KLASSEN

Custom Fab. Inc.

ISO 9001 CERTIFIED

GENERAL TERMS AND CONDITIONS FOR PURCHASES

The following terms and conditions ("**Terms**") shall apply to all purchases made by P. Klassen Custom Fab Inc. or an affiliate ("**Klassen**") a supplier ("**Supplier**") of equipment, goods, supplies, work and/or services:

1) **ACCEPTANCE:** A Purchase Order issued by Klassen (an "**Order**") shall constitute Klassen's offer to purchase equipment, goods and/or supplies ("**Goods**") and or work and/or services ("**Services**") strictly in accordance with the Terms hereof and to Klassen's specifications as may be dictated by Klassen. By accepting an Order, Supplier agrees to all the terms and conditions of the Order and to the Terms hereof. Supplier shall indicate or be deemed indicate to its acceptance of an Order by: (i) agreeing to the Terms; (ii) commencing any action to supply the Goods and/or perform the Services covered by an Order; or (iii) shipping any Goods covered by an Order. An Order shall be deemed accepted by Supplier without any additional or different terms and any purported acceptance of an Order that proposes additional or different terms or conditions shall be ineffective unless specifically agreed to by Klassen. By acceptance of an Order, Supplier acknowledges that the Goods and Services covered by an Order are intended for the timely manufacture or processing of Goods for resale.

2) **SUB-CONTRACT:** Goods and/or Services covered by an Order may be intended for use by Klassen in performing specific contracts with a customer of Klassen ("**Customer**"). A copy of the specifications and conditions of Klassen's contract with its Customer, which apply to the Terms hereof, will be furnished to Supplier upon request. All Services furnished hereunder must comply with all applicable requirements and specifications of such contract.

3) **QUANTITIES AND PRICES:** The specific quantity of Goods ordered or Services to be provided must not be changed without Klassen's permission in writing. Any excess delivered may be returned at Klassen's option and at Supplier's risk and expense. Klassen's count shall be accepted as conclusive on all shipments not accompanied by a packing slip. An Order must not be filled at higher prices than appears on the Order unless approved by Klassen in writing prior to shipment. Supplier agrees and guarantees that the price charged for the Goods and/or Services covered by an Order are not in excess of the prices charged to any other customer of Supplier for the same type of items in similar quantities. Unless otherwise agreed to in writing, prices include charges for boxing, crating, packing, storage, and handling.

4) **DELIVERY:** Time is of the essence. Should Supplier fail to meet delivery requirements including those set forth in the shipping instructions appearing on an Order, Supplier shall be liable for any additional damages and costs occasioned by the use of any transportation methods other than those specified. Klassen reserves the right to reject or return at Supplier's risk and expense all articles or materials shipped in advance of the specified delivery date, or to accept and make payment for advance deliveries as though the material was received on the specified delivery dates.

5) **PACKING:** All correspondence from the Supplier related to an Order must include the purchase order number. Packing slips indicating contents, part number or description, and purchase order number are to be enclosed with each shipment. Any transportation charges paid by Supplier with respect to which Supplier is entitled to reimbursement shall be added to Supplier's invoice as a separate item and the receipted freight bill shall be attached thereto. All returnable containers shall be invoiced by Supplier and full credit rendered to Klassen upon return, at Supplier's expense. Supplier covenants and warrants that the packaging of the Goods ordered herein shall be adequate for the transit of the Goods undamaged so long as the integrity of the container is maintained.

6) **CHANGES:** An Order, when accepted, shall supersede all prior understandings, transactions, and communications whether oral or written, pertaining to an Order. The Terms, together with any written instructions issued in an Order, constitute the complete and final agreement between Klassen and Supplier and no agreement or other understanding in any way purporting to modify the terms and conditions hereof shall be binding upon Klassen unless made in writing, dated subsequently and accepted in writing by Klassen. Klassen reserves the right, by written change order, to make changes to an Order and there shall be an adjustment in the purchase price and/or the delivery schedule as is mutually agreeable to Klassen and Supplier, failing which, is equitable and reasonable. Supplier shall submit to Klassen any proposed adjustments, within fifteen (15) calendar days of each change order or Klassen's determination of adjustments, if any, shall be final and binding on Supplier.

7) **PAYMENT:** Klassen may withhold payment to such extent as may be necessary to secure Klassen from any loss based on a reasonable belief that: (i) the Goods and/or Services will not meet the contractual requirements; (ii) liens or encumbrances will be filed; or (iii) there was a breach by Supplier of any contractual provision. Notwithstanding the above, if an Order is a Sub-Contract, or if Supplier is aware that Klassen is acquiring the Goods and/or Services to be passed on or delivered to the Customer, then Klassen shall have no obligation to pay Supplier until Klassen and Customer are satisfied with the Goods and/or Services provided by Supplier and until said Customer shall have paid Klassen for such Goods and/or Services.

8) **WARRANTIES:** Supplier expressly warrants to Klassen, its successors, customers and user of its product that all the Goods and Services covered by an Order will conform to the specifications, drawings, samples or other descriptions furnished or specified by Klassen and will be of good material and workmanship and free from defects in material and workmanship, and Supplier further warrants that they will be merchantable and fit and sufficient for the purpose intended. In case of ambiguity in specifications, drawings or other requirements of an Order, Supplier, before proceeding, must consult Klassen, whose written interpretation shall be final. The warranties provided for in this paragraph shall be in addition to those implied by or available at law and shall exist notwithstanding the acceptance by Klassen of all or part of the articles, material and work to which such warranties are applicable.

9) **INDEMNITY:** Supplier agrees to defend and indemnify Klassen, its agents or employees, and anyone selling or using any of Klassen's products, and to hold each of them forever harmless from and against all suits, administrative proceedings, claims, losses, demands, damages, judgments, liabilities, interest, costs and expenses incidental thereto (including any cost of defence and legal fees) of any kind or nature whatsoever whether arising before or after completion of the delivery and installation of the Goods covered by an Order, and in any manner directly or indirectly caused, occasioned or contributed to or claimed to be caused or contributed to by reason of acts, omissions, faults, breach of express or implied warranty, breach of any of the provisions hereof or of an Order or for negligence, whether active or passive, of the Supplier, or of anyone acting under its direction or on its behalf in connection with the Goods and/or Services furnished by the Supplier to Klassen under an Order. Klassen, its agents or employees, or anyone selling or using any of the Goods and/or Services described in an Order, shall have the right to employ counsel on their own behalf, who shall have the right to participate in the defence of any such suit, action, administrative procedure or demand and whose fee and expenses shall be paid by Supplier.

10) **PATENT INDEMNITY:** Supplier warrants that the sale and/or use of the Goods and or Services of an Order will not infringe or contribute to the infringement of any domestic or foreign patent and agrees to defend, indemnify and forever hold harmless, Klassen, its agents, employees, or anyone selling or using any of said Goods, from and against all suits, administrative proceedings, claims, losses, demands, damages, judgments, liabilities, interest, costs and expenses incidental thereto (including any cost of defence and legal fees) of any kind or nature whatsoever for an alleged infringement of any such patent by reason of the sale or use of said Goods. Klassen and all the parties sued shall have the right to employ counsel on their own behalf, who shall have the right to participate in the defence of any such suit, action, administrative proceeding or demand and whose fee and expenses shall be paid by the Supplier. No specifications or specifications with respect to any part of an Order shall constitute a warranty, expressed or implied, against any claims for infringement of patents, copyrights or trademarks and Klassen shall not be responsible to Supplier as indemnitor or otherwise for or on account of any such claim or liability.

11) **INSPECTION:** All Goods shall be received subject to Klassen's rights of inspection and rejection. If rejected, materials will be held for disposition at expense and risk of the Supplier. No Goods returned as defective are to be replaced without a formal replacement order. Notwithstanding the foregoing if materials are defective, and supply or timing does not permit return or replacement, Klassen shall have the option to rework such Goods at Supplier's expense. Payment for Goods on an Order shall not constitute acceptance thereof and is without prejudice to any inspection or count by Klassen and all claims that Klassen may have against Supplier. Acceptance of Goods and/or Services by Klassen after inspection shall not release or discharge Supplier's liability in damages or other legal remedy for breach of promise or warranty, expressed or implied, with respect to the Goods and/or Services in an Order. Any payment for Goods and/or Services which are subsequently rejected shall be refunded by Supplier immediately unless Supplier corrects or replaces the rejected Goods and/or Services at Supplier's expense within ten (10) days after receipt of Notice from Klassen specifying the reason for Klassen's rejection.

12) **TERMINATION AT KLASSEN'S OPTION:** Klassen may terminate an Order, in whole or in part, at its convenience by written Notice in accordance with these Terms. Supplier's termination claims shall be limited to the value of Goods shipped and Services rendered on the date of termination as well as the actual costs incurred by Supplier required for the timely delivery of Goods scheduled on an Order. Notwithstanding the foregoing, if an Order is a Sub-Contract, or if Supplier is aware that Klassen is acquiring the Goods or Services to be passed on or delivered to Klassen's Customer, and if Klassen's Customer terminates its contract with Klassen, then Supplier's termination claim shall be limited by Klassen's rights at termination under its agreement with its Customer and by the amount actually recovered by Klassen from its Customer in that instance. In no event shall Klassen be liable for anticipated profits or for incidental or consequential damages, nor for damages due to negligence. Supplier shall submit to Klassen a termination claim in the form specified by Klassen setting forth the amounts proposed to be due to Supplier within thirty (30) days of accounting principles. In any event, Klassen shall not be liable for any termination claims submitted more than ninety (90) days from date of termination. This paragraph shall not apply in the event of Klassen's cancellation of any Order pursuant to the Termination and Cancellation provisions contained herein.

13) **CANCELLATION FOR DEFAULT:** If Supplier fails: (i) to deliver Goods or to perform Services at the time specified herein or any extension thereof authorized by Klassen in writing, or (ii) to comply with any other provision of an Order, and does not cure such failure at the Supplier's expense within a period of ten (10) days (or such longer period as Klassen may authorize in writing) after receipt of Notice from Klassen specifying such failure, Klassen may, by written Notice of default to Supplier, cancel the whole or any part of the Goods and Services ordered without liability except for substitution for those then due from Supplier and Supplier shall pay Klassen any increase in cost above the Order price incurred by Klassen thereby. Provided, however, that with respect to finished, in-process or otherwise unfinished work Klassen shall have the right to take full title to and possession of all or part of such work immediately upon Notice to Supplier of its intent to do so, regardless of whether or not final price terms have been agreed upon. If, after Notice of default, it is determined that Supplier was not in default, work affected by the cancellation shall be deemed terminated pursuant to the Termination provisions herein and the right and obligation of the parties shall be governed by such provisions.

14) **NOTICES**: All notices, requests, demands and other communications that are required or may be given pursuant to an Order (a "**Notice**") will be in writing and sent by mail, overnight courier, facsimile or electronic mail, to either Klassen or Supplier at the address indicated in an Order. Delivery of any such Notices will be deemed sufficient in all respects and to have been duly given as follows: (a) on the actual date of service if delivered personally; (b) at the time of receipt of confirmation by the transmitting party if by facsimile transmission; (c) at the time of receipt if given by electronic mail to the e-mail addresses set forth in an Order or otherwise communicated to the other party; provided, however, that a party sending Notice by electronic delivery will bear the burden of authentication and of proving transmittal, receipt and time of receipt; (d) on the third day after mailing, if mailed by first class mail return receipt requested, postage prepaid and properly addressed as set forth herein; or (e) on the day after delivery to a nationally recognized courier service during its business hours or the Express Mail service during its business hours for delivery against receipt, and properly addressed as set forth herein.

15) **ASSIGNMENT:** Supplier shall not assign an Order nor delegate its performance hereunder without the written consent of Klassen.

16) **REMEDIES:** The individual remedies reserved in an Order shall be cumulative and additional to any other remedies provided in law or equity or in an Order. No waiver of any breach of any provisions of an Order shall constitute a waiver of any other breach or of such provision.

17) **KLASSEN'S PROPERTY:** Unless otherwise agreed in writing, all supplies, materials, tools and equipment of every description furnished or paid for by Klassen shall remain the property of Klassen. Such property shall be deemed to be personal and shall at all times be properly stored and maintained by Supplier on its premises separate and apart from Supplier's property or that of any third party, it shall be marked **"**P. Klassen Custom Fab. Inc.**"** by Supplier and shall not be used expect for work performed for Klassen. Supplier shall bear the risk of loss or of damage to such property and shall, at its expense, insure all such property for the replacement value thereof against loss or damage of any kind, with loss payable to Klassen. Immediately, upon Klassen's request, such property shall be properly prepared for shipment as specified by Klassen, and delivered in good condition, except for normal wear and tear, f.o.b. Supplier's plant, to Klassen.

18) **CONFIDENTIAL RELATIONS:** Supplier shall treat as confidential all specifications, drawings, blueprints, data and property furnished or paid for by Klassen and shall reveal the same only to its own employees to the extent necessary for the production of Goods and/or Services described in an Order. Under no circumstances shall Supplier use any such specifications, drawings, blueprints, data or property for any purpose other than to provide to Klassen the Goods and/or Services.

19) **PROPIETARTY RIGHTS:** Supplier agrees that all designs and inventions made in the course of filling an Order shall be disclosed to and become the sole property of Klassen. Supplier shall execute or obtain the execution of such papers, including patent applications and assignments and shall perform all necessary acts to perfect ownership of such designs and inventions in Klassen at no cost or expense to Klassen. Supplier waives all claims against Klassen and its Customers for any liability with respect to rights, patent or otherwise, which Supplier may have or obtain by reason of any use which may be made of the designs, machines and processes furnished or developed hereunder.

20) **INSURANCE:** At Klassen's request, Supplier agrees to furnish certificates, in a form satisfactory to Klassen, evidencing adequate coverage for the benefit of both Supplier and Klassen as to worker's compensation, occupational disease, unemployment compensation, fire and extended coverage, and public liability, including contractual liability on both owned and non-owned vehicles. Certificates shall provide for at least ten (10) days' notice to Klassen in the event of alteration or cancellation of any policy. Supplier agrees that its workmen, employees, agents, equipment, machinery or vehicles will not enter property of Klassen and Services will not be started in performance of an Order until Supplier obtains the required insurance described above.

21) **COMPLIANCE WITH LAWS:** Supplier represents that the Goods and/or Services covered by an Order have been completed in accordance with the requirements of all applicable federal, provincial, state and local laws, rules and regulations. Supplier further agrees to furnish Klassen, upon request, a certificate attesting to such compliance in such form as Klassen may require.

22) **ADVERTISING:** Supplier shall not, without obtaining the written consent of Klassen, in any manner advertise or publish the fact that Supplier has furnished or contracted to furnish the Goods and/or Services to Klassen.

23) **EQUAL OPPORTUNITY:** If applicable as a result of the jurisdiction of the Supplier, an Order shall be deemed to include, to the extent applicable hereto: (a) the Equal Employment Opportunity clause referred to in Executive Order 11246 as amended, (b) all provisions of 41 CFR 60-250, as amended, pertaining to Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era where the value of Goods or Services furnished hereunder exceeds $10,000, (c) all provisions of 41 CFR 60-741, as amended, pertaining to Affirmative Action for Handicapped Workers where the value of Goods or service furnished hereunder exceeds $2,500 and (d) similar applicable requirements of any state or local law.

24) **LIMITATION OF PERIOD FOR ACTION BY SUPPLIER:** No action regardless of form, arising out of the transactions under an Order may be brought by Supplier against Klassen more than one (1) year after the cause of action has accrued. This provision shall not restrict in any way Klassen's right to bring an action against Supplier arising out of the transactions under an Order within the time periods provided by law.

25) **CHOICE OF LAW; JURISDICTION; VENUE:** The terms of an Order shall be governed and construed in accordance with the laws of the Province of Ontario. Supplier agrees that any cause of action, suit or proceeding relating to, arising out of or in connection with the terms and conditions of an Order or with the business relationship between Supplier and Klassen shall be

brought in the courts located in Essex County, Ontario. Supplier hereby waives any objection to personal jurisdiction and venue in any proceeding before said courts.

26) **TITLES:** The titles of the paragraphs throughout these Terms are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of an Order.

27) **LEGAL FEES:** Supplier hereby agrees to pay any and all expenses, including reasonable legal fees and accompanying costs, made or incurred by Klassen in attempting to enforce the provisions of an Order.

28) **SEVERABILITY.** In the event any provision of an Order is determined by a court of competent jurisdiction to be unenforceable, then the provision shall be curtailed and limited only to the extent necessary to bring it within the requirements of law, and to the greatest extent possible, to effect the intent of the parties consistent with the remaining provisions hereof. The unenforceability of any provision of an Order or the Terms shall not affect the enforceability of the remaining provisions.

29) **FORCE MAJEURE:** Neither party will be liable for any delay or failure in performing its obligations under an Order (including failure to take delivery of the Goods) to the extent that such delay or failure is caused, without such party's fault or negligence, by a Force Majeure Event. For purposes of these Terms, a "**Force Majeure Event**" refers to the occurrence of unforeseeable and/or unavoidable circumstances beyond a party's control that, by their nature, make such party's performance commercially impractical, including, but not limited to, acts of God or the public enemy, fire, flood, acts of war, government action, accident, earthquakes, explosion, epidemic, invasion, hostilities, terrorist acts, riots, strike, embargoes or industrial disturbances. A party's economic hardship or changes in market conditions are not considered Force Majeure Events excusing such party's performance. Supplier will use all diligent efforts to end the failure or delay of its performance, ensure that the effects of any Force Majeure Event are minimized and resume performance under an Order. If a Force Majeure Event prevents Supplier from carrying out its obligations under an Order for a continuous period of more than thirty (30) days, Klassen may terminate an Order immediately by giving written Notice to Supplier.

30) **RESTRICTED SUBSTANCES:** Suppliers shall have a process to assure that governmental and safety constraints on restricted, toxic and hazardous substances are complied with relative to purchased products and the manufacturing process. All materials used in part manufacture shall satisfy current governmental and safety constraints on restricted, toxic, and hazardous materials; as well as environmental, electrical, and electromagnetic considerations applicable to the country of manufacture and sale. Statutory and Regulatory requirements may be specifically noted by Klassen.

31) **COUNTERFEIT, FRAUDULENT, AND SUSPECT ITEMS (CFSI):** Supplier shall establish and maintain controls to prevent the introduction of counterfeit, fraudulent, or suspect items into the products or services supplied to Klassen. Supplier shall immediately notify Klassen upon discovery or suspicion of counterfeit, fraudulent, or suspect items affecting any purchase order, material, or service, either previously completed or to be completed.

32) **RIGHT TO VIEW:** Klassen, its Customers and their end users reserve the right to view any and all Goods and or Services of an Order at Supplier's facility, including, but is not limited to, visitation during the build, testing and run-off of the said Goods and or Services prior to shipment to Klassen or acceptance by Klassen.

33) **ISO 9001 REQUIREMENTS:** ISO 9001 requirements (or equivalent/similar standard) must be applied to each item as shown on an Order.

34) **SUPPLIER OBLIGATIONS:** Supplier shall:

a) Comply with all applicable purchase order requirements, specifications, drawings, revisions, codes, standards, and customer flow-down requirements identified by Klassen Custom Fab. Inc.;

b) Notify Klassen of any known nonconforming product, material, or service affecting an order;

c) Notify Klassen of any deviations or proposed changes to approved materials, processes, manufacturing locations, special processes, certifications, or quality management systems that may affect the quality or conformity of supplied products or services;

d) Maintain appropriate controls to prevent the use or delivery of counterfeit, fraudulent, or suspect items (CFSI);

e) Maintain traceability records, certifications, inspection reports, test reports, calibration records, or other quality documentation, where applicable, and provide such records to Klassen upon request;

f) Respond to Supplier Corrective Action Requests (SCARs) or quality concerns in a timely manner;

g) Permit Klassen, its customers, or applicable regulatory authorities or customer authorities reasonable access to applicable facilities, records, and documentation related to products or services supplied to Klassen, where contractually required;

h) Retain applicable quality records for the period specified by purchase order, customer, or regulatory requirements; and

i) Ensure personnel performing work affecting product or service quality are appropriately qualified, trained, or certified, where applicable.

Acceptance of General Terms & Conditions of Purchase, see http://www.klassenfab.com/downloads/terms.pdf.