



## PURCHASE ORDER TERMS AND CONDITIONS

This purchase order (the "Purchase Order") is issued upon and subject to the following terms and conditions:

### 1. DEFINITIONS

Whenever used herein, the following terms shall have the following meanings:

- a. "Seller" shall mean the seller identified on the face hereof;
- b. "Buyer" shall mean AmSpec Group, Inc. or any of its affiliates or subsidiaries placing this purchase order;
- c. "Delivery Date" shall mean the delivery date stated on the face hereof and, for Services, shall mean the completion thereof and delivery to Buyer;
- d. "Goods" shall mean the tangible personal property and other items, as well as any labor or services, in either case, or both (as the case may be) set forth on the face hereof.
- e. Terms and conditions herein contained which are applicable to Goods shall also apply to Services (defined below);
- f. "Services" shall mean any labor or services, or both (as the case may be) set forth on the face hereof.

### 2. TAXES

The Seller shall be responsible for the collection, reporting and payment for itself and its subcontractors of all income taxes, fees, levies, imposts, duties, assessments, charges and withholdings of any nature whatsoever (including, without limitation, any value added, transfer, sales, use, gross receipts, business, occupation, excise, franchise, personal property, real

property, stamp or other taxes) (collectively, "Taxes" imposed or assessed by governmental body, agency, or taxing authority in connection with this Purchase Order. The Seller shall defend and indemnify the Buyer and hold the Buyer harmless from all liability for such Taxes and for all interest and penalties imposed or attempted to be imposed upon Buyer on account of Seller's failure to report, pay and/or withhold such Taxes and contributions.

### 3. ACCEPTANCE

The Seller shall be deemed to have irrevocably and unconditionally accepted the terms of this Purchase Order, by any acknowledgment or performance, or by commencement of performance, or by shipment of any of the Goods, and such Goods and Services shall be upon the terms and conditions contained on the face and back hereof. Any proposal for additional or different terms or any attempt by Seller to vary in any degree any of the terms of this offer in Seller's acceptance or other document is hereby objected to and rejected, but such proposals shall not operate as a rejection of this offer, which shall be deemed accepted by Seller without said additional or different terms, unless Buyer specifically approves such additional or different terms in writing Issued by an authorized representative of Buyer. Any additional or different terms properly accepted by Buyer in accordance herewith shall be a part of this Purchase Order as stated herein.

### 4. CHANGE ORDER

The Buyer may, by written Change Order, make changes in the specifications, including the

quantities ordered. No Change Order shall be effective unless and until mutually agreed to by the parties in writing. The price specified in the Purchase Order shall be adjusted *pro rata* if the change is in quantity or by mutual agreement if the Goods are changed. No such Change Order of this Purchase Order shall relieve the Seller of its obligations as to any Goods that have been delivered. Any claim for adjustment by Seller must be asserted within five (5) days from the date of Buyer's Change Order. Any properly issued Change Order shall become part of this Purchase Order as if originally stated herein.

### 5. CANCELLATION

The Buyer reserves the right to cancel all or any part of the undelivered portion of this Purchase Order if the Seller does not make deliveries by the Delivery Date or as otherwise specified by Buyer, or if the Seller breaches any of the terms hereof, including without limitation, the warranties of the Seller. Buyer may cancel this Purchase Order for its convenience, at any time, in whole or in part, by written notice to Seller. No restocking fee or price adjustment will be made in favor of the Seller with respect to any Goods which are the Seller's standard stock. No such termination of this agreement shall relieve the Seller of its obligations as to any Goods that have been delivered. Any claim for adjustment must be asserted within five (5) days from the date of Buyer's cancellation.

### 6. SHIPPING AND DELIVERY

If in order to comply with Buyer's required Delivery Date, it becomes necessary for Seller to ship by a



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more expensive way than specified in this Purchase Order, any increased transportation costs resulting there from shall be paid by Seller unless the necessity for such rerouting or expedited handling has been caused by Buyer. Time is of the essence in this contract, and if delivery of Goods or rendering of Services is not completed by the stated Delivery Date, Buyer reserves the right without liability, in addition to its other rights and remedies, to terminate this contract by notice effective when received by Seller as to Goods not yet delivered or Services not yet completed and to purchase, in its judgment, substitute Goods or Services elsewhere and charge Seller for any loss incurred. Seller will clearly indicate Buyer's name, and Purchase Order number on all bills of lading, invoices and freight bills. Partial shipments must be identified as such on shipping memorandum and invoices. Title and risk of loss of Goods shall pass to Buyer upon receipt at the Buyer's location or at the designated final delivery point specified by Buyer.

### 7. PAYMENT

Net (60) days from receipt of any undisputed invoice, or the date of delivery of all Goods or satisfactory completion of the Services, whichever is later. Delay in receiving invoices or any other data requirement, will be considered just cause for withholding payment without loss of cash discount privilege and shall not result in any additional penalties, late fees and/or charges of any kind. All claims for money due shall be subject to deduction by Buyer for any setoff or counterclaim arising out of this or any other of Buyer's purchase orders with Seller. Seller shall

invoice Buyer no more frequently than monthly for Goods sold or Services rendered to Buyer under this Purchase Order at the address indicated on the front hereof. Such invoice shall be addressed to the particular Buyer entity, whose name appears printed on the front hereof.

**8. WARRANTIES-GOODS** Unless otherwise noted on this Purchase Order, the Seller hereby warrants to the Buyer that all equipment and/or services provided hereunder: (a) shall be merchantable, fit and safe for the purposes for which it is manufactured; (b) shall be new; (c) shall conform in all respects to the drawings, specifications and terms of this Purchase Order; (d) shall not infringe any patent, trademark, trade dress, trade name, copyright, or any other intellectual property rights and (e) shall be free from defects in design, materials and workmanship until the expiration of twelve (12) months after the date on which it was placed into service for the purpose for which it was purchased. If any item or any part thereof fails to meet the foregoing warranties and the Buyer so notifies the Seller within reasonable time after such failure, the Seller shall promptly correct such failure at its sole expense, including all shipping costs associated with such correction. Seller further warrants that it has good title to the Goods supplied and that they are free and clear from all liens and encumbrances. These warranties shall survive acceptance and payment by Buyer and shall not be a limitation of any other or additional rights Buyer may have at law or in equity.

**9. WARRANTIES-SERVICES** Seller represents and warrants that with respect to all Services, it shall perform such Services in a professional, workmanlike manner, with the degree of skill and care current in the applicable field. Further, Seller represents and warrants that it shall perform and complete the Services and deliver them to Buyer in accordance with the specifications, including the Delivery Date, and such Services shall be correct and appropriate for the purposes contained in this Purchase Order, notified by Buyer to Seller, or otherwise within Seller's knowledge. Seller represents and warrants that the performance of Services set forth in this Purchase Order will not conflict with, or be prohibited in any way by, any contract or statutory obligation to which Seller is bound.

### 10. OWNERSHIP

To the extent that the Services by Seller and its employees or contractors include the creation, development, modification or other activity pertaining to work product, Seller acknowledges and agrees that Buyer owns such inventions and work product, including but not limited to source codes, object code, software documentation and other patentable or copyrightable works, and all related intellectual property, all of which for all purposes shall be deemed to have been created by Seller for or on behalf of Buyer as works made for hire. Neither Seller nor its employees or contractors shall have any right, title or interest in any such work and Seller and its employees and contractors hereby assign any and all such rights in and to any inventions and creative works to Buyer, free of all liens,



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encumbrances and claims of ownership or right to use by Seller and any third party. Upon Buyer's request, Seller and each of its employees and contractors performing such Services for Buyer shall execute any documentation requested by Company to further document and/or perfect such assignment and ownership by Buyer in and to such inventions and creative works.

### 11. STANDARDS

Seller warrants that in furnishing the Goods hereunder shall comply with all applicable laws, ordinances and regulations (including, but not limited to, ANSI, ASME, ASTM, and NEMA) and such Goods or Services have been complied with at the time of delivery. When Goods purchased hereunder are to be manufactured or produced outside the United States or its territories, Seller shall furnish, at Buyer's request, documents stating the foreign manufacturers' names and addresses and containing written assurances of compliance with such standards.

### 12. INDEMNITY

Seller shall defend, indemnify and hold harmless Buyer against all damages, claims or liabilities and expenses (including attorney's fees) arising out of or resulting in any way from any defects in the Goods or Services purchased hereunder, or from the breach of any of the terms of this Purchase Order, or from the breach of any warranty made hereunder, or from any act or omission of Seller, its agents, employees or subcontractors. The Seller agrees to indemnify and hold the Buyer harmless against all claims, demands, actions, costs and damages for injury or damage to

persons or property arising out of or relating to the Seller's performance under this Purchase Order. Buyer's right to be indemnified and held harmless by Seller shall be in addition to the warranty obligations of Seller and to any other or additional rights Buyer may have at law or in equity and shall survive the expiration or termination of this Purchase Order.

### 13. NO CONSEQUENTIAL DAMAGES

In no event shall Buyer be liable to Seller for any lost profits or for any indirect, incidental, special, consequential or punitive damages arising from any cause whatsoever.

### 14. SEVERABILITY

If any provision of this Purchase Order shall be held invalid or unenforceable, such provisions shall be deemed deleted from this Purchase Order and replaced by a valid and enforceable provision which so far as possible achieves the parties' intent in agreeing to the original provision. The remaining provisions of this Purchase Order shall continue in full force and effect.

### 15. WAIVER

A failure by either party to insist upon strict compliance with any of the terms of this Purchase Order in any instance shall not be construed as a waiver of such or any other terms in the future.

### 16. COMPLIANCE WITH LAWS

Each party shall comply with all applicable federal, state, and local laws and regulations, including the applicable export and sanctions laws and regulations of the United States, with respect to any

information received under this Purchase Order.

### 17. GOVERNING LAW AND JURISDICTION

Unless specifically agreed otherwise, all disputes arising out of or in connection with this Purchase Order shall be governed by the substantive laws of the State of New Jersey, exclusive of any rules with respect to conflicts of laws and be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules, each party to bear its own costs.

### 18. ENTIRE AGREEMENT

This Agreement is the entire understanding between the parties with respect to the subject matter hereof and supersedes all prior communications, agreements, and understanding relating thereto. The provisions of this Agreement may not be modified, amended, or waived, except by a written instrument duly executed by both parties.