



12425 North US Highway 377
Post Office Box 1338
Stephenville, Texas 76401
Phone (254) 968-3335
Fax (254) 968-3353
<http://www.palconltd.com>
An ISO 9001 Registered Company

TERMS AND CONDITIONS PURCHASE ORDERS

1. **Terms and Conditions.** These Terms and Conditions apply to everything listed on each Purchase Order (herein after "PO") and constitutes PAL-CON, Ltd.'s (herein after "Purchaser") offer to Seller, which Purchaser may revoke at any time prior to Seller's acceptance. These Terms and Conditions are not an acceptance by Purchaser of any offer to sell, any quotation; a reference to such an offer will not modify any of these Terms and Conditions. Terms and Conditions different from or in addition to these, whether contained in an acknowledgment of PO or with delivery of goods/services under PO, or otherwise, will not be binding on Purchaser regardless if they alter a PO or not; Purchaser hereby rejects them. These Terms and Conditions may only be modified in writing and will only be effective when signed by authorized representatives of Purchaser and Seller. Only written notification shall be binding on Purchaser; no other form of notification or verbal agreement shall be binding on Purchaser.
2. **Acceptance of PO:** Seller accepts a PO and agrees to be bound by and comply with these terms and conditions upon remitting signed PO timely or Seller's full or partial performance of PO: commencing work, shipping goods, performing services, etc. Each PO must be accepted separately; the acceptance of one PO does not constitute the acceptance of a prior offer unless expressly stated. No extra charges of any kind will be allowed unless specifically agreed to in writing by Purchaser. A PO may only be modified in writing and will only be effective when issued by Purchaser and accepted by Seller or revised by Seller and accepted by Purchaser. When a modification causes an increase/decrease in cost or time required for Seller's performance, the a) parties will promptly agree to an equitable adjustment to PO price and/or delivery schedule, if any, and the PO will be revised in writing; b) Purchaser will revoke the PO in writing, or c) Seller will decline acceptance of PO in writing. Only written notification shall be binding on Purchaser; no other form of notification or verbal agreement shall be binding on Purchaser. If Purchaser does not receive Seller's written acceptance within ten days of the PO date and Seller has not shipped any good in association with the PO, Purchaser may withdraw PO without liability to Seller.
3. **Other Agreements.** In the event of any conflict between the Terms and Conditions stated herein and Terms and Conditions of a prior PO issued by Purchaser, the Terms and Condition stated herein shall prevail.
4. **Assignment and Subcontracting.** Seller must not assign or subcontract any portion of PO without the written approval of Purchaser. Any assignment in violation of Purchaser's PO shall be null and void. Seller must incorporate these Terms and Condition on any order or subcontract approved by Purchaser and procured from third parties pertaining to a PO. Seller must ensure the price provided to Purchaser includes all third party costs for goods and/or services.

Labor dispute. No strike or other labor dispute or shortage shall mitigate Seller's obligations hereunder.



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5. Termination for Convenience of Purchaser. Purchaser reserves the right to terminate a PO, in full or in part, for its sole convenience. In the event of such termination, seller shall immediately stop all work relevant to terminated PO and cause suppliers/subcontractors to cease work in connection with PO. Purchaser shall only pay Seller for work and/or goods accepted as of the date of termination; Seller shall not be liable to pay for work performed or products completed after receipt of notice of termination. Purchaser shall have the option to purchase the materials Seller acquired to fulfill the requirements of the PO at the Seller's cost. Seller must protect and preserve any property in Seller's possession in which Purchaser has an interest.

Termination Due to Business Interruption. Purchaser reserves the right to cancel the undelivered portion of a PO in the event of a business interruption beyond its control (i.e. fire, flood, wind storm, earthquake, war, strike, embargo, acts of God, or governmental action).

Termination for Cause. Purchaser may terminate a PO, or any part thereof, if Seller breaches any of the Terms and Conditions, suspends business, becomes insolvent, liquidates, or files for bankruptcy protection. Purchaser shall provide Seller with a written Notice of Termination. If Purchaser terminates PO for cause, Purchaser shall have no payment obligation to Seller. In the event a court of competent jurisdiction determines Purchaser's termination for cause was not justified, then such termination shall automatically be considered a termination for convenience under Section 5 and Seller shall have all rights under that provision but no other rights or claims of damage.

6. Inspection and Testing. Purchaser reserves the right to inspect the work, be present for all testing, and maintain a reasonable presence (on site or off site) for such purposes at no additional expense to Purchaser. Such inspection will not relieve Seller of any obligation of the PO or under these Terms and Conditions. Seller must provide Purchaser with a notice of intent to test at least seven (7) days in advance of the test date. An inspection does not constitute approval, endorsement, or confirmation of any work or acknowledgment of Purchaser that such work satisfies the requirements of the PO or these Terms and Conditions.

Quality Control. Seller shall maintain a quality control system acceptable to Purchaser and provide quality control related documentation as requested/required by Purchaser.

7. Compliance with Laws. Seller must comply with all applicable federal, state, and municipal laws and regulations, including, without limitation, a) all laws and regulations pertaining to health, safety, and environmental standards, b) all laws and regulations pertaining to design, manufacture, testing, labeling, and transportation of goods, and c) all laws and regulation pertaining to nondiscrimination and equal opportunity, including, the requirements of the Fair Labor Standards Act of 1938, as amended, and the rules and regulations of the Secretary of Labor issued pursuant to Executive Order Number 11246 of September 24, 1965. Purchaser reserves the right to immediately terminate Purchaser's PO and any other agreement with Seller if it determines that Seller is in violation of this section. Seller shall indemnify and hold Purchaser harmless from any liability resulting from failure of such compliance.



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Safety Data Sheets. As applicable, Seller will provide Safety Data Sheets for goods in compliance with OSHA requirements (Globally Harmonized System format).

Metallurgical Test Reports/Certificates of Conformance. As applicable, Seller will provide MTRs/COCs for goods on or before delivery as proof of compliance with ASTM and ASME specifications.

8. **New vs used and/or counterfeit goods.** Seller warrants that all ordered goods delivered to Purchaser will be new, will be or will contain only materials obtained from original equipment manufacturer or authorized reseller/distributor, and will not be used and/or counterfeit unless otherwise specified and agreed to in writing by both parties.
9. **Packaging and Shipping.** Purchaser may specify the manner in which goods must be packaged and shipped. If Purchaser does not specify the manner in which goods must be packaged, Seller must package goods to avoid damage in transit. If Purchaser does not specify the manner in which to ship the goods, Seller must ship the goods in compliance with carrier's regulations, at the lowest possible transportation rates, consistent with the Seller's obligation to meet the delivery date on the PO. Unless otherwise agreed to in writing, Seller is responsible for all costs incurred for packaging and shipping goods. In the event Purchaser causes the goods to be rerouted or expedited, Purchaser will assume responsibility for shipping charges, if any, resulting from such.

Legible Labels. Purchaser requires goods to be labeled clearly and legibly. Materials that require heat numbers to be recorded must have the associated number clearly noted; similarly, goods that require items numbers to be recorded must have the associated number clearly noted on each piece/part.

Quantity. Seller must ship exact quantities of goods ordered unless custom or common practice to the contrary applies. Purchaser is not required to receive or pay for any variance in the quantity of ordered goods; Purchaser may adjust Seller's invoice for over-shipment, shortage, or rejection of goods and may return excess goods at Seller's expense.

Documentation. Seller must deliver original bills of lading (BOL), packing slip, or equivalent documents to Purchaser upon delivery of goods. Purchaser's Purchase Order number and delivery location must be included on each BOL. In the event goods are to be delivered to Purchaser's client directly, Seller shall ensure Purchaser receives a duplicate copy of the document.

Literature. Seller shall provide or make accessible to Purchaser, or its assigns as directed, all literature, technical, operational, or otherwise, necessary for the proper installation, function, and use of the goods at the time of delivery if not in advance of delivery at no additional cost to Purchaser.

Receiving Hours. Stephenville TX facility: Purchaser's receiving hours are Monday through Thursday from 8:00 AM until 4:00 PM. Deliveries are not accepted on Friday unless



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arrangements are made in advance of delivery. Project locations: Purchaser's receiving hours and locations will vary and will be specified by PO.

Delayed Shipment. Seller shall take all reasonable steps to prevent delivery delays; including, but not limited to, overtime and expedited shipment. Any cost incurred by Seller to reduce or prevent delayed delivery shall be the sole responsibility of the Seller. Any request by Seller to extend the due date must be approved in writing by Purchaser. In the event Seller's delay requires Purchaser to obtain substitute goods in an effort to satisfy the requirements of Purchaser's client, Seller shall be liable to Purchaser for associated costs and damages in addition to other rights and remedies. Costs and damages may include, but are not limited to, the cost of the goods and expedited shipping. Purchaser may consider delayed shipment a breach of contract.

Partial Shipment. Seller is responsible for all costs incurred for packaging and shipping goods. Purchaser is responsible for costs incurred for shipping partial deliveries that are the result of the Purchaser's request for the partial delivery a PO.

Postponed Shipment by Purchaser. Purchaser may postpone delivery with written notice to Seller without consequence from Seller. Should Seller deliver on PO in advance of new date resulting from postponement, delivery will be at Seller's sole risk.

Early Shipment. Seller must not deliver on PO in advance of scheduled due date without written consent from authorized representative of Purchaser. Purchaser reserves the right to decline delivery and return goods at Seller's expense or accept delivery and extend the payment terms by the number of days the goods were received early.

Damaged Shipment. Any expense, damage, or liability incurred by purchaser as a result of improper preservation, packing, packaging, marking, or method of shipment for ordered goods shall be reimbursed by Seller upon demand.

10. **Return of Rejected Goods and/or Services.** Any ordered goods found to be defective in material or workmanship, including those damaged as a result of unsatisfactory packaging by seller, or otherwise non-conforming, including drawings, specifications, and samples, Purchaser has the right in its sole discretion to a) reject and return such goods at Seller's expense and receive a full credit, b) require replacements at no additional cost to Purchaser, or c) retain and use the goods with an equitable reduction in purchase price. Seller shall bear all risks as to rejected goods upon notice of rejection. Seller must make arrangements for the rejected goods to be returned in a timely manner unless other arrangements are made in writing with Purchaser. Seller must not reship rejected goods to Purchaser without written consent to do so. Payment by Purchaser to Seller shall not be deemed to constitute acceptance.

Nonconforming goods. Purchaser reserve the right to charge Seller for any loss, expense, and/or damage incurred as a result of Seller's failure to deliver conforming goods/services; including without limitation, reasonable attorney's fees, cost to secure substitute goods/services, incidental damages, and consequential damages.



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Note that the acceptance of any goods by Purchaser shall not be deemed to alter the obligations of Seller or the rights of Purchaser under any provision of the PO.

11. **Proprietary Information.** All documents, drawings, know-how, designs, or writings of any kind, in any form, provided by the Purchaser or the Seller shall remain the property of the disclosing party. Both parties acknowledge that information may contain trademarked, copyrighted, patented, or otherwise proprietary and/or confidential concepts, ideas, and data, all of which is and shall remain owned solely by the disclosing party. Both parties agree to keep confidential and treat all information provided to them by the other party as though it's their own; obtain the disclosing party's written permission prior to any disclosure or distribution of the information to third parties and/or prior to the incorporation of the information into any computerized system; and to properly identify and attribute the disclosing party's proprietary interest in the information including all appropriate trademark and/or copyright notices, whenever information is disclosed or distributed pursuant to this section. The receiving party shall promptly return any information to the disclosing party upon request and the receiving party and its assigns shall abide by all nondisclosure terms and other reasonable provisions required by the disclosing party. This section shall survive the cancellation, completion, or termination of PO.

Patents and Trademarks. Seller warrants that all goods and services supplied under Purchaser's PO shall not infringe on any third party's patent, copyright, trade secret, tradename, trademark or service mark, or other proprietary right.

Use of Purchaser's Property. As applicable, property paid for or furnished by Purchaser to Seller for the production of ordered goods (i.e., tools, jigs, dies, patterns, press plates, molds, fixtures, offset negatives, material, equipment, drawings, designs, other information, and other property of Purchaser) is deemed the property of the Purchaser and shall only be used exclusively by Seller in the performance of Purchaser's PO. Purchaser's property must be plainly marked or otherwise adequately identified by Seller as being the property of Purchaser, must be safely stored separate and apart from Seller's property, and must be made available for Purchaser's examination upon request at no additional cost to Purchaser. Purchaser's property must be maintained in proper condition, apart from reasonable wear and tear, and must not be encumbered, destroyed or disposed of without written authorization from Purchaser. Seller must return Purchaser's property upon written request at Purchaser's expense unless any agreement is terminated for cause in which case all costs to return Purchaser's property will be solely the responsibility of the Seller.

12. **Conduct of Personnel.** Seller's personnel, agents, subcontractors, and other authorized representatives will comply will reasonable requests, standard rules, and regulations of Purchaser regarding personal and professional conduct (including security and privacy requirements); they shall conduct themselves in a businesslike manner.
13. **Conflict Minerals.** Seller represents that the goods do not contain any amount of tantalum, tungsten, tin, or gold that originated in the Democratic Republic of the Congo or any of its



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bordering countries or Seller must provide to Purchaser a completed Conflict Minerals Reporting template.

14. Notices to Seller. All notices, consents, and other communications required or permitted to be given pursuant to a PO shall be in writing and shall be deemed delivered either a) on the delivery date if delivered in person, faxed, or emailed; b) the following business day if delivered by any national overnight courier directed to deliver the next business day; or c) three (3) business days if deposited with adequate postage affixed at the United States Postal Service (USPS).

Notices to Purchaser: All notices, consents, and other communications required or permitted to be given pursuant to a PO shall be in writing and addressed to PAL-CON, Ltd., 12425 N US Highway 377, P O Box 1338, Stephenville TX 76401. Note: PAL-CON, Ltd. does not receive mail sent via the USPS at its physical address. Notices may be mailed via USPS, sent via national courier services, hand delivered, emailed (to contact on record), or faxed. All notices must reference the applicable PO number.

15. Warranty. Seller warrants that goods delivered are fit for their particular purpose and free from defects in workmanship and material and shall conform to the material specifications, if specified, for a period of one (1) year from receipt of goods or as required by Purchaser's client. Seller warrants that all services performed shall be performed in a good and workmanlike manner by qualified, trained personnel, free from errors. Seller's warranty shall be enforceable by Purchaser and shall transfer to Purchaser's client(s).
16. Force Majeure. Seller must provide written notice to Purchaser within 24 hours of becoming aware of an event beyond Seller's control (i.e., war, strike, fire, natural disaster, catastrophic weather event, acts of terrorism, acts of public enemy, and acts of government) that is anticipated to, will, or has caused a delay in delivery.
17. Insurance. Seller, at its expense, must maintain insurance coverage while providing goods and services to Purchaser as set forth in separate "Insurance Requirement Checklist" document. Seller must also be compliant with Purchaser's Client's insurance requirements as applicable. Seller's subcontractors, suppliers, etc. must also comply with Purchaser's and Purchaser's Client's insurance coverage requirements. In the event coverage requirements are not applicable, Seller will be advised in writing by Purchaser. Seller and its subcontractors, suppliers, etc. must maintain coverage through Purchaser's warranty period at a minimum. Seller must provide a Certificate of Insurance upon request; Certificate of Insurance must meet or exceed the limitations, dates, coverage and include the appropriate verbiage required by the "Insurance Requirement Checklist".
18. Invoices and Payment. Seller must issue a separate invoice for each PO; the PO number must be stated on the face of invoice; each invoice must be dated on or after the delivery date. No invoice will be deemed received until goods are received. Payment terms will be deemed applicable upon receipt of a correct invoice or, for invoice received prior to delivery, as of the delivery date. Payment terms are net 30 days unless otherwise agreed to in writing.



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Delayed Payment: Purchaser may delay payment until associated MTRs and/or Safety Data Sheets are received. Seller agrees to hold harmless Purchaser, its affiliates, employees, owners, directors, and assigns from any claims, expenses (including legal), damages, and losses that may arise as a result.

Delayed Submittal of Invoice and Non-payment. Any costs for which Seller does not submit an invoice to Purchaser within 90 days from the date the goods were received/services were provided shall be deemed to have been provided by Seller without compensation. As a courtesy, Purchaser may mail Seller one reminder notice via USPS Certified Mail, Return Receipt Requested, in advance of the expiration of the 90-day period. Seller agrees to hold harmless Purchaser, its affiliates, employees, owners, directors, and assigns from any claims, expenses (including legal), damages, and losses that may arise as a result.

Taxes. Sales and/or use taxes must be separately stated on Seller's invoice. Seller will assume and pay all taxes imposed on or in connection with the sale of its goods/services. If, under applicable law, Purchaser is required to withhold any tax on payments to Seller, Purchaser will deduct such amounts from the amounts owed under Seller's invoice and remit the applicable taxes withheld to the appropriate taxing authority. Purchaser will then provide Seller with proof of payment.

Title and Risk of Loss. Seller will retain title and risk of loss or damage of goods and/or services purchased under Purchaser's PO until they are delivered or installed in compliance with PO and these Terms and Conditions to or for Purchaser. The passing of the title shall not be construed as acceptance of goods and/or services by Purchaser.

Right to Audit. Seller shall, at its own expense, establish and maintain a reasonable accounting system that enable Purchaser to readily identify assets, expenses, costs of goods, and use of funds and Purchaser, or its authorized representative(s), shall have the right to audit, examine, and make copies of or extracts from all financial and related records (in whatever form they are retained: written, electronic, or otherwise) relating to or pertaining to a PO kept by or under control of Seller, its employees, agents, assigns, successors, or subcontractors for a period of three (3) from completion of the PO. Such records may include, but will not be limited to, the following: accounts records, written policies and procedures, subcontractor files including proposals of successful and unsuccessful bidders, paid invoices including out-of-pocket expenses, bank statements, journals, original estimates, estimating work sheets, change orders, backcharge logs and supporting documentation, insurance documents, payroll documents, timesheets, memoranda, and correspondences. Seller shall provide ample office space (including a desk, chair, and access to a document duplicator) for Purchaser, or its authorized representative(s), to conduct the audit at no charge. Purchaser will be responsible for all other costs incurred in conducting such an audit unless the audit identified overpricing or overcharges of any nature by the Seller to Purchaser. At the sole discretion of the Purchaser, should the overages be determined excessive, Seller shall



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reimburse Purchaser for the cost of the audit and remit any payments due as a result of the audit in a reasonable amount of time (not to exceed 90 days).

19. **Dispute Resolution.** Disputes arising under these Terms and Conditions or the PO will be resolved by the parties through good faith negotiations in the ordinary course of business. Any dispute not so resolved will be submitted for binding arbitration at the written request of either party. Selection of the arbitrator will be by mutual agreement of the Purchaser and Seller or as a result of failing to reach an agreement within 20 business days. No damages excluded by or in excess of those limitations set forth in these Terms and Conditions or the PO will be awarded. The amount and responsibility for payment of arbitration costs will be decided by the arbitrator. The arbitrator will render a written decision with explanations in detail within 90 days of respondent receiving the Commencement Letter. Any award issued by an arbitrator may be enforced by either party in any court of competent jurisdiction.

Governance. These Terms and Conditions and the PO formed hereunder, shall be governed by, and construed under the laws of the State of Texas.

Severability. If any provision in these Terms and Conditions and/or the PO are held or deemed to be illegal, inoperative, or unenforceable, the provision shall not affect any other provision contained herein.

Section Titles. The section titles are solely for convenience of reference and shall not affect the meaning or construction of any provision of these Terms and Conditions or the PO.

20. **Indemnification.** Seller shall indemnify, hold harmless, and defend Purchaser, its affiliates and their respective officers, directors, agents, representatives, employees, subcontractors, clients, users of Seller's goods and services from any and all claims (including, without limitation, claims by vendees of Seller), liabilities, damages, and expenses (including attorneys' fees) arising from or related to a) the negligence (including strict liability), gross negligence or willful misconduct of Seller, its affiliates and their respective employees, contractors, subcontractors, vendors, and agents, b) contamination of or adverse effect on the environment, c) violation of any law or regulation or d) alleged infringement of any patent, copyright or trademark, or violation of any other intellectual property right of a third party. This indemnity shall apply without regard to whether the claim, damage, liability, or expense is based on breach of contract, breach of warranty, negligence, strict liability, or other tort. This indemnity shall survive delivery and acceptance of goods or services. In any interparty dispute, the prevailing party shall be entitled to reasonable legal costs and expenses, including attorneys' fees. In no event shall Purchaser be liable for the Seller's negligence, gross negligence, wrongful intentional actions, acts, or willful misconduct that caused harm to a Client or a third party. Purchaser shall indemnify and hold harmless Seller of all claims resulting solely from Purchaser's negligence, willful misconduct, violation of any law or regulation, and/or infringement of any patent, copyright, or trademark.