

TERMS AND CONDITIONS OF PURCHASE

1. **ACCEPTANCE.** These Terms and Conditions of Purchase ("Terms and Conditions") apply to each purchase order ("Order") for goods or equipment ("Goods") and/or services ("Services" and together with Goods, the "Deliverables") submitted by PROCOR LIMITED, a Canadian corporation ("Buyer"), to the supplier named in the Order ("Seller"). Each Order is expressly conditioned on Seller's acceptance of these Terms and Conditions. These Terms and Conditions contain all of the terms and conditions that govern the Deliverables to be purchased by or provided to Buyer and supersede all other terms and conditions, oral or written, and all other communications between the parties suggesting additional or different terms. Buyer expressly objects to and rejects all contradictory or additional terms and conditions contained in any acknowledgement, sales confirmation, quotation, website, or other communication of Seller pertaining to the Order. Each Order is an offer by Buyer to purchase the Deliverables described in the Order and does not constitute an acceptance by Buyer of any offer to sell, quotation, or proposal. Each Order is valid only for the Deliverables described therein and implies no additional purchase commitments on Buyer's part. Unless otherwise stated herein, Seller's commencement of any Services shall constitute acceptance by Seller of the Order.
2. **PRICES.** The price for each Deliverable will be as stated on the Order and are otherwise fixed, firm and not subject to increase. Unless otherwise expressly agreed to by Buyer in writing, prices include all taxes (sales, use, excise, privilege, ad valorem, and other taxes, duties, tariffs and assessments now or hereafter imposed or levied) and charges for packing, hauling, storage and transportation to Buyer's designated point of delivery. Buyer is not obligated to any minimum purchase or purchase obligations under the Order. Forecasts, estimates and similar projections of Buyer are not purchase commitments. Buyer shall have no obligation to purchase or otherwise compensate Seller for any of Seller's finished products, work in process or raw materials, not expressly covered by an Order issued by Buyer.
3. **PAYMENT TERMS.** Unless otherwise agreed by Buyer in writing, Seller will invoice Buyer on or after completion of delivery of Goods or performance of Services, as applicable, and Buyer shall pay all properly invoiced amounts due to Seller within 60 days after Buyer's receipt of Seller's invoice, except for any amounts disputed by Buyer. All claims for money due or to become due from Buyer are subject to deduction or setoff by Buyer by reason of any claim arising out of this transaction.
4. **DELIVERY.** Unless otherwise agreed by Buyer in writing, all shipments are FOB Buyer's designated facility (Incoterms 2020), and title and risk of loss/damage shall not pass to Buyer until delivery at Buyer's designated facility. Seller shall deliver Goods in the quantities and on or before the date specified in the Order (the "Delivery Date"). The Delivery Date is of the essence of the agreement between the parties. Buyer shall not be obligated to accept untimely, excess or under shipments, and such shipments in whole or in part may, at Buyer's option, be returned to Seller, or held for disposition, at Seller's expense and risk. No acceptance of any Goods after the Delivery Date will waive Buyer's rights with respect to late delivery, nor will it be deemed a waiver of future compliance with these Terms and Conditions. All Goods shall be packed for shipment according to Buyer's instructions or, in the absence of Buyer instruction, in a manner sufficient to ensure that the Goods are delivered in undamaged condition. Buyer shall not be liable for any charge for packaging, storage or shipping of any Order, or for any other matter incidental to putting Goods in a deliverable state. Loss of or damage to any material supplied hereunder resulting from improper preparation or handling of Goods for shipment shall be charged to Seller's account. Seller must provide Buyer with written notice prior to delivery if it requires Buyer to return any packaging material. Any return of packaging material shall be made at Seller's expense.
5. **WARRANTIES.** Seller warrants that (I) all Deliverables are and will be (a) in full conformity with any specifications, drawings, and descriptions referenced in the Order, or, if applicable, any sample upon which the Order is based; (b) free from defects in material, workmanship and design, (c) merchantable and, to the extent that Buyer has relied on Seller to select the Goods for a particular purpose, will be fit and sufficient for the purposes intended; (d) free and clear of all liens, Claims, security interests or other encumbrances; and (e) produced or provided in compliance with all applicable foreign, federal, provincial, state, and local laws and regulations as well as requirements and standards applicable to the Deliverables including without limitation REACH, RoHS and Prop. 65 ("Laws"); (II) all Deliverables that

are tank car components covered by the Railway Supply Institute RSI-100 Product Conformance Certification ("RSI-100"), including any closures, fittings, fasteners, pressure containing tank car tank products, gaskets, o-rings, valves, and instruments, conform to the current revision of the RSI-100; (III) all Services will be performed in a professional and workmanlike manner and in accordance with the generally accepted standards, procedures and techniques in Seller's industry, and to Buyer's reasonable satisfaction; and (IV) Seller shall (a) comply with all applicable Laws and Buyer's prime contract (if any); (b) refrain from engaging in any unethical, or deceptive practices; (c) obtain and maintain any and all federal, state, and/or local licenses, permits and registrations necessary to perform the Services; (d) and its employees and agents who perform the Services will, have the experience, capability and resources to efficiently and competently perform the Services; (e) not create or permit any liens or third party security interests in connection with Seller's performances of the Services. All warranties shall survive inspection, testing, delivery, acceptance, termination and payment and will not be deemed waived by reason of a failure to inspect, test or discover any defect or other nonconformance. These warranties shall be in addition to all other warranties, express, implied or statutory. NO ATTEMPT BY SELLER TO DISCLAIM, EXCLUDE, LIMIT, OR MODIFY ANY WARRANTIES OR SELLER'S LIABILITY FOR DIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES SHALL BE OF ANY FORCE OR EFFECT.

6. **INSPECTION.** All Deliverables are subject to inspection and testing by authorized representative(s) of Buyer and/or Buyer's customers at all reasonable times and places, including during production. Buyer reserves the right to reject or revoke acceptance, in whole or in part, of Goods which fail to meet any requirement of the Order, including unauthorized quantity, notwithstanding inspection, testing, delivery, acceptance and/or payment, and such Goods may, at Buyer's option, be returned to Seller at Seller's cost or held for disposition at Seller's risk and expense. Any inspection by Buyer will in no way relieve Seller from any duty or obligation it has in connection with the transaction, constitute any acceptance of the equipment on the part of Buyer, nor will it constitute a waiver of any of Buyer's rights, remedies or claims under these Terms and Conditions.
7. **INDEMNIFICATION.** Seller, shall defend, indemnify, and hold Buyer, its affiliates and their respective officers, directors, members, managers, shareholders, employees, customers, successors and assigns, harmless against any and all claims, demands, damages, losses,

liabilities, lawsuits, dispute resolution, judgments, fines, settlements, penalties, costs and expenses including without limitation reasonable attorneys' fees and litigation costs and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers, whether direct, indirect, incidental, consequential, or otherwise (collectively, "Claims") arising out of or relating to (i) any actual or alleged act, omission, negligence or failure of or by Seller, its employees, subcontractors or agents under or related to the Order or arising out of or related to Seller, its employees, subcontractors or agent's presence on Buyer's property; (ii) any failure of Seller or any of its employees, subcontractors or agents to observe or comply with any of Seller's duties or obligations under the Order or these Terms and Conditions or with any Law; (iii) any Recall; (iv) Seller's negligence or willful misconduct; or (v) any claims, suits or proceedings brought against Buyer alleging that any Goods or Services provided by Seller constitutes a misappropriation or infringement of any third party IP Right. The provisions of this Section will survive termination of the Order. Seller shall not enter into any settlement without Buyer's prior written consent. This indemnification is in addition to the warranty obligations of Seller.

8. **INTELLECTUAL PROPERTY.** Seller represents and warrants that the manufacture, sale, and use of the Deliverables will not infringe any patent, copyright, trademark, trade secret, know how or other intellectual property or proprietary right ("IP Right"). If all or any portion of the Goods are held to constitute an infringement of a patent and/or their use is enjoined for any reason, Seller shall promptly, and at its own expense, either procure for Buyer the right to continue using such Goods royalty-free or replace such Goods to Buyer's satisfaction with non-infringing goods of equal quality and performance.
9. **INSURANCE.** Seller shall obtain and at all times in which the Order is in effect and for no less than one (1) year thereafter, maintain at its cost insurance as designated by Buyer from time to time, but no less than insurance with insurers having a current A.M. Best rating of "A- VIII" or better: (1) primary comprehensive or commercial general liability insurance with limits of at least \$1 million/occurrence and \$2 million/annual aggregate combined single limit for bodily injury and property damage, including coverage for: (i) Products and Completed Operations liability; (ii) Blanket Contractual liability; and (iii) Cross Liability endorsement or Severability of Interest clause; (2) Worker's Compensation and Employer's Liability

Insurance (including occupational disease) in accordance with applicable statutory requirements in effect where the Services are to be performed with limits for Employer's Liability Insurance of at least \$1 million/employee for Bodily Injury by disease, \$1 million/occurrence for Bodily Injury by accident, and \$1 million policy limit for Bodily Injury by disease. The requirements hereunder will apply to Seller and any subcontractor of Seller of any tier (if applicable); (3) should performance of an Order involve the use of automobiles, business Auto Insurance (including owned, non-owned, hired, operated or used) in a combined single limit of \$1 million/occurrence for bodily injury and property damage liability; and (4) should performance of an Order involve professional services or design work, Errors and Omission Insurance with an aggregate limit of \$5 million covering Seller against any and all sums which Seller may become obligated to pay on account of any professional liability arising out of or in connection with performance of the obligations hereunder. Insurance required shall: (1) be endorsed to insure Buyer, its officers, directors, employees, representatives and agents as additional insureds; (2) be endorsed to waive any rights of subrogation against Buyer; (3) provide contractual liability coverage to Seller for its indemnity obligations; and (4) be endorsed to provide that such insurance is primary to and non-contributory with any other insurance obtained by, for or on behalf Buyer notwithstanding any "other insurance" provision contained within such policies. Seller shall provide written notice to Buyer no less than 30 days prior to the effective date of cancellation or material reduction of any required insurance coverage. Prior hereto and at any time upon request, Seller shall provide certificates of insurance to Buyer along with other documentation as may be required by Buyer to evidence the insurance coverages required herein. The failure of Buyer to review or require evidence of insurance will not be construed as a waiver of Seller's obligation to maintain the insurance. The terms of this Section will not be deemed to limit in any way the liability of Seller hereunder or to limit any rights Buyer may have including, without limitation, rights of indemnity or contribution.

10. **CHANGES.** No change to any Order, including quantity, is binding upon Buyer unless it is in a writing signed by Buyer, and specifically states that it amends such Order. Buyer shall have the right at any time to make changes in drawings, specifications, quantities, materials, packaging, time and place of delivery, and method of transportation, and cancel an Order, in whole or in part, without liability. If any such changes initiated

by Buyer result in an increase or decrease in the cost or the time required for performance, an equitable adjustment may be made by Buyer or Buyer may, at its option, terminate an Order if agreement on an adjustment cannot be reached. Claims for adjustment must be asserted by Seller within ten days of the change order. Seller agrees to accept any such changes to the extent possible.

11. **RECALL.** In the event that Buyer determines, in Buyer's sole discretion, that any defect, nonconformance or deficiency in any of the Goods requires a field campaign, recall, or similar action ("Recall") to repair, replace or remediate any Goods or any of Buyer's products in which Goods are incorporated, Seller shall be liable to Buyer and its customers for all damages, costs and expenses with regard to the foregoing including, without limitation, attorneys' fees and court costs.
12. **TERMINATION.** Buyer may terminate any Order, in whole or in part, without liability at any time, if (i) Seller breaches the Order or these Terms and Conditions; (ii) a petition initiating a proceeding under any applicable Law relating to bankruptcy, insolvency, or reorganization is filed by or against Seller; (iii) Seller is insolvent or executes an assignment for the benefit of creditors; or (iv) a receiver is appointed for Seller or any substantial part of its assets. Buyer's rights and remedies are cumulative, not exclusive and in addition to its rights and remedies at law, in equity or otherwise. No termination shall affect any accrued rights or obligations of either party as of the effective date of such termination. Upon receipt of notice of any termination, Seller shall, unless the notice directs otherwise, immediately discontinue all work.
13. **PROPERTY.** Title to and right of immediate possession of any property, including, without limitation, patterns, tools, jigs, dies, equipment and materials ("Buyer's Property") furnished or paid for by Buyer shall be and remain the sole property of Buyer. No articles made therefrom shall be furnished by Seller to any other person or entity without Buyer's prior written consent. Seller shall be responsible for maintaining adequate records and maintenance and protection of Buyer's Property and shall return Buyer's Property to Buyer immediately upon demand. Seller waives any lien rights or other rights to retain Buyer's Property and acknowledges that its obligation to return Buyer's Property upon demand is unconditional.
14. **AUDIT.** Buyer and its designees shall have the right to audit and inspect Seller and Seller's supplier's records and facilities to determine Seller's and its

supplier's compliance with an Order and these Terms and Conditions.

15. **NOTICES.** All notices to Buyer must be given in writing and will be effective upon personal delivery, on the third day after mailing if sent by certified mail, postage prepaid, return receipt requested, or two business days after deposit if sent by a nationally recognized courier service which maintains evidence of the time, place and receipt of delivery, and in each case if addressed as set forth in the Order (or such other addresses a party may designate in writing from time to time).

16. **INFORMATION.** All information, documents, specifications, suggestions, comments and data ("Information") heretofore or hereafter furnished or disclosed by Buyer to Seller is and shall remain the confidential and proprietary information of Buyer and shall be maintained in strict confidence and only used for purposes of fulfilling an Order. Further, Seller shall not in any manner advertise or publish the fact that it has furnished Buyer, or contracted to furnish Buyer, any Deliverables without the prior written consent of Buyer. BUYER MAKES NO WARRANTY WITH RESPECT TO INFORMATION. ANY IMPLIED WARRANTIES THAT MAY EXIST WITH RESPECT TO ANY INFORMATION PROVIDED BY BUYER, INCLUDING ANY WARRANTY OF MERCHANTABILITY AND WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE ARE EXCLUDED.

17. **INVOICES.** The parties agree that for any transactions, facsimile signatures shall be accepted as original signatures, orders may be transmitted electronically and any document created pursuant to an Order may be maintained in electronic format; a copy of which shall be considered an original. Neither party shall raise any objection to the authenticity of any Order nor any document created thereto, based on the use of a facsimile signature, electronic order or the use of an electronic copy.

18. **INDEPENDENT CONTRACTOR.** Seller's relationship to Buyer in connection with the manufacture and sale of the Goods and the performance of the Services is that of an independent contractor, and not of an employee or agent of Buyer. Seller acknowledges that Buyer has no responsibility to Seller for federal or state withholding taxes, social security taxes, worker's compensation, unemployment taxes or any other similar coverages or taxes regarding Seller or its employees. The performance of Seller's obligations hereunder does not make or appoint Seller as an agent of Buyer, nor does it create a partnership or joint venture

between the parties. Seller will not act or represent itself as an agent of Buyer, and will not purport to bind or obligate Buyer in any manner.

19. **COMPLIANCE.** Seller shall comply with all applicable Laws. Seller will comply and will cause each of its employees and agents to comply with all applicable Buyer policies, procedures, rules and regulations, including, but not limited to, Buyer safety procedures and site sign-in requirements. Without limiting the foregoing, Seller shall ensure that all personnel while on Buyer's site abide by the current procedures and regulations for personnel performing services on a Buyer site and all other reasonable safety, security, and other instructions and directions issued by Buyer, as well as all applicable Laws. Buyer has the right, in its sole discretion, to require any personnel of Seller to leave and not return to any Buyer site.

20. **MISCELLANEOUS.** The Order and the Terms and Conditions together constitute the entire agreement between the parties concerning the subject matter of the Order and will supersede all prior agreements between the parties concerning the subject matter of the Order. No waiver, modification or amendment to the Order or these Terms and Conditions will be valid unless agreed to by both parties in writing. No delay or omission in the exercise of any right, power, or remedy of Buyer hereunder shall impair such right, power, or remedy or be considered to be a waiver of any default or acquiescence therein. Seller may not assign any of its rights or subcontract or otherwise delegate any of its duties under an Order to any third party without the prior written consent of Buyer, and any attempted assignment in violation of this Section will be void and of no effect. If Seller sells or offers to sell any good and/or service of the same or similar type as any Deliverable at a lower price and/or on more favorable terms or conditions to any other person or entity, Buyer shall be entitled to have such more favorable price, terms and/or conditions applied to Buyer's Order. Buyer shall not be liable for failure to take delivery of the Goods or to allow performance of the Services or to otherwise perform hereunder if such failure or inability is due to causes beyond Buyer's reasonable control. Notwithstanding the foregoing, the Order will be binding upon and inure to the benefit of the parties and their successors and permitted assigns. The Order and these Terms and Conditions shall be construed in accordance with the laws of Illinois, without regard to any rules on conflicts of laws. Exclusive jurisdiction and venue for any lawsuit relating to these Terms and Conditions will lie in the state courts in Cook County, Illinois. In case any one or more provisions contained in

an Order or these Terms and Conditions shall be invalid, illegal, or unenforceable in any respect, the validity, legality, or enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby. Provisions which by their nature should survive will remain in force after any termination or expiration. The section headings contained herein are included solely for the convenience of the parties. If any term or provision of the Order is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of the Order or invalidate or render unenforceable such term or provision in any other jurisdiction. Any rule of construction that requires any ambiguities to be interpreted against the drafter shall not be employed in the interpretation of this Agreement, or any document drafted or delivered in connection with the transactions contemplated by this Agreement. Provisions of the Order which by their nature should apply beyond their terms will remain in force after any termination or expiration of the Order.