



## TERMS AND CONDITIONS OF PURCHASE

**NO ADDITION TO OR CHANGE OF TERMS:** This Purchase Order constitutes the entire contract of sale and purchase of the articles, goods, services and materials (hereinafter “Goods”) identified herein between Seller and JDM Machining, Inc. (hereinafter “JDM Machining”). Unless approved by JDM Machining in writing, any term or condition stated by Seller which is different from or in addition to the terms and conditions stated herein is objected to by JDM Machining.

**PRICE / DELIVERY:** Seller warrants that the prices stated in this Purchase Order are no greater than those currently offered any other buyer for similar Goods. Unless otherwise specified in this Purchase Order, the prices stated include all charges for boxing, packing, hauling, storage, transportation to point of delivery, and applicable taxes. Risk of loss shall be on Seller until the Goods are delivered to and accepted by JDM Machining at the location specified in this Purchase Order.

**TIME IS OF THE ESSENCE.** Any unauthorized delivery made in advance of schedule, in amounts greater or less than those specified, or at times or locations other than specified, will constitute a breach hereof.

**CHANGES:** JDM Machining may, by giving written notice to Seller, make changes within the general scope of this Purchase Order, which changes shall be immediately implemented by Seller. If such changes affect the cost of, or the period of performance of this Purchase Order, an equitable adjustment may be negotiated upon receipt of Seller’s written claim for adjustment, if asserted by Seller within fifteen (15) calendar days of the receipt of the notification of such change. Seller shall not make substitutions or changes in quantities or specifications to the Goods without JDM Machining’s prior written approval.

**INSPECTION:** Without relieving Seller of its responsibilities, all Goods covered by this Purchase Order are subject to JDM Machining’s inspection at JDM Machining’s destination. At JDM Machining’s option, and without waiving any other right or remedy available to it, JDM Machining may reject and/or return, at Seller’s risk and expense, any damaged, defective or otherwise nonconforming Goods, whether or not acceptance or payment has already taken place. At JDM Machining’s option, JDM Machining shall be given a credit or cash refund at the invoice price or prompt replacement of any Goods rejected and/or returned.

**PAYMENT:** Unless otherwise specified in this Purchase Order, payment terms shall be net thirty (30) days, and payment discount dates will date, from receipt of the Goods or the applicable invoice, whichever is later. No payment, final or otherwise, shall operate to release Seller from any obligations arising as a result of this Purchase Order. JDM Machining shall be entitled at all times to set off any amount owing by Seller to JDM Machining against the amount payable by JDM Machining. JDM Machining may withhold all or part of payment if JDM Machining disputes Seller’s compliance with the terms of this Purchase Order.

**CONFIDENTIALITY:** All information furnished to Seller by JDM Machining, or its agents, in connection with this Purchase Order shall remain the exclusive property of JDM Machining. All such information shall be treated by Seller as proprietary and confidential and shall not be disclosed or used by Seller, without the prior written consent of JDM Machining. Seller’s obligations of confidentiality hereunder shall survive termination of this Purchase Order, and shall be in addition to, and not in place of, any other confidentiality obligations that the parties may otherwise agree upon.

**INSURANCE:** Unless otherwise required by JDM Machining, Seller shall maintain, at its sole cost and expense, an insurance policy or policies, written with insurers rated A- or better, with the following minimum coverage: (a) Commercial General Liability insurance with limits not less than \$300,000 per occurrence, including products and completed operations; (b) Commercial Auto insuring all vehicles used by Seller (including all owned, hired and non-owned vehicles) with limits not less than \$300,00 per occurrence; and (c) Worker’s Compensation with statutory limits and Employer’s Liability. Evidence of such coverage, in the form of a Certificate of Insurance.

**WARRANTY:** Seller warrants that all Goods furnished in accordance with this Purchase Order shall be: (a) new and of first quality, free from defects in material and workmanship and in exact conformity with this Purchase Order and with such description, specifications or samples as may be furnished by JDM Machining; (b) rendered competently by qualified personnel and in accordance with the highest applicable professional standards; (c) free from liens and encumbrances with good title conveyed upon payment of the purchase price; (d) fit and safe for their intended use and purpose, if Seller is or should be aware of such Goods intended use; (e) manufactured and sold in compliance with all requirements of federal, state and local laws, rules and regulations; and (v) free of any infringement of any patent, copyright, trademark or any other intellectual property rights of any third party. Seller also warrants that it shall obtain and assign or otherwise provide to JDM Machining the benefits of warranties and guaranties provided by manufacturers or suppliers of material or equipment incorporated into the Goods, and shall perform its responsibilities so that such warranties or guaranties remain in full effect.

**INDEMNIFICATION:** Seller agrees to indemnify and hold harmless JDM Machining and its agents, representatives and employees from and against any and all claims, actions, proceedings, damages, liability, judgment, costs or losses of any kind, for bodily injury, personal injury, property damage, breach of warranty, patent, trademark or copyright infringement or otherwise, whether compensatory, punitive or special, including reasonable attorneys' fees, arising out of, relating to or connected with the Goods purchased by JDM Machining from Seller hereunder.

**PROPRIETARY RIGHTS:** Tooling designed, made or procured by Seller specifically for use under this Purchase Order shall be the sole and exclusive property of JDM Machining, including any intellectual property rights therein, and shall not be used or reused for the benefit of a third party without JDM Machining's prior written consent. Unless otherwise agreed to in writing, in accepting this Purchase Order, Seller agrees to and does hereby assign to JDM Machining all right, title and interest worldwide in and to any patent, trade secret, trademark, copyright or any other proprietary rights which Seller or any of its employees, agents or subcontractors may develop, discover, or create specifically for JDM Machining and/or pursuant to JDM Machining's specifications. Seller waives all moral and other non-assignable rights which Seller or any of its employees, agents or subcontractors may have at any time in the aforesaid rights. At JDM Machining's request, Seller will execute or cause its employees, agents or subcontractors to execute any assignments, waivers or other documents JDM Machining may reasonably request for securing, perfecting, maintaining, or protecting its ownership in and its right to use and/or otherwise commercially exploit said rights worldwide.

**TERMINATION FOR CAUSE:** JDM Machining may terminate this Purchase Order for cause, in whole or in part, in the event of default, bankruptcy, insolvency, or the failure or inability of Seller to perform or comply with the specifications, terms and conditions of this Purchase Order. In the event JDM Machining terminates this Purchase Order for cause, JDM Machining will not be liable to Seller for any amounts; but Seller shall be liable to JDM Machining for all losses, damages, and expenses, including costs of cover, resulting from the default that caused the termination.

**TERMINATION FOR CONVENIENCE:** JDM Machining may terminate this Purchase Order, in whole or in part, at any time for its convenience, upon written notice to Seller. Seller shall immediately cause all work and/or shipment of Goods to stop. Seller will be paid a reasonable termination charge consisting of a pro rata percentage of the Purchase Order price reflecting the work performed prior to notice of termination, plus actual direct costs resulting from the termination. Seller shall not be paid for work performed or costs incurred after receipt of notice of termination, nor for costs incurred by Seller that Seller reasonably could have avoided.

**REMEDIES:** JDM Machining's remedies are cumulative and include all remedies available at law or in equity.

**ASSIGNMENT:** No part of this Purchase Order may be assigned, transferred or subcontracted by Seller without JDM Machining's prior written consent.

**WAIVER:** JDM Machining's failure to insist on performance of the terms and conditions herein or to exercise any right or privilege, or JDM Machining's waiver of any breach hereunder shall not thereafter waive the same or other terms, conditions, rights or privileges or affect any subsequent breach.

**COMPLETE AGREEMENT:** The terms and conditions set forth in this Purchase Order constitute the entire contract between JDM Machining and Seller, and once signed shall apply and are incorporated into every subsequent purchase order until terminated or superseded by terms and conditions issued by JDM Machining. Any reference herein to Seller's bids, proposals or other documents will not affect the provisions hereof unless specifically accepted in writing by JDM Machining, and no term or condition in any quotation or acknowledgement of Seller will be binding upon JDM Machining unless accepted in writing by JDM Machining.

**AFFIRMATIVE ACTION:** JDM Machining hereby notifies Seller that it may be subject to the provisions of: 29 CFR Part 471, Appendix A to Subpart A; 41 CFR Section 60-1.4(c); 41 CFR Section 60-250.5 and/or Section 60-300.5; and 41 CFR Section 60-741.5 with respect to affirmative action program and posting requirements.

**GOVERNING LAW:** This Purchase Order and the performance under it shall be governed by and construed according to the law of the state shown in JDM Machining's address on the face hereof. Seller hereby submits to the jurisdiction of the courts of that state for purposes of resolving any dispute. In the event of any action hereunder, the prevailing party will be entitled to recover reasonable attorney's fees and court costs including expenses related to appellate review.

**AGREED AND ACKNOWLEDGED:**

COMPANY NAME: JDM Machining, Inc.

By: Jeremiah D Miller

Name: Jeremiah D Miller

Date: 01/01/2020