



# **Rates, Terms & Conditions for Domestic Field Service Contracts RTC-01**

REVISION: L (03/23/23)

APPROVED BY: *Jenny Conlin Business Director, Legal 03/23/23 07:44 AM*  
*Donna Turner Sr. Director, Operations & Service 03/22/23 06:34 PM*

**REVISION RECORD**

REVISION	DESCRIPTION
0 - G	Archived
H	<p>Initial load into eDocs.</p> <p>Changed PaR Systems, Inc. to PaR Systems LLC throughout document.</p> <p>Changed heading of labor rate table from FY 2017 to 2018.</p>
J	<p>Updated approval authority.</p> <p>Changed "2020" to "2021" under "Copyright" and in the "Time and Material Labor Rates" table.</p> <p>Section 2.6, last paragraph, under "Holidays" - changed "ten (10) holidays" to "eight (8) holidays," and removed Good Friday and New Year's Eve from the list of holidays.</p> <p>Updates to Terms and Conditions. Specifically, added revised export control language, venue language, and delegation language.</p>
K	<p>Updated approval authority.</p> <p>Changed "2021" to "2022" under "Copyright" section (page iv).</p> <p>Section 2.5 - Updated "Time and Material Labor Rates" table with 2022 rates.</p>
L	<p>Updated review and approval authority.</p> <p>Copyright" section (page iv) – under <b>CORRESPONDENCE</b>, changed "Field Service Manager" to "Sr. Director Operations &amp; Service;" under <b>COPYRIGHT</b>, changed "2022" to "2023."</p> <p>Section 2.5 - Updated "Time and Material Labor Rates" table with 2023 rates.</p>

# **Rates, Terms, & Conditions for Domestic Field Service Contracts**

## **RTC-01**

**PROPRIETARY NOTICE**

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**CORRESPONDENCE**

Any correspondence regarding this document should be forwarded to:

**Sr. Director Operations & Service  
PAR Systems, LLC  
707 County Road E West  
Shoreview, MN 55126-7007  
USA**

**Telephone: (651) 484-7261**

**Fax: (651) 483-2689**

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## 1.0 GENERAL

The services of PAR Systems, LLC personnel for the purpose of providing installation and technical assistance are provided at the following rates and subject to the following Terms and Conditions. Any services performed prior to the issuance of a formal purchase order are at the rates listed in this document, and subject to the terms set forth herein. This document is deemed to be incorporated by reference in any purchase order issued by the customer to cover such services.

## 2.0 LABOR

### 2.1 Personnel

**Technician (Mechanical, Electrical).** Any personnel who has not been technically certified as a Senior Technician. Usually works with a Senior Technician.

**Senior Technician (Mechanical, Electrical).** Any personnel who can perform any task as may arise with absolute minimal direction from Managers or Engineers and will perform when a Field Engineer is not required.

**Field Engineer (Mechanical, Electrical, Software).** Any personnel who performs major field equipment problem diagnosis and formulates software changes. Often is the supervisor of an Install Team, makes decisions largely without the need for Design Engineering direction but with approvals as required.

**Project/Design Engineer (Mechanical, Electrical, Software).** Any personnel responsible for concept and final design of product and gives final answer to field questions.

**Systems Manager/Program Manager/Engineering Manager.** Any personnel who oversees large complex systems containing multiple engineering disciplines. Responsible for staffing of project teams, program oversight, and leads critical design reviews and also provides input and direction to Project Engineers.

### 2.2 Preparation Time

**Non-Installation Scope.** Field assignments for technical support of less than five (5) days in length including travel time, will have two (2) regular hours preparation and two (2) regular hours of documentation time added to the billing.

**Installation Scope.** Readiness Review Sessions held at PAR Systems, LLC facility, in preparation for an installation, are generally 2-5 days in length. The complete installation team will participate in the review session in order to become familiar with the scope of work prior to site deployment. The applicable disciplines hourly rate will be charged for such training/ preparation sections. The length of the Readiness Review Session and the number of team members will be proportionate to the installation size.

## 2.3 Software Changes - Under SQAP/V&V Control

Minor software changes made per the customer's request during field assignments are subject to PAR Systems, LLC Software Quality Assurance Program and will be subject to a minimum of four (4) hours charge added to the invoice at the Project/Design Engineer rate. If it is determined that more than four (4) hours of documentation and review are needed; the customer will be informed prior to the start of that work. These hours may include changes to software code, an independent review of the code, engineering change order processes, and updating the PAR Systems, LLC network files. The deliverable to the customer will be a copy of the updated code, and a software change log detailing the changes made in the code.

## 2.4 Extended Assignments

During extended assignments (greater than two (2) weeks) PAR Systems, LLC has the option of rotating personnel after each two (2) week period. An ample amount of overlap time is provided to ensure transition at no charge. As an alternative to personnel rotation, and when the cost to the customer and PAR Systems, LLC does not exceed rotation, the field representative may return to their permanent work location for the weekend.

The following table shall be followed for calculating weekend visits home:

<b>Trip Duration</b>	<b>Home Visit</b>
3 week trip	The weekend between week 2 and 3
4 week trip	The weekend between week 2 and 3
5 week trip	The weekend between week 2 and 3; 4 and 5
6 week trip	The weekend between week 2 and 3; 4 and 5

The costs of these trips will be billable against the Customer Purchase Order/Contract. If the work priorities at the site do not make travel home feasible, then the employee's spouse may be sent to the site area for a visit. Such a visit shall occur only once during a given three (3) to four (4) week period of assignment or twice during a five (5) to six (6) week assignment.

## 2.5 Domestic Field Service Labor Rates

2023 Time and Material Labor Rates						
	Description	Technician	Senior Technician	Field Engineer	Project/ Design Engineer	Systems Engineer, Program Manager, Engineering Manager
In-House & Field - Domestic	Weekday Straight Time per Hour	\$185	\$200	\$245	\$290	\$340
	Overtime Weekday & Saturday per Hour	\$238	\$264	\$308	\$379	\$457
	Premium Sunday & Holidays per Hour	\$296	\$348	\$391	\$472	\$580
	Standby Time per Hour	\$122	\$134	\$166	\$190	\$223
	Layover Weekdays per Day	\$1,480	\$1,600	\$1,960	\$2,320	\$2,720
	Layover Saturdays per Day	\$951	\$1,056	\$1,233	\$1,517	\$1,829
	Layover Sunday & Holidays per Day	\$1,184	\$1,392	\$1,563	\$1,888	\$2,322
Travel Time	Weekday (same rate for straight time and overtime)	\$132	\$150	\$172	\$200	\$232
	Saturday	\$176	\$200	\$228	\$282	\$339
	Premium Sunday & Holidays per Hour	\$214	\$265	\$293	\$357	\$434



## 2.6 Terminology

**In-House Straight Time Labor:** Services performed at PAR System's facility based on a normal eight (8) hour workday, Monday through Friday, excluding holidays observed by PAR Systems, LLC.

**In-House Overtime Labor:** Services performed at PAR System's facility. Overtime rates apply to all time worked outside the normal eight (8) hour work period, Monday through Friday. Overtime rates are applicable to all time worked on Saturdays without regard to the number of normal period hours worked in that week.

**In-House Premium Labor:** Services performed at PAR System's facility on Sunday and Holidays. Premium rates are applicable to all time worked on Sundays and Holidays without regard to the number of normal period hours worked in that week.

**Travel Time:** Travel time is actual time spent in transit from facility to facility, including local transportation. Travel time, regardless of time of day or day of week, will be charged at the applicable rates. Overtime will apply after eight (8) normal time hours on weekdays and all day Saturday. Premium time applies for all day Sunday and Holidays. Travel time to and from Customer or worksite and hotel in excess of 30 minutes will be billed at applicable rates.

**Weekday Straight Time Labor:** Services performed in the field based on a normal eight (8) hour workday, Monday through Friday, excluding holidays observed by PAR Systems, LLC. Services provided in the field will be invoiced at a minimum of eight (8) hours per weekday.

**Overtime Weekday & Saturday Labor:** Services performed in the field. Overtime rates apply to all time worked outside of the normal eight (8) hour work period, Monday through Friday. Overtime rates are applicable to all time worked on Saturdays without regard to the number of normal period hours worked in the week.

**Premium Sunday & Holiday Labor:** Services performed in the field on Sundays and Holidays. Premium rates are applicable to all time worked on Sundays and Holidays without regard to the number of normal period hours worked in that week.

**Standby Time:** Standby time is charged only after a minimum eight (8) hour work shift. Standby rates apply to requests by the customer for a field representative to be immediately available to report to the job site upon being contacted. Fitness for Duty requirements apply.

**Layover Weekdays:** Layover weekdays are Monday through Friday days spent in the immediate vicinity of the work location when reporting to the job site is not required. Fitness for Duty requirements do not apply. Weekdays are billed at eight (8) weekday straight time hours per day. Per Diem will be added for each elapsed day.

**Layover Saturdays:** Layover Saturdays are Saturdays spent in the immediate vicinity of the work location when reporting to the job site is not required. Fitness for Duty requirements do not apply. Saturdays are billed at four (4) Overtime Weekday and Saturday labor hours per day. Per Diem will be added for each elapsed day.

**Layover Sunday & Holiday:** Layover Sundays and Holidays are Sundays or Holidays spent in the immediate vicinity of the work location when reporting to the job site is not required. Fitness for Duty requirements do not apply. Sundays and Holidays are billed at four (4) Premium Sunday and Holiday Labor hours per day. Per Diem will be added for each elapsed day.

**Holidays:** PAR Systems, LLC has eight (8) holidays each year. They are as follows:

New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving, Day After Thanksgiving, Christmas Eve and Christmas Day.

On the occasion that a holiday falls on a weekend, the observed PAR Holiday schedule will be used.

### 3.0 TRAVEL EXPENSES

**Per Diem.** PAR Systems, LLC Per Diem rate on the government published Meals and Incidentals Expenses (M&IE) for the location of the traveler. This information can be found in Appendix 1 of Chapter 301 of the Federal Travel Regulation. Domestic per diem rates are published at: [www.gsa.gov](http://www.gsa.gov).

**Lodging.** Hotel costs will be billed at actual cost.

**Airfare.** Transportation cost is based on round trip by most economical means at actual cost. Air travel is scheduled via coach if available, to and from project site.

**Automobile.** Car rental will be billed at actual cost utilizing the most economical rate available. Use of private autos by a PAR Systems, LLC employee will be billed to the customer at the then current IRS allowable per mile rate. Automotive expenses will be billed at actual cost.

## 4.0 TERMS AND CONDITIONS

**4.1 General Conditions.** Products and services furnished by PAR Systems, LLC (“PAR”) are sold on the terms and conditions stated herein, the terms included in any applicable proposal submitted by PAR to Customer, and the terms included on any corresponding purchase order(s) for such Products and Services, as agreed to in writing by PAR (collectively, the “Contract”). Notwithstanding any terms or conditions on Customer’s order or other form, PAR’s quotes and performance of the Contract are expressly made conditional on the Customer’s agreement to all such terms and conditions contained in the Contract, unless otherwise agreed to in writing by PAR. In the absence of such specific agreement, commencement of performance and/or delivery by PAR shall be for Customer’s convenience only and shall not be deemed or construed to be a waiver of any of the terms and conditions set forth in the Contract or as acceptance of any of Customer’s terms and conditions. Acceptance of any Product or Service by Customer shall be deemed acceptance of the terms and conditions stated in the Contract.

**4.2 Prices/Payment Terms.** Unless otherwise agreed in writing, prices are exclusive of all expense of shipment and delivery, including, but not limited to, freight charges, export fees, special packaging, insurance taxes, duties, tariffs and other special items (collectively, “Shipment Expenses”). All prices and other charges are quoted and shall be paid in United States Dollars free of all expense to PAR for collection charges.

Payment terms are set forth in Contract. No payment by Customer, or acceptance by PAR at any time of a lesser amount than shall be due from Customer to PAR, or pursuant to a qualified endorsement, shall be treated other than as payment on account. Customer shall pay interest to PAR on any delinquent payment from the due date thereof until paid at the rate of one and one-half percent (1-1/2%) per month, or such lesser amount as may be established by applicable law.

Unless otherwise agreed in writing, Customer shall pay any future or present sales, use, privilege, occupation, excise or other tax, custom duties, fee or charge of any kind whatsoever imposed by any governmental authority on the transaction set forth in the Contract, including, but not limited to, taxes imposed on the production, sale, purchase, delivery, storage, manufacture, processing, use or consumption of any of the Products or services to be performed.

In the event that PAR incurs any costs due to the inability, unwillingness or other fault of Customer to perform in accordance with the Contract, including without limitation, performing its design approval, manufacturing, testing, timely delivery, installation and other Contract requirements, or if Customer otherwise suspends performance by PAR without PAR’s prior written consent, any and all such costs, including without limitation, material costs and labor, storage fees, and administrative fees associated with the delay, shall be paid by Customer immediately to PAR. In addition to such payment, if PAR is delayed in achieving payment milestones set forth in the Contract due to such inability, unwillingness or other fault of Customer, PAR shall invoice as per the payment milestone dates set forth in the Contract and Customer shall pay PAR upon receipt, unless otherwise agreed in writing by PAR.

**4.3 Nuclear Hazard Indemnification.** Customer agrees to indemnify and hold PAR harmless from and defend PAR against any and all loss, cost, damage, expense and claims therefore (including attorney’s fees and expenses and including claims by the Customer’s employees) arising out of, or resulting from, any Nuclear Energy Hazard, as ordinarily defined, even if such loss, cost, damage, expense or claim is due to the act, fault, neglect or omission of PAR.

**4.4 Shipping/Installation** Unless otherwise agreed in writing, if PAR shipments are made from a U.S. origin to a Customer’s United States destination, the shipment terms will be F.O.B. PAR’s facility, city and state. If PAR shipments are made from a U.S. origin to a Customer’s international destination, the shipment terms will be FCA (INCOTERMS 2010) PAR facility, city, state and country. Risk of loss of the Products shall pass to Customer at the F.O.B. or FCA point. Delivery to Customer shall be deemed complete at such F.O.B. or FCA point. All delivery dates specified by PAR are approximate and not guaranteed. PAR and Customer may mutually agree in writing to changes in the shipping schedule. Unless otherwise agreed in writing, the Products will be packed, crated and/or labeled in accordance with PAR’s customary methods and procedures. If Customer requests or requires special packaging, crating, labeling or variance from PAR’s customary methods and procedures, such requests and requirements will be at Customer’s expense.

If the Contract provides for installation of the Products, Customer agrees to perform all necessary preparations for efficient and complete installation, to unload all Products and place them adjacent to the place of installation, and to assist as required in the installation, all at Customer’s sole risk and expense.

**4.5 Excusable Delays.** PAR shall not be liable for any delay, failure, loss or damage resulting from any delay in, failure or inability to complete any manufacturing, shipment, delivery or installation of the Products, performance of the services referred to herein or PAR's other Contract obligations, which directly or indirectly arise out of or result from any cause not reasonably within the control of PAR, including, but not limited to, an act of God; the inability to obtain necessary labor, materials, equipment, utilities, services or facilities; any negligence, act, failure to act, or delay in acting caused by or on the part of Customer or any governmental authority; strikes or other labor difficulties arising from any cause whatsoever; accidents or destruction such as fire, explosion, flood, epidemics, war or civil disturbance; or other force majeure circumstances beyond the reasonable control of PAR (each an "Excusable Delay"). In the event of any Excusable Delay, PAR's performance shall be extended by a period equal to the time lost by reason of such Excusable Delay, or such other extended period as is reasonable under all the circumstances.

**4.6 Limited Warranty/Warranty Disclaimer.** PAR warrants for twelve (12) months after commencement of the warranty period that all Products manufactured by PAR are free from defects in material and workmanship. The warranty period shall begin upon the first of the following events to occur: (a) the completion of installation; (b) Customer acceptance; or (c) ninety (90) days after delivery.

The warranty will be fulfilled by repair, or in the sole discretion of PAR, replacement of the defective Products. The cost of labor will be covered only if the part is returned to PAR for repair. With respect to services, PAR's sole liability for any defect therein shall be to perform again, at PAR's expense, such services.

The warranty is subject to fulfillment by Customer of all of the following conditions: (i) give PAR written notice of any claimed defect immediately upon discovery; (ii) provide easy access for PAR to inspect the claimed defective part in the configuration that the defect was discovered, and repair or replace the part as determined by PAR; and (iii) install, operate, use and maintain the Products in accordance with all provided and available instructions, guidelines, and rules for the installation, operation, use and maintenance of such Products.

This warranty applies only to the original Customer. Defective Products and parts shall not be returned without PAR's prior approval. All defective Products and parts returned to PAR shall be the property of PAR.

NO WARRANTY IS MADE WITH RESPECT TO PRODUCTS AND PARTS NORMALLY DESIGNATED AS CONSUMABLES OR THOSE SUBJECT TO NORMAL WEAR AND TEAR; FAILURE OR DAMAGE DUE TO ACCIDENT, ABUSE, IMPROPER OPERATION, OR ABNORMAL ENVIRONMENTAL CONDITIONS; AND/OR SYSTEMS NOT INSTALLED BY PAR. EXCEPT AS EXPRESSLY SET FORTH HEREIN AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, PAR HEREBY DISCLAIMS, AND CUSTOMER HEREBY WAIVES, ALL OTHER WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO ANY PRODUCTS AND SERVICES SOLD AND PERFORMED HEREUNDER. THE FOREGOING REMEDIAL MEASURES ARE PAR'S SOLE AND EXCLUSIVE OBLIGATIONS AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES ON ACCOUNT OF THE PRODUCTS AND SERVICES THAT DO NOT CONFORM TO PAR'S EXPRESS WARRANTIES ABOVE.

**4.7 Limitation of Liability.** NOTWITHSTANDING ANY PROVISION OF THE CONTRACT TO THE CONTRARY AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, REGARDLESS OF THE LEGAL THEORY UNDER WHICH LIABILITY IS IMPOSED, (a) IN NO EVENT SHALL PAR BE LIABLE UNDER WARRANTY OR ANY OTHER PART OF THE CONTRACT FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOSS OF REVENUE, LOSS OF GOODWILL, LOSS OF PRODUCTION, LOSS OF USE, LOSS OF DATA AND LOSS OF BUSINESS REVENUE, EVEN IF PAR WAS ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF ANY SUCH DAMAGES; AND (b) IN NO EVENT SHALL PAR'S TOTAL LIABILITY FOR DIRECT DAMAGES UNDER THE CONTRACT EXCEED THE PRICE PAID, OR TO BE PAID BY CUSTOMER FOR THE PRODUCTS AND SERVICES SOLD AND PERFORMED UNDER THIS CONTRACT.

PAR ACKNOWLEDGES AND AGREES THAT IT DOES NOT ATTEMPT TO EXCLUDE OR LIMIT ITS LIABILITY TO CUSTOMER OR OTHERWISE FOR (i) PERSONAL INJURY OR DEATH ARISING FROM ITS GROSS NEGLIGENCE; (ii) FRAUD; (iii) WILLFUL MISCONDUCT; OR (iv) ANY MATTER FOR WHICH IT WOULD BE ILLEGAL TO EXCLUDE OR ATTEMPT TO EXCLUDE OR LIMIT ITS LIABILITY TO CUSTOMER OR A THIRD PARTY.

**4.8 Cancellation.** At any time prior to completion of the Contract, Customer may cancel the Contract upon written notice to PAR; provided, however, Customer shall pay PAR, within thirty (30) days of such cancellation, all costs and expense incurred by PAR prior to receipt of such notice of cancellation, including such costs and expenses incurred for all labor, supplies and material, engineering work, services, pertinent

overhead expenses and all commitments made to PAR's suppliers, subcontractors and others, plus a cancellation charge equal to twenty percent (20%) of the total of all such costs and expenses; provided that in the event that the total of such costs and expenses, plus the cancellation charge, exceed the price set forth in the Contract, Customer shall be liable only for the price set forth in the Contract.

**4.9 Indemnification/Intellectual Property.** Customer will indemnify and hold harmless PAR, its affiliates and their respective officers, shareholders, employees, agents and representatives, defend any action brought against same with respect to claims, judgments, actions, suits, demands, damages, liabilities, costs or expenses (including, but not limited to, reasonable attorneys' fee and legal expenses) associated with or arising from Customer's ownership, use or operation of the Products. Customer specifically waives any immunity provided against this indemnity by an industrial insurance or workers' compensation statute, as applicable.

PAR shall defend or settle any suit or proceeding brought against Customer to the extent that it is based on a claim that any Products made to PAR design infringe any existing United States patent, provided that PAR is notified in writing by Customer within ten (10) days of Customer's knowledge of such claim or service of process in such infringement action, whichever is earlier, and PAR is given complete authority, information, and assistance for defense of same. PAR shall pay damages awarded therein against Customer on account of any such infringement, but PAR shall not be responsible for any cost, expense or compromise incurred by Customer without PAR's prior written consent.

If any Product is, in PAR's opinion, likely to or does become the subject of a claim for patent infringement, or in case any such Product in such suit is held to constitute infringement and the use of such Product is enjoined, PAR may at its expense and option (a) procure for Customer rights to continue using the infringing Product; (b) modify or replace the infringing Product so that it becomes non-infringing; or (c) accept return of the Product and refund to Customer the amount paid for the Product. The foregoing state PAR's entire liability for patent infringement by Products.

The two preceding paragraphs of this Section 4.9 shall not apply to, and PAR shall have no responsibility respecting infringement by, (i) by use of Products in a manner or for a purpose other than that specified in the Contract or in PAR-published literature or other materials furnished by PAR to Customer; (ii) by unauthorized alterations or additions to the Products by Customer; (iii) by use of Products in combination with other products in a system not designed by PAR that are the cause or a contributing cause of such infringement claim; (iv) by use of Products for practice of a method not designed by PAR; or (v) by any Product manufactured by PAR in accordance with the design, instructions or specifications required by Customer. No license is granted or patent indemnity made, and neither of the foregoing are to be implied, with respect to the patent rights of third parties that pertain to methods or processes which may be performed by the Products, or to the articles which may be manufactured by the use of such Products.

All right, title and interest in and to any and all intellectual property rights in and to PAR's Products and Services, and all underlying methods, processes, ideas, concepts, information and know-how related thereto, owned, licensed or otherwise controlled by PAR prior to the Contract effective date shall remain vested in PAR following the Contract effective date. Further, all right, title and interest in and to any and all intellectual property rights of PAR that arise after the Contract effective date and are related to the Products and Services sold and performed under the Contract or otherwise, including, without limitation, any and all inventions, innovations, and discoveries of PAR, shall vest in PAR. In conjunction with the foregoing, Customer shall not reproduce, distribute, modify, create derivative works of or license, sublicense or otherwise use for any third party any PAR intellectual property. All PAR intellectual property, and any embodiments or manifestations thereof, shall be deemed Confidential Information (as defined below in Section 4.12) and treated accordingly.

**4.10 Title Retention/Insurance.** Title to the Products shall remain with PAR until the entire purchase price, whether represented by notes, open account or otherwise, is paid in cash to PAR.

Customer acknowledges and agrees that until title transfers to Customer, Customer shall:

- a) Maintain the Products in good operating condition and keep the Products free from liens, claims and encumbrances, permit inspections by PAR at all reasonable times, not use or permit use of Products in any manner injurious to them, not remove or permit removal of the Products from their original installation location, and not make or permit any alteration to the Products without the prior written consent of PAR; and
- b) Obtain and maintain at Customer's sole expense, fire, hazard, extended coverage, vandalism and malicious mischief insurance covering the Products in an amount sufficient to Protect PAR's interest in the Products, with such policies of insurance to be made payable to PAR at the time of loss. Customer shall assume all resulting loss that PAR may not recover through such insurance.

**4.11 Customer's Default** If Customer fails to make any payment due or otherwise breaches any covenant or obligation under the Contract, other than the export control and economic sanctions compliance obligations set out in Section 4.16, and such breach remains uncured for a period of ten (10) days following receipt of written notice from PAR detailing such breach, PAR may, in addition to all remedies available at law or in equity, (a) declare the entire unpaid balance of the Contract immediately due and payable without further notice; (b) defer shipment under the Contract, and under any other contract with Customer; (c) cancel any undelivered portion of the Contract or any other contract with Customer, in whole or in part, in which event Customer shall pay PAR cancellation charges in accordance with Section 4.8 above; and (d) terminate the Contract, in whole or in part, for default. If PAR determines that Customer has breached its export control and economic sanctions compliance obligations set out in Section 4.16, or that continued performance by PAR would otherwise violate or expose PAR to adverse consequences under applicable export control or economic sanctions laws, regulations, orders, or requirements, then PAR shall have the right to immediately suspend or terminate the Contract by notifying Customer of PAR's determination, in which case PAR shall not be required to continue performance of its obligations under the Contract.

**4.12 Confidential Information.** PAR may provide to Customer certain of its confidential, proprietary and trade secret business or technical information in connection with its performance under the Contract (collectively, "**Confidential Information**"). Confidential Information includes, but is not limited to, technical data, design drawings, know-how, information relating to research, products, software, services, development, inventions, processes, engineering, marketing, techniques, internal procedures, business and marketing plans or strategies, finances, employees, and business opportunities. Without the prior written consent of PAR, Customer shall not at any time disclose, or cause or permit any employee, agent or affiliated, controlled or controlling entity of Customer to disclose, to any person, firm, corporation, or other third party, or use for its own or their benefit, or reproduce, the Confidential Information. Upon cancellation or termination of the Contract, Customer shall promptly return to PAR, or destroy as directed by PAR (with certification of same), all Confidential Information, including copies thereof.

**4.13 Waiver.** No waiver by a party shall be effective unless in writing and signed by a duly authorized representative of that party. No waiver shall be inferred from a party's conduct.

**4.14 Severability.** In the event any provision contained herein is invalid as applied to any facts or circumstances, its invalidity shall not affect the validity of any other provisions or of the same provision as applied to any other facts or circumstances.

**4.15 No Third-Party Beneficiaries.** Except as otherwise expressly set forth in the Contract, nothing is intended to, nor shall, create any third-party beneficiaries, whether intended or incidental, and neither party shall make any representation to the contrary.

**4.16 Governing Law/Venue/Export Law.** This Contract shall be governed, interpreted and construed, and the legal relationships created hereby shall be construed, in accordance with the laws of the State of Delaware, without regard to its conflicts-of-law principles. Specifically excluded are the provisions of the UN Convention on the International Sale of Goods (1980) and the UN Convention on the Limitation Period in the International Sale of Goods, as Amended by Protocol.

Customer agrees that it will comply with all applicable import and export control and economic sanctions laws, regulations, orders and requirements, including, without limitation, those of the United States, and the jurisdictions in which PAR and Customer are established or from which Products, Confidential Information, and/or Services may be supplied, in connection with its receipt and use of such Products, Confidential Information, and/or Services, except to the extent such compliance would be prohibited or penalized by U.S. law. In no event shall Customer use, transfer, re-transfer, release, import, export or re-export Products, Confidential Information, or Services if doing so would violate or cause PAR to violate such applicable laws, regulations, orders and requirements. Further, Customer represents that it is not (a) designated for export

controls or sanctions restrictions under applicable export control and economic sanctions laws, regulations, orders and requirements (including without limitation designated on the U.S. List of Specially Designated Nationals and Blocked Persons), (b) owned 50% or more or controlled by one or more such designated persons, or (c) organized under the laws of, ordinarily resident in, or owned or controlled by the government of a country or territory subject to comprehensive U.S. sanctions.

Each of the parties hereby (a) agrees that any litigation, action or proceeding arising out of or relating to this Contract shall be instituted in the state courts of the State of Minnesota and the United States District Courts located therein; (b) waives any objection that it may have now or hereafter to the venue of any such litigation, action or proceeding; (c) irrevocably submits to the jurisdiction of any such courts in any such litigation, action or proceeding; and (d) waives any claim or defense of inconvenient forum. Each of the parties hereby consents to service of process by registered mail, return receipt requested, at such party's corporate headquarters.

**4.17 Non-Exclusive Remedies.** All rights and remedies of PAR shall be cumulative, and the rights and remedies provided herein are in addition to and not in lieu of any rights and remedies PAR may have under law or in equity. The exercise by PAR of any one right or remedy shall not exclude any other right or remedy allowed by law or in equity.

**4.18 Assignment; Delegation.** The Contract shall not be assigned without the written approval of duly authorized representatives of both PAR and Customer, except that the Contract may be assigned by PAR without the approval of Customer (a) to an affiliate of PAR; (b) pursuant to a merger, consolidation or similar business combination that results in a change of control of PAR; or (c) to an acquirer of all or substantially all of the assets of PAR. Any unauthorized assignment shall be deemed null and void. Notwithstanding the foregoing, PAR reserves the right, in its sole discretion, to subcontract or delegate all or any part of the Contract; provided, however, PAR shall remain responsible for its performance obligations under the Contract and the acts and omissions of its subcontractors and delegees.

**4.19 Entire Agreement/Amendments.** The Contract constitutes the entire agreement and understanding between PAR and Customer, with respect to the Products and services to be sold and performed hereunder. The Contract shall supersede and prevail over all prior communications between PAR and Customer, whether oral or written. All amendments or modifications to the Contract must be in writing and signed by authorized representatives of both PAR and Customer.