

PaR Systems, Inc.

Subcontract Terms and Conditions

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This document establishes the Terms and Conditions on which PaR Systems, Inc. and its wholly-owned subsidiaries, (PaR) may purchase Work from the Subcontractor. The purchase of the Work by PaR from the Subcontractor is expressly governed by the Terms and Conditions contained herein or as otherwise referred to in the Purchase Order, as applicable.

1 Definitions

1.1 Terminology

When capitalized, terms as used in these Terms and Conditions shall have the following meanings:

1.1.1 Change Order:

Shall mean a document issued by PaR to the Subcontractor to change the Purchase Order.

1.1.2 Contract Documents:

Shall mean all documents and submittals listed in the Purchase Order.

1.1.3 Customer:

Shall mean any party that has directly or indirectly contracted with PaR, and for which the Purchase Order is either directly or indirectly connected to such contract.

1.1.4 Due Date:

Shall mean the date the Work will arrive at PaR's designated facility or the location referenced in the Purchase Order.

1.1.5 Emergency Work:

Shall mean all Work to be provided by the Subcontractor in an urgent manner. Such events may be initiated by written direction from PaR in advance of the Purchase Order for the Project, or at the discretion of the Subcontractor in order to ensure the safety of persons and property.

1.1.6 Environmentally Sensitive Activities:

Shall mean any activities which could include, or result in, the release or threatened release of or exposure or threatened exposure of any person or property, to any hazardous or regulated substance, material, agent or vapor including without limitation, asbestos, PCB's, ordnance and munitions, radiation, mixed or hazardous waste, including without limitation, any designated as hazardous or subject to regulation under any applicable law, rule or regulation including without limitation the Toxic Substances Control Act, the Resource Conservation and Control Act and the Comprehensive Environmental Response, Compensation and Liability Act.

1.1.7 Final Completion:

Shall mean the date for completion of the Work listed in the Purchase Order Documents.

1.1.8 Laws:

Shall mean all laws, statutes, codes, ordinances, rules, regulations, lawful orders, and other legal requirements, as amended from time to time, of all federal, state, county and local governmental agencies and authorities that are applicable to the Work and any of the Subcontractor's obligations under the Purchase Order.

1.1.9 Material:

Shall mean all material, equipment, components, products, supplies, goods, and documentation to be furnished by the Subcontractor and necessary to complete the Work set forth in the Purchase Order.

1.1.10 Manufacturer:

Shall mean the manufacturer or fabricator of Material supplied to the Subcontractor or the Subcontractor Supplier.

1.1.11 Milestone Dates:

Shall mean the date of Substantial Completion, the date of Final Completion, the date of Due Date, or any other date stated in the Purchase Order or the Project Schedule for the Subcontractor's completion of specific components of the Work set forth in the Purchase Order.

1.1.12 Parties:

Shall mean PaR and the Subcontractor, collectively.

1.1.13 PaR's Project Manager:

Shall mean PaR's representative who will provide the general administration of the Project on behalf of PaR and who shall be PaR's representative in all matters related to the Project.

1.1.14 Project:

Shall mean the Work defined in the Purchase Order to be performed by the Subcontractor.

1.1.15 Project Schedule:

Shall mean the schedule approved by PaR's Project Manager for the performance of the Work identified in the Purchase Order.

1.1.16 Punch List:

Shall mean an itemized list prepared by the Subcontractor, and augmented by PaR if necessary, of those portions of the Work that PaR's inspection indicates have not been completed in accordance with the requirements of the Purchase Order.

1.1.17 Purchase Order:

Shall mean a document issued by PaR to the Subcontractor incorporating, by reference or otherwise, the Statement of Work, price, Milestone Dates, PaR Systems Subcontract Terms and Conditions Document Number 70583823, and any other Contract Documents.

1.1.18 Services:

Shall mean all of the labor, supervision, administration and other services identified in the Statement of Work or as required to complete the Work set forth in the Purchase Order, including without limitation, engineering, design, fabrication, construction, installation, demolition, testing, technical assistance, delivery of Material, if appropriate for the Services rendered, and documentation.

1.1.19 Site:

Shall mean PaR's Site or such other premises (including premises owned or controlled by a third party) for which the Work is intended.

1.1.20 Statement of Work ("SOW"):

Shall mean all of the Material and Services to be provided by the Subcontractor to complete the Work set forth in the Purchase Order.

1.1.21 Subcontractor:

Shall mean the party that is to deliver the Material and perform the Services pursuant to the Purchase Order.

1.1.22 Subcontractor's Project Manager:

Shall mean the Subcontractor's representative, or his duly authorized representative, who will provide the general administration of the Purchase Order on behalf of the Subcontractor and

shall be the Subcontractor's representative in all matters relating to the Purchase Order, except as may be otherwise provided herein.

1.1.23 Subcontractor Supplier:

Shall mean any party entering into an agreement with the Subcontractor, either directly or indirectly, to deliver Material and/or perform Services, on behalf of the Subcontractor and pursuant to the Purchase Order.

1.1.24 Substantial Completion:

Shall mean the point in time at which the entire or designated portion of the Project is sufficiently complete such that PaR can occupy and utilize the Project for commissioning, start-up, and completion of performance and reliability testing as required in the Purchase Order, with only Punch List items remaining to be completed, as reasonably determined by the Subcontractor and as approved by PaR.

1.1.25 Work:

Shall mean all Material and Services to be provided by the Subcontractor under the Purchase Order for the Project. This also constitutes the Statement of Work.

1.2 Other Terms

All other capitalized terms used herein shall have the meanings ascribed to them in the Purchase Order.

2 Work

2.1 Work

The Subcontractor shall provide all labor, equipment and materials necessary to accomplish the Work as set forth in the Purchase Order. All obligations of the Subcontractor shall be performed as specified in the Purchase Order, including without limitation, engineering, design, fabrication, construction, installation, demolition, testing, technical assistance, delivery of Material and documentation.

2.2 Commence Work

Except as allowed under Emergency Work as outlined in Section 2.4 below, the Subcontractor shall not commence Work without a signed Purchase Order from PaR.

2.3 Subcontractor's Acceptance of the Purchase Order

Either (a) the Subcontractor's commencement of the Work; or (b) the Subcontractor's acknowledgement of a Purchase Order upon execution and delivery of a copy to PaR, whichever is earlier, shall signify an acceptance of the Purchase Order or revised Purchase Order, as may be the case, and shall be deemed an effective mode of acceptance of PaR's offer or counteroffer, as may be the case, and the terms and conditions contained within the Purchase Order.

2.4 Emergency Work

2.4.1 Urgent Request For Immediate Action

In the event that PaR requests in writing that the Subcontractor initiate Emergency Work, and the Subcontractor accepts the written request, the Subcontractor shall commence the performance of Emergency Work and prepare and submit to PaR a request for a Purchase Order within five (5) business days of the commencement of Emergency Work. When issued by PaR, the Purchase Order issued for such Emergency Work shall be effective retroactively to the commencement of the performance of the Emergency Work. In the event Subcontractor fails to submit a request for a Purchase Order within five (5) business days, PaR may submit a Purchase Order identifying the scope of the Emergency Work to the Subcontractor, and Subcontractor shall be bound thereby.

2.4.2 Ensuring the Safety of Persons or Property

In the event that Emergency Work is necessary to ensure the safety of persons or property on a Project, the Subcontractor shall act using its best efforts to prevent the threatened damage, injury, or loss. In the event that the Subcontractor can reasonably justify an impact to either (a) the Milestone Dates in the Project Schedule; or (b) the Contract price, due to the performance of Emergency Work affecting safety, the Subcontractor may submit a request for an appropriate Change Order to PaR within five (5) business days of the performance of such work. The acceptance of such a Change Order will be at the sole discretion of PaR, and will only be binding upon PaR if executed in accordance with Section 3.3.

2.4.3 Terms and Conditions

The Terms and Conditions set forth in the Purchase Order, shall apply to all Emergency Work performed.

3 Purchase Order

3.1 Primacy of Documents

Unless otherwise stated in the Purchase Order, the primacy of documents, in the event of any conflict or inconsistency between the documents comprising the Purchase Order for a Project, and the authority of each individual document relative to the other documents, is in descending order as follows: Purchase Order; Project Specific Terms and Conditions (including the SOW); PaR Systems Subcontract Terms and Conditions, Drawings; Specifications; Vendor Specifications; and, any other documents identified in the Purchase Order for a Project as comprising the Contract Documents for a Project. Notwithstanding the foregoing, the collective documents forming the Contract Documents for a Project shall be taken as mutually explanatory of one another; however, in case of ambiguities, discrepancies, or inconsistencies, the primacy of documents shall govern.

3.2 Price

3.2.1 Price

The price shall be in US Dollars and the per unit cost or total cost set forth in the Purchase Order shall not be higher than the Subcontractor's lowest prevailing price for Materials or Services of like quantity in effect on the date of the request for proposal. PaR shall receive the full benefit of any reduction in the cost of any goods or services, if that reduction is made subsequent to Subcontractor's receipt of the Purchase Order.

3.2.2 Taxes

Except for state sales and use taxes, if such taxes apply to the Purchase Order, the Subcontractor's price shall be inclusive of any and all taxes, fees, excises, and charges which are now or hereafter imposed by federal, state, municipal, or local public authority with respect to the prices set forth in the Purchase Order. PaR shall not be required or obligated to reimburse the Subcontractor for any taxes or similar expenses that may arise or be incurred in connection with the delivery of the Work. If the Subcontractor is required and authorized to collect state sales and use taxes, they shall be billed on the invoice as a separate item and shall not be included in the price of the Work.

3.2.3 Best Price

The Subcontractor hereby warrants that the Price of the Work set forth in the Purchase Order does not exceed the price charged by the Subcontractor to any other customer purchasing Work of like quality and similar quantity from the Subcontractor.

3.3 Change Order

(a) PaR reserves the right to make Purchase Order or Contract Document changes at any time and for whatever reason. The Subcontractor agrees to notify PaR, within five (5) working days,

of any request for an adjustment in the Purchase Order price or Milestone Dates due to a Purchase Order or Contract Document change from PaR.

(b) Both Parties agree that any such changes must be in writing and signed by both Parties.

(c) Both Parties agree that they will be obligated to any changes to the Purchase Order price or Milestone Dates, only if such changes are incorporated into a revised Purchase Order by PaR and accepted by the Subcontractor in accordance with the Purchase Order.

3.4 Assignment

The Subcontractor has no right to assign the Purchase Order, or any of its rights or obligations thereunder, without the prior written approval of a duly authorized representative of PaR, which approval may be delayed or withheld in the sole discretion of PaR. Any unauthorized assignment shall be deemed null and void. PaR shall have the right to freely assign the Purchase Order, or any of its rights or obligations thereunder, in its sole discretion.

4 Packaging

The Subcontractor shall bear the expense of and use its best efforts in packing, boxing and/or crating the Material. The Subcontractor shall be liable for negligence or defect in the performance of this duty to PaR and to those claiming through it for loss or damage to the Material as a result of such negligence.

5 Performance

5.1 Delivery

The Subcontractor shall complete all Work, including the delivery of all Material and the performance of all Services, on or before the Milestone Dates for such Work as set forth in the Purchase Order or the Project Schedule for this Project. Delays or possible delays in the performance of the Work or in the completion of Milestone Dates identified in the Purchase Order or the Project Schedule for this Project immediately shall be reported to PaR. If the Subcontractor fails to meet all of the Milestone Dates, upon the request of PaR, the Subcontractor agrees to use its best efforts, including the use of overtime and extra shifts, to make the deliveries of all or part of the Material, at no extra cost, to PaR.

5.2 Early Delivery

Unless otherwise specified in the Purchase Order, the delivery of any Work, in-whole or in-part, shall not be made prior to the Milestone Dates. For any delivery of Work made prior to the Milestone Dates, PaR may return such Work to the Subcontractor or store such Work at PaR's designated facility, at PaR's discretion, and at the Subcontractor's risk and expense.

5.3 Substitute Material

The Subcontractor shall not substitute components, Materials, finished goods or accessories in place of those ordered without the prior written consent of PaR's Project Manager, which consent may be withheld or delayed in the sole discretion of PaR's Project Manager.

5.4 Excess Material

Goods shipped pursuant to the Purchase Order must not be in excess of the quantity ordered in total or for a particular Milestone Date. PaR has no obligation to accept over shipments, other than as specified in a Purchase Order, and may return any such over shipments to the Subcontractor at the Subcontractor's sole risk and expense.

5.5 Final Completion

The Project shall be deemed complete after the Subcontractor and PaR have a signed Certificate of Conformance or Acceptance Test Procedure, unless otherwise stated in the Purchase Order.

5.6 FOB Shipping Point

5.6.1 Domestic Shipments

All domestic shipments shall be F.O.B PaR's . designated facility, unless otherwise set forth in the Purchase Order.

5.6.2 International Shipments

All international shipments shall be delivery paid and duty unpaid (DDU) at point of customs designated by PaR. in accordance with the trade terms set forth in DDU (INCOTERMS 2000), unless otherwise set forth in the Purchase Order.

6 Standards/Governing Law

6.1 Standards

The Subcontractor shall comply with all Laws, along with all standards for the Work that are set forth in the Purchase Order.

6.2 Governing Law; Venue; Jurisdiction

The validity, performance, and construction of the Purchase Order shall be governed by the Laws of the State of Delaware (USA), without regard to its conflicts of law principles. Each of the Parties hereby (a) agrees that any litigation, action or proceeding arising out of or relating to the Purchase Order shall be instituted in an applicable court only in Minneapolis, Minnesota (USA); (b) waives any objection which it might have now or hereafter to the venue of any such litigation, action or proceeding; (c) irrevocably submits to the jurisdiction of any such court in any such litigation, action or proceeding; and (d) waives any claim or defense of inconvenient forum. .

7 Quality Assurance

7.1 Right of Access

Any authorized representative of PaR or the Customer shall have reasonable access to all plants, facilities and records of the Subcontractor and any Subcontractor Supplier for the purpose of inspection of Work and/or audit of records, procedures, policies, etc.

7.2 Right to Inspect/Test Work

PaR may at all reasonable times inspect and test the Work. The Subcontractor shall make all necessary arrangements and provide access for inspection and testing at all Subcontractor and Subcontractor Supplier facilities where any part of the Material is being fabricated or manufactured. The Subcontractor shall give PaR a minimum two (2) week notice, and shall ensure PaR the opportunity to observe any inspection and/or test of any part of the Work that the Subcontractor or the Subcontractor Supplier is required to perform pursuant to the Purchase Order.

7.3 Right to Reject Work

PaR may reject any part of the Work found to be defective or not in accordance with the Purchase Order, regardless of the status of its completion or the time or place of discovery of such errors, and regardless of whether PaR's inspector has previously passed it without objection through oversight or otherwise.

7.4 Rework/Repair Cost

All rework and/or repair costs for Work rejected in accordance with Section 7.3 above, shall be paid by the Subcontractor.

8 Payment

8.1 Pricing for Material and Services

In consideration for the delivery of acceptable Work, unless otherwise agreed to in the Purchase Order, PaR will pay to the Subcontractor the price provided for in the Purchase Order.

8.2 Retention

PaR, in its sole discretion, may retain up to ten percent (10%) of the Purchase Order price from the final invoice, until closeout documentation is received and deemed by PaR, in its sole discretion, to be complete.

8.3 Set-Off

Both Parties agree that any amounts chargeable to the Subcontractor from PaR or payable by the Subcontractor to PaR under the provisions of the Purchase Order or any other Purchase Order in connection with the Work referred to herein or therein, may, at PaR's election, be set-off in whole or in part against any amounts payable to the Subcontractor by PaR, whether arising under the Purchase Order or otherwise.

8.4 Change Orders Affecting Price

Both Parties agree that a Change Order that has the effect of increasing the Purchase Order price, for whatever reason, shall not be binding upon PaR unless the Change Order is approved and accepted by PaR in writing.

8.5 Payment Terms

If payment terms are not set forth in the Purchase Order, PaR shall make payment in US Dollars net sixty (60) days from the delivery of the Work, or receipt of invoice, whichever is later, pursuant to the Purchase Order.

8.6 Default

Both Parties agree that PaR's default in making such payment when due or in performing any other obligation herein shall not be deemed a breach until the expiration of thirty (30) days from its receipt of written notice from the Subcontractor detailing such default.

9 Grounds for Not Paying Invoices

At PaR's sole discretion, PaR may decline to pay invoices, in-whole or in-part, to the extent PaR decides it is necessary to protect itself from any loss due to one or more of the following reasons:

9.1 Due to Breach

A breach by the Subcontractor on any Subcontractor obligation under the Purchase Order, including all reasonable costs that PaR may incur to remedy the breach (whether by repairing the Material, reordering the Material, re-performing the Services, or otherwise) and all other costs directly attributable to other Services that are required to be performed in connection with remedying such breach.

9.2 Due to Claims

9.2.1 Third Party Claims

Any third-party claims filed in connection with the Purchase Order, or any reasonable evidence indicating probable filing of such claims, or Subcontractor's failure to fulfill its obligations to its suppliers, all in connection with the Purchase Order.

9.2.2 Damage to PaR

Any damage to PaR or to a PaR subcontractor that is not directly connected with the Purchase Order, where such damage arises out of the actual or alleged willful misconduct or negligent

acts or omissions of the Subcontractor or a Subcontractor Supplier, agent, employee, or any other person for whom, directly or indirectly, the Subcontractor or the Subcontractor Supplier may be liable.

9.2.3 Reasonable Evidence

Any reasonable evidence that the Work will not be completed by the Milestone Date specified in the Purchase Order or Project Schedule.

9.2.4 Unsubstantiated or Unsupported Amounts

Any unsubstantiated or unsupported amounts invoiced by the Subcontractor.

10 Warranty

10.1 Material Warranty

(a) The Subcontractor warrants that the Material furnished to PaR under the Purchase Order will be of new manufacture unless specifically noted otherwise in the Purchase Order, will be free from defects in design, workmanship and materials, will be suitable for its intended purpose as specified in the Purchase Order or as otherwise known by the Subcontractor, will be fit for the particular purpose intended to the extent such purpose is set forth in the Purchase Order or the Subcontractor otherwise has reason to know of such purpose, will be in compliance with and will have been manufactured and sold in accordance with all applicable Laws, and will have been fully tested pursuant to the Purchase Order.

(b) The Subcontractor further warrants that the Material will comply with the specifications contained in the Purchase Order for the Project, and will comply with all performance requirements, tolerances and representations contained in the Purchase Order, whether set forth on data sheets, performance curves or otherwise.

10.2 Subcontractor Supplier Warranty

The Subcontractor warrants that it will obtain and assign or otherwise provide to PaR the benefits of any warranties provided by any Subcontractor Supplier, for Material incorporated into the Work delivered in connection with the Purchase Order. The Subcontractor further warrants that it will perform its responsibilities such that all warranties remain in full force and effect upon assignment to PaR.

10.3 Services Warranty

10.3.1 Compliance

The Subcontractor warrants to PaR that all Services will comply with all applicable Laws and specifications contained in the Purchase Order.

10.3.2 Performance

Subcontractor further warrants that the Services will be properly performed in accordance with the applicable industry standards and practices prevailing at the time of the Purchase Order.

10.3.3 Conflicts with Standards/Practices

In the event that any industry standards and/or practices conflict with the Purchase Order requirements, the Subcontractor immediately shall notify PaR's Project Manager who will determine and document in writing, which requirements shall apply.

10.4 Remedies

10.4.1 Material

If any Material does not comply with the warranties herein, and PaR gives the Subcontractor notice of such noncompliance within (a) eighteen (18) months of delivery of Work to the Customer Site; (b) fifteen (15) months of Customer acceptance of Work; or (c) twelve (12) months of installation of Work at the Customer Site, whichever occurs first, or such longer

period as specified in the Purchase Order for any identified Material, or such longer period as provided by a Manufacturer or Subcontractor Supplier of such Material, excluding any period the Material is not available for operation because of breach or non-conformity with any warranty, the Subcontractor shall, at its sole expense, including but not limited to, any and all (i) shipping and transportation costs; (ii) Material costs; (iii) travel and lodging expenses; and (iv) labor expenses, promptly correct by repair or replacement any non-conforming Material. The decision whether to repair or replace shall be made with the concurrence of PaR and the repair or replacement shall be scheduled consistent with the operating requirements of PaR or the Customer, so as to minimize or, if possible, negate any loss of production or use of the Material or of any plant or equipment of which the Material is a part of. All warranties for any repaired or replaced Material shall be extended to one (1) year from the date of PaR's or the Customer's acceptance of the repaired or replaced Material or for the duration of the unused warranty period, whichever is longer.

10.4.2 Services

If any of the Services do not comply with the warranties herein, and PaR gives the Subcontractor notice of such noncompliance within (a) eighteen (18) months of delivery of Work to the Customer Site; (b) fifteen (15) months of Customer acceptance of Work; or (c) twelve (12) months of installation of Work at the Customer Site, whichever occurs first, or such longer period as specified in the Purchase Order for any identified Service, or such longer period as provided by a Subcontractor Supplier of such Service, excluding any period the Work is not available for operation because of breach or non-conformity with any warranty, the Subcontractor shall, at its sole expense, including but not limited to, any and all (i) shipping and transportation costs; (ii) Material costs; (iii) travel and lodging expenses; and (iv) labor expenses, promptly correct by repair or replacement the nonconforming Service. All such replaced or re-performed Services shall be scheduled consistent with the operating requirements of PaR or the Customer, so as to minimize or, if possible, negate any loss of production or use of the Work or of any plant or equipment of which the Service is a part of. The warranty for any such re-performed Services shall be extended to one (1) year from the date of PaR's or the Customer's acceptance of the re-performed Services or for the duration of the unused warranty period, whichever is longer.

10.5 PaR's Right to Perform

In the event the Subcontractor fails to repair or replace the Material, or the Subcontractor fails to re-perform the Services in accordance with the terms herein, PaR may (after reasonable notice to Subcontractor) either correct any deficiencies in the Material or Services or purchase replacement Material or Services elsewhere. PaR may either invoice the Subcontractor for the cost of correcting the deficiencies (including but not limited to, any and all shipping and transportation costs; Material costs; travel and lodging expenses; labor expenses; and any costs directly attributable to other services that are required to be performed in connection with the correction of such deficiencies), invoice the Subcontractor for the cost of replacement, or deduct the cost associated with correction or replacement from any payments due, or subsequently due, the Subcontractor.

11 Indemnity

11.1 Indemnity of PaR

Subcontractor and its successors and assigns, to the extent permitted by law, will indemnify and hold harmless PaR and its Subsidiaries and Affiliates (including their employees, officers and directors), their successors, assigns, Customers and users of their products, from fines, penalties, losses, costs, damages, injuries, claims, expenses or liabilities (a) resulting from injury or death of a person or damage or loss of property related to the Work unless such injury or damage resulted from PaR's negligence or willful misconduct; (b) caused by the Work; (c) resulting from infringement of third party rights in the Work; or (d) resulting from breach of the Purchase Order or violations of Laws by the Subcontractor, Subcontractor Supplier(s), employees, agents, or assigns in the performance of the Purchase Order. Further, if PaR and the

Subcontractor are jointly at fault, each agrees to indemnify the other in proportion to their relative fault. The fines, penalties, losses, costs, damages, injuries, claims or liabilities resulting from Section 11.1 (a) through (d) will be known collectively as "Liabilities."

11.2 Exception

Subcontractor will not be responsible for indemnifying PaR if the infringement claim Liability described above results solely from (a) the Work being designed or modified by PaR; or (b) PaR's subsequent use of the Work, outside of the intended purpose contemplated within the scope of the Purchase Order. With respect to any such Liabilities in this 11.2, PaR will indemnify and hold Subcontractor harmless to the same extent as Subcontractor will indemnify PaR as set forth in Section 11.1 above.

11.3 Responsibilities of PaR

PaR shall indemnify and hold Subcontractor and its employees harmless from and against all claims, causes of action, suits, costs and expenses (including reasonable attorney's fees), losses or liabilities of any kind asserted by third persons which result solely from any negligent or wrongful act or omission on the part of PaR, its employees, agents or representatives and which relate PaR's performance hereunder.

11.4 Responsibilities of Indemnifying Party

At its expense and as appropriate under this Section 11, the party against whom indemnification is sought will (a) defend against or settle Liabilities and (b) pay related and reasonable costs and attorneys' fees. The indemnifying party will have sole control of the settlement or defense of Liabilities, but the party seeking indemnification may participate in the defense or settlement at its own expense. The party seeking indemnification, as applicable under this Section 11, will give prompt written notice to the party responsible for indemnification, and provide full information and reasonable assistance to the indemnifying party. The indemnifying party shall have no liability whatsoever with respect to any Liabilities settled by the party seeking indemnification without the prior written consent of the indemnifying party.

11.5 Injunction

If PaR is enjoined from using Work due to an infringement claim Liability caused by Subcontractor, Subcontractor at its expense must immediately provide PaR with a workaround. The workaround will be Subcontractor's (a) obtaining the right for PaR and its Subsidiaries to use the Work as provided under this Agreement; (b) substituting a functionally equivalent product or service, as applicable, that does not infringe; or (c) modifying the infringing Work so that it no longer infringes.

11.6 Survivability

The obligations under this Article 11 will survive the completion or termination of the Purchase Order.

12 Liability; Insurance

12.1 Limitation

EXCEPT WITH RESPECT TO INDEMNIFICATION OBLIGATIONS, BREACHES OF CONFIDENTIALITY AND/OR CLAIMS RESULTING FROM INFRINGEMENT OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS, NEITHER PARTY WILL BE LIABLE FOR PUNITIVE OR SPECIAL DAMAGES OR FOR INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, (INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, BUSINESS INTERRUPTION, LOSS OF MARGIN, LOSS OF USE, LOSS OF CONTRACT, LOSS OF GOODWILL) ARISING FROM OR RELATING TO ANY CLAIM(S) MADE UNDER THE PURCHASE ORDER OR REGARDING THE PROVISION OF OR THE FAILURE TO PROVIDE WORK, OR BREACH OF THE

PURCHASE ORDER, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

12.2 Evidence of Insurance

In addition to any other insurance that PaR shall require under the Purchase Order, the Subcontractor shall maintain at its own cost and expense such insurance of the types and in the amounts as required by PaR to insure all of the Subcontractor's obligations under the Purchase Order and that sufficiently will protect PaR from all claims for damages to persons and property that may arise from any operations under the Purchase Order or subcontracts related to the Purchase Order. Further, the Subcontractor shall maintain during the entire term of the Purchase Order insurance policies within minimum limits of coverage as outlined below in Section 12.3.

Prior to commencing work, the Subcontractor shall require its insurer or insurance agent to supply to PaR a certificate of insurance. Such insurance shall name PaR Systems, Inc. as an additional insured. Such additional insured endorsements shall provide coverage for PaR with coverage for liability that arises out of the Work. The insurance coverage provided by the Subcontractor to PaR under this Section shall be independent of the indemnity provisions of the Purchase Order and are not designated solely to guarantee payment of the Subcontractor's obligations.

12.3 Insurance Requirements

(a) Workers' Compensation insurance and Employers' Liability Insurance, as prescribed by the applicable Laws, including insurance covering liability under the Longshoreman's and Harbor Workers' Compensation Act, the Merchants Marine Act (Jones Act) and the Outer Continental Shelf Land Act, if applicable.

(b) Commercial General Liability Insurance with a minimum combined limit of \$1,000,000 per occurrence and \$2,000,000 aggregate. This coverage must include the following features:

(i) If Work is to be performed by the Subcontractor includes construction or demolition operations within fifty (50) feet of any railroad property and affects any railroad bridge, trestle, tracks, roadbeds, tunnel, underpass or crossing, such policy shall include Railroad Contractual Liability endorsement CG 24171093, or the Subcontractor will purchase a separate Railroad Protective Liability policy in the amount of \$2,000,000 per occurrence and \$6,000,000 aggregate.

(2) Contractual Liability coverage, including XCU exposures.

(3) Products and Completed operations coverage.

(4) Coverage will include Additional Insured Endorsement naming PaR Systems, Inc. as an additional insured.

(c) Automobile Liability Insurance, covering all owned, non-owned, hired and leased vehicles with a minimum combined single limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence. This insurance will include Contractual Liability coverage.

(d) Installation/ Builders Risk insurance, equal to the entire value of the Material being installed, if the Subcontractor is responsible for the installation of equipment under the Purchase Order. The coverage will be written on an ALL RISK/ Special coverage and provide coverage on a REPLACEMENT COST basis.

(e) Umbrella Liability coverage in an amount no less than \$10,000,000 per occurrence and \$10,000,000 in the aggregate.

(f) All of the insurance referenced above shall provide coverage for the exposures of Aircraft/Aerospace Products Liability if the Subcontractor is performing Work on behalf of PaR for the Aviation/ Aerospace industry.

(g) All of insurance referenced above shall provide coverage for the exposures of Nuclear Liability, and will conform to the Price Anderson Act, or any other applicable requirements, if the Work that the Subcontractor is performing on behalf of PaR will be intended to be utilized within the Nuclear Industry.

(h) The above insurance shall include a requirement that the insurer provide thirty (30) days written notice prior to the effective date of any cancellation or material change of the coverage.

13 Confidentiality and Intellectual Property Matters

13.1 PaR Materials

All materials, drawings, specifications, photographs, tools, dies, and other engineering and manufacturing materials and proprietary information, and any and all intellectual property rights therein, furnished by PaR to the Subcontractor shall remain PaR's property, shall not be copied by Subcontractor without PaR's prior written consent and shall with any and all copies thereof be returned to PaR upon request. All such property shall be subject to removal and inspection by PaR at any time. All such property shall be identified and marked as PaR's property, shall be used only for the Purchase Order, and shall be adequately insured for PaR's protection against risk of loss or damage for its replacement value at Subcontractor's expense while it is in Subcontractor's possession.

13.2 Confidentiality

(a) PaR may disclose to the Subcontractor certain details of the processes, apparatuses and interfaces, sufficient in PaR's judgment, to obtain general technical and system information relating to PaR's design and manufacturing capabilities. All such PaR Information shall collectively be "Information."

(b) The Subcontractor understands that in making the disclosure referred to in this Section 13.2, PaR will be revealing Information of a confidential, proprietary and secret nature. Therefore, any Information, which the Subcontractor or its representatives receives, whether in writing, orally or visually, will be considered by the Subcontractor to be confidential at the time of disclosure and will be retained as confidential by the Subcontractor unless and until such Information no longer is confidential, as described below. Where the disclosure is made orally or visually, PaR will reduce the Information to writing within thirty (30) days and mark the writing with an appropriate legend. The Subcontractor will not disclose the Information to anyone except officers and employees in its organization, or subcontractors or affiliates that have agreed to be bound by obligations at least as restrictive as those contained herein, who shall be informed of the confidential nature of the Information, and will only use the Information for the purposes of fulfilling the Purchase Order. Information which shall not be considered as confidential will be that which: (i) was known to the Subcontractor prior to such disclosure as evidenced by its written records; (ii) is disclosed to the Subcontractor by a third party who has rightfully obtained such Information without restriction on its use; (iii) is or becomes known to the public without any breach of the Purchase Order by the Subcontractor or its subcontractors or its affiliates; or (iv) is required to be disclosed pursuant to any judicial or governmental request, requirement or order, provided that reasonable notice of such requirement is provided to PaR so that it has an opportunity to seek legal protection of the Information.

(c) Furthermore, the Subcontractor will afford any of the property or Information described herein or any other confidential information concerning the business affairs of PaR, including without limitation, lists of customers, trade secrets, know how and information concerning the design or methods of manufacturing the goods or any other information which PaR may from

time to time specify as being confidential, reasonable protection against disclosure and such additional protection as PaR may reasonably request. Any such information will be furnished by PaR to the Subcontractor only to assist the Subcontractor in providing the goods or services referred to herein and therein and such disclosures will be made only on a confidential basis and shall in no way impair the confidential nature thereof. To the extent that Material is produced in accordance with drawings or specifications which are proprietary to PaR or to PaR's Customer, the Subcontractor shall not manufacture or retain for the purpose of display or otherwise, any more such supplies or parts thereof, then are required to be delivered under the Purchase Order.

(d) The Subcontractor acknowledges and agrees that a violation of the terms of Sections 13.1 and/or 13.2 will cause irreparable harm to PaR, and that such PaR's remedy at law for any such violation will be inadequate. In recognition of the foregoing, the Subcontractor agrees that, in addition to any other relief afforded by law, including damages sustained by a breach of these Sections and without the actual necessity of proof of actual damage, PaR shall have the right to enforce these Sections by specific remedies, which shall include, among other things, temporary and permanent injunctions, it being the understanding of the Subcontractor that both damages and injunctions shall be proper modes of relief and are not be considered as alternative remedies.

13.3 Intellectual Property

(a) All work, materials or ideas provided, performed, created or prepared by the Subcontractor for PaR pursuant to the Purchase Order, including without limitation, all Work, and any and all programs, derivative works, discoveries, business concepts, inventions, innovations, improvements, materials, documentation, techniques, methods and processes which are conceived, made, proposed, or developed by the Subcontractor, alone or with others, specifically related to the Purchase Order, but excluding any Excluded Inventions (as defined in Section 13.3(d)) will collectively be termed the "Work Product."

(b) The Parties agree that if any Work Product is copyrightable and such Work Product and/or creation falls within the definition of a "work made for hire" as defined in 17 U.S.C. §101 and §201(b), such Work Product will be considered a "work made for hire" and all copyrights and copyright registrations related to such copyrightable Work Product, will be the sole and exclusive property of PaR. To the extent that any Work Product does not fall within the definition of a "work made for hire," the Subcontractor grants and assigns to PaR, without reservation, all of the Subcontractor's worldwide ownership rights, title and interest in and to all intellectual property rights in such Work Product. Such grant of rights by the Subcontractor to PaR includes, but is not limited to, the exclusive right to prepare derivative works from any Work Product, with full rights to authorize others to do the same. Ownership by PaR will include all changes and additions to any Work Product made by either party, and all derivative works made by either party. To the extent that the Subcontractor has intellectual property rights in any technology concerning any Work Product, and such rights are not otherwise granted to PaR herein, the Subcontractor grants to PaR a royalty-free, irrevocable, worldwide and non-exclusive license to make, have made, sell, use and disclose, reproduce, modify, prepare derivative works from, distribute, perform and display such subject matter, with full rights to authorize others to do the same.

(c) If, by operation of law, the Subcontractor is deemed to retain any right in any Work Product, the Subcontractor hereby: (i) waives all such rights; however, if waiver is not permissible under applicable Laws, the Subcontractor hereby grants such rights to PaR; and (ii) where such right to waiver or grant does not exist, grants the exclusive, irrevocable, worldwide and royalty-free right and license to use, modify, license and market such Work Product.

(d) The Subcontractor will not be required to assign to PaR any invention, discovery, innovation or improvement that the Subcontractor can show was developed entirely on its own time and without the use of any equipment, supplies, facility or Information of PaR and: (i) does not relate to the business of PaR and/or its Subsidiaries; or (ii) does not result from any Work performed by the Subcontractor for PaR (the "Excluded Inventions"). In any dispute with

respect to these Excluded Inventions, the burden of proof will be on the Subcontractor to show that the exclusion applies.

(e) The Subcontractor shall not use any trademarks, trade names, service marks, domain names or logos of PaR or its Subsidiaries as a domain name or meta tag or in any internet URL as such use would infringe upon such marks. The Subcontractor shall not use or register any trademarks or trade names of PaR or its Subsidiaries without PaR's prior written consent.

(f) All rights of PaR are reserved, unless explicitly granted under this Purchase Order.

14 Waiver

Both Parties agree that PaR's failure to enforce any provision of the Purchase Order, for any reason, shall not be a waiver of such provision nor of the right of PaR to enforce such provision.

15 Severability

If any portion or provision of the Purchase Order shall, to any extent, be held invalid or unenforceable, the remainder of the Purchase Order or the application of such portion or provision in circumstances other than those in which it is held invalid or unenforceable, shall not be affected thereby, and each portion or provision herein or therein shall be valid and enforceable to the fullest extent permitted by applicable Law.

16 Fair Operation and Dispute Resolution/Arbitration

16.1 Dispute Resolution

If any dispute or claim arising under the Purchase Order cannot be readily resolved by the Parties, the Parties agree to refer the matter to a panel consisting of one (1) senior executive from each Party for review and resolution. The senior executive shall not have been directly involved in the claim or dispute. A copy of the Purchase Order, relevant facts, areas of disagreement and a concise summary of basis of each side's contention will be provided to both executives who shall review the same, and attempt to reach a mutual resolution of the issue. The senior executives shall meet within thirty (30) calendar days of their appointment and shall attempt to resolve the dispute for a period of not less than thirty (30) days.

16.2 Arbitration Process

(a) All disputes, controversies or differences which may arise out of or in relation to any aspect of the Purchase Order or any breach hereof or any default hereunder which cannot be resolved by the Parties shall be resolved by one (1) jointly-appointed arbitrator in accordance with the most current rules set forth in this Section 16.2.

(b) If a U.S.-based Subcontractor is a party to the Purchase Order, any dispute, claim, or controversy not resolved amicably by the Parties shall be finally resolved by one (1) arbitrator in accordance with the then-applicable Commercial Arbitration Rules of the American Arbitration Association. Arbitration proceedings will be conducted in English and shall be held in the city of St. Paul, Minnesota (USA).

(c) If a foreign-based Subcontractor is a party to the Purchase Order, any dispute, claim, or controversy not resolved amicably by the Parties shall be referred to and finally resolved by arbitration administered by the International Centre for Dispute Resolution ("ICDR"), under its International Arbitration Rules. The tribunal shall consist of a sole arbitrator, jointly appointed by the Parties, and the place for arbitration shall be in the offices of the ICDR, in New York, New York. The proceedings shall be in the English language. Judgment upon award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Such award shall be equally valid if the laws or regulations of the country in which enforcement is brought require that the judgment be translated into the specified language of that country.

(d) With respect to the arbitration proceedings described above, both Parties hereby waive the right to refer the dispute(s) to any jurisdiction except as set forth above. The Parties shall continue to perform their obligations under the Purchase Order pending outcome of any arbitration specified above or other dispute hereunder.

17 Force Majeure

Time is of the essence in the Subcontractor's performance of Work under the Purchase Order. The Subcontractor shall not be considered in default in the performance of its obligations herein to the extent that such performance is delayed by causes outside of its control and not due to its fault or negligence and not reasonably foreseeable or, if foreseeable, cannot be avoided by the exercise of all reasonable efforts, including acts of civil or military authority, acts of God, acts of war, acts of terrorism, acts of government, riot, insurrection, blockages, embargoes, sabotage, epidemics, fire, flood, and/or famine. No such interruption shall relieve the Subcontractor of its duty to perform or give rise to any damages or additional compensation from PaR. The Subcontractor has as its sole remedy against PaR in the event of such interruption the right to seek an extension of time for performance equal to the time lost as a result of said interruption. In the event of such interruption, the Subcontractor shall notify PaR within five (5) business days in writing of the nature, cause, date of commencement and anticipated extent of such delay and its effect on the Milestone Dates. Any request for an extension of time by reason of such interruption shall be given to PaR within five (5) business days after the end of the interruption.

18 Termination

18.1 Right to Terminate

At PaR's sole discretion, PaR may suspend or terminate Work under the Purchase Order by written notice to the Subcontractor. Such termination or suspension may be in whole or in part. Notice of suspension or termination may specify the schedule and manner and other conditions of the suspension or termination. In such event, the Subcontractor shall be entitled to payment for the Work performed up to the time of such termination or suspension in accordance with the terms of the Purchase Order, including reasonable expenditures, that in PaR's sole judgment, are necessarily incurred by the Subcontractor in the orderly termination or suspension of its Work as prescribed in the notice.

18.2 Cancellation Due to Default

PaR may, without payment or penalty of any kind, cancel all or any part of the Purchase Order whether or not then delivered, if any of the following events occur: the Subcontractor fails to make deliveries or perform Work in accordance with the terms hereof; breaches any of the terms herein including the warranties and covenants of Subcontractor; files or has filed against it any petition or other proceeding in receivership, bankruptcy or insolvency; or injures or removes the Material or sells or pledges or in any way transfers the Material or its interests in them, or suffers or permits any lien to be placed on them, or suffers or permits such Material to be seized by and writ or process or law. In the event of any such cancellation, PaR shall advise the Subcontractor of the damages occasioned by the breach. If the Parties are able to agree on cancellation damages, the Subcontractor shall promptly pay them, or, if not, the issue shall be submitted to arbitration as provided herein. So far as permitted by Laws, the rights and remedies given PaR herein are cumulative and are in addition to any and all other remedies PaR may have herein or by Laws.

18.3 Subcontractor's Obligations

If the Subcontractor ceases its operations in the usual course of business or is unable to meet its obligations, or if proceedings under any provision of the federal, state or local bankruptcy Laws are initiated against the Subcontractor, or if a receiver, trustee, or liquidator is appointed or applied for, or if an assignment for the benefit of creditors is made by the Subcontractor, or if the Subcontractor fails to perform any of its obligations under the Purchase Order, including failure to comply with any of PaR's instructions, regulations or procedures, or failure to meet

the specified schedule of performance, then the Subcontractor shall be in default. PaR may suspend Work until the basis for the Subcontractor's default has been corrected to PaR's satisfaction or terminate this Purchase Order immediately for default. The Subcontractor shall not be entitled to any compensation for costs incurred during such a suspension. In addition, the Subcontractor shall be responsible for any damages suffered by PaR, its successors and assigns, or PaR's Customer as a result of the suspension or termination for default. The foregoing shall be in addition to any other rights PaR may have under the Purchase Order or applicable Laws.

19 Environmental Protection

19.1 Environmentally Sensitive Activities

In the event that the Subcontractor's activities in connection with the Purchase Order or its Work herein involve Environmentally Sensitive Activities, the Subcontractor hereby warrants and guarantees that it and its employees are fully qualified and licensed to perform such activities and are informed and trained in the particular aspects of the Work under the Purchase Order. The obligations of the Subcontractor shall extend to any claim which may be brought against the Subcontractor or PaR, or their respective officers, directors, employees and agents, arising out of or alleged in any way to involve or be based in any Environmentally Sensitive Activity.

19.2 Hazardous Constituents at Site

The Subcontractor shall not bring, nor permit the Subcontractor Suppliers or others performing the Work to bring, onto the Site any Hazardous Constituents except as specified in, or permitted by, the Purchase Order. If the Work contemplated herein requires the transfer to PaR by the Subcontractor of any chemical substance or mixture, or any material which may generate or release a chemical substance or hazardous material, the Subcontractor shall provide, before or with each such transfer, a Material Safety Data Sheet (OSHA Form 20 or equivalent ("MSDS")) and container labels, which include current, accurate, and complete information relating to product hazards and precautions for safe use. Should Hazardous Constituents be specified in the Purchase Order for the Project, a copy of the MSDS must remain with the material at the Site for the duration of the Work. In the event that the Hazardous Constituents were introduced at the Site by the Subcontractor, the Subcontractor Supplier, or any other person or entity performing any portion of the Work, the Subcontractor shall collect, handle, transport, treat, store, and dispose of such Hazardous Constituents in accordance with such procedures and Laws. The Subcontractor shall perform the Work to minimize improper activities by the Subcontractor Supplier, and any other person or entity performing any portion of the Work, in connection with any Hazardous Constituents. The Subcontractor shall coordinate the Work with the entities that collect, handle, transport, treat, store, and dispose of such Hazardous Constituents. Copies of all waste manifests for waste to be disposed of by the Subcontractor shall be furnished to PaR.

19.3 Lawful Disposal Of Hazardous and Toxic Materials

All Hazardous Constituents which must be disposed of, treated, stored, or removed from the Site, shall be collected, handled, transported, treated, stored, disposed of, or otherwise remediated in accordance with all local, county, state, and federal laws, and the Purchase Order for the Project, and procedures approved in advance by PaR, and delivered to a disposal site or other facility acceptable to PaR.

19.4 Negotiations on Variations

The Subcontractor shall not under any circumstances apply to, or enter into negotiations with, any governmental authority or agency for acceptance of variations from or revisions to safety or health, or air, water, noise pollution, or other environmental Laws or regulations relating to the Purchase Order or to the performance thereof, without PaR's prior written consent.

19.5 Hazardous and Toxic Material Notification and Handling

The Subcontractor represents and warrants that it understands and accepts the currently known and potentially hazardous risks which may be presented to human beings, property, and the environment by potentially hazardous substances or toxic materials at or near the Project Sites and agrees that it shall inform its officers, directors, employees, agents, consultants, and Subcontractor Supplier of every tier, and all other parties which may come into contact with hazardous substances or toxic material(s) as a result of Subcontractor's performance or failure to perform herein, of the nature of such materials and the health or environmental risk(s) associated therewith. The Subcontractor shall perform the Work in such a manner as to ensure that all potentially hazardous materials will be removed and/or treated in such a manner which causes no contamination of the facility at which the Work is provided, endangers none of the workers performing the Work, and creates no short or long term threat to the health of other persons.

20 Stop-Work Order

PaR may, at any time, by written notice to the Subcontractor, stop all or part of the Work herein (a) for any length of time if such stoppage is a result of Customer's stoppage; or (b) for up to one hundred eighty (180) days in its sole discretion. Upon receiving a stop-Work order, the Subcontractor shall immediately comply with its terms and take all reasonable steps to avoid incurring any additional costs allocable to such Work. At any time prior to the expiration of the stop-Work period, as applicable, PaR shall either cancel the stop-work order or terminate the Work covered by the stop-work order. PaR shall make an equitable adjustment in the delivery schedule and/or price hereunder if the stop-work order results in an increase in time or cost for performance. The Subcontractor must assert a claim for equitable adjustment within fourteen (14) days after the end of the Work stoppage.

21 Project Management

21.1 PaR's Project Manager

PaR may, in its sole discretion, change its Project Manager at any time, and shall promptly notify the Subcontractor in writing of any such change.

21.2 Subcontractor's Project Manager

The Subcontractor's Project Manager shall keep PaR's Project Manager informed at all times of Subcontractor's performance and progress relating to the Work. The Subcontractor may change its Project Manager at any time, as long as a fully qualified replacement is ready to assume such responsibility.

21.3 Communication

All communication between PaR and the Subcontractor regarding the execution of this Purchase Order shall be coordinated through the PaR Project Manager. All communication and documents supplied to PaR shall be in English.

22 Captions/Headings

The captions/headings herein are for convenience and reference only and shall not affect any meaning.