

## Terms and Conditions for Purchase of Goods and Services

- 1. DEFINITIONS.** "Terms and Conditions" means these Terms and Conditions for the Purchase of Goods and Services. "Order" means any written purchase order, release, contract or agreement by Primetals which attaches, incorporates, or otherwise references these Terms and Conditions. "Contract" means these Terms and Conditions, together with any Order. "Primetals" means Primetals Technologies USA LLC, or its subsidiary or affiliate executing the Order. "Seller" means any individual, corporation or other entity who is to supply Goods and Services. "Goods and Services" and "Goods or Services" means the items described on an Order and purchased by Primetals under this Contract.
- 2. OFFER/ACCEPTANCE.** Commencement of performance of an Order by Seller constitutes acceptance of this Contract by Seller, provided that Primetals may unilaterally cancel an Order without cost at any time prior to having received Seller's written, unqualified, unconditional acceptance hereof. Seller's acceptance of this Order shall be unqualified, unconditional and subject to and expressly limited to these Terms and Conditions. Primetals shall not be bound by any provisions additional to or at variance with these Terms and Conditions that may appear in Seller's quotation, acknowledgment, confirmation, invoice or other communication from Seller to Primetals, unless such provision is expressly agreed to in a writing signed by Primetals. To the extent that any part of Seller's proposal or technical documentation are incorporated into the Order, they are solely for the purpose of clarifying Primetals requirements, and are subordinate in precedence to Primetals' drawings, specifications, and other descriptive materials. All previous offers by Seller are hereby rejected by Primetals. Primetals acceptance of the Goods or Services constitutes acceptance of such Goods or Services subject only to the provisions hereof, and does not constitute acceptance of any counterproposal submitted by Seller not otherwise accepted in a writing signed by Primetals. Upon acceptance, this Contract constitutes the entire agreement between Primetals and Seller, and supersedes all prior negotiations, discussions and dealings. This Contract may not be modified or rescinded except by a writing signed by both Seller and Primetals. Notwithstanding the above, the parties acknowledge and agree that in the interest of time, certain matters of a practical business nature, such as material and product releases, minor changes in delivery dates, shipment instructions, variances in the Order and the like may be sent by Primetals to Seller via electronic data interchange, e-mail, telex, or other written communication. The parties agree that such communications and any deliveries thereby, constitute part of the Order and are subject to these Terms and Conditions.
- 3. PRICES/TAXES.** All prices are firm, fixed and not subject to escalation. No additional charges will be allowed for import duties, transportation, packaging, returnable containers, and/or documentation unless otherwise agreed in writing between the parties. All sales, use, excise or similar taxes to be paid by Primetals must be itemized separately on any proposal, quote or bid for the Goods or Services and on Seller's invoices.
- 4. PAYMENT TERMS.** Unless otherwise provided in the Order, payment terms are net 90 days after receipt of the Goods (including all documents required in the Order), performance of the Services, verification that the quality of Goods or Services received meets Primetals' specifications, and receipt of a correct invoice with all supporting documentation. Seller shall issue individual invoices for each shipment under an Order. If Seller fails to ship Goods or perform Services in accordance with the Order, Primetals may delay payment equal to the number of days the Goods or Services were delayed by Seller. Primetals may at all times set off amounts owing from Seller to Primetals or any of its affiliated companies against amounts payable by Primetals to Seller. Unless otherwise provided in the Order, Primetals will pay Seller via automatic clearing house (ACH) or wire transfer.
- 5. SELLER'S PROPERTY.** All necessary material or tools including, without limitation, dies, gauges, jigs or fixtures required to execute the Order shall be supplied by Seller. If Primetals agrees to pay for or furnish any material or tools, dies, gauges, jigs or fixtures in connection with the Order said items shall be identified by Seller as the property of Primetals; segregated when practical, from Seller's similar property; remain Primetals' property; and used exclusively for Primetals. Seller will account for said items and keep them fully covered by insurance at all times without expense to Primetals. Said items may be removed by Primetals at any time and not otherwise be disposed of by Seller without Primetals written permission. Seller will maintain said items in good working condition and return them to Primetals on request or upon termination of the Order for which they were furnished.
- 6. DRAWINGS AND DATA.** All drawings, data, designs, engineering instructions, models, specifications or other technical information, written, oral or otherwise, supplied by or on behalf of Primetals or prepared by Seller specifically in connection with performance of an Order (hereinafter "Primetals Information") shall be and remain property of Primetals. Seller's use of such Primetals Information shall be subject to the Confidentiality provisions of these Terms and Conditions. Where such Primetals Information is furnished to Seller for procurement of supplies by Seller for use in the performance of an Order, Seller shall insert the substance of this provision in any purchase order or subcontract with its vendors or subcontractors.
- 7. CHANGES.** Primetals reserves the right at any time prior to shipment to make changes as to: (a) Primetals Information, including the specifications of any Goods to be specifically manufactured for Primetals; (b) methods of shipment or packing; (c) place of delivery, (d) schedule of delivery; and (e) size or quantities ordered. If any such change causes an increase or decrease in the cost of or the time required for performance of an Order, an equitable adjustment will be made in the contract price or delivery schedule or both. Any claim by Seller under this clause shall be deemed waived unless asserted in writing within ten (10) days from Seller's receipt of Primetals requested change.
- 8. STOP ORDERS.** Primetals may at any time by written order, stop all or any part of the work under an Order for a period of 90 days. Seller shall, to the extent directed by Primetals (a) stop work and deliveries as directed, and place no further orders relating thereto; (b) terminate work and deliveries governed by the stop order; and (c) protect property in Seller's possession in which Primetals has or may acquire an interest. At any time during such stop order period Primetals may, with respect to all or any part of the work covered under the stop order, either (i) cancel the stop order, directing Seller to resume work; or (ii) terminate the work in accordance with these Terms and Conditions. To the extent the stop order is canceled or expires with respect to all or any part of the work, Seller shall resume work. If a stop order has a material effect on the scheduled delivery of the Goods or Services, Primetals will equitably adjust the delivery schedule, upon written request of Seller submitted within 20 days after the earlier of expiration or cancelation of the stop order.
- 9. DELIVERY.** Time is of the essence. If Seller does not comply with Primetals' delivery or performance schedule, Primetals in addition to remedies provided by law, at its option, may either approve a revised delivery schedule or may terminate the Order and hold Seller accountable for all losses and damages arising therefrom. Whenever actual or potential delays may occur which threaten to delay the timely performance of Seller, Seller shall immediately give written notice (but in no event later than 15 days prior to the agreed upon delivery date) to Primetals. Seller will endeavor at its cost to mitigate the effects of such delay including expediting delivery. Primetals has the right, at any time, to change the place and/or time of delivery. Any claim by Seller for adjustment because of a change in place and/or time of delivery will be deemed waived unless asserted in writing within 10 days after receipt by Seller of the request for change. Seller understands and agrees that if Seller makes any commitments or production arrangements in excess of the amounts provided herein or in advance of the time necessary to meet Primetals delivery schedule, it does so at its own risk, and Primetals shall have no liability to Seller or other party relating to same. Goods shipped in advance of the time required in an Order may, at Primetals option, be returned to Seller at Seller's expense. Primetals reserves the right to delay shipment of the Goods for up to 30 days at no additional cost. If delivery is to be in accordance with Primetals' written releases in relation to a blanket purchase order, Seller shall not procure, fabricate, assemble or ship any goods except to the extent authorized in such written releases.
- 10. TRANSPORTATION/PACKAGING.** Unless otherwise specified in the Order, all shipments originating in the USA and delivered to a Primetals location or customer within the USA shall be FCA (Incoterms 2010) Seller's manufacturing location. All Shipments originating outside the USA and delivered to a Primetals location or customer inside or outside the USA shall be FOB (Incoterms 2010) nearest major shipping port to the Seller's manufacturing location. In either case, the Title of the Goods shall pass to Primetals at the completion of FCA or FOB activities. Seller shall make no provision for transportation insurance when Primetals is in control of the shipment and responsible for the freight charges, unless specifically authorized to do so in writing. No insurance charges will be allowed unless authorized in writing by Primetals. Irrespective of the shipping terms, during the period that the Goods are in Seller's possession, all risk of loss or damage to the Goods shall be on Seller. Shipments must be packaged according to standard industry specifications, or if not covered in specifications, so as to permit efficient handling, provide adequate protection, and comply with requirements of carrier. Packing slips

## Terms and Conditions for Purchase of Goods and Services

identifying the purchase order number, release number, and part number must accompany each shipment. Damages and costs incurred by Primetals resulting directly or indirectly from improper packaging will be charged to Seller. Unless otherwise agreed, no charges will be allowed for packaging, boxing, crating, returnable containers, drayage, cartage, demurrage, or dunnage. Seller shall route shipment as instructed and consolidate all daily shipments to one destination on one bill of lading. Shipments sent COD without Primetals' written consent will not be accepted and are at Seller's risk. Seller is instructed to ship only quantity(ies) specified in the Order. However, any deviation caused by conditions of loading, shipping, packing, or allowances in manufacturing processes may be accepted by Primetals in Primetals' exclusive discretion. If no allowance is shown, it shall be 0%. Primetals reserves the right to return, without liability, any overshipment at Seller's expense.

**11. INSPECTION AND REJECTION.** All Goods and Services will be subject to inspection Primetals during manufacture, after delivery at final destination and at such times as operating tests, if any, are required. Primetals may also reject any Goods or Services found to be defective, nonconforming or failing to meet any contractual requirements. Upon rejection, Primetals may return such goods to Seller, at Seller's sole risk and expense, for rework or replacement, in which case Seller agrees to ship conforming goods within 10 days of Seller's receipt of the rejected goods or such longer period of time as may be agreed by Primetals in writing. If Primetals determines, in its sole discretion, that Seller is unable to rework or replace the Goods within the time required by Primetals, Primetals may: (a) rework or have another supplier rework the Goods, the cost of such rework to be reimbursed by Seller; or (b) return the Goods to Seller for full credit and obtain replacement goods from an alternate source, at Seller's expense; or (c) produce replacement goods, at Seller's expense. All Services found to be defective, nonconforming or failing to meet Seller's warranties shall be properly re-performed at Seller's expense. Primetals' rights of inspection and rejection are in addition to any other rights it may have.

**12. QUALITY ASSURANCE.** Seller will maintain a quality assurance system adequate to detect and prevent shipment of nonconforming Goods or Services. Primetals reserves the right to evaluate the adequacy of Seller's quality assurance system. Upon request, Seller shall provide Primetals with appropriate quality assurance documentation, manuals or certifications.

**13. WARRANTY.** Seller warrants to Primetals and to Primetals' customers for a minimum period of three (3) years (or such other period of time that the parties may agree to in an Order or other writing) that the Goods and Services furnished: (a) will be new, of good quality, free from defects in material, design and workmanship; (b) will conform to the specifications, drawings, or samples and are merchantable and suitable for their intended purpose(s) as represented by Primetals to Seller; and (c) shall be free of any claim of any third party. All warranties shall succeed to Primetals, its successors, assigns, and all persons and entities, including affiliates and customers of Primetals, to whom the Goods may be resold or leased or for whose benefit the Services may be performed. Primetals' approval of samples, prototypes or first articles shall not be construed as a waiver of any requirement of the Order or of any express or implied warranty. In the event of Seller's delivery of defective or non-conforming items or Seller's other breach, Seller shall, promptly upon notice of the defect or non-conformance, repair or replace the nonconforming Goods, or re-perform the deficient Services, at no cost to Primetals. Should Seller fail to effect such correction with reasonable promptness, then Primetals may, at its election and in addition to any other rights or remedies it may have at law, equity or under the Order, recover from Seller any costs of removing such items from property, equipment or products in which such items have been incorporated and any additional costs of reinstallation, re-inspection and retesting and (i) return the items at Seller's sole risk and expense and recover from Seller the price paid therefore and, if elected by Primetals, purchase or manufacture similar items and recover from Seller the costs and expenses thereof; (ii) accept or retain the items and equitably reduce their price; or (iii) require Seller, at Seller's sole expense, to promptly replace or correct the items and pending redelivery, to repay Primetals any amount paid for such items. If Seller fails to promptly replace or correct such items as directed by Primetals, Primetals may repair them or have them repaired at Seller's expense or purchase or manufacture similar items and recover the costs and expenses thereof. In the event Seller is required to replace or correct any component of any item pursuant to this Section, the running of the warranty period for the item of which the defective component is a part shall be suspended from the date Seller receives notice of the breach of the warranty until the date the component is replaced or corrected. In such case, the minimum warranty period for the replaced or repaired item shall be one (1) year from the date placed back into service. NONE OF THE REMEDIES AVAILABLE TO PRIMETALS FOR THE BREACH OF ANY OF THE FOREGOING WARRANTIES MAY BE LIMITED EXCEPT TO THE EXTENT AND IN THE MANNER AGREED UPON BY PRIMETALS IN A SEPARATE AGREEMENT SPECIFICALLY DESIGNATING SUCH LIMITATION AND SIGNED BY AN AUTHORIZED REPRESENTATIVE. All warranties and other provisions of this Section will survive inspection or acceptance of, payment for, and use of the Goods and Services and completion, termination, or cancellation of this Contract.

**14. TERMINATION AND CANCELLATION.** (a) Termination for Convenience. Primetals may terminate all or any part of this Contract or any Order at any time for any reason for its convenience by delivering written notice to Seller ("Termination for Convenience"). Upon Termination for Convenience, Primetals' liability shall not exceed the following amounts, without duplication: (i) services completed in accordance with this Contract prior to Primetals' notice of Termination for Convenience; (ii) finished goods, which have passed final acceptance testing and are waiting to be delivered in accordance with this Contract prior to Primetals' notice of Termination for Convenience; and (iii) the lesser of the fair market value or actual cost of work-in-process and raw materials to the extent that such costs are allocable to the terminated portion of this Contract; provided, however, that Primetals shall make no payment for finished goods, work-in-process or raw materials that are damaged, or fabricated or procured by Seller in amounts that exceed the amounts authorized in the Order, or undelivered products that are readily usable or resalable. Primetals shall not be required to make payments to Seller for loss of anticipated profit, unabsorbed overhead, interest on claims, unamortized depreciation, or general administrative burden charges, or similar items. Seller will submit as soon as possible, but in no event later than 30 days from the date of the Termination for Convenience, satisfactory evidence of the amount on which Seller is seeking to collect reimbursement. Failure to submit such evidence shall constitute a waiver for reimbursement by Seller. Primetals may notify Seller that all right, title and interest in and to all or any portion of materials for which reimbursement is made by Primetals hereunder, shall immediately pass to Primetals. At Primetals' request, Seller shall prepare the materials for, and will hold materials in trust for Primetals, until disposition directions are received from Primetals. Primetals shall have the right to enter upon the premises where such materials are located and take possession thereof. Termination for Convenience shall not be deemed a breach of contract, and shall not limit or affect the right of Primetals to terminate this Contract or any Order for cause. (b) Termination for Cause. Primetals has the right to cancel or terminate this Contract or any Order, in whole or in part, without liability to Seller if: (i) the Goods or Services furnished do not conform to Primetals' specification or requirements; (ii) Seller fails to make deliveries within the time specified in the Order; (iii) Seller breaches any other term or condition of this Contract or takes or fails to take action that, in Primetals' sole discretion, creates a reasonable possibility that Seller will not timely fulfill its obligations under this Contract or any Order and does not correct such breach, failure or action, within 10 days (or such shorter period of time as is commercially reasonable under the circumstances) after receipt of written notice from Primetals specifying such breach, action, or failure; (iv) any representation by Seller proves to have been false or misleading in any material respect; or (v) Seller is insolvent, a petition is filed for reorganization of Seller or for its adjudication as a bankrupt, Seller makes an assignment for the benefit of creditors, a receiver or trustee is appointed for any of Seller's assets, or any other type of insolvency proceeding or formal or informal proceeding for the dissolution, liquidation or winding up of affairs of Seller is commenced. In the event of a termination under this subsection, Primetals shall have the right, in addition to its other rights and remedies provided at law or in equity to: (i) refuse to accept delivery of Goods and/or performance of Services; (ii) within one year after delivery return to Seller at Seller's expense any Goods or Services already delivered or performed and, at Primetals' option, either recover all payments made therefore and expenses incident thereto, or, at Seller's expense, to receive replacement therefore (except that the rights set forth in this subsection (b)(ii) shall not be available upon any termination by Primetals because of the occurrence, alone, of any of the events set forth in (v) above); (iii) recover any advance payments to Seller for undelivered or returned Goods and/or Services not fully performed; and (iv) purchase elsewhere and charge Seller with any loss incurred as a result thereof. Primetals' right to return Goods is not affected by an assignment by Seller of monies due or to become due hereunder. If Primetals terminates or cancels this Contract, or any Order, for cause, and it is later determined that the cancellation for cause was not warranted, the termination or cancellation will be deemed one for convenience pursuant to the terms of this Contract. (c) No Waiver of Rights or Remedies. No termination

## Terms and Conditions for Purchase of Goods and Services

shall act as or deemed to be a waiver by Primetals of any other right or remedy it may have at law, in equity, or under this Contract. The rights and obligations under this Section shall survive the termination or expiration of this Contract.

**15. INTELLECTUAL PROPERTY INDEMNITY.** Seller will defend (using counsel acceptable to Primetals), indemnify and hold harmless Primetals, its directors, officers, employees, agents, successors, assigns, customers and users of the Goods and Services from and against any and all losses, expenses, damages, claims, suits and liabilities (including incidental and consequential damages, court costs and attorneys' fees) (collectively, "Damages") arising as a result of any claim that the manufacture, use, sale or resale of any items infringes any patent, utility model, industrial design, copyright or other intellectual property right in any country. Seller's obligations under the preceding sentence will apply even though Primetals furnishes all or any portion of the design of or specifies all or any portion of the processing for the Goods and Services. If the sale and/or use of the items is enjoined or, in Primetals' sole judgment, is likely to be enjoined, Seller will, at Primetals' election and Seller's sole expense, procure for Primetals the right to continue using such items, replace same with equivalent non-infringing items, modify such items so they become non-infringing, or remove same and refund the purchase price, including transportation, installation, removal and other charges incidental thereto. If any settlement of a claim requires an affirmative obligation (other than ceasing use of the Goods or Services) of, results in any ongoing liability to or prejudice or detrimentally impacts Primetals in any way, then such settlement shall require Primetals' prior written consent and Primetals may have its own counsel in attendance at all proceedings and substantive negotiations relating to such Damages. Seller's obligations under this Section are in addition to Seller's warranty obligations and all other rights or remedies of Primetals and will survive acceptance and use of, and payment for, the Goods and Services, and completion, termination, or cancellation of this Contract.

**16. GENERAL INDEMNIFICATION.** Seller will defend (using counsel acceptable to Primetals), indemnify and hold harmless Primetals, its directors, officers, employees, agents, successors, assigns, customers and users of the Goods and Services from and against any and all Damages arising as a result of actual or alleged breach of these Terms and Conditions or arising under any strict liability or negligence claims premised on either an actual or alleged defect in the Goods and Services or by reason of or on account of property damage, death and personal injury of whatsoever nature or kind arising out of, as a result of, or in connection with the performance of this Contract which is occasioned by the acts or omissions of Seller or its Sellers or subcontractors. If any settlement of a claim requires an affirmative obligation of, results in any ongoing liability or prejudice to, or detrimentally impacts Primetals in any way, then such settlement shall require Primetals' prior written consent. Primetals may have its own counsel in attendance at all proceedings and substantive negotiations relating to such Damages. Seller's indemnification obligations shall survive acceptance and use of, and payment for, the Goods and Services, and completion, termination, or cancellation of this Contract.

**17. INSURANCE.** Seller agrees to maintain the following types of insurance coverage: (a) Workers' Compensation Insurance or qualification as a self-insurer to satisfy the laws of the states which have jurisdiction over Seller's employees; (b) Employers' Liability Insurance for Bodily Injury per accident with limits of not less than \$1,000,000 and Bodily Injury by Disease with limits of not less than \$1,000,000 per policy; and (c) Commercial General Liability Insurance for bodily injury, personal injury and property damage, including coverage for products/completed operations and contractual liability, with combined limits of not less than \$5,000,000 per occurrence. Prior to performance of an Order Seller will deliver signed original ACCORD form certificates of insurance, certifying that: (i) the required insurance coverages are in effect and will not be canceled or materially changed until 30 days after prior written notice has been delivered to Primetals; (ii) Primetals and its customer (if disclosed to Seller) are included as an additional insured on the Commercial General Liability policy; and (iii) all insurance identified herein will be primary and not contributory or excess of any other insurance carried by or on behalf of Primetals. Seller agrees to waive and will require its insurers to waive any right of subrogation or recovery they may have against Primetals. The insurance requirements in this Section are separate and distinct from any other obligations of Seller contained herein, and neither the issuance of any insurance policy nor the minimum limits specified herein will be deemed to limit or restrict Seller's liability arising under this Contract. Seller's obligations under this Section shall survive the completion, termination, or cancellation of this Contract.

**18. CONFIDENTIALITY.** Except as otherwise specifically agreed, all Primetals Information disclosed to Seller shall be Primetals' property and shall be held in confidence by Seller and used solely for the performance of an Order. Seller shall take all reasonable precautions to (a) disclose such Primetals Information only to those of its employees and agents who have a need to know in order to fulfill Seller's obligations hereunder and who have agreed to keep the Primetals Information confidential, and (b) prevent Primetals Information from being divulged to persons not employed by Seller, including having recipients acknowledge the confidential status of Primetals Information and agreeing to similar restrictions. This obligation of confidence shall survive termination of an Order and continue for three (3) years thereafter, or for as long as the Primetals Information remains a trade secret, whichever is longer.

**19. COMPLIANCE WITH LAWS.** Seller certifies and represents that in the performance of this Order, it will comply with the provisions of all applicable federal, state and local laws, regulations, rules and orders.

**20. EXPORT CONTROL AND FOREIGN TRADE DATA REGULATIONS.** Seller shall comply with all applicable export control, customs and foreign trade regulations ("Foreign Trade Regulations"). Seller shall advise Primetals in writing within two weeks of receipt of an Order, and in case of any changes without undue delay, of any information and data required by Primetals to comply with all Foreign Trade Regulations in case of export and import as well as re-export, including, without limitation, all applicable export list numbers, including the Export Control Classification Number according to the U.S. Commerce Control List ECCN); and the statistical commodity code according to the current commodity classification for foreign trade statistics and the HS (Harmonized System) coding; and classification for foreign trade statistics and the HS (Harmonized System) coding; and the country of origin (non-preferential origin); and upon request of Primetals, Seller's declaration of preferential origin (in case of European sellers) or preferential certificates (in case of non-European sellers). Seller shall be liable and indemnify Primetals for any expenses and/or damages incurred by Primetals due to Seller's breach of its obligations as stated in this Section. The Goods or Services purchased under this Contract must be in conformance with national and international foreign trade and customs requirements, including any embargos, sanctions or directives, or this Contract may be subject to immediate termination by Primetals.

**21. SELLER ISF NOTIFICATION REQUIREMENTS.** All ocean vessel shipments destined for United States ports will require Seller to submit the appropriate information in support of the US Importer Security Filing (ISF) requirement, also known as 10+2. Seller shall provide a complete and accurate ISF Notification to the ISF filing agent identified by Primetals a minimum of 72 hours (weekends/holidays included) before vessel loading. This is necessary to meet the requirements of US Customs Border Protection (CBP). If Seller should learn that the ISF Notification submitted was inaccurate, Seller shall notify Primetals' ISF filing agent immediately. Seller's failure to provide complete and accurate information 72 hours prior to vessel loading may result in delays and/or CBP liquidated damages (up to \$5,000 per filing) charged to Primetals. In addition, these delays may impact subsequent logistics execution causing possible additional detention or liquidated damages. Any liquidated damages, penalty, fine, detention cost or other cost or expense incurred by Primetals as a result of Seller's noncompliance with this ISF Notification requirement will be charged back to Seller.

**22. SELLER SUBSTANCE DECLARATION REQUIREMENTS.** Should Seller deliver legally permissible Goods, which are, however, subject to applicable statutorily-imposed substance restrictions and/or information requirements (for example, REACH, RoHS in the European Union or other similar US laws or regulations), Seller shall declare such substances in the web database BOMcheck ([www.BOMcheck.net](http://www.BOMcheck.net)) or other format provided by Primetals no later than the date of first delivery of the Goods. Furthermore, Seller shall also declare all substances which are set out in the "BOMcheck List of Declarable Substances" applicable at the time of delivery in the manner described above. The foregoing shall apply with respect to laws or regulations applicable at the principal office of Seller, principal office of Primetals and/or place of delivery designated by Primetals. Should a delivery contain dangerous goods, classified as such pursuant to applicable laws or regulations, Seller will inform Primetals in a form to be agreed upon, but not later than the date of order confirmation.

**23. NOTICE.** Any notice required or permitted hereunder shall be in writing and shall be given either: (a) hand-delivered; (b) faxed; (c) emailed; (d) mailed postpaid first class registered or certified mail; or (e) delivered to a commercial overnight courier service, and addressed to the party for whom it is intended

## Terms and Conditions for Purchase of Goods and Services

at its record address. Such notice shall be effective as of the date it is deposited in the mail; faxed; emailed; or delivered to the overnight courier service. The notice address of each party is its address and representative provided in the Order.

**24. FORCE MAJEURE.** Neither party shall be liable for any delay or failure to perform its obligations under this Contract arising out of circumstances beyond its reasonable control, including acts of God, fires, war, insurrection or riot, or acts of military authority, provided that the party provides notice to the other in writing of the delay or non-performance event within five days of its commencement. Primetals may extend the delivery schedule to accommodate the delay or non-performance; however, should said event continue during the term of the Order for a cumulative total of 30 days or more, Primetals may cancel the Order effective immediately upon written notice to Seller, and Primetals' only obligation to Seller shall be to pay the cost of the Goods and Services actually completed and delivered to Primetals.

**25. SUPPLY CHAIN SECURITY.** Primetals supports internationally recognized initiatives to secure the commercial supply chain (e.g. C-TPAT, WCO SAFE Framework of Standards) so as to assure freight and/or merchandise is not compromised contrary to the law; and, Seller shall, upon request, inform Primetals of Seller's status in any such recognized initiatives. Seller must implement reasonable security control standards to ensure the integrity and correctness of merchandise and accompanying commercial documentation relative to Primetals' transaction. Seller's controls should address: (a) Procedures to protect against un-manifested material being introduced into the supply chain; (b) Physical & Access Security: Safeguard Seller's facilities to resist unlawful entry and to protect against outside intrusion including adequate measures to positively identifying employees, visitors and vendors and prevent unauthorized access to information technology systems; (c) Personnel Security: Conducting, in accordance with applicable laws, employment screening of prospective employees including periodic background checks and application verifications; (d) Education and Training Awareness: Providing an employee security awareness program covering cargo integrity, determining and addressing unauthorized access and communications protocols for notifying policing agencies when suspected or known illegal activities are present; and (e) Conveyance Security: Implementing reasonable steps to protect against the introduction of unauthorized personnel and material in conveyances (e.g., containers, trucks, drums, etc.) destined to Primetals. If Seller suspects a supply chain security breach or concern in connection with a Primetals shipment, Seller shall notify Primetals immediately.

**26. PRIMETALS CODE OF CONDUCT.** (a) Seller shall comply with the principles and requirements of the "Code of Conduct for Primetals Suppliers" which can be found at [www.Primetals.com](http://www.Primetals.com) (hereinafter referred to as the "Code of Conduct"); (b) if requested by Primetals, Seller shall not more than once a year either, at its option, provide Primetals with (i) a written self-assessment in the form provided by Primetals, or (ii) a written report approved by Primetals describing the actions taken or to be taken by Seller to assure compliance with the Code of Conduct; (c) Primetals and its authorized agents and representatives and/or a third party appointed by Primetals and reasonably acceptable to Seller, shall be entitled (but not obligated) to conduct, at Sellers' premises, inspections in order to verify Sellers' compliance with the Code of Conduct; (d) Any inspection may only be conducted upon prior written notice of Primetals, during regular business hours, in accordance with the applicable data protection law and shall neither unreasonably interfere with Sellers' business activities nor violate any of Sellers' confidentiality agreements with third parties. Seller shall reasonably cooperate in any inspections conducted. Each party shall bear its expenses in connection with such inspection; and (e) in addition to any other rights and remedies Primetals may have, in the event of: (i) Seller's material or repeated failure to comply with the Code of Conduct; or (ii) Seller's denial of Primetals' right of inspection as provided for in subsection (c) hereof, after providing Seller reasonable notice and a reasonable opportunity to remedy, Primetals may terminate this Contract and/or any Order issued hereunder without any liability whatsoever. The notice and opportunity to remedy provision shall not apply to violations regarding child labor laws as set out in the Code of Conduct or willful failures to comply with the Code of Conduct's environmental protection requirements.

**27. ENVIRONMENTAL, HEALTH AND SAFETY.** If any Services or other work is to be performed on the premises of Primetals or its customer, Seller shall perform the Services or work in accordance with Primetals' and its customer's environmental, health, safety, and security rules and regulations.

**28. APPLICABLE LAW.** The validity, interpretation, and performance of this Contract shall be governed by the laws of the State of Delaware, but excluding its laws governing choice of law. The provisions of the United Nations Convention on Contracts for the International Sale of Goods are expressly disclaimed and shall not apply.

**29. NONWAIVER; REMEDIES; SEVERABILITY.** Any waiver or failure of Primetals to require strict compliance with the provisions of the terms of this order in any respect must be in writing and shall not be deemed a waiver of Primetals' right to insist upon strict compliance thereafter. Primetals retains all rights and remedies granted to it by operation of law, or in equity, in addition to those provided herein. If any provision of this Contract is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired, and such provision will be deemed to be restated to reflect the original intentions of the parties as nearly as possible in accordance with applicable law.

**30. ASSIGNMENT.** Neither this Contract, nor Seller's rights and obligations hereunder, are assignable by Seller without the prior written consent of Primetals. No such consent or assignment will release Seller or change Seller's liability to perform all of its obligations under this Contract. Any attempted assignment without the prior written consent of Primetals will be null and void. Primetals may assign this Contract or any Order to its affiliates.

**31. OPEN SOURCE SOFTWARE.** Seller shall inform Primetals, not later than the date of order confirmation, whether the Goods contain "Open Source Software." As used herein "Open Source Software" means any software that is licensed royalty-free (i.e., fees for exercising the licensed rights are prohibited, whereas fees for reimbursement of costs incurred by licensor are generally permitted) under any license terms or other contract terms ("Open License Terms") which require, as a condition of modification and/or distribution of such software and/or any other software incorporated into, derived from or distributed with such software ("Derivative Software"), either of the following: (a) that the source code of such Software and/or any Derivative Software be made available to third parties; or (b) that permission for creating derivative works of such Software and/or any Derivative Software be granted to third parties. By means of example and without limitation, Open License Terms include the following licenses or distribution models: the GNU General Public License (GPL), the GNU Lesser or Library GPL (LGPL), the BSD License, the Apache License or the MIT License. Should the Goods contain Open Source Software, Seller shall deliver to Primetals, not later than the date of order confirmation, the following: (i) a schedule of all Open Source Software files used, indicating the relevant license and including a copy of the complete text of such license; (ii) the source code of the Open Source Software, insofar as the applicable Open License Terms require the disclosure of this source code; and (iii) a written declaration that through the intended use of the Open Source Software neither the Goods nor the products of Primetals will be subject to a "Copyleft Effect." As used herein, "Copyleft Effect" means that the Open License Terms require that certain of Seller's products, as well as any products derived from these, may only be distributed further in accordance with the terms of the Open License Terms. Should Seller not indicate until after receipt of the Order that the Goods contain Open Source Software, Primetals shall be entitled to cancel the Order within 14 days of receipt of this information. Seller shall indemnify, defend, and hold harmless Primetals, its affiliates, distributors, and customers, as well as distributors and customers of Primetals affiliates, from any damage, loss, costs, and expenses suffered by Primetals as a result of Seller's failure to notify Primetals that the Goods contain Open Source Software.

**32. EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION.** It is Primetals' policy to, and also Primetals requires Seller to comply with all applicable provisions of Executive Order 11246 dated September 24, 1965, as amended; Section 503 of the Rehabilitation Act of 1973, as amended; and Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended, together with the implementing regulations for the foregoing, the terms of which are incorporated herein by reference and made a part of this Contract. This contractor (Primetals) and subcontractor (Seller) shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability. Seller shall implement an appropriate plan in conformance with law.