



## Purchase Order Terms & Conditions

- 1. Purchase Order Acceptance.** By accepting this Purchase Order (or “Order”) or any part thereof, the seller of goods, products or equipment (“Items”) or provider of services (“Services”) (hereafter “Seller”) agrees to and accepts all of the following terms and conditions. Martin Technical may insist upon strict compliance with these terms and conditions notwithstanding any previous custom, practice, or course of dealing to the contrary. The first to occur of any of the following events will constitute Seller’s acceptance of this Order: (a) written acceptance; (b) commencement of any Services toward performance of this Order; or (c) shipment in whole or in part of any Items ordered.
- 2. Conflict.** The terms of this Order constitute the entire agreement between the parties and take precedence over any conflicting provision contained on any Seller document (such as invoices or statement of work documents). When a Master Agreement exists between the Seller and Martin Technical and to the extent there is any conflict between the terms of this Order and the Master Agreement, the terms of the Master Agreement shall prevail.
- 3. Cost, Fees, Taxes, Audit, and Dispute.** Martin Technical will pay the amount (fees or price) specified on this Order for all Items provided and for all Services performed hereunder. If this Order is placed against an existing Martin Technical agreement, then the price to Martin Technical shall be as set forth in the agreement. If this Order is placed against an existing Seller quote or proposal, then the price to Martin Technical shall be as set forth in the quote or proposal provided by the Seller to Martin Technical. Martin Technical is responsible for any sales and use tax, if any, which Seller will itemize on the invoice. Martin Technical shall not be responsible for taxes based on Seller’s net income. Seller will maintain accurate auditable records, which are the basis of charges for any fees, expenses or other charges to Martin Technical. If Martin Technical disputes any fee, price, expense, or other charge, Martin Technical and Seller will use their best efforts to resolve the dispute within ninety (90) days. Seller will provide Martin Technical with copies of all supporting documentation relating to the dispute within thirty (30) days after Martin Technical has provided written notification to Seller. Such amount (or such amount as may be ultimately determined to be correct) shall not be due until thirty (30) days after the dispute is resolved. Notwithstanding anything contained herein, Martin Technical shall have no obligation to pay a disputed amount until resolution of the dispute.
- 4. Modification of Order.** This Order may not be modified or amended except by a written document or electronic change notice (“Change Order”) which is executed/transmitted by an authorized procurement representative of Martin Technical. The Change Order may make changes within the general scope of the Order including: Items ordered (change in quantity); Services ordered (change to Services required); delivery dates; and fees or price. Any unauthorized change subjects the Order to Martin Technical’s rejection and return of Items at Seller’s risk and expense.
- 5. Termination.** Martin Technical may terminate this Order: (a) immediately for failure to comply with the terms of this Order; (b) upon ten (10) days written notice from Martin Technical; (c) in the event Seller seeks the protection of any bankruptcy court, becomes insolvent, or makes an assignment for the benefit of creditors; or (d) if a non-affiliated party purchases or acquires control of Seller. The obligations relating to Warranties, Indemnification, Publicity, and Limitation of Liability will survive any expiration or termination of this Order.
- 6. Work.** The term “Work” means any services, and includes all other labor, materials, equipment, services, and deliverables provided by the Seller to fulfill Martin Technical’s Order obligations. Work



deliverables may include but are not limited to documents, drawings, reports, studies, files, data, labels, images, roster sheets and all other similar submittal of any media type. The Seller shall complete all the Work described for the Order and the Order shall not be considered complete until all of the Seller's obligations have been fulfilled under this Order.

- 7. Building Codes & Regulations.** Where applicable, all Work performed under this Order will be executed fully in compliance with applicable Building Regulations and Codes. Where electrical Work is performed all Work will be fully executed in compliance with the National Electrical Code as adopted by the State where the Work is performed. Where the Seller desires deviations from Building Regulations or the National Electrical Code (NEC), a written instruction and record will be required along with written approval from the authority having jurisdiction allowing the deviation.
- 8. Owner's Right to Stop and Carry Out the Work.** If the Seller fails to perform the Work in accordance with this Order, or the Seller is unable to perform the Work in a reasonable timeline, Martin Technical may direct the Seller to stop the Work. If the Seller defaults or neglects to carry out the Work in accordance with this Order, or fails to make corrections within a seven (7) day period after receipt of notice from the Martin Technical to commence and continue correction of such default or neglect with diligence and promptness, Martin Technical may, without prejudice to other remedies, correct such deficiencies. In such case, Martin Technical may withhold or nullify payments in whole or in part, to the extent reasonably necessary to reimburse Martin Technical for the cost of correction.
- 9. Inspection/Acceptance.** All Items and Services ordered will be subject to final inspection and acceptance by Martin Technical after delivery. Payment will not constitute final acceptance. Martin Technical may reject and return any Item that contains defective material or workmanship or otherwise does not conform to this Order. Upon rejection of Items Martin Technical may, at its sole option: (a) return the Items for prompt refund of previous payments, if any; (b) return the Items at Seller's risk and expense for prompt replacement with conforming Items; or (c) accept the Items subject to an equitable adjustment in price. All corrective work will be performed at Seller's expense. If Seller fails to promptly refund prior payments or replace or correct rejected Items with conforming goods, Martin Technical may at its sole option: (i) replace or correct the rejected Items and Seller will be liable for all of Martin Technical's costs therefor; or (ii) cancel this Order for breach. Martin Technical shall also be entitled to avail itself cumulatively of all remedies provided in law or in equity.
- 10. Safety.** The Seller shall take all reasonable safety precautions with respect to performance of this Order and shall comply with safety measures initiated by Martin Technical, the organization or company where Services are performed ("Customer"), and with applicable federal and state laws, ordinances, rules, regulations and orders of public authorities for the safety of persons and property. In addition, if performing electrical work, the Seller shall comply with the most current version of NFPA 70E Standard for Electrical Safety in the Workplace. The Seller shall comply with all aspects of Customer's Safety Policy when working at a Customer location. The Seller shall comply with any additional job specific safety requirements at no additional cost to Martin Technical. These requirements include but are not limited to personal protective equipment, substance abuse testing, background checks, badge and tool requirements. If any discrepancies exist between any items contained in the safety programs or laws in effect on this project, the more stringent policy



shall prevail. Upon request, a copy of the Seller's safety policy will be available for Martin Technical's review.

- 11. Conduct.** When performing Services at a Customer location, the Seller will; (i) comply with the Customer's on-site procedures, policies and guidelines; and (ii) conduct work in a professional manner.
- 12. Indemnification.** Seller agrees to defend, indemnify and hold harmless Martin Technical and its affiliates and their respective directors, officers, members, employees or agents against any claim, loss or damage, including those arising out of or relating to bodily or personal injury or death or damage to real or tangible personal property, resulting from any act or omission by or on behalf of Seller in the performance of this Order. This indemnity obligation will apply to the extent of Seller's negligence even if both parties are concurrently negligent. If Seller provides or produces any Items under this Order, it will defend and indemnify Martin Technical and affiliates and their respective directors, officers, employees or agents against any claim that the Items infringe any patent, copyright or other intellectual property right. Martin Technical will give Seller prompt written notice of any claim and grant control of the defense and settlement of the claim to Seller. If the Items become or in Seller's opinion are likely to become the subject of an infringement claim, Seller will either: (a) procure for Martin Technical the right to continue using the Items; or (b) replace or modify the Items to make them non-infringing. In the event that Seller is unable to procure, replace, or modify the infringing Items, Martin Technical will receive a full refund of all fees paid for said Items.
- 13. Insurance.** Seller will maintain such public liability, property damage, employer's liability, and Worker's Compensation insurance as will protect Seller and Martin Technical from claims of personal injury, death and property damages and from claims under applicable Workers' Compensation statutes. Seller will maintain Commercial General Liability insurance for the Project, written on an occurrence form, with policy limits of not less than one million dollars (\$1,000,000.00) each occurrence, and two million dollars (\$2,000,000.00) general aggregate. All services require the Seller maintain Professional Liability insurance with policy limits not less than one million dollars (\$1,000,000.00) each claim and one million dollars (\$1,000,000.00) aggregate. Seller will maintain Workers' Compensation at statutory limits. Seller agrees to provide Martin Technical with a certificate of insurance upon request. Martin Technical reserves the right to cancel this Order if the insurance carried by Seller is insufficient, as deemed by Martin Technical.
- 14. Independent Contractor.** Seller is an independent contractor and has no authority to act for Martin Technical except as provided in this Order. Seller agrees that it shall be solely responsible to engage on its own behalf such competent assistants, personnel, employees, or agents as may be needed to successfully perform the Work hereunder. Seller will pay all assessments and employment taxes in connection with the Services performed under this Order. Seller's employees are not eligible to share in Martin Technical employee benefits. The Seller shall be solely responsible for and have control over the means, methods, techniques, sequences, and procedures to complete the Work. The Seller shall provide and pay for labor, materials, equipment, tools, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work. The Seller shall be responsible for obtaining and paying for all permits or fees required to complete the Work of this Order as part of their services.



- 15. Limitation of Liability.** Seller acknowledges and agrees that no personal liability shall extend to any officer, director, member, agent or employee of Martin Technical.
- 16. Assignment.** Seller may not assign any rights (including the right to receive monies due) or obligations under this Order without Martin Technical's prior written consent. Any purported assignment without such consent will be void. However, Seller may subcontract materials and services that Seller subcontracts in the normal course of business. Martin Technical may assign its rights under this Order to any subsidiary or affiliate of Martin Technical upon written notice and without additional consideration.
- 17. Severability and No Waiver.** If any provision contained in this Order is held invalid, illegal, or unenforceable, then this Order will be construed as if such provision had never been contained herein. Failure of either party to strictly enforce any term, right or condition of this Order will not be construed as a waiver of such term, right, or condition.
- 18. Compliance and Governing Law.** Seller is and shall remain in material compliance with all applicable laws, ordinances, rules, and regulations governing its obligations hereunder ("Applicable Law"). This Order will be governed by and construed in accordance with the laws of the State of Colorado, including the Uniform Commercial Code as adopted by the State of Colorado.
- 19. Shipping, Risk of Loss and Delivery.** Risk of loss and title to the Items shall remain with Seller until Martin Technical actually receives and accepts the Items at Martin Technical or the Martin Technical Customer location. Time is of the essence to Martin Technical. Failure of Seller to deliver as and when specified, shall entitle Martin Technical to cancel this Order or any part thereof without prejudice to Martin Technical's other rights. Martin Technical may also require Items not delivered on time to be shipped by an express mode of transportation, at Seller's expense. If this Order does not contain a delivery schedule for all Items and Services ordered, Martin Technical may establish the unspecified portion of the schedule by subsequent written instructions with reasonable regard to then-current circumstances affecting Seller's ability to deliver. Such instructions will constitute the original schedule to the unspecified portion of this Order.
- 20. Warranty.**
  - A. Product.** Seller warrants that all Items, including materials and work in Items, will be: (a) new (unless refurbished equipment is specifically requested by Martin Technical), first quality, merchantable, of good material and workmanship, and free from defect; (b) delivered free and clear of all claims or liens of any nature and with good title to same in Seller; (c) eligible for all applicable manufacturer's warranties for new products; (d) in compliance with all Federal, State and local laws and ordinances, including but not limited to those administered by OSHA and EPA, and all lawful orders, rules and regulations thereunder; and (e) not infringe any patent, copyright, and other intellectual property rights of any third party.
  - B. Services.** Seller warrants that all Services will be performed by qualified workers experienced in performing the type of work specified on this Order and will be performed in a diligent, safe and professional manner.

In the event of breach of warranty, Martin Technical will be entitled to avail itself cumulatively of all remedies provided in law or in equity. Seller will make timely responses to Martin Technical notifications of breach of warranty and will respond with the understanding in all instances that time is of the essence to Martin Technical. These warranties are in addition to and shall not be construed as restricting or limiting any warranties of Seller, expressed or implied, which are



provided or exist by operation of law including, but not limited to, the Uniform Commercial Code. The warranties of Seller, together with its Service warranties and guarantees, if any, shall run to Martin Technical and the Martin Technical Customer.

**21. Software Use and Rights.** Martin Technical may allow the Seller to use Software developed by or owned by Martin Technical or Safety Hive, LLC to complete the Work. The Software may be used under the scope of Martin Technical's license as long as the Seller uses it; (i) only in the course of providing services of the Work to Martin Technical; and (ii) are bound by a confidentiality agreement with Martin Technical; and (iii). The Seller agrees not to disclose the Software to any third party or try to reverse engineer the Software. The Seller agrees that all ownership, copyright and other reserved right to the software designs, methods, templates, codes, styles, are the sole and exclusive ownership and copyright of Martin Technical.

**22. Intellectual Property and Ownership.**

A. Customer Ownership and Protection. Due to the sensitive nature of manufacturing processes, designs, trade secrets, intellectual property and security concerns found inside Customer plants and facilities, Martin Technical Customers may require specific security, non-disclosure, privacy and intellectual property protection which includes but is not limited to the ownership, disclosure and protection of drawings, documents, data, reports, images and related materials, and may include the surrender of and destruction of any and all intellectual property included to prepare or complete the Work. As a subcontractor, the Seller is required to meet all of the same Customer contract requirements that are required by Martin Technical, and shall take the same diligence and course of action in protecting the customer's intellectual property and trade secrets.

B. Use of Documents for Work. Any and all materials, presentations, documents, drawings, designs, manuals, instructions, reports, forms, files, data, images, media, roster sheets, data, or related items of any media type (hereafter "Documents") given to the Seller by either Martin Technical or the Customer, used or developed by the Seller are inherent to preparing and completing the Work of this Order for Martin Technical or the Customer and are to be used solely and exclusively with respect to this Order. The Seller is authorized to use, reproduce and retain Documents solely and exclusively for execution of the Work of this Order and limited to the constraints of Customer requirements. The Documents may not be given to or disclosed to any third party including but not limited to competitors of Martin Technical. The Documents may not be used by the Seller for other work, orders, projects or customers outside the scope of the Work of this Order without the specific written consent of Martin Technical. The Seller shall store and maintain all the Documents for the Work for a minimum of five (5) years. Upon request, the Seller shall provide Martin Technical with all Documents for preparing or completing the Work whether given to the Seller by Martin Technical or the Customer, or prepared or developed by the Seller for the Work. The Seller shall provide Martin Technical a royalty free, irrevocable and non-exclusive license of all Documents for an unlimited use including but not limited to providing to the customer or maintaining, altering and adding to the Work at a future time without restriction.

C. Seller's Intellectual Property. The Seller retains ownership and copyright of any Intellectual Property or Documents that have been previously; (i) designed or owned by the Seller prior to accepting this Order; or (ii) patented by the Seller prior to accepting this Order, or (iii) previously copyrighted by the Seller prior to accepting this Order; or (iv) defined in a Non-Disclosure Agreement or Master Agreement between the Seller and Martin Technical. The Seller shall grant a



non-exclusive and irrevocable license to Martin Technical for Seller's Intellectual Property and Documents limited to the use for this Work and Order, including the ability for Martin Technical to maintain, alter and add to the Work, but in no event shall the rights or ownership of the Intellectual Property be transferred from the Seller to Martin Technical.

D. Martin Technical's Intellectual Property. Martin Technical shall retain exclusive ownership, copyright, intellectual rights and other reserved rights for all Documents given to the Seller by Martin Technical and all Documents or Intellectual Property as defined in a Non-Disclosure Agreement or Master Agreement between the Seller and Martin Technical. With the exception of Seller's Intellectual Property 22(B), all Documents prepared or developed by the Seller for the Work and this Order shall be considered Work-for-Hire. To the extent permitted by the law, the Seller agrees that all Documents shall be considered Work-for-Hire and Martin Technical will be deemed the creator or author thereof. The Seller may use Martin Technical's Intellectual Property only with prior written permission of Martin Technical, but in no event shall the rights or ownership of the Intellectual Property be transferred from Martin Technical to the Seller.

E. Branding and Image. Seller will not use the name(s), brand(s), service mark(s), trademark(s) or trade name(s) of Martin Technical without Martin Technical's prior written consent, or that of the customer without the customer's prior written consent.

**23. Invoices.** Seller will invoice Martin Technical for Items provided and for Services rendered hereunder in the agreed to amount. Upon request by Martin Technical, invoices will be submitted by Seller using an electronic method. Martin Technical will pay Seller within forty-five (45) days of receipt of a correct invoice unless otherwise agreed upon otherwise by Martin Technical. All invoice related correspondence will be sent to Martin Technical by email to [accounting@MarTechnical.com](mailto:accounting@MarTechnical.com). All invoices must: (a) reference the Martin Technical Purchase Order Number and any stock number; and if applicable (b) itemize Services performed, (c) hours worked, deliverables and reimbursable expenses if applicable. Payment may be delayed if Seller fails to invoice Martin Technical in this manner. Delay in receiving an invoice or invoices rendered with errors and omissions will be just cause for Martin Technical to withhold payment without losing discount privileges.