

PURCHASE ORDER TERMS & CONDITIONS**THIS ORDER IS SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:****1. ACCEPTANCE**

This Purchase Order constitutes an offer by Buyer which is accepted by Seller solely in accordance with the terms set forth herein and on the face of the Purchase Order upon the earlier of Seller's (i) signing and returning the acknowledgment copy hereof, or (ii) commencement of effort, or delivery in whole or in part of articles or the furnishing of services required herein, or (iii) failure to take exception to the terms herein and on the face of the Purchase Order within 21 days of the Purchase Order date. This Purchase Order is a complete and exclusive statement of terms and supersedes all prior agreements.

2. ADDENDA

All supplemental or acknowledged sheets, schedules, exhibits, specifications, drawings, data or riders which may be annexed hereto or referenced herein are made part of the Purchase Order. Seller acknowledges that it has available to it all specifications, drawings and data incorporated in this Purchase Order and that they are adequate to enable Seller to perform the work called for herein in accordance with the delivery schedule.

3. ORDER OF PRECEDENCE

In the event of an inconsistency between the clauses of the Purchase Order, the inconsistency shall be resolved by giving precedence in the following order: (a) provisions on the face of the Purchase Order; (b) Terms and Conditions; (c) other provisions of the Purchase Order, whether attached or incorporated by reference; and (d) the Specifications.

4. NO WAIVER OF CONDITIONS

Buyer's failure to insist upon strict compliance shall not be deemed to be a waiver of any right, and waiver of a right under the Purchase Order shall not constitute a waiver of any other right or waiver of any other default under the Purchase Order.

5. APPLICABLE LAW AND DISPUTES

Any dispute arising under or related to the Purchase Order shall be governed by the law of the State of New York, USA. Pending resolution of any disputes, Seller shall proceed as directed by Buyer.

6. INSPECTION

All supplies shall be subject to inspection and test at all times and places, including the period of manufacture, by Buyer and its customers. If any inspection or test is made on Seller's premises, Seller, without additional charge shall: (i) provide all reasonable facilities and assistance for the safety and convenience of Buyer and its customer inspectors; (ii) make available to the inspectors copies of all drawings, specifications, and processes applicable to the articles ordered; and (iii) promptly furnish Buyer with any and all resulting inspection certificates. All articles are subject to final inspection and acceptance at Buyer's plant notwithstanding any payment or other prior inspections. Buyer may reject and hold at Seller's expense, subject to Seller's disposal, all supplies not conforming to applicable specifications, drawings, samples, or descriptions. Without limiting any other rights or remedies it may have as provided herein or at law or equity, Buyer, at its option, may, (i) require Seller to repair or replace at Seller's expense any item or supplies ordered which fails to meet the requirements of the Purchase Order; (ii) require Seller to refund the price of any such item; (iii) elect to retain and repair any such items with an appropriate reduction from the price otherwise due Seller to offset Buyer's costs of effecting necessary correction; or (iv) recover by offset or otherwise any and all damages and expenses incurred by Buyer as a result of such rejection. Neither final inspection, payment, nor any limitations contained in the warranty clause shall relieve Seller from responsibility for the correction or replacement of defective articles arising due to fraud, gross mistakes amounting to fraud, or for latent defects.

PURCHASE ORDER TERMS & CONDITIONS	POTC-01 REV:A
	DATE: 8/1/01
	Page 2 of 7

Seller shall maintain an inspection system suitable to Buyer and, unless otherwise specified, meeting the requirements of ISO 9000.

7. **DEFAULT**

Time is of the essence of this Purchase order. Except in instances of delay which are due to causes beyond the reasonable control and without the fault or negligence of Seller and all of its suppliers, direct or indirect at every subcontract level, Buyer may by written notice of default to Seller (a) terminate the whole or part of this contract in any one of the following circumstances: (i) if Seller fails to perform within the time specified herein or any extension thereof; or (ii) if Seller fails to perform any of the other agreed provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms, and in either of these two circumstances does not cure such failure with a period of ten (10) days or such longer period as Buyer may authorize in writing after receipt of notice from Buyer specifying such failure; and (b) upon such termination Buyer may procure, upon such terms as it shall deem appropriate, suppliers and services similar to those so terminated, in which case Seller shall continue performance of this Purchase Order to the extent not terminated and shall be liable to Purchaser for any excess costs for such similar suppliers or services. As an alternate remedy, and in lieu of termination for default, Buyer, at its sole discretion, may elect (i) to extend the contract delivery schedule and/or (ii) to waive other deficiencies in Seller's performance, in which case an equitable reduction in the Purchase Order price shall be negotiated. In the event Seller for any reason anticipates difficulty in complying with the required delivery date, or in meeting any of the other requirements of this Purchase Order, Seller shall promptly notify Buyer in writing. If Seller does not comply with Buyer's delivery schedule, Buyer may require delivery by fastest way and charges resulting from the premium transportation must be fully prepaid and absorbed by the Seller. Seller expressly agrees to bear any liquidated damages which Buyer may be subjected to by virtue of Seller's late delivery to Buyer. The rights and remedies of the Buyer provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Purchase Order.

8. **DELIVERY**

Buyer reserves the right to refuse shipments made in advance of the schedule set forth in the Purchase Order, to return advance shipments at Seller's expense, and/or to hold any pre-dated articles and pay invoices on such shipments on normal maturity after schedule date. Over shipment allowances, if authorized, will be applied to the entire Purchase Order. If Buyer agrees to accept deliveries after the date of delivery has passed, Buyer shall have the right to direct the Seller to make shipment to the delivery point set forth in the Purchase Order by the most expeditious means and any additional cost of such expedited shipment and handling shall be borne by the Seller. Acceptance of late deliveries shall not be deemed a waiver of Buyer's right to hold the Seller liable for any loss or damage resulting therefrom, nor shall it act as a modification of the Seller's obligation to make future deliveries in accordance with the delivery schedule set forth in the Purchase Order.

9. **NOTICE OF DELAY**

Whenever any event, including an actual or potential labor dispute, is delaying or threatens to delay the timely performance of the purchase order, Seller shall immediately give notice thereof, including all relevant information with respect thereto, to Buyer. Seller shall insert the substances of this clause, including this sentence, in any subcontract hereunder.

10. **MODIFICATION OF ORDER**

The Purchase Order contains all the agreements and conditions of sale and no course of dealing or usage of the trade shall be applicable unless expressly incorporated in the Purchase Order. The terms and conditions contained in the Purchase Order may not be added to, modified, superseded or otherwise altered except by a written modification signed by an authorized representative of the Buyer's Purchasing Department and delivered by Buyer to Seller. Each shipment received by Buyer from Seller shall be deemed to be only upon the terms and conditions combined in the Purchase Order notwithstanding any terms and conditions that may be contained in any acknowledgment, invoice or other form of Seller, and notwithstanding Buyer's act of accepting or paying for any shipment or similar act of Buyer.

PURCHASE ORDER TERMS & CONDITIONS	POTC-01 REV:A
	DATE: 8/1/01
	Page 3 of 7

11. CHANGES

Buyer may at any time by a written order make changes within the general scope of the Purchase Order in any one or more of the following: (i) drawings, designs, or specifications; (ii) method of shipping or packing; (iii) place or time of delivery; and (iv) quantity. Seller shall proceed immediately to perform the Purchase Order as changed. If any such changes cause an increase or decrease in the cost of or the time required for the performance of the Purchase Order, an equitable adjustment shall be made in the price or delivery schedule, or both, and the Purchase Order shall be modified in writing accordingly. Any claim for adjustment under this provision must be submitted in writing within fifteen (15) days from the date the change is ordered together with cost or pricing data sufficient to permit evaluation of such claim. Where the cost of property made obsolete or excess as a result of a change is included in the contractor's claim for adjustment (and supported by inventory schedules to be submitted within three (3) months from the date of change), the Buyer shall have the right to prescribe the manner of disposition of such property. Failure of the parties to agree upon any adjustment to be made under this clause shall not excuse Seller from proceeding with the Purchase Order as changed, or as directed by an authorized representative of Buyer's Purchasing Department.

This issuance of information, advice, approvals or instructions by Buyer's technical personnel or other representatives shall not affect Buyer's and Seller's rights and obligations hereunder, unless the same is in writing signed by an authorized representative of Buyer's Purchasing Department.

12. TERMINATION

For convenience buyer may terminate all or any part of this Purchase Order at any time by written notice to Seller. Upon termination, Buyer and Seller shall negotiate reasonable termination charges, which will be identified by Seller within 30 days of termination.

13. INVOICING AND PAYMENT

A separate invoice shall be issued to Buyer for each shipment made by Seller. Unless otherwise specified in the Purchase Order, an invoice shall not be issued prior to shipment of items, and payment will not be made prior to receipt of items and correct invoice. Credit and discount periods will be computed from the date of receipt of the correct invoice to the date Buyer's check is post marked.

14. ASSIGNMENT

The Purchase Order or any interest hereunder shall not be assigned or transferred by Seller without the prior written consent of the Buyer. Payments to the Seller or any authorized assignee of any claim under the Purchase Order shall be subject to reduction or set-off for any present or future claim or claims which Buyer may have against Seller.

15. BUYER FURNISHED PROPERTY

If any property, including material, tooling and equipment is identified in the Purchase Order either (i) to be furnished to Seller by Buyer solely for performance of the Purchase Order or (ii) to be acquired by Seller for performance of the Purchase Order, title to such property shall remain with, or shall vest in, upon payment therefore by, the Buyer or its customer. Title to such property shall not be affected by incorporation or attachment to other property. Use of such property, other than in performance of the Purchase Order, must be authorized in writing by Buyer. With the exception of reasonable wear and tear, Seller shall bear the risk of loss, destruction of and damage to such property. When instructed by Buyer, Seller shall deliver the property to Buyer, F.O.B. Buyer's plant, at the completion or termination of the Purchase Order.

16. BUYER'S RIGHTS IN SELLER'S DATA AND PATENTS

If at any time during the performances of the Purchase Order (i) Seller suspends business operations or becomes bankrupt or insolvent, (ii) the Purchase Order is terminated for default or (iii) if at any time within five (5) years from the date of the

PURCHASE ORDER TERMS & CONDITIONS	POTC-01 REV:A
	DATE: 8/1/01
	Page 4 of 7

Purchase Order, Seller, for any reason, discontinues acceptance of follow-on orders of like or similar items to those ordered hereunder, buyer shall have a royalty-free nonexclusive license to use and license others to use Seller's patents, designs, processes, know how, drawings, and technical data relating to the supplies and services as defined in the Purchase Order for purposes of producing and selling items required to be supplied by Buyer's existing or follow-on contracts with its customers. In order to accomplish an orderly transition to Buyer's new source, Seller further agrees to provide Buyer with necessary technical aid and assistance at reasonable prices.

17. **COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS**

Seller has complied with and shall comply with all applicable Federal, State and Local laws and ordinances and all orders, rules and regulations thereunder. Seller shall save and hold Buyer harmless from, and reimburse it for any and all costs, damages and expenses (including attorney's fees) suffered or occasioned to it through any failure of Seller to comply with any laws, orders, rules, regulations or ordinances.

18. **CONFIDENTIAL RELATIONSHIP**

Unless the written consent of Buyer is first obtained, Seller shall not in any manner advertise or publish or release for publication any statement mentioning Buyer or the fact that Seller has furnished or contracted to furnish to Buyer items and/or services required by the Purchase Order, or quote the opinion of any employees of Buyer. Seller shall not disclose any information relating to the Purchase Order except to the extent necessary for performance.

19. **DESIGN AND INVENTION RIGHTS**

If the Purchase Order has as one of its purposes, design, experimental, developmental or research work, Seller agrees to communicate promptly to Buyer full details of any ideas, improvements, designs or inventions (whether or not patentable) conceived of, developed or first reduced to practice by Seller or any of its employees in connection with the performance of the Purchase Order. Upon Buyer's request, Seller shall assign to Buyer all right, title and interest of the Seller or its employees in each such ideas, improvements, designs or inventions, and to perform all acts (at Buyer's expense) and execute all papers necessary to vest in Buyer full right, title and interest therein, including the patenting thereof.

20. **DRAWINGS, SPECIFICATIONS AND TECHNICAL INFORMATION**

Drawings, data, designs, inventions and other technical information supplied by Buyer in connection herewith (hereinafter called "Data"), shall remain Buyer's property and shall be proprietary and held in confidence by Seller. Such Data shall not be reproduced, used or disclosed to others by Seller without Buyer's prior written consent. Upon completion of work by Seller under the Purchase Order, Seller shall promptly return, unless otherwise directed, all Data to Buyer together with all copies or reprints thereof then in Seller's possession or control, and Seller shall thereafter make no further use, either directly or indirectly, of any such Data or any information derived therefrom without Buyer's prior written consent. Any information which Seller may disclose to Buyer with respect to the design, manufacture, sale or use of the items covered by the Purchase Order shall be deemed to have been disclosed as part of the consideration for the Purchase Order, and Seller shall not assert any claim (other than a claim for patent infringement) against Buyer by reason of Buyer's use thereof.

21. **FALSE CLAIMS AND INDEMNITY**

The Seller shall indemnify the Buyer for any cost incurred and any payments made by Buyer resulting from false claims submitted by the Seller under the Purchase Order or as a result of a Seller's misrepresentation of fact or fraud relating to any claim or dispute arising under or related to the Purchase Order.

22. **INDEMNIFICATION AND INSURANCE**

If, in the course of the performance of the Purchase Order, Seller, its agents, employees, or subcontractors enter upon premises occupied by or under control of Buyer or any of its customers or suppliers, Seller shall take all necessary

PURCHASE ORDER TERMS & CONDITIONS

precautions to prevent occurrences of any injury, including death, to any person or any damage to any property arising out of any act or omissions of Seller, its agents, employees, or subcontractors. Seller shall indemnify Buyer for, and hold Buyer harmless from, any liability, losses, damages, claims and expenses arising out of or connected with any act or omission of the Seller, its agents, employees, or subcontractors except for injury or damage due solely to Buyer's negligence or other fault. Seller shall maintain such public liability, property damage, Workers' Compensation, automobile liability insurance as will protect Buyer from any such risks. Upon Buyer's request, Seller shall provide a certificate of insurance.

23. INDUSTRIAL LAWS AND BENEFITS

Seller's relationship to Buyer in the performance of the Purchase Order is that of an Independent Contractor. Neither the Seller nor any of the persons furnishing materials or performing work or services which are required by the Purchase Order are employees of Buyer within the meaning of or the application of any Federal or State Unemployment Insurance Law or other Social Security Law or any Workmen's Compensation Industrial Accident Law or other Industrial or Labor Law. The Seller shall, at its own expense, comply with such laws and assume all liabilities or obligations imposed by any one or more of such laws and regulations thereunder with respect to the Purchase Order.

24. LIMITATIONS OF LIABILITY

Notwithstanding any other provision of the Purchase Order, Buyer's maximum liability to Seller shall not exceed the purchase price of the Purchase Order. Any action against Buyer under the Purchase Order or related to its subject matter must be brought within one year after the cause of action accrues. Seller shall not be entitled to any incidental, special or consequential damages if Buyer breaches or otherwise fails to perform any obligations under the Purchase Order.

25. PACKING, MARKING AND SHIPPING

Seller shall pack, mark and ship all goods and supplies in accordance with the requirements of the Purchase Order so as to be in compliance with transportation regulations and good commercial practice for protection and shipment and shall secure the most advantageous transportation service and rates consistent therewith. No separate or additional charges are payable by Buyer for containers, crating, boxing, bundling, dunnage, drayage, or storage unless specifically stated in the Purchase Order. Any expense incurred by Buyer as a result of improper preservation, packaging, packing, marking or method of shipment shall be reimbursed by Seller. A packing list showing the Purchase Order number (and release number, if applicable) shall be included with each shipment. The shipping label on the shipping container shall be marked to show the Purchase Order numbers of all Purchase Orders contained within, and each interior container shall also be marked to show the Purchase Order number. Any transportation charges paid by Seller for which Seller is entitled to reimbursement shall be shown on Seller's invoices as a separate line item with the receipted freight bill attached to the invoice.

Purchased items will be packaged to a standard that provides protection against damage, deterioration, corrosion and other risks during handling and transportation until delivered to buyer's receiving inspection department.

Where a specific packaging requirement is NOT detailed within the Purchase Order; the appropriate packaging standard will be:

- A. Preferred packing materials:
 - a. Housing/body/manifolds; wrapped (VCI paper Vapor Corrosion Inhibitor) or plastic bag in individual box
 - b. Spool & Sleeve/pistons/output shafts: plastic tube w/screw-on cap or plastic bag encased in bubble wrap secured with adhesive tape
 - c. Retainer/end cap/etc.: individual plastic bag with acceptable dunnage
 - d. Parts having significant weight will have plastic or suitable separating material
- B. Acceptable dunnage material:
 - a. Bubble pack

PURCHASE ORDER TERMS & CONDITIONS

- b. Polyethylene foam
- c. Moldable polystyrene
- d. Guard pack (foam cushion only)

C. Acceptable shipping containers:

- a. Rigid plastic cartons
- b. Wood or plywood cases
- c. Double or triple walled corrugated container

D. Required *corrosion* prevention:

- a. Steel parts, as indicated on PO, will be protected with an industry accepted corrosion prevention oil that is easily removable (i.e. wiping).
- b. Nylon parts will be shipped in oil to prevent moisture expansion.
- c. All oiled parts will be placed in sealed containers (heat sealed bag, screw on plastic tube, etc.)

26. SEPARABILITY

If any term or provision of the Purchase Order is determined to be invalid or unenforceable, such determination shall not affect the validity of the remaining terms and conditions. In such case, the order shall be deemed to have been executed without the invalid or unenforceable term or provision.

27. SPECIAL EQUIPMENT

- a. Title to all tools, dies, jigs, and fixtures used in the manufacture of the supplies required (hereinafter referred to as "Special Equipment") shall vest in Buyer immediately upon Seller's manufacture or acquisition thereof, Seller agreeing that the purchase price stated on the face hereof includes the cost of any such Special Equipment manufactured or acquired in pursuance hereof. Similarly, Special Equipment used by Seller as owned, furnished, or paid for by Buyer under the terms of this or other of Buyer's Purchase Orders used hereon shall remain the property of Buyer or Buyer's customers, and shall not be altered or modified without Buyer's consent.
- b. Unless otherwise approved by Buyer, such Special Equipment shall be used only in the performance of the Purchase Order except that Seller may use such Special Equipment for the manufacture of supplies or furnishing of services to the extent the Seller has the right under its prime contract with Buyer to authorize such use, further provided such use will not interfere with Seller's performances of the Purchase Order or other purchase orders of Buyer.
- c. At no additional cost to Buyer: Seller shall (i) follow standard industrial practices in the identity, maintenance, preservation, and segregation of Special Equipment; and (ii) establish and maintain property control records available for inspection by Buyer or its customer at all reasonable times.
- d. Upon delivery to it, or manufacture or acquisition by it, of any Special Equipment, Special Tooling or Special Test Equipment, title to which is in Buyer or its customer, Seller assumes the risk and shall be responsible for any loss thereof or damage thereto while in its possession. Unless otherwise directed by Buyer, upon completion or termination of the Purchase Order or other of Buyer's order utilizing such instructions, Seller shall hold and preserve such Special Equipment, Special Tooling or Special Test Equipment, Seller shall promptly furnish in suitable form, a list thereof, with a request thereof, with a request for disposition instructions. Pending receipt of such Special Equipment, Special Tooling, or Special Test Equipment free of charge for a period of six months. All Special Equipment, Special Tooling, or Special Test Equipment furnished to Seller by Buyer shall be returned to buyer in the same condition as received, normal wear and tear excepted.

28. STOP WORK

PURCHASE ORDER TERMS & CONDITIONS	POTC-01 REV:A
	DATE: 8/1/01
	Page 7 of 7

Buyer may at any time, by written order to Seller, require Seller to stop all or any portion of the work called for by the Purchase Order.

29. TITLE AND RISK OF LOSS

Title to and all risk of loss of or damage to supplies to be delivered hereunder shall remain on Seller until such supplies are delivered to Buyer at the destination specified on the face of the Purchase Order. Seller shall bear all risk of loss or damage to supplies rejected by Buyer, after notice of rejection until such supplies are redelivered to Buyer, except for loss, destruction or other damage to such rejected supplies resulting from the gross negligence of officers, agents, or employees of Buyer acting within the scope of their employment. Passing of title upon delivery shall not constitute acceptance of the items by Buyer. All items to be delivered hereunder and all property to be returned to Buyer shall be free and clear of any and all liens and encumbrances whatsoever.

30. WARRANTY

Seller warrants that articles offered to Buyer's specifications will conform thereto and to any drawings, samples, or other descriptions furnished by Buyer, and, if ordered to Seller's design or descriptive literature, will be fit and sufficient for the purpose intended. In any event, all articles will be merchantable, of good material and workmanship, and free from defects. Such warranties, together with Seller's service warranties and guarantees, if any, shall survive inspection, test, acceptance of, and payment for the articles and shall run to Buyer, its successors, assigns and customers. Buyer may, at its option, either return for credit or require prompt correction or replacement of the defective or nonconforming article or part thereof. Return to Seller of such article and delivery to Buyer of any corrected or replaced articles shall be at Seller's expense. Articles required to be corrected or replaced shall be subject to the provisions of this clause and the inspection clause in a manner and to the same extent as articles originally delivered under the Purchase Order, except for latent defects, fraud or such gross mistakes as amount to fraud. Seller's obligations under this clause shall apply to such defects and nonconformance as occur within two (2) years from date of delivery, or redelivery, of the articles to Buyer or to Buyer's customer, whichever is later. All warranties, both express and implied, shall be construed as conditions as well as promises, and shall not be deemed to be exclusive.