



**PI-740-0004**  
**Purchase Order Terms and Conditions**

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Purchase Order/Contract Terms and Conditions

1. **ACCEPTANCE.** This Purchase Order/Contract is Buyer's offer to Seller, and acceptance is strictly limited to its terms. Buyer shall not be bound by and specifically objects to any term or condition whatsoever which is different from or in addition to the provisions of this Purchase Order/Contract, whether or not such term or condition will materially alter this Purchase Order/Contract. Seller commencement of performance or acceptance of this Purchase Order/Contract in any manner shall conclusively evidence agreement to this Purchase Order/Contract as written.

2. **DEFINITIONS.** Whenever used in this Purchase Order/Contract,

(a) "Customer" means any customer of the Buyer, any subsequent owner, operator or user of the Goods and any other individual, partnership, corporation or person or entity which has acquired any interest in the Goods from, through or under buyer.

(b) "FAR" means the Federal Acquisition Regulation. Unless otherwise specified in this Purchase Order/Contract, FAR references cited herein are those in effect on the date of this Purchase Order/Contract;

(c) "Goods" means all of the goods, services, data, software and other items furnished or to be furnished to Buyer under this Purchase Order/Contract.

(d) Purchase Order/Contract means this purchase contract including the provisions on its face, these General Provisions, and all of the specifications, technical descriptions, statements of work, drawings, designs, documents and other requirements and provisions attached to, incorporated into or otherwise made a part of this Purchase Order/Contract by buyer.

3. **SHIPMENT/DELIVERY.** Shipments of deliveries, as specified in this Purchase Order/Contract, shall be strictly in accordance with: the specified quantities, without shortage or excess; the specified schedules, neither ahead nor behind schedule; and the other requirements of this Purchase Order/Contract. Seller shall promptly notify Buyer in writing of any anticipated or actual delay, the reasons therefore, and the actions being taken by Seller to overcome or minimize the delay. If requested by Buyer, Seller shall, at Seller's expense, ship via air or other fast transportation to avoid or minimize the delay to the maximum extent possible. Schedule delays may be cause for an equitable reduction in Purchase Order/Contract price.

4. **PACKAGING AND SHIPPING.** Seller shall prepare and pack the Goods to prevent damage and deterioration, and comply with carrier tariffs. Charges for preparation, packing, and crating are included in the prices unless separately specified in this Purchase Order/Contract. Buyer's order numbers must be plainly marked on all invoices,



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packages, and bills of lading and shipping orders. Packing lists shall accompany each box or package shipment showing Buyers order number and item number and description of material.

**5. EARLY/LATE AND OVER SHIPMENTS.** Brown Precision, Inc.'s (BPI's) Early/Late and Over Shipment Policy is based on a window of 5 days early and 0 days late to the Purchase Order/Contract delivery date at the exact quantities ordered. Early/Late – If quantities are received more than 5 days prior to the Purchase Order/Contract due date, BPI may not receive and/or pay early unless BPI Purchasing Representative expressly authorized the early shipment with a revised Purchase Order/Contract reflecting the changes made of other written authorization from BPI Purchasing Representative. Over Shipments – BPI will only pay at the Purchase Order/Contract price for the quantity that BPI ordered and not for excess quantities that may have been shipped. Any excess quantities are also subject to being returned to the supplier at their expense.

**6. INVOICE AND PAYMENT.**

(a) For each shipment of goods or completed item of services, Seller shall submit an original invoice marked "original" and one copy marked "copy" to the appropriate BPI Accounts Payable Department. The prices set forth in this Purchase Order/Contract include all taxes, fees, levies, and similar charges expect for sales and use taxes. All sales and use taxes must be separately itemized. Purchase Order/Contract Number and Item Number must appear on all shipping documents, invoices, quality certifications, and packing sheets.

(b) Determination of payment due date, whither under net or discount terms, will be based on the latest of (1) the date goods are received or services are completed/ (2) the date goods are scheduled to be shipped/received or services are scheduled for completion under the Purchase Order/Contract; or (3) date an accurate invoice is received. Unless services in advance of the contractual commitment date shall not be made prior to the contractual commitment date.

(c) Payment will be deemed to have been made when deposited in the mail.

(d) Mailing Information. Invoices are to be mailed to:

Brown Precision, Inc.  
90 Shields Road  
Huntsville, Alabama 35811  
Attn: Accounts Payable

(e) Invoice Information:

1. BPI Purchase Order/Contract Number

NOTE: Only one Purchase Order/Contract Number per invoice.

2. Payment Terms (Example: 2% 10 Net 30)



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3. Invoice Number
  4. Invoice Date
  5. BPI Purchase Order/Contract Line Item Number
  6. Quantity Invoiced
- NOTE: Quantity invoiced must equal quantity shipped and cannot exceed quantity ordered
7. Part Number as it appears in the Purchase Order/Contract
  8. Unit Price
  9. Total Price
  10. Total Tax
  11. Freight Charges.

The Purchase Order/Contract is the sole basis for your payment. Incorrect invoices will be returned unpaid. Accounts Payable cannot authorize or negotiate any changes to the Purchase Order/Contract. Contact the Buyer directly to resolve invoice discrepancies.

**7. INSPECTION.**

- (a) Buyer acceptance of Goods shall be subject to Buyer's final inspection within 30 days after the receipt at destination, notwithstanding any payment or prior test or inspection. No inspection, test, delay or failure to inspection or test, or delay or failure to discover any defect or other non-compliance, shall relieve Seller of any of its obligations under this Purchase Order/Contract or impair any rights or remedies or Buyer of Customers. Acceptance shall be conclusive, except for latent defects, fraud or gross mistakes amounting to fraud.
- (b) The Seller is responsible for performing or having preformed all inspections and tests necessary to substantiate that the supplies or services furnished under this Purchase Order/Contract conform to contract requirements, including any applicable technical requirements for specified manufactured parts.

**8. REJECTION.** In the regular course of its business, Buyer may reject, refuse acceptance or revoke acceptance ("rejection" herein) of any or all of the Goods or any tender thereof which are not strictly in conformance with all of the requirements of this Purchase Order/Contract; and by notice, rejection tag or other communication, notify Seller of such rejection. At Seller's risk and expense, all such Goods will be returned to Seller for immediate Seller repair, replacement, and other correction and redelivery to Buyer; provided, however, that with respect to any or all such Goods and at Buyer's election, and at Seller's risk and expense, Buyer may:

- (a) Hold, retain or return such goods without permitting any repair, replacement or other correction by Seller;



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(b) Hold or retain such Goods for repair by Seller or, at Buyer's election for repair by Buyer with such assistance from Seller as Buyer may require; or  
(c) Return such Goods with instructions to Seller as to whether the Goods shall be repaired or replaced and as to the manner or redelivery. All repair, replacement and other correction and redelivery shall be completed within such time as Buyer may require. All costs and expenses and loss of value incurred as a result of or in connection with nonconformance and repair, replacement or other correction may be recovered from Seller by equitable price reduction, set-off or credit against any amounts which may be owed to Seller under this Purchase Order/Contract or otherwise.

9. **WARRANTIES.** Seller warrants and guarantees that all Goods delivered under this Purchase Order/Contract will conform to all specifications, descriptions, drawings and other requirements of this Purchase Order/Contract, will be free from defects in materials and workmanship, will be fit and suitable for the intended purposes, and, to the extent not manufactured pursuant to detailed designs furnished by Buyer, will be free from defects in design.

10. **INDEMNIFY AND HOLD HARMLESS.**

(a) **Patent Trademark and Copyright Indemnity**

Seller agrees to indemnify and hold harmless BPI, its customers and users of its products, against any expense, loss or liability for any actual or alleged infringement of any patent, trademark or copyright, arising from or related to the use, sale, manufacture or disposal of the Goods furnished to BPI under this Purchase Order/Contract. Upon receipt of timely notice of any claim or suit alleging such infringement, Seller agrees to defend Bpi, its customers and users of its products, or any of them, at Seller's expense.

(b) Seller shall also indemnify, defend and hold harmless BPI from and against all losses, costs, fees and damages arising, directly or indirectly from any actual or alleged failure by Seller to comply with any of the statutes, rules, regulations and orders herein.

11. **CHANGES.**

(a) BPI may, at any time, exclusively in writing signed by its authorized Purchasing Representative, and without notice to sureties, make changes within the general scope of this Purchase Order/Contract which affect the (a) drawings, designs, or specifications; (b) method of shipment or packing; (c) place of inspection delivery or acceptance; or (d) delivery schedules. If any such change causes an increase or decrease in the cost of, or the time required for, performance of this Purchase Order/Contract, an equitable adjustment shall be made in the Purchase Order/Contract or delivery schedule or both, and the Purchase Order/Contract shall be modified in writing accordingly. Any claim by Seller for adjustment under this Article must be asserted in writing to BPI's Purchasing Representative not later than thirty (30) days after the date of receipt by Seller of the



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written change authorization, or within such extension as Bpi may grant in writing. BPI may, in its sole discretion, consider any such claim regardless of when asserted. Pending any such adjustment, Seller will diligently proceed with the Purchase Order/Contract as modified. Where the cost of property made exceed or obsolete as a result of a change is included in the Seller's claim for adjustment, BPI shall have the right to direct the manner of disposition of such property. BPI shall have the right to examine any of the Seller's pertinent books and records for the purpose of verifying Seller's claim.

(b) Seller's claim for equitable adjustment shall be in the form of a complete change proposal fully supported by factual information and shall separately identify all increases signed writing that contains the following certification statement.

"I certify that the claim is made in good faith, that the supporting data are accurate and complete to the best of my knowledge and belief; and that the amount requested accurately reflects the Purchase Order/Contract adjustment for which (Seller) believes BPI is liable."

**12. TERMINATION FOR CONVENIENCE.**

(a) BPI may terminate performance of work under this Purchase Order/Contract in whole or, from time to time, in part by delivering to Seller written notice of termination specifying the extent of termination and the effective date.

(b) BPI will pay Seller (I) the Purchase Order/Contract price for Goods and services completed and accepted but not previously paid for; (II) reasonable costs incurred in performance or work terminated but not completed; (III) reasonable profit on work performed before but not complete at the time of termination; and (IV) reasonable settlement costs incurred as a result of the termination, adjusted for any savings reasonably identified with the termination. Settlement costs for the work terminated shall consist of expenses for accounting, legal, clerical, and other services reasonably necessary for the preparation of termination settlement proposals and supporting data; termination and settlement of subcontracts (excluding the amounts of such settlements); and necessary for the preservation and protection of property which is in Seller's possession and in which BPI has, as a result of this Purchase Order/Contract, or may acquire an interest. However, if it appears that Seller would have suffered a loss on the entire Purchase Order/Contract had it been completed, BPI will pay no profit and will reduce the settlement to reflect the indicated rate of loss. In no event will BPI pay Seller more than the Purchase Order/Contract price.

(c) Seller will submit to BPI a fully supported written termination settlement proposal within forty-five (45) days after receipt of a notice of termination, and BPI will promptly negotiate an equitable termination settlement. Failure to agree to a settlement will be a dispute. BPI may examine any of Seller's books and records relevant to Seller's termination compensation under this provision. If Seller fails to submit a timely



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termination settlement proposal, Seller will be bound by BPI's good faith determination under Paragraph (b), above, of the amount due if any, for a total termination or the prospective price adjustment affecting the continued portion of the Purchase Order/Contract if the termination is partial.

**13. TERMINATION FOR DEFAULT.**

(a) BPI may terminate the whole or any part of this Purchase Order/Contract in any of the following circumstances:

1. If the Seller fails to deliver the Goods or to perform the services required by this Purchase Order/Contract within the time specified herein, or any extension thereof granted by BPI in writing; or
2. If Seller fails to perform any of the other provisions of this Purchase Order/Contract or fails to make progress as to endanger performance of this Purchase Order/Contract in accordance with its terms, and in either of these two (2) circumstances does not give adequate assurances regarding such failure within a period of ten (10) days after receipt of notice from BPI specifying such failure, or
3. In the event of suspension of Seller's business, insolvency, institution of bankruptcy, liquidation proceedings by or against Seller, appointment of a trustee or receiver for Seller's property of business, or any assignment, reorganization or arrangement by Seller for the benefit of creditors.

(b) BPI may require Seller to transfer title and deliver to BPI in the manner and to the extent directed by BPI (1) any completed Goods; and (2) such partially completed Goods and materials, parts, tools dies, jigs, fixtures, plans drawings, information, and Purchase Order/Contract rights, (hereinafter called "manufacturing materials") as Seller has produced or acquired for the performance of this Purchase Order/Contract, including the assignment to BPI of Seller's subcontracts' and Seller shall protect and preserve property in possession of Seller in which BPI has interest. Payment for completed Goods delivered to and accepted by BPI shall be at a price determined in the same manner as provided in Article 11 hereof, except that Seller shall not be entitled to profit. BPI may withhold from Seller monies otherwise due Seller for completed Goods and/or manufacturing materials in such amounts as BPI determines necessary to protect BPI against loss due to outstanding liens or claims against said goods.

**14. RESPONSIBILITY FOR PERFORMANCE.** Buyer issuance of this Purchase Order/Contract is based in part on Buyer reliance upon Seller's ability, expertise and awareness of the intended use of Goods, and Seller's continuing compliance with all applicable laws and regulations during the performance of this Purchase Order/Contract. Further, Seller shall not, by Purchase Order/Contract, operation of law or, otherwise assign any of its rights or interest in this Purchase Order/Contract, including but not limited to any right to monies due or to become due, or delegate any of its duties or



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obligations under this Purchase Order/Contract, or subcontract all or substantially all of its performance of this Purchase Order/Contract to one or more third parties, without Buyer's prior written consent. No assignment, delegation or subcontracting by Seller, with or without Buyer's consent, shall relieve Seller of any of its obligations under this Purchase Order/Contract.

15. **PUBLICITY.** Seller shall not, and shall require that its subcontractors and suppliers of any tier shall not, cause or permit to be released any publicity, advertisement, news release, public announcement, or denial of confirmation of same, in whatever form, regarding any aspect of this Purchase Order/Contract of the Goods or program to which they pertain without Buyer's prior written approval.

16. **RESPONSIBILITY FOR PROPERTY.** Unless otherwise specified, upon delivery to Seller or manufacture or acquisition by Seller of any materials, parts, tooling data or other property, title to which is in Buyer, Seller assumes the risk of and shall be responsible for any loss thereof or damage thereto. In accordance with the provisions of this Purchase Order/Contract but in any event upon completion thereof, Seller shall return such property to Buyer in the condition in which it was received except for reasonable wear and tear and except for such property as has been reasonably consumed in the performance of this Purchase Order/Contract.

17. **CONFIDENTIAL OR PROPRIETARY INFORMATION AND PROPERTY.** Seller shall keep confidential and otherwise protect from disclosure all information and property obtained from Buyer in connection with this Purchase Order/Contract and identified as confidential or proprietary. Unless otherwise expressly authorized herein or by Buyer, Seller shall use such information and property, and the features thereof, only in the performance and for the purpose of this Purchase Order/Contract. Upon Buyer's request, and in any event upon the completion, termination or cancellation of this Purchase Order/Contract, Seller shall return all such information and property to Buyer or make such other disposition thereof as is directed by Buyer. Seller shall not sell or dispose of as scrap or otherwise any completed or partially completed or defective proprietary property before receiving written authorization from Buyer and before rendering such property unsuitable for use. In all subcontracts and purchase orders issued by Seller for performance of work related to this Purchase Order/Contract, Seller shall provide to Buyer the same rights and protection as contained in this clause.

18. **COMPLIANCE WITH LAWS.** Seller shall be responsible for complying with all laws, including but not limited to, any statute, rule, regulation, judgment, decree, order or permit applicable to its performance under this Purchase Order/Contract. Seller further agrees (1) to notify Buyer of any obligation under this Purchase Order/Contract which is



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prohibited under any applicable environmental law, at the earliest opportunity but in all events sufficiently in advance of Seller's performance of such obligation so as to enable the identification of alternative methods of performance, and (2) to notify Buyer at the earliest possible opportunity of any aspect of its performance which becomes subject to additional environmental regulation or which Seller reasonably believes will become subject to additional environmental regulation during performance of this Purchase Order/Contract.

**19. MATERIAL SAFETY DATA SHEETS.** Seller will comply with the Hazard Communication Standard, 29 CFR 1910.1200. Seller shall ensure that the name of the Product as identified on the MSDS is identical to the name which appears on the label of the Product shipped to the Buyer. Seller shall provide a copy of the Material Safety Data Sheet with each shipment of the product.

**20. LEAD.** It is the policy of the Buyer to prohibit the use of paints containing lead in any form. Seller hereby affirms that the Product provided in compliance with this Purchase Order/Contract contains no lead. Further Buyer prohibits the use of lead hammers and lead "slappers." Seller hereby affirms that individuals under its control are informed of this policy.

**21. SELLER NOTICE OF DISCREPANCIES.** Seller will notify Buyer in writing when discrepancies in the Seller's process or product are discovered or suspected which may affect parts or assemblies Seller has delivered or will deliver under this Purchase Order/Contract.

**22. NOTICE OF LABOR DISPUTES.** If the Seller has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this Purchase Order/Contract, the Seller shall immediately give written notice, including all relevant information to the Buyer.

**23. NOTICE AND SEVERABILITY.** Any action or inaction by BPI or the failure of BPI, on any occasion, to enforce any right of provision of this Purchase Order/Contract shall not be construed to be a waiver by BPI of its rights hereunder, and shall not prevent BPI from enforcing such provision or rights on any future occasion. A determination that any portion of this Purchase Order/Contract is unenforceable or invalid shall not affect the enforceability or validity of any of the remaining portions of this Purchase Order/Contract.

**24. BPI PROPERTY.** Seller shall keep all BPI property on this Purchase Order/Contract segregated and clearly marked and will maintain a complete inventory



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thereof. Seller assumes all risk of loss, destruction or damage to such property while in Seller's custody or control. Seller will immediately notify BPI's Purchasing Representative in writing of any such loss, destruction or damage. Except for property incorporated in delivered end products, Seller will, upon termination or completion of this Purchase Order/Contract deliver such property, as directed by Bpi, in good condition subject to ordinary wear and tear and normal manufacturing losses.

**25. ENTIRE AGREEMENT.** This Purchase Order/Contract sets forth the entire agreement, and supercedes any and all other agreements, understandings and communication between Buyer and Seller and related to the subject matter of this Purchase Order/Contract. No amendment or modification of this Purchase Order/Contract shall be binding upon Buyer unless set forth in a written instrument signed by Buyer and an authorized representative of the Seller. The rights and remedies afforded to Buyer or Customers pursuant to any provision of this Purchase Order/Contract are in Purchase Order/Contract, by law, or otherwise.

**SELECTION AND EVALUATION OF SOURCES**

All suppliers and their representatives are treated fairly and impartially. Ability, capacity, integrity, financial status, geographical locations, performance, reliability, quality of product, delivery and overall customer-supplier relations are factors which govern the evaluation of all sources prior to soliciting their quotation and during the tenure of the Purchase Order/Contract.

BPI must be assured that the new suppliers will be able to produce an improved product, reduce costs or offer other advantages. A new supplier's financial ability to perform is important in view of our industry's long lead times, complex engineering problems and precise quality and inspection requirements.

In an effort to improve both quality and cost of our products, we are constantly searching for additional suppliers who offer the best value to BPI.

**QUOTATION POLICY**

Brown Precision Inc. Company's procurement policy emphasizes the importance of competitive bidding. Good business practices dictate that quotation requests will be submitted to a number of qualified sources consistent with the nature of, and the need for, the supplies or services being acquired.



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Quotations are solicited via the most direct recognized sales channel of the manufacturer, making certain the obligations and responsibilities of the principal suppliers are in no way lessened or confused by transactions through a third party.

Quotations will be requested only from suppliers who are considered to be qualified and capable. A request for quotation indicates our willingness to do business with those solicited. BPI recognizes that the preparation of quotations adds expense for the supplier. It is our practice to request quotations only for firm requirements or, in the absence of firm requirements, only where circumstances dictate the need to contact suppliers.