

PURCHASE ORDER FORM

TERMS AND CONDITIONS

1. Parties; Items. MiracleCorp Products will be referred to as “Purchaser” and the person or company supplying goods or services to Purchaser will be referred to as “Seller.” Purchaser may use a purchase order to purchase supplies, machinery, equipment, and other goods, and to contract for the performance of services, including maintenance and construction work on premises specified by Purchaser. These Terms and Conditions apply to and govern all purchase orders placed by Purchaser with Seller (such a purchase order being hereinafter referred to the "Purchase Order"). All goods or services covered by the Purchase Order regardless of type will be referred to as “Items.”

2. Price; Taxes. The price for the Items shall be the lower of (i) the price Purchaser has set forth in the Purchase Order, or (ii) Seller’s prevailing market price for such Items.

As used in this Section, “prevailing market price” shall mean the lowest price at which goods or services the same as or substantially similar to the Items are offered or sold by Seller to any similar customer, under similar circumstances, in quantities similar to those being purchased under the Purchase Order, within the period beginning 30 days before the date of the Purchase Order and ending 30 days after delivery of the Items to Purchaser.

Unless otherwise provided in the Purchase Order, the price includes all applicable federal, state, and local taxes and all charges for freight and insurance to deliver the Items to the destination specified by Purchaser.

3. Delivery or Completion Date(s). If Purchaser has indicated in the Purchase Order any completion date(s) or date(s) upon which the Items are to be delivered to Purchaser, Purchaser reserves the right to cancel this order if any such date is not met or if prior to any such date, Purchaser has reason to demand adequate assurance of due performance and such assurance is not forthcoming within 10 days after the date of Purchaser’s demand. If a delivery or completion date is not specified in the Purchase Order, a reasonable time will be allowed. Time is of the essence of this order.

4. Title and Risk; Shipment. Regardless of the F.O.B. point indicated, title and risk of loss with respect to the Items shall remain in Seller until the Items have been delivered to and accepted by Purchaser, or an agent or consignee duly designated by Purchaser, at the location specified in the Purchase Order. A packing slip must accompany each such shipment. If a shipment is to a consignee or agent of Purchaser, a copy of the packing slip shall be forwarded concurrently to Purchaser. If no packing slip is sent, the count or weight reported by Purchaser or its agent or consignee shall be final and binding upon Seller with respect to such shipment.

5. Compliance with Laws. Seller warrants that the Items and their production or completion will not violate or cause Purchaser to be in violation of any applicable federal or state laws, regulations, or orders. Without limiting the generality of the foregoing, with respect to the

Occupational Safety and Health Act of 1970 (“OSHA”) and the standards promulgated thereunder, Seller warrants that: (i) the Items will conform to all requirements of OSHA and the standards promulgated thereunder which are generally applicable to the Items regardless of how the Items are used; and (ii) if Purchaser has specifically identified to Seller any other requirements of OSHA or of the standards promulgated thereunder which are or may be applicable to the Items because of the use to which Purchaser will put the Items, the Items will conform to the same.

Without limiting the generality of the preceding paragraph, Seller certifies that the Items will be produced in compliance with all applicable requirements of the Fair Labor Standards Act, as amended, and the regulations and orders promulgated thereunder.

If the items are to be used by Purchaser in whole or in part for the performance of a federal government contract, all applicable provisions of such contract and of the Federal Acquisition Regulations are incorporated herein by reference.

6. Changes. Purchaser shall have the right to make reasonable changes (including additions and omissions) from time to time in the Items, their specifications, drawings, designs, quantity, packing instructions, destination, or delivery schedule. If any such change affects the price of the Items or the time required for Seller’s performance under the Purchase Order, an equitable adjustment in the price or delivery schedule or both shall be made, provided that all claims for adjustments under this section shall be made by Seller to Purchaser in writing within 30 days after Purchaser makes the change to which the adjustment relates. No adjustment in the terms of this order shall be binding upon Purchaser unless Purchaser has agreed in writing to the same.

7. Inspection. Purchaser may inspect the Items during their manufacture, construction, or preparation at reasonable times and shall have the right to inspect such Items at the time of their delivery and/or completion. Notwithstanding previous inspection by Purchaser, if defects or nonconformities for which Seller is responsible under the terms the Purchase Order are revealed by subsequent inspection, analysis, manufacturing operations, use, or otherwise, Purchaser may reject or revoke its acceptance of any affected Items within a reasonable time after such defects or nonconformities are discovered.

8. Molds, Dies and Tooling Used in Production. No molds, dies, fixtures, patterns, tooling or other such materials used by Seller in the production of this order will be supplied or paid for by Purchaser unless Purchaser has previously so agreed in writing. Purchaser shall not be responsible for the cost of revisions or changes in any such materials which are incurred in connection with the production of the Purchase Order without Purchaser's prior written consent. All molds, dies, fixtures, patterns, tooling or other such materials supplied or paid for by Purchaser shall be and remain the property of Purchaser, and Seller shall promptly deliver such materials to Purchaser, upon Purchaser's request, without any additional cost to Purchaser other than transportation charges.

9. Warranty by Seller. Seller warrants all Items delivered under the Purchaser Order to be free from defects in material and workmanship, to be of good and merchantable quality, to conform strictly to any specifications, drawings, or samples which may have been provided to or

furnished by Purchaser, and to be fit for the particular purposes for which the Items are intended by Purchaser. Seller further warrants that it will have good title to the Items free and clear of all liens and encumbrances and will transfer such title to Purchaser.

All warranties of Seller which are set forth in this section or in any other part of the Purchase Order or which are implied by law shall survive any inspection, delivery, acceptance, or payment by Purchaser.

10. Indemnification Against Third Party Claims. Seller shall, and does hereby, indemnify and agree to hold harmless and, upon request, defend Purchaser, its agents and employees, and persons claiming through Purchaser from and against all claims, demands, litigation, or proceedings of whatever kind, whether based upon negligence, breach of express or implied warranty, strict liability, or any other theory, and from and against all direct, indirect, special, incidental, or consequential damages of every kind whatsoever, arising out of, by reason of, or in any way connected with, accidents, occurrences, or injuries to, or losses to or of any third party or any property of any third party (which may occur before or after acceptance of the Items by Purchaser) in any way due or resulting from, or alleged to be due or resulting from, in whole or in part, the Items, the design, manner of preparation, manufacture, construction, completion, delivery, or non-delivery of the Items by Seller or any subcontractor or supplier of Seller, or the failure of Seller or any subcontractor or supplier of Seller to give adequate warnings in connection with the Items. Seller shall, upon request, pay or reimburse Purchaser or any other party entitled to indemnification hereunder for all costs and expenses, including attorneys' fees, incurred by Purchaser or such other party in connection with any such claim, demand, litigation, or proceeding.

If requested by Purchaser, Seller shall maintain products liability and completed operations insurance which provides, under the terms of the primary policy or by contractual liability endorsement if necessary, coverage in respect of claims involving bodily injury or property damage arising out of or in connection with the Items. Coverage limits under such insurance shall be not less than minimum amounts specified by Purchaser. If so requested by Purchaser, Purchaser shall be designated as an additional insured under such insurance. Such policies of insurance shall be primary to any similar insurance maintained by Purchaser and shall not be cancellable except upon ten days' written notice to Purchaser, and Seller shall furnish proof of such insurance to Purchaser should Purchaser so request.

11. Contingencies. Purchaser shall have the option to terminate the Purchase Order or to delay the delivery or completion of all or part of the Items if causes beyond the reasonable control of Purchaser make it unreasonable to accept delivery hereunder. Such causes include but are not limited to acts of God; war; force of arms; fire; the elements; strikes, picketing or labor disputes; accidents; governmental action, prohibition, or regulation; delay in transportation facilities; and the failure of any party to perform any contract with Purchaser which adversely affects Purchaser's need for the Items. Such termination or delay shall be without cost to Purchaser to the extent that the Items are standard stock goods which can be resold by Seller and/or the Items include services which Seller has not then yet performed. In all other cases, Seller shall have the right to reasonable compensation for work performed up to the date of such termination by Purchaser or, in the case of delay, for reasonable handling and storage charges.

All claims for compensation under this section shall be made by Seller to Purchaser in writing within 30 days after Purchaser notifies Seller of the termination or delay, as the case may be.

12. Patent, Copyright or Trademark Infringement. Seller shall indemnify Purchaser against and hold Purchaser harmless from any and all costs, expenses, liabilities, and damages, including attorneys' fees, which Purchaser may incur in connection with any suit or claim of infringement of any patent, copyright, trademark, or trade name by reason of the manufacture, use, or sale of the Items. If so requested by Purchaser, Seller shall, at its expense, appear in and assume the defense of any litigation to which Purchaser has been made a party which relates to any such infringement.

13. Purchaser's Specifications, Technical Data, Etc. Any specifications, drawings, notes, instructions, engineering notices, or technical data furnished by Purchaser to Seller or referred to in the Purchase Order shall be deemed to be incorporated herein by reference the same as if fully set forth. Seller shall not, without Purchaser's prior written consent, disclose any such document or any information contained therein to any party other than those employees of Seller who require the same for the performance of their duties in connection with the Purchase Order.

14. Cancellation. Either party shall have the right to cancel the Purchase Order upon the occurrence of either of the following events: (i) the other party's insolvency or actions indicating insolvency such as the filing of a petition by or against such party under any chapter of the bankruptcy laws, the appointment of a receiver for such party, or such party's attempt to make a general assignment for the benefit of creditors, or (ii) the other party's failure to comply with any of its obligations under the Purchase Order or these Terms and Conditions if such failure continues for a period of 10 days after notice thereof is given to such party.

Should Purchaser cancel the Purchase Order as provided in the preceding paragraph, Purchaser may, at its option and without prejudice to any other rights or remedies it may have, take possession of the Items in whatever stage of completion they may be, with or without seeking a writ of replevin or pursuing any other judicial process or remedy. Upon taking possession of the Items, Purchaser may, if the Items are not completed, complete or contract with any other person(s) to complete the Items, and Seller shall be liable for all costs, expenses, or damages of any kind whatsoever which Purchaser has incurred or suffered.

15. Limitation on Assignment. Neither party may assign the Purchase Order or any right hereunder without the prior written consent of the other except that Purchaser shall have the right to assign to any entity with which it is affiliated, or to any entity into which it shall be merged, with which it shall be consolidated, or by which it, or all or substantially all of its assets, shall be acquired.

16. Licenses. Seller shall be required to obtain and pay for any licenses, permits, or inspections by public bodies required in connection with the manufacture, completion, or delivery of the Items.

17. Work on the Premises. If work is to be performed hereunder on premises specified by Purchaser, Seller represents that it has or will examine the premises and any

specifications or other documents furnished in connection with the Items and satisfy itself as to the condition of the premises and site. Seller agrees that no allowance shall be made in respect of any error as to any of the foregoing on the part of Seller. Seller shall at all times keep the premises free from accumulations of waste material or rubbish. At the completion of the Items, Seller shall leave the premises and the Items broom-clean.

Risk of loss or damage to Seller's materials or equipment while the same are on premises specified by Purchaser shall remain in Seller, and Purchaser shall have no responsibility or liability to Seller or anyone claiming through Seller in respect of any loss or damage thereto, notwithstanding the fact that storage space on such premises is provided by Purchaser.

Seller shall abide by all plant safety regulations of Purchaser in performing any work in connection with the Items on premises specified by Purchaser.

18. Mechanic's Liens. Seller hereby waives its rights to any mechanic's liens or other such liens under any applicable statutes or otherwise for work done or materials furnished in connection with the Items. As a condition to payment, Seller shall, upon Purchaser's request, furnish Purchaser evidence that all subcontractors or materialmen used by Seller in connection with completion of the Items have been paid in full and have released all mechanic's liens or other such liens held by such subcontractors or materialmen against the Items or the affected premises. Upon Purchaser's request, Seller shall, at its expense, promptly discharge any mechanic's liens or other such liens held by Seller or its subcontractors or materialmen against the Items or the affected premises or obtain a bond to satisfy such liens. In any event, Seller shall indemnify Purchaser against and hold Purchaser harmless from any and all costs, expenses, liabilities, and damages, including attorneys' fees, which Purchaser may incur in connection with or as the result of the existence or discharge of any such liens.

19. Purchaser's Rights or Remedies. Any rights or remedies granted to Purchaser in any part of this order shall not be exclusive of, but shall be in addition to, any other rights or remedies granted in any other part of this order and any other rights or remedies that Purchaser may have at law or in equity.

20. Entire Agreement. The Purchase Order and these Terms and Conditions, together with any information or documents incorporated herein by reference, shall be deemed to contain the entire agreement between Purchaser and Seller and to constitute the complete and exclusive expression of the terms of the agreement, all prior or contemporaneous written or oral agreements or negotiations with respect to the subject matter hereof being merged herein. Purchaser expressly limits any acceptance by Seller to the terms of the Purchase Order and these Terms and Conditions, and terms which are additional or contrary to the terms set forth herein may only be proposed by Seller in a writing apart from Seller's standard quotation, acknowledgment, or other similar form. Purchaser shall not be deemed to assent to any additional or contrary terms proposed by Seller unless Purchaser has expressly agreed in writing to the same. If Seller has heretofore made Purchaser an offer with respect to the Items, the Purchase Order shall not operate as an acceptance of Seller's offer, but rather shall be deemed to be a counteroffer.

21. Severability. In the event that any provision hereof shall violate any applicable statute, ordinance, or rule of law, such provision shall be ineffective to the extent of such violation without invalidating any other provision hereof.

22. Governing Law. The Purchase Order and these Terms and Conditions and the purchase of any Items hereunder shall be governed by and construed in accordance with the laws of the State of Ohio, as applicable to agreements made and wholly performed therein.

