential by Supplier and shall not be used by Supplier for any purpose other than required by the Order.

18. Assignment.

No assignment of an Order, the obligations of Supplier hereunder, or of monies due or to become due hereunder will be made without the prior written consent of PMI.

19. Financial Information.

In order that PMI may make a reasonable determination as to the financial health of Supplier, upon PMI's request at any time, Supplier shall provide such financial information as PMI shall reasonably request, which information PMI shall not disclose to any third party other than its advisors who need to see such information in order to advise PMI as to Supplier's financial health.

20. Waiver.

Neither the failure nor any delay on the part of PMI to exercise any right, remedy, power or privilege under this Agreement will operate as a waiver thereof in any later instance, nor will any such failure or delay invalidate these T&Cs or any portion thereof. No waiver by PMI will be effective unless it is in writing and is signed by an authorized officer of PMI.

21. Governing Law; Arbitration.

This contract and the sale of goods contemplated hereby has been made and will be construed and enforced in accordance with the laws of the State of Utah without regard to its principles of conflicts of laws. Except for any action where the sole relief sought is an injunction, any controversy or claim arising out of or relating to these T&Cs, or the making, performance or interpretation thereof, including without limitation alleged fraudulent inducement thereof, shall be settled by binding arbitration in Salt Lake City, Utah by one arbitrator in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Judgment upon any arbitration award may be entered in any court having jurisdiction thereof. For those actions where the sole relief sought is an injunction, Supplier and PMI consent to the exclusive jurisdiction of the state and federal courts of Utah for any such actions, suits or other proceeding. Supplier and PMI agree not to commence any arbitration or action, suit or proceeding in any other location or court and hereby irrevocably and unconditionally waive any objection to the laying of venue in any such location or court.

22. Survivability.

The provisions of Sections 1, 2, 3, 5, 6, 8, 9, 10, 11, 12, and Sections 16 thru 26 will survive the expiration or termination of this contract.

23. Severability.

In case any one or more of the provisions or parts of a provision contained herein are, for any reason, held to be invalid, illegal or unenforceable in any respect in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other provision or part of a provision hereof or any other jurisdiction, but these T&Cs will be reformed and construed in any such jurisdiction as if such invalid or illegal or unenforceable provision or part of a provision had never been contained herein and such provision or part will be reformed so that it would be valid, legal and enforceable to the maximum extent permitted in such jurisdiction.

24. Independent Contractors.

Supplier and PMI are independent contracting parties, and nothing in the Order will make either party the employee, partner, agent or legal representative of the other for any purpose. The Order does not grant either party any authority to assume or to create any obligation on behalf of or in the name of the other.

25. Construction.

The section headings contained herein are inserted for convenience only and will not affect in any way the meaning or interpretation of these T&Cs. The word "including" will mean "including without limitation".

26. Language.

The parties acknowledge that it is their wish that these terms and all documents relating thereto be in the English language only.