

1. DEFINITIONS - The terms defined in this paragraph shall have the meanings set forth below:

- 1.1. Customer means Ceramatec, Inc., and shall also include any subsidiary that places any Order or obtains any Goods under this Order.
- 1.2. Order means this written Purchase Order between Customer and Supplier covering the purchase and sale of Goods, attached exhibits, any addenda, and amendments to this Order issued in accordance with Paragraph 7.
- 1.3. Supplier means any vendor or company supplying Goods to Customer.
- 1.4. Goods mean those goods, supplies, materials, articles, items, parts, components, assemblies, software or services (or when appropriate means any part thereof) to be provided by Supplier under this Order.

2. ACCEPTANCE. This Order is an offer to buy Goods; acceptance of this Order is expressly limited to the terms of this Order. This Order becomes a contract when the Supplier returns a written acknowledgment of this Order to Customer or when Supplier has begun manufacture or other performance under this Order without Customer's written consent to any modification of its terms. Customer hereby notifies Supplier of its objection and express rejection to any additional or different terms contained in Supplier's acknowledgment, invoice, or other written confirmation of this Order. No change or modifications of any terms or conditions of this Order shall be valid or binding unless made in writing and signed by Customer.

3. TIME IS OF THE ESSENCE. Time is of the essence of this Order.

4. DELIVERY. Deliveries under this Order shall be strictly in accordance with the specified quantities, schedules and other requirements of this Order. No act of Customer, including acceptance of late deliveries, shall act as a waiver of this provision. Supplier shall promptly notify Customer in writing of any anticipated or actual delay in Supplier's strict performance of the terms contained herein. Unless delay is due to causes beyond Supplier's control, premium transportation costs to meet delivery schedules shall be at Supplier's expense. If requested by Customer, Supplier will send electronic notice of shipment the same day Goods are shipped.

5. PACKING AND SHIPPING. Unless otherwise specified in Customer's Order, Supplier shall label and pack Goods sold in a commercially reasonable manner. No charges will be allowed for transportation, packaging, packing or returnable containers unless stated in the Order. Supplier shall not procure materials, manufacture in advance of Supplier's normal flow time, or deliver in advance of schedule without Customer's prior written consent. Customer may return, at Supplier's expense, any Goods received in advance of the schedule set forth on this Order. Customer shall be entitled to specify the carrier to transport the Goods ordered hereunder.

6. INVOICES AND PAYMENT. Supplier shall issue invoices within thirty (30) days following the delivery of Goods to the address stated on the Order unless otherwise agreed upon in writing. Customer shall be obligated to pay within forty-five days (45) from receipt of this invoice, or the number of days stated on the face of this Order if so stated, which shall commence following Customer's receipt of a correct invoice or Customer's acceptance of the Goods, whichever is later. Customer is not required to pay invoiced amounts in dispute until such dispute is resolved. Customer shall notify Supplier promptly of any such dispute. Once the dispute is resolved, the invoice shall be paid within thirty (30) days following such resolution. Customer shall be responsible for any sales, use, rental, personal property and any other taxes for Goods provided hereunder. If the Supplier is required to collect certain taxes, then such taxes will be included on the invoice; otherwise it will be the responsibility of the Customer to pay these taxes directly. Supplier shall be liable for all taxes on all income it receives from Customer under this Order.

7. CHANGES AND ADJUSTMENTS. Customer may, at any time, by written order and without notice, make changes in the quantities, drawings, designs, specifications, delivery schedule, method of shipment or packing of the Goods, or any combination of the foregoing. If any such change results in an increase or decrease in the cost or time required for performance of this Order, Supplier shall notify Customer in writing within thirty (30) days of receipt of the changed order. Nothing herein shall excuse Supplier from proceeding without delay in the performance of this Order as changed. Supplier shall not substitute any products or materials ordered hereunder without the prior written approval of Customer.

8. SURCHARGES. Unless agreed to otherwise in writing Customer shall not be responsible for any surcharges associated with this Order. This relates to additional charges incurred for fuel and/or raw materials associated with the Goods and/or services ordered hereunder. Charges for tooling and/or expedited services do not fall under this restriction, but must have been

included in the original price quote, and added as a line item associated with the Order.

9. TERMINATION.

9.1. Customer may, at any time by written notice, suspend or terminate this Order or any part thereof. In the event Customer terminates this Order, (i) Supplier will cease all work being performed under this Order and destroy or deliver to Customer all copies of any and all materials and information provided by Customer to Supplier or created by Supplier hereunder, whether complete or partially complete; (ii) if requested by Customer, Supplier shall certify to Customer, in writing, that the foregoing steps have been taken; and (iii) Customer shall retain all intellectual property rights and Supplier shall be bound by all confidentiality, intellectual property, warranty and indemnity obligations in accordance with the terms and conditions of this Order.

9.2. If such termination is for the convenience of Customer, Customer, after deducting any amount(s) previously paid, shall reimburse Supplier for the actual, reasonable, substantiated and allowable costs with the total amount to be paid by Customer being determined by negotiation.

9.3. If Supplier fails to comply with any of the provisions of this Order, or if Supplier becomes the subject of a proceeding under state or federal law for bankruptcy or other relief of creditors, or if Supplier makes an assignment for the benefit of creditors, Customer shall have the right to hold Supplier in default and cancel this Order in whole or in part without any further liability.

10. INSPECTION. All Goods ordered hereunder will be subject to inspection and tests by Customer, its assigns and customers, including the Government, to the extent practicable, at all times and places, including the period of manufacture and prior to acceptance. Supplier agrees to permit access to its facilities at all reasonable times for inspection of Goods by Customer representatives and will provide all tools, facilities and assistance reasonably necessary for such inspection at no cost to Customer. Such Goods will be subject to final inspection and acceptance by Customer after delivery. Goods not conforming to specifications or the requirements of this Order will be held for Supplier's instruction at Supplier's risk; all returns will be at Supplier's expense. If inspection discloses that any part of the Goods received do not conform to specifications or the requirements of this Order, Customer shall have the right to cancel any unshipped or incomplete portion of this Order. It is expressly agreed that inspections and payments prior to delivery will not constitute final acceptance.

11. WARRANTIES AND REMEDIES. In addition to all other express or implied warranties provided by law, Supplier warrants that all Goods furnished hereunder will, for a period of eighteen (18) months from acceptance, be free of defects in material and workmanship, and will conform to applicable drawings, specifications, and other data. If not of Customer's design, such Goods shall be merchantable, free of design defects, and fit for the purposes expressed in, or reasonably to be inferred from this Order. All warranties shall survive acceptance and payment and shall run to Customer and its customers. Customer shall not be required to obtain Supplier's permission to return any Goods to Supplier that, in Customer's reasonable business judgment, are not in conformity with this warranty. Articles not manufactured in conformity herewith, at Customer's option (i) may be retained at an equitable adjustment in price; (ii) may be corrected in place at an equitable adjustment in price; or (iii) may be returned for replacement correction, credit or refund. These provisions are in addition to remedies provided by law. In the event a legal or administrative action is necessary to enforce these warranties and/or remedies against Supplier, and Customer prevails, Customer shall be entitled to recover its attorney fees and all costs.

11.1. Exceptions to, or reservations from this warranty by the Supplier shall be identified by separate written notification to Customer, which shall be signed by Supplier's Chief Executive Officer or other duly authorized representative. Supplier hereby assumes full responsibility and liability resulting from its failure to satisfy these warranty obligations, specifically or in general.

12. FORCE MAJEURE. Neither party shall be liable for failure to perform when such failure is caused by unforeseeable force majeure circumstances. If such circumstances occur, the party injured by the other's inability to perform may elect to (i) terminate this Order immediately; and/or (ii) suspend this Order for the duration of the force majeure circumstances, and then resume performance under this Order. The party experiencing the force majeure circumstances shall cooperate with and assist the other party in all reasonable ways to minimize the impact of such circumstances on the other party, including assisting in locating and arranging for substitute Goods.

13. INDEMNITY. Supplier shall indemnify and hold harmless Customer, its owners, parents, affiliates, subsidiaries, agents, directors, employees, customers and all persons claiming under Customer from any Liabilities arising from and in connection with Supplier's performance under this Order including (i) the acts or omissions of Supplier, its agents and employees and others under Supplier's direction or control except to the extent such Liabilities are caused by or are the result of the gross negligence or willful misconduct of Customer; (ii) assertions under Workers' Compensation or similar employee benefit acts made by Supplier or any of Supplier's employees, agents, subcontractors, or subcontractors' employees or agents; (iii) any other claim which may be asserted by any of Supplier's employees, agents, subcontractors or subcontractor's employees or agents against Customer except to the extent such claim is proven to have been the direct result of the gross negligence or willful misconduct of Customer; or (iv) all claims that may be brought against Customer by reason of Supplier's failure to comply with any applicable international, federal, state, county, and local laws, ordinances, regulations and codes.

13.1. Liabilities shall mean all judgments, orders, awards, claims, damages, losses, costs and expenses, including, but not limited to, court costs and reasonable attorneys' fees. Liabilities shall also include, but not be limited to, those that are attributable to personal injury, sickness, disease or death; and/or result from injury to or destruction of real or personal property including loss of use thereof, theft, misuse or misappropriation.

14. PATENT, TRADEMARK, COPYRIGHT OR TRADE SECRET INDEMNIFICATION. Supplier shall indemnify and hold harmless Customer, its owners, parents, affiliates, subsidiaries, agents, directors, employees, customers and all persons claiming under Customer from and against all Liabilities that may result by reason of any infringement or claim of infringement of any patent, trademark, copyright, trade secret or other proprietary right relating to Goods and/or the use thereof to the extent such claim does not directly arise from Suppliers adherence to Customer's specifications. Supplier will defend and/or settle at its own expense any action brought against Customer to the extent that it is based on a claim that the Goods and/or the use thereof, infringe any patent, trademark, copyright, trade secret or other proprietary right. Customer shall have the right to take any steps necessary to protect its interests in any matter or action brought against it. Supplier shall, at its expense and option and without any effect or waiver of any right Customer may possess at either law or equity, either: (i) procure for Customer the right to continue using such Goods; or (ii) replace or modify the Goods so that it becomes no infringing but only if the modification or replacement does not adversely affect the Customer's rights or ability to use the Goods. If neither of those options is reasonably possible, Supplier shall refund to Customer all amounts paid to Supplier for the infringing Goods(s) or service(s) pursuant to this Order and reimburse Customer for reasonable expenses of removal and replacement.

15. INFORMATION DISCLOSED BY SUPPLIER. Unless otherwise agreed to in writing by Customer, any information disclosed by Supplier to Customer in connection with this Order herein shall not be deemed confidential or proprietary information, and shall be acquired without any restrictions (other than a claim for patent infringement) as part of the consideration for this Order.

16. PATENT RIGHTS AND USE OF OTHER TECHNICAL INFORMATION. Any specifications, drawings or technical information furnished by Customer to Supplier shall remain Customer's property, shall be kept confidential, and shall be returned at Customer's request. Such documents shall be used in filling this Order and may not be used for other purposes unless agreed to by Customer in writing. Customer's providing information to Supplier shall not constitute any grant, option, or license to Supplier under any patent, trade secrets or other rights now or hereafter held by Customer. Furthermore, Customer reserves patent rights embodied in designs, tools, patterns, drawings, information and equipment supplied by Customer under this Order and exclusive rights for the use and reproduction thereof. Any invention or intellectual property first made or conceived by Supplier in the performance of this Order which is derived from or based on the use of information supplied by Customer, shall be the property of Customer and Supplier shall execute such documents necessary to perfect Customer's title thereto.

17. SPECIAL EQUIPMENT. If the price as stated on the face of this Order includes jigs, dies, fixtures, tools, patterns, drawings, specifications or other special equipment and manufacturing aids used in the manufacture of the supplies herein, such item(s) shall become the property of Customer upon acquisition by Supplier. Such items shall not be used in the production, manufacture or design of any goods for any customer of Supplier other than Customer, except with the written permission of Customer.

18. CUSTOMER'S PROPERTY. Unless otherwise agreed to in writing, property of every description including all tools, equipment, and material furnished or made available to Supplier, title to which is in Customer's name, and any replacement thereof shall be and remain the property of Customer, and Supplier shall indemnify and save harmless Customer from all liens and claims upon said property arising from any cause. Such property while in Supplier's possession or control shall be kept in good condition, shall be held at Supplier's risk, and shall be kept insured by Supplier, at its expense, in an amount equal to the replacement cost with loss payable to Customer.

19. COMPLIANCE WITH LAWS. The parties represent and warrant that each shall comply with all applicable standards, provisions, and stipulations of all pertinent international, federal, state, and local laws, rules, regulations, ordinances, and Executive Orders, all laws and regulations relating to nondiscrimination in the workplace and all U.S. import and export laws as well as the export laws of Supplier's country. In addition, each party shall, at all times, act in a lawful manner and shall not use monies associated with this Order to bribe government officials. Supplier shall submit to Customer all necessary certifications and/or documentation evidence such compliance required in the fulfillment of this Order.

20. EXPORT COMPLIANCE. Supplier shall comply with the applicable import and export laws and regulations of Customer's country and of the United States and with all applicable export licenses and their provisos. This Order may involve information or items that are subject to the International Traffic in Arms Regulations (ITAR) or Export Administration Regulations (EAR) and that may not be released to Foreign Persons inside or outside the United States without the proper export authority. The importer/exporter of record has obtained or will obtain and properly use, U.S. Government import/export authorization to furnish to Customer any defense articles, technical data, defense services, software, and/or other controlled items, which are necessary for Customer to perform this Order and which require such authorization.

21. CONTRACTS UNDER A GOVERNMENT PRIME CONTRACT. If this Order indicates that it is placed under a Government contract, all federal laws and regulations relating to such contract shall be in effect, including such portions of the Federal Acquisition Regulations (FAR) or applicable supplement as may be relevant to this particular Order. If this Order is under a covered Government contract, Supplier certifies, to the best of its knowledge and belief, that the Supplier and/or any of its principals are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency. In the event of Customer's termination under FAR or applicable supplement, subcontract termination provisions, Supplier's claims shall be submitted not later than 90 days from the effective date of termination.

22. ASSIGNMENT. The Supplier may not assign this Order or any rights there under, including monies due or become due, without the written approval of Customer. Customer reserves the right to assign this Order to any parent, subsidiary of parent, subsidiary, affiliate, successor or related company of Customer.

23. RISK OF LOSS. Title and risk of loss on Goods shall pass upon delivery to Customer, except that Supplier shall bear the risk of loss on rejected Goods after receipt of notice from Customer of such rejection unless otherwise agreed to in writing.

24. SUBCONTRACTS. The Supplier shall make no subcontracts, or make changes to any previously approved subcontract, with any other party for furnishing any of the Goods hereunder in completed or substantially completed form without the prior written approval of Customer. The requirements of this paragraph shall not apply to Supplier's purchases of incidental, standard commercial supplies or raw materials.

25. RESERVATION OF RIGHTS. Either party's failure to insist on performance of any of the terms or conditions herein or to exercise any right or privilege, or either party's waiver of any breach hereunder shall not be construed to be a waiver, or waive any other terms, conditions, or privileges, whether of the same or similar type.

26. GRATUITIES. Supplier warrants that neither it nor any of its employees, agents or representatives have offered or given any gratuities to Customer's employees, agents or representatives with a view toward securing this Order or securing favorable treatment with respect thereto.

27. ADVERTISING; PUBLICITY. No references to Customer or references to Customer's names, marks, codes, drawings or specifications will be used in any of Supplier's advertising, promotional efforts or any publicity of any kind without Customer's prior written permission.

28. **SETOFF.** All claims for money due or to become due from Customer shall be subject to deduction or setoff by Customer by reason of any counterclaim arising out of this or any other transaction with Supplier.

29. **AUDIT.** Supplier's records, including, but not limited to, accounting records, time sheets, written policies and procedures, test results, reports, correspondence, memoranda and any other documentation relating to the performance of all work subject to this Order, shall be open to inspection and subject to audit and/or reproduction, during normal working hours, by Customer or its authorized representative to the extent necessary to adequately evaluate claims submitted by Supplier, required by governmental authorities or desirable for any other valid business purpose. For the purpose of such audits, inspections, examinations and evaluations, Customer or its authorized representative shall have access to said records beginning on the effective date of the initial task order which is the subject to this Order and continuing until five (5) years after the completion of all work subject to this Order. Any request for an audit pursuant to this Section shall be in writing providing reasonable notice.

30. **INDEPENDENT CONTRACTOR.** Supplier hereby declares and agrees that it is engaged in an independent business and will perform its obligations under this Order as an independent contractor and not as the agent or employee of Customer; that the persons performing services hereunder are not agents or employees of Customer; that supplier has and hereby retains the right to exercise full control of and supervision over the performance of supplier's obligations hereunder and full control over the employment, direction, compensation and discharge of all employees assisting in the performance of such obligations; that supplier will be solely responsible for all matters relating to payment of such employees, including compliance with Workers' Compensation, unemployment, disability insurance, social security withholding, and all other federal, state and local laws, rules and regulations governing such matters; and that supplier will be responsible for supplier's own acts and those of supplier's agents, employees and subcontractors during the performance of supplier's obligations under this Order. Supplier and its employees are not entitled to unemployment insurance benefits as a result of performing under this Order. Supplier is responsible for and shall pay all assessable federal and state income tax on amounts paid under this Order.

31. **INSURANCE.**

31.1. Supplier shall carry and maintain in force, from the date of commencement of any work subject to this Order, insurance of the type and minimum coverage amounts as follows: (i) Workers' Compensation and Employers' Liability Insurance as required by the statutes of the state where the work is being performed; (ii) Comprehensive General Liability Insurance with minimum limits of \$1,000,000 combined bodily injury and property damage per occurrence and aggregate. Policy should include coverage for premises and completed operations, broad form property damage, personal injury liability, and contractual liability; (iii) Comprehensive Automobile Liability Insurance in amounts not less than \$1,000,000 combined single limit bodily injury and property damage per occurrence and aggregate for owned and hired-owned automobiles; (iv) Aircraft liability with minimum limits of \$10 million for owned and non-owned aircraft as applicable.

31.2. All insurance policies shall contain an endorsement waiving all subrogation rights against Customer. Certificates of insurance evidencing the coverage required above shall be filed with Customer PRIOR to the commencement of any work subject to this Order. Such certificates shall provide that the insurer must give Customer not less than thirty (30) days advance notice of any change in or cancellation of coverage and shall name Customer as an additional insured, as applicable. Neither the failure of Supplier to comply with any or all of the insurance provisions of this Order, nor the failure to secure endorsements on the policies as may be necessary to carry out the terms and provisions of this Order shall be construed to limit or relieve Supplier from any of its obligations under this Order, including this insurance provision. Supplier's failure to obtain or maintain the insurance required hereunder shall not relieve Supplier of its obligations for any and all Liabilities associated therewith.

32. **ENVIRONMENTAL HEALTH AND SAFETY (EHS).** Should the Supplier supply services at Customer's place of business under the terms of this Agreement, Supplier must first contact the site's EHS coordinator.

33. **SEVERABILITY.** In the event any provision of this Order is determined to be invalid, such invalidity shall not affect the validity of remaining portions of this Order, and the parties shall substitute for the invalid provision a

provision that most closely approximates the intent and economic effect of the invalid provision.

34. **SEVERAL LIABILITY.** The term Customer as used herein may be applicable to one or more entities and the singular shall include the plural. If more than one entity is referred to as Customer herein, then their obligations and liabilities shall be several, not joint. Notwithstanding the foregoing, any and all applicable discounts and/or credits shall be based upon the combined forecasts and/or purchases made by all Customers under this Order.

35. **NONEXCLUSIVE ORDER.** It is expressly understood and agreed that this Order does not grant to Supplier any exclusive privileges or rights and Customer may contract with other suppliers for Goods. Customer makes no guarantee or commitment for any minimum or maximum amount of Goods to be purchased hereunder.

36. **REMEDIES CUMULATIVE.** The remedies provided herein shall be cumulative and in addition to any other remedies provided by law or equity.

37. **SURVIVAL.** The provisions of this Order that, by their sense and context, are intended to survive performance by either or both parties shall also survive the completion, expiration, termination or cancellation of this Order. The provisions of this Order, and any terms and conditions within Customer's prime contract, shall be flowed down in its entirety to any subcontractor or supplier providing goods or services hereunder.

38. **LIMITATION OF LIABILITIES.** Except for violation by Supplier of Sections 10, 12-15, 19 and 20 herein, neither party shall be liable to the other for special, indirect, consequential or incidental losses or damages of any kind or nature whatsoever, including but not limited to lost profits, lost records or data, lost savings, loss of use of facility or equipment, loss by reason of facility shut-down or non-operations or increased expense of operations, or other costs, charges, penalties, or liquidated damages, regardless of whether arising from breach of contract, warranty, tort, strict liability or otherwise, even if advised of the possibility of such loss or damage or if such loss or damage could have been reasonably foreseen.

39. **CHOICE OF LAW.** This Order and the performance thereof shall be governed by, subject to and construed under the laws of the State of Utah, without regard to any provisions regarding conflict of laws. Venue shall be in Salt Lake County, State of Utah or in the case of a Federal matter, Federal District Court located in Salt Lake City, Utah. The parties elect not to be bound by the United Nations Convention on Contracts for the International Sale of Goods.

40. **ENTIRE ORDER.** This Order, together with all referenced attachments shall constitute the entire Order between the parties with respect to the subject matter of this Order. This Order supersedes all prior oral and written communications, Orders and understandings of the parties with respect to the subject of this Order.