



STANDARD PURCHASE ORDER
TERMS AND CONDITIONS
EFFECTIVE January 1, 2006

- 1. Offer to Purchase:** This Order is Premier Technology, Inc.'s (hereafter, "Buyer") offer to Seller and does not constitute an acceptance by Buyer of any offer to sell, quotation or proposal. Any reference to such offer to sell, quotation or proposal is solely for the purpose of incorporating the description and specifications of the products and services contained therein to the extent that such description and specifications do not conflict with the description and specifications on the face of this Order
- 2. Acceptance:** By acknowledging receipt of this Order (or by shipping the products or commencing performance of the services called for by this Order) Seller accepts and agrees to the terms and conditions of sale contained in this Order. Any additional or different terms or conditions contained in any acknowledgement of this Order by Seller shall be deemed objected to by Buyer without need of further notice of objection and shall be of no effect unless expressly accepted by Buyer in writing. Acceptance or rejection by Buyer of any such additional terms or conditions shall not constitute an acceptance of any other additional term or condition. The contract between Seller and Buyer, if any, is embodied in the terms and conditions of this Order, together with such additional terms and conditions as are expressly agreed to by Buyer as aforementioned and any supplemental documents, specifications, drawings, notes, instructions, engineers' notices or technical data referred to herein, all of which are hereby incorporated by reference. All of such documents are hereinafter individually and collectively referred to, together with this Order, as this "Order."
- 3. Changes:** Except as specified herein, Seller shall procure material, fabricate, ship products or perform services only in accordance with this Order. Buyer may from time to time, change shipping instructions and schedules provided herein or contained in written authorizations, or direct temporary suspension of scheduled shipments. Buyer reserves the right to change specifications, drawings or quantities of the products or services covered by this Order, subject to equitable adjustment for any necessary increases or decreases in price or changes to time of delivery.
- 4. Cancellation:** This Order may be terminated by Buyer, with or without cause, in whole or in part at any time, by written notice to Seller specifying the extent of such termination. The Buyer's liability, if any, upon termination shall be limited to paying Seller, to the extent unpaid, the price for all products or services which have been fabricated or performed and delivered to Buyer in accordance with this Order. If Seller shall become insolvent or make a general assignment for the benefit of creditors, any proceeding shall be instituted by or against Seller for any relief under bankruptcy or insolvency laws, or a receiver shall be appointed for Seller's property or assets, Buyer may, by delivery of written notice of termination to Seller, terminate this Order in its entirety without liability and this Order shall be of no further force or effect.
- 5. Equal opportunity/Affirmative Action Clause:** During the performance of this Order, Seller agrees as follows: Seller will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, national origin, physical or mental handicap, disabled veteran or veteran of the Vietnam era status. Seller will take affirmative action to assure that applicants are employed, and that employees are treated during employment, without regard to their race, color, age, national origin, physical or mental handicap, disabled veteran or veteran of the Vietnam era status. Such action shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- 6. Prices:** The prices are as set forth on the face of this Order. No charge of any kind, including charges for boxing, packing, crating, or cartage, will be allowed unless specifically agreed to by Buyer in this Order. Prices are to cover net weight of material, unless otherwise agreed to by Buyer in this Order.
- 7. Invoicing:** Credit and payment terms are "OPEN ACCOUNT," paid by remittance through mail. Seller shall provide invoice showing this Order number and mailed immediately after shipment is made or services performed. This Order number must appear on packing lists, shipping cartons and containers and on any and all other inquiries and correspondence. Each invoice shall fully and accurately set forth all discounts applicable to the goods and services invoiced thereon. All invoices shall comply with the terms and conditions set forth in this Order and shall be provided to Buyer within thirty (30) days of delivery of products to Buyer's facility or completion of services. In the event Seller fails to submit an invoice to Buyer within sixty (60) days of delivery of products to Buyer's facility or completion of services, then in such event the invoice shall be deemed paid in full and Buyer may retain the products and services without any further cost or expense.
- 8. Transportation:** Title; Risk of Loss: Unless otherwise specified on the face of this Order, transportation of products purchased will be F.O.B. Buyer's facility, with all freight and insurance costs prepaid by Seller. Title to products sold hereunder shall transfer to Buyer upon deliver to Buyer's facility. Risk of loss of products ordered hereunder shall be Seller's responsibility until such products have been delivered to and accepted by Buyer. Without limiting the foregoing, Seller shall be liable for damage caused by improper boxing, crating or packing.
- 9. Inspection:** All products and services shall be received subject to Buyer's inspection, approval, count and testing to determine compliance with the provisions of this Order, including the "Warranty" paragraph. Acceptance by Buyer of any part of the products or services covered by this Order shall be without prejudice to Buyer's right to reject any products or services if such products or services do not comply with the provisions of this Order. Buyer reserves the right to make such

rejection at any time after the products are examined or services evaluated notwithstanding the date of delivery or performance. If Buyer shall reject any products or services received by Buyer hereunder, Buyer may, in its sole discretion and without prejudice to any rights and remedies available to Buyer at law or equity or under this Order, (a) return such rejected products to Seller at Seller's risk and expense (including all freight charges) for rework or replacement, (b) return all or any part of the products delivered hereunder for full credit at the purchase price, (c) retain such rejected products and repair such products at Seller's expense, or (d) consider this Order breached as to the rejected quantity and cancelled as to any unfilled portion of this Order and hold Seller liable for damages.

- 10. Warranty:** Seller expressly warrants that all products and services covered by this Order shall conform to the specifications, patterns, drawings, samples or other descriptions(s) upon which this Order is based, shall be fit and sufficient for the purpose intended, merchantable, of good material and workmanship, free from defect and that products and services of Seller's design will be free from defect in design. Inspection, test, acceptance or use of the products and services furnished hereunder shall not affect Seller's obligation under this warranty, and such warranty shall survive inspection, test, acceptance and use. This warranty shall run to Buyer, its successors, assigns and customers and users of the products and services covered by this Order. Seller agrees to replace or correct defects in any products or services not conforming to the foregoing warranty promptly, without expense to the Buyer, when notified of such non-conformity by Buyer. In the event of failure by seller to correct defects in or replace non-conforming products or services promptly, Buyer may make such corrections or replace such products or services and charge Seller for the costs incurred by Buyer thereby. Said warranties shall be in addition to any warranties of additional scope given by Seller to Buyer. None of said warranties and no other implied or expressed warranties shall be deemed disclaimed or excluded unless evidenced by a purchase order, change order, change notice or revision issued and signed by Buyer.
- 11. Indemnification:** Seller shall assume entire responsibility and liability for any and all losses, expenses, damages or injuries of any kind or nature whatsoever (including death resulting therefrom) to all persons, whether employees of Seller or Buyer or otherwise, and to all property, including, without limitation, property of Buyer, or loss of use thereof, caused by, resulting from, arising out of, or occurring in connection with the products purchased from Seller, the work and services provided by Seller pursuant to this Order, a breach of this Order, or a breach of an agreement between Seller and a third party. If any person (including Buyer) shall make a claim for any loss, expense, damage, or injury (including death resulting therefrom) as herein above described, whether such claim is based upon Seller's alleged sole active or passive negligence or willful misconduct, or upon a wrong in which Buyer is alleged to have participated, or otherwise (unless the claim is based upon Buyer's alleged sole negligence or willful misconduct), Seller agrees to indemnify Buyer, its successors, assigns and affiliates, and any and all of their officers, agents and employees (collectively for the purpose of this "Indemnification" paragraph, the "Buyer") and hold them safe and harmless from and against any and all loss, expense, damage or injury, including attorney's fees, that Buyer may

incur or sustain as result of any such claim. Seller also agrees to assume, on behalf of Buyer, the defense of any action or proceeding at law or equity that may be brought against Buyer upon such claim, and to pay all costs and expenses of whatever nature, including attorney's fees, resulting therefrom or in connection therewith, and to pay on behalf of Buyer, upon demand, the amount of any judgment that may be entered against Buyer in any such action or proceeding.

- 12. Infringement:** Seller warrants and represents that the products and services ordered herein and their sale, performance, use or disposal alone or in combination with other products will not infringe upon any U.S. or foreign patents, copyrights or trademarks or otherwise infringe upon any right of any third party, and Seller agrees to indemnify, defend, protect and save harmless Buyer, its successors, assigns, affiliates, customers and users of its products, against all suits and from all, claims, losses, expenses or damages of any kind resulting from any actual or alleged infringements; provided, however, that this indemnity shall not apply to any such claims, losses, expenses or damages arising out of compliance by Seller with specifications furnished by Buyer.
- 13. Insurance Requirements:** Seller shall at all times maintain insurance of such nature and in such amounts as would be maintained by a prudent and profitable business person operating in Seller's industry which in no event shall be less comprehensive than is customary in the industry. Seller shall provide to Buyer a certificate of such insurance from its insurance provider from time to time upon request. Notwithstanding the above, at a minimum during the term(s) of this Order, Seller shall maintain at its sole cost and Seller shall require that all affiliates and subcontractors that provide services under this Order shall maintain at their sole cost and expense: (a) Workers' Compensation insurance as required under Idaho law (if services are provided at Buyer's locations(s)); (b) commercial general liability insurance with limits of \$1,000,000 per occurrence / \$1,000,000 in the annual aggregate; and (c) professional liability/errors and omissions liability coverage with limits of not less than \$1,000,000 per occurrence / \$3,000,000 in the annual aggregate. It is expressly understood by and between the parties hereto that all insurance required hereunder shall be deemed primary insurance and shall not be deemed excess to any insurance now in effect or in the future which covers Buyer, its facilities, its agents, or employees. In addition, all insurance required by this section must be written on either an "occurrence" or "claims made with prepaid tail" basis. Buyer is to be notified at least thirty (30) days prior to the cancellation or material modification of such insurance. Buyer shall be listed as an additional insured on Seller's certificate of insurance.
- 14. Late Deliveries:** Orders not received on the date specified by Buyer may be cancelled by Buyer without any obligation on the Buyer's part.
- 15. Liens:** If at any time during the progress of work, Seller shall allow any indebtedness to occur for labor, equipment, and/or materials, which indebtedness has become or may become a lien or liens upon said work, equipment and /or materials, or which may become a claim against Buyer or an affiliate of Buyer, Seller shall immediately, upon request from Buyer, pay such claim or indebtedness or cause such lien to be dissolved

and discharged by giving a bond or otherwise, and in case of his failure to do so, Buyer may withhold any money due Seller until such claim or indebtedness is paid or may apply such monies toward the discharge thereof, or in such event Buyer may in absolute discretion declare this Order to be cancelled, take possession and control of the work, and complete the same or cause the same to be completed according to the specifications.

- 16. Miscellaneous:** This Order contains the entire agreement between the parties concerning this transaction. This Order may not be amended, nor may this Order or any of its rights or duties hereunder be assigned or transferred by Seller, unless the Buyer has consented to such amendment, assignment, or transfer in writing. Any purported amendment, assignment, or transfer without Buyer's written consent shall be null and void. This Order shall be binding upon and inure to the benefit of the parties hereto and to their respective successors and permitted assigns. No waiver of any term, provision, or condition of this Order by Buyer in any one or more instances will be deemed to be or construed as a further or continuing waiver of any such term, provision, condition, or a waiver of any other term, provision or condition. This Order is not for the benefit of any third party. If any provision of this Order shall be found to be unenforceable or invalid, the remaining provisions shall continue in full force and effect.
- 17. Compliance With Laws:** Seller agrees to comply applicable Federal, State, and local laws.
- 18. Confidentiality and Proprietary Information:** Seller and its employees and agents shall hold in confidence and shall not disclose, distribute, sell, copy, share, or otherwise use any information or terms of this Order obtained by the Seller while performing this Order, which relates to Buyer's employees, research, development, business affairs, records, processes, techniques, types of equipment, whether past, present or future, except as may be contemplated by this Order or authorized by Buyer in writing. The patterns, samples, specifications, drawings, designs, documents, data and other information transmitted to Seller by Buyer in connection with the performance of this Order are the property of Buyer and are disclosed in confidence upon the condition that they are not to be reproduced or copied or used for furnishing information or equipment to others, or for any other purpose detrimental to the interest of Buyer. Upon completion of work under this Order, Seller and its employees and agents shall return to Buyer all confidential information and all records or documents received from Buyer, including, without limitation, any and all copies thereof. Buyer shall be entitled to injunctive relief for any violation of this paragraph.
- 19. Governing Law:** This Order shall be governed by, interpreted and enforced in accordance with the laws of the State of Idaho without regard to its conflicts of laws principles. Buyer and Seller hereby submit to the exclusive jurisdiction of the District Court located in Bingham Count, Idaho, and the United States District Court for Idaho, for the resolution of any and all actions disputes and proceedings arising under this Order. Buyer and Seller waive the right to object that the venue or forum is improper or inconvenient.
- 20. Set-Off:** All claims for money due or to become due from Buyer to Seller pursuant to this Order shall be subject to deduction or set-off by Buyer against any monies owed by Seller to Buyer as a result of this Order or any other transaction between Buyer and Seller.
- 21. Survival Clause:** The provisions of this Order entitled "Warranty," "Confidentiality and Proprietary Information," "Indemnification," "Infringement," and "Governing Law," shall continue in full force and effect notwithstanding the fact that the Buyer has accepted and paid for any services provided or products purchased hereunder.
- 22. Time of the Essence:** Time is of the essence. Whenever there shall be any delay whatsoever in the delivery of products or services, Buyer shall have the right to withdraw this Order without any liability to Seller under the "Cancellation" paragraph or otherwise, Seller shall be liable for any costs or damages incurred by Buyer as a result of such delays. Seller will immediately notify Buyer of any potential delay.
- 23. Integration:** This Order contains the entire and only agreement between Seller and Buyer respecting the subject matter hereof. Any representation, term or condition not incorporated herein shall not be binding upon either Seller or Buyer.
- 24. Rights Cumulative/No Waiver:** All rights, powers, privileges, and remedies of Buyer shall be cumulative and shall not preclude any other right, power, privilege or remedy to which Buyer would otherwise be entitled under applicable law. The failure of Buyer to insist, in any one or more instances, upon the performance of any of the terms, covenants or conditions of this Order or to exercise any right hereunder, shall not be construed as a waiver or relinquishment of the future performance of any such terms, covenants or conditions or the future exercise of such right, but the obligation of Seller with respect to such future performance shall continue in full force and effect.
- 25. Amendment:** This Order may not be amended, nor may this Order or any of its rights or duties hereunder be assigned, delegated or transferred by Seller, unless the Buyer with a formal written change order, amendment or supplement has consented to such amendment, assignment, delegation or transfer in writing. Any purported amendment, assignment, delegation or transfer without Buyer's written consent shall be null and void. This Order shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.
- 26. No Third Party Beneficiaries:** This Order is not for the benefit of any third party other than Buyer's successor, assigns, customers and users of the products and services covered by this Order.
- 27. Severability:** If any provision of this Order shall be found to be unenforceable or invalid, the remaining provisions shall continue in full force and effect.
- 28. Headings:** The paragraph headings in this Order are for convenience only and are not intended to affect the meaning or interpretation of this Order.