



NEU DYNAMICS CORP., herein referred to as **NDC**, shall perform manufacturing services as outlined in the accompanying Order

Acknowledgment (the "Services") for the client identified on the reverse side hereof (hereinafter referred to as "Client") under the following Terms and Conditions which shall exclusively govern the performance of Services for Client. It is a condition of the Order Acknowledgement that any provisions, written or otherwise, contained in any purchase order or other proposal which is inconsistent with or in addition to the terms and conditions herein contained shall have no force or effect.

PROJECT PHASING: If one or more phases of services are included in the order acknowledgement proposal(s), only the scope of services so noted in the adopted proposal(s) shall be included in the services fee. **NDC** requires a design review and a signed acceptance of conceptual design. Client is responsible for supplying accurate part drawings. As specific deadlines develop, each applicable design phase shall be reviewed in a timely manner to avoid delays. If delays are outside of the control of **NDC**, a change in scope of project and amendment to proposal shall be warranted. **NDC** will only be responsible for one bid preparation and one bid review for each bid package prepared. **NDC** will be pleased to review substitutions which are reasonable and within the scope of a specific order.

CUSTOMER DEPOSIT: A fifty (50%) percent fee payment will be identified within the order acknowledgement or hereinafter agreed upon and is due upon placement of the order. Items cancelled after receipt of the order acknowledgement are subjected to a 75% cost of order charge. Items cancelled after manufacturing begins are charged at 100% of the order acknowledgement. No order, once production has started, can be put on hold without written notification from client.

INVOICING: Invoices for amounts other than the deposit are payable no later than thirty (30) days after received. Client shall notify **NDC** of any invoice discrepancies within fourteen (14) days of receipt of and agrees to pay all amounts not in dispute within the terms specified herein. Past due accounts will be charged a late fee of 1% per month (12% per annum). No payments shall be withheld other than pursuant to a timely objection with respect to task development. Client may not set off against sums otherwise due alleged penalty, liquidated damages, cost of changes in the work, or delay due to recovery of charges to or from others. Non-payment within the terms specified herein will be considered a material breach and, with reservation of all other rights and remedies, permit **NDC** to suspend all services.

THIRD PARTY PAYMENTS AND STOPPING OF WORK: **NDC** maintains the right to stop work and to withhold services and documents without liability for actual, special, consequential or other damages if payment in full is not received as stipulated. In the event of non-payment, **NDC** shall maintain its right to employ legal staff and collection services and to require full remuneration for all such expenses above the cost of the outstanding payments.

TAXES: Fees and related charges provided in the Order Acknowledgement or proposal(s) are exclusive of any federal, state, local or municipal sales use or excise taxes on the Services or equipment parts delivered thereunder, which, if applicable, will be reflected on the invoice separately.

REIMBURSABLE EXPENSES: Reimbursable expenses such as reproduction charges, long-distance telephone calls, CADD time, engineering workstation time (EWS), file server time, laser output, plotting, printing, hiring outside consultants (as stipulated between both parties), insurance excluding professional liability insurance normally carried, permits and reviews, travel-related expenses in, around and beyond the metro Philadelphia area, etc. used directly in the completion of the project, will be billed to the project on a cost-plus basis to cover handling, billing and coordination charges.

DOCUMENTS: Documentation such as reports, drawings, specifications and CADD outputs such as floppy disks, files, hard copy and software mediums and information shall be instruments of services and remain the sole and exclusive property of **NDC**. Upon payment in full, client shall have a limited, non-exclusive license to use all data developed under the order acknowledgement. All designs are copyright **Neu Dynamics Corp. with all rights therein reserved**. CADD files of any form (AUTOCAD, VERSACAD, DXF, etc.) shall not be used for any other project unless specifically arranged in writing prior to their use. Any files used are not in and of themselves useful in providing more information or accuracy than for the specific purpose for which they were created by **NDC**.

INSURANCE: **NDC** maintains insurance for professional liability, comprehensive, workmen's compensation and miscellaneous coverage and will provide certificates upon request.

LIMITATION OF LIABILITY: NOTWITHSTANDING ANYTHING HEREIN OR IN THE PROPOSAL(S) TO THE CONTRARY, NDC

SHALL NOT BE LIABLE TO CLIENT FOR INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUE, OR CLIENT OR INABILITY TO USE REAL OR PERSONAL PROPERTY. IN ADDITION, NDC'S MAXIMUM LIABILITY FOR THE CLIENT'S ACTUAL DAMAGES SHALL BE A SUM EQUAL TO PAYMENT(S) FOR SERVICES HEREUNDER. THIS LIMITATION SHALL APPLY REGARDLESS OF THE CAUSE OF ACTION OR LEGAL THEORY PLED OR ASSERTED.

INDEMNITY: **NDC** shall hold harmless and indemnify Client from and against liability, including reasonable counsel fees, arising out of **NDC's** infringement of any patents, trademarks, copyrights or other proprietary rights of third parties, provided, however, that such indemnification shall not apply to the extent any losses, damages, liabilities or expenses result from, are attributable to, or arise out of (a) any negligence or willful misconduct of Client, or Client's agents or subcontractors; (b) claims arising out of, as a result of, or in connection with pre-existing conditions unknown to **NDC** prior to the date hereof, and not addressed in the contract work scope; or (c) Client's non-compliance with federal, state or local laws, including, without limitation, applicable intellectual property or environmental laws.

Client agrees to defend, indemnify and hold harmless **NDC** from and against liability, including reasonable counsel fees arising out of: (a) any negligence or willful misconduct of Client; (b) any breach by Client of any warranties or other obligations hereunder (c) Client's non-compliance with federal, state or local laws, including without limitation, applicable intellectual property or environmental laws; or (d) any misrepresentations by Client or Owner.

STANDARD OF SERVICES AND WARRANTY: **NDC** warrants that Services shall materially conform to the specifications, drawings approved by Client. **NDC** shall not be responsible for equipment or parts that have been subject to misuse, neglect, improper alteration or accident. No other representation, express or implied, warranty, including without limitation, implied warranties of accuracy, completeness, merchantability or fitness for a particular purpose is included or intended herein or in any proposal, report, opinion, document or otherwise.

DISPUTES: All claims, disputes and other matters in question between the parties arising out of or relating to Services or these Terms and Conditions that cannot be settled through direct good faith negotiations shall be settled by binding arbitration by a single arbitrator under the rules of the American Arbitration Association in Doylestown, Pennsylvania. The arbitration award shall be given in writing, not subject to any appeal, and shall deal with the question of costs of arbitration and all matters thereto. Judgment upon the award rendered may be entered into any court having jurisdiction or application may be made to such court for a judicial recognition of the award or an order of enforcement thereof, as the case may be.

INDEPENDENT CONTRACTOR: **NDC** is and shall perform its Services under this Agreement as an independent contractor and not as the Client's agent, partner, or joint venture. **NDC's** review or supervision of work prepared or performed by other individuals or other firms employed by Client shall not relieve those individuals or firms of complete responsibility for the adequacy of their work or employment benefits or taxes related thereto.

CHOICE OF LAW: This Agreement will be construed, enforced and interpreted in accordance with the laws of the Commonwealth of Pennsylvania (excluding only the choice of law provisions therein) and the parties hereby irrevocably submit to the jurisdiction and venue of the appropriate court of Bucks County, Pennsylvania, in any action or proceeding arising out of, or relating to, Services or these Terms and Conditions.

ENTIRE AGREEMENT: These Terms and Conditions, along with **NDC's** Order Acknowledgement and Tooling Approval (the "**NDC** Order Documents") conditions may only be modified in writing signed on behalf of **NDC** by a Director and no other action or inaction on the part of **NDC** or its employees or agents shall be construed as acceptance of any other condition. The **NDC** Order Documents contain the entire agreement and understanding between the parties hereto and shall not be varied by previous communications, negotiations, and agreements, whether oral or written, between the parties and no subsequent addition to or modification or waiver of any provision shall be binding on either party unless made in writing and executed by a Director of **NDC** and a duly authorized agent of Client. If any portion of the **NDC** Order Documents is held invalid or unenforceable, all remaining portions shall continue in full force and effect.