



GENESIS GLOBAL, INC. (GGI)

WITH THE PURCHASE OF PRODUCTS OR SERVICES FROM GENESIS GLOBAL INC. HEREUNDER, IT IS CONDITIONED UPON AND SUBJECT TO SELLER'S ASSENT TO ALL THE TERMS AND CONDITIONS SET FORTH IN GENESIS GLOBAL'S (HEREINAFTER CALLED "GGI") STANDARD TERMS AND CONDITIONS OF PURCHASE, OR CONTAINED ON THE REVERSE HEREOF. SELLER'S ACCEPTANCE, AS DESCRIBED IN GENESIS GLOBAL'S STANDARD TERMS AND CONDITIONS OF PURCHASE, SHALL CONSTITUTE SUCH ASSENT. ANY ADDITIONAL OR DIFFERENT TERMS IN SELLER'S DOCUMENTATION ARE HEREBY DEEMED TO BE MATERIAL ALTERATIONS AND NOTICE OF OBJECTION TO AND REJECTION OF SUBJECT TERMS IS HEREBY TO BE GIVEN.

STANDARD TERMS AND CONDITIONS OF PURCHASE

- 1. ACCEPTANCE.** GGI hereby offers to purchase from the vendor named on the face hereof (Seller) the Products and Services described on the face hereof (respectively, Products and Services) subject to these terms and conditions. Acceptance of this offer must be made on its exact terms. The Standard Terms and Conditions of Purchase, together with information contained on the face hereof, and any additions or revisions mutually agreed to in writing by Seller and GGI (the Purchase Order) shall constitute the entire agreement and understanding of Seller and GGI with respect to the purchase of Seller's Products and Services, superseding all prior oral or written understandings relating thereto and shall not be modified or interpreted by reference to any prior course of dealing, usage of trade or course of performance. If Seller's order acknowledgement, invoice or any other communication from Seller contains provisions inconsistent with the provisions hereof, this Purchase Order shall prevail and GGI hereby notifies Seller of its objection to and rejection of any such terms and conditions stated by Seller, whether or not material, that are in conflict with, inconsistent with, or in addition to those contained in the Purchase Order. Sellers (1) failure to object within 10 days to any term contained in the Purchase Order or (2) commencement of performance shall constitute Seller's acceptance of all terms and conditions in the Purchase Order.
- 2. PRICES.** Unless otherwise expressly approved in writing by GGI, prices for all Products and Services are as noted on Purchase Order, and may not be changed without the prior written consent of GGI. Unless otherwise stated on the face hereof or elsewhere herein, all such prices are FOB GGI's facility to which Products are to be shipped and are complete. No additional charges of any type shall be added without GGI's expressed written consent. Seller warrants that any prices, rates, discounts, and allowances on Products or Services are not less favorable than the lowest price currently extended to any other customer of Seller for the same or like Products or Services in equal or lower quantities. Seller agrees to reduce prices or increase discounts and allowances, prospectively in the event of any general price reduction or cost reduction and retroactively in the event that more favorable terms have been made available to other customers of Seller during the term of this Purchase Order.
- 3. TAXES.** Any properly assessed taxes, duties, or other fee imposed by a governmental authority, on or measured by the transaction between GGI and Seller shall be separately stated in each invoice indicating the tax and once paid by GGI, no additional tax assessments with respect to such invoiced amounts shall be paid.
- 4. TERMS OF PAYMENT.** Unless otherwise stated on the face hereof, GGI shall pay all amounts due for Products or Services purchased hereunder within forty five (45) days after (a) GGI's receipt of Seller's invoice or (b) if later, GGI's acceptance of the Products or Services. No interest charges or other penalties for late payment may be assessed by Seller without the prior written consent of GGI. GGI may withhold or set off from any amounts otherwise due to Seller, any amounts owed by Seller to GGI. However, GGI at its option may pay in advance of inspection and acceptance without prejudice to those or any rights hereunder.
- 5. SHIPPING AND DELIVERY.** Seller shall be responsible for packing, shipping, and safe delivery of all Products and shall bear all risk of damage or loss until the Products are delivered to, and

accepted by, GGI. Time is of the essence; delivery must be made in accordance with the schedule set forth in this Purchase Order. In the event of failure to make timely delivery, GGI shall have the right, upon written notice to Seller, to cancel this Purchase Order, in its entirety or as to Products or Services not delivered on time. GGI shall have no liability for any damage resulting from such cancellation. GGI may return or store, at Seller's expense, any Products delivered more than ten (10) days in advance of the delivery date specified for such Products. If accelerated shipping means are required to meet the delivery schedule set forth herein, or to minimize the lateness of delivery, excess shipping charges shall be borne by Seller. Unless otherwise stated on the face hereof, GGI reserves the right to refuse delivery in installments, and, if accepted, to defer payment without interest or penalty until shipment is completed.

6. **INSPECTION.** (a) Products and Services are subject to GGI's inspection, testing and acceptance at destination. Payment therefore by GGI shall not constitute acceptance. Unless otherwise stated herein, title to the Products shall remain with Seller until acceptance by GGI hereunder. (b) GGI shall have a commercially reasonable time after delivery of the Products or provision of the Services to inspect and conduct commercially reasonable acceptance tests in respect of the Products and Services. Acceptance of any installment shall not be deemed acceptance of GGI's entire order or of any subsequent installment. Any acceptance of Products or Services received pursuant to this Purchase Order expressly made or implied from GGI's conduct is conditioned upon Seller's cure of any nonconformity, whether or not such nonconformity substantially impairs the value of such Products or Services. (c) If any Products or Services fail to conform to the terms hereof, GGI may reject such Products or Services without affecting Seller's obligations under this Purchase Order. FAILURE OF GGI TO REJECT ANY PRODUCTS OR SERVICES SHALL NOT CONSTITUTE A WAIVER OF ITS LEGAL RIGHTS (INCLUDING RIGHT TO REVOKE ACCEPTANCE) IF GGI SUBSEQUENTLY DISCOVERS SUCH PRODUCTS OR SERVICES ARE NONCONFORMING. (d) Upon rejection of any Products hereunder, GGI may return such Products to Seller, at Seller's risk and expense, and require Seller to promptly replace the nonconforming Products. Seller may not charge any restocking, handling, or other fees and charges in connection with rejected Products. Upon rejection of any Services hereunder, GGI may require Seller to promptly reperform such Services at no additional charge to GGI.
7. **SERVICES.** If the Purchase Order covers the performance of Services for GGI or involves operations by Seller on the premises of GGI or one of its customers, Seller shall take all necessary precautions to prevent the occurrence of any injury to person or property during the progress of such work and except to the extent that such injury is due solely and directly to GGI's or its customer's negligence, as the case may be, shall indemnify and protect GGI (and its employees, subsidiaries, affiliates, successors, customers and agents) against all liability, claims or demands for injuries or damages to any person or property growing out of the performance of the Purchase Order including the cost of defending against any such claim.
8. **WARRANTIES.** Seller warrants all Products and Services furnished under this Purchase Order: (a) to be free from defects in design, materials and workmanship; (b) to be of merchantable quality; (c) to conform strictly, to any Specifications included or referenced herein; and (d) to be fit and sufficient for their intended purposes. Seller further warrants that: (i) it has and is conveying to GGI, clear and marketable title to all Products, or deliverables resulting from Services, provided hereunder, free from all liens and encumbrances; and (ii) all Products and Services provided hereunder comply with all applicable laws, rules and regulations and do not violate or infringe upon any third party intellectual property or other rights or interest of any nature whatsoever. In the case of the performance of Services, Seller warrants that it shall perform the Services in a professional manner in accordance with applicable industry standards except to the extent a higher standard is specified to which case the higher standard shall apply. Such warranties shall survive any inspection, acceptance, delivery, payment for the Products and Services and termination of the Purchase Order and shall inure to the benefit of GGI, its successors, assigns and customers. Nothing herein shall limit any other warranties, express or implied, available to GGI under applicable law. For purposes hereof, "Specifications" means any and all specifications, drawings, samples, models, diagrams, bulletins, engineering sheets or other materials relating to the Products or Services provided by Seller to GGI. Products and Services corrected or replaced by Seller shall be subject to all of the provisions of this Purchase Order in the manner and to the same extent as Products and Services originally furnished hereunder. GGI's warranty rights hereunder are in addition to, but shall not be limited by, any standard warranties offered by Seller.
9. **LIMITATION OF LIABILITY.** IN NO EVENT WHATSOEVER SHALL GGI HAVE ANY LIABILITY TO SELLER ARISING OUT OF OR IN CONNECTION WITH THE PRODUCTS OR SERVICES PURCHASED HEREUNDER, THE TRANSACTIONS CONTEMPLATED HEREBY, OR SELLER'S OR GGI'S CONDUCT OR ACTIONS IN RELATION TO ANY OF THE SAME OR TO EACH OTHER, IN AN AMOUNT IN EXCESS OF,

AND GGI'S LIABILITY SHALL BE STRICTLY LIMITED TO, THE PURCHASE PRICE FOR THE PRODUCTS OR SERVICES WHICH GIVE RISE TO GGI'S LIABILITY.

10. **INDEMNIFICATION.** Seller agrees to indemnify, hold harmless and defend GGI (and its employees, subsidiaries, affiliates, successors and agents) from and against any and all judgments, liabilities, damages, losses, expenses and costs (including, but not limited to, court costs and attorneys' fees) which relate to or arise out of (a) Seller's design, manufacture, assembly, use, handling, sale or distribution of the Products or Services sold hereunder; (b) the performance of this Purchase Order by Seller, its employees or agents, whether on or off Seller's premises; (c) Seller's breach of any representation, warranty or obligation hereunder; (d) Seller's actual or threatened violation of any law, rule or regulation of any governmental authority or agency (including, but not limited to, any law relating to contamination by, or the actual or threatened release of, any hazardous or toxic substance, waste or pollutant); or (e) any act, omission or negligence of Seller with respect to the performance of its obligations to any third party. This indemnity will survive GGI's acceptance of and payment for the Products and Services hereunder and any termination of this Purchase Order. This indemnity will not be limited in any manner whatsoever by insurance coverage maintained by Seller.
11. **CANCELLATION.** In the event of Seller's breach of any provision hereof, GGI shall have the right to cancel this Purchase Order at any time without liability. GGI shall also have the right to cancel all or part of this Purchase Order, without cause, at any time by written notice, and GGI shall pay reasonable cancellation costs in accordance with industry practice, provided that in no event shall the total amount payable by GGI exceed the lesser of the price specified in the Purchase Order and demonstrable costs reasonably incurred prior to cancellation.
12. **RELATIONSHIP OF PARTIES.** Notwithstanding any provision hereof, for all purposes of this Purchase Order each party shall be and act as an independent contractor and not as a partner, employee, joint venturer, or agent of the other and shall not bind nor attempt to bind the other to any contract.
13. **APPLICABLE LAWS.** Seller agrees to comply with all applicable laws including, if appropriate, the provisions of Executive Order 11246, Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974 (38 USC 4212), and Section 503 of the Rehabilitation Act of 1973, and the regulations at 41 CFR Parts 60- 1 through 60-60, 60-250, and 60-741. The equal opportunity requirements in 41 CFR 601.4(a), 41 CFR 60-741.5(a) and 41 CFR 60-250.5(a) are hereby incorporated by reference in this Purchase Order, if applicable.
14. **MISCELLANEOUS.** GGI shall not be deemed to have waived any provision hereof, or any breach by Seller or any provision hereof, unless such waiver is specifically set forth in writing and executed by an authorized officer of GGI. No waiver by GGI of any provision hereof or any breach by Seller hereunder shall constitute a waiver of such provision by Seller. This Purchase Order and the transactions contemplated hereby shall be governed by, and construed and enforced in accordance with, the laws of the State of California without regard to its conflicts of law rules. The United Nations Convention on Contracts for the International Sale of Goods shall not be applicable to this Agreement or any purchase or sale made hereunder. The invalidity, illegal unenforceability, in whole or in part, or any provision, term or condition hereof shall not affect the validity and enforceability of the remainder of such provision, term or condition or of any other provision, term of condition hereof and to the extent where possible, invalid, illegal or unenforceable provision shall be replaced by a provision most nearly reflecting the fundamental objectives of the original provision. This PO may not be amended except by written agreement of Seller and GGI expressly referring hereto. Seller's rights and obligations hereunder may not be assigned or otherwise transferred without GGI's expressed prior written permission. All information obtained by Seller from GGI or learned by Seller in connection with this Purchase Order of performance hereunder or relating in any way to GGI's business shall be received in confidence and remain the property of GGI and shall be used and disclosed by Seller only to the extent necessary for the performance hereunder. To the extent there is any conflict between the terms and conditions of these Standard Terms and Conditions of Purchase and Terms and Conditions or agreement separately executed by GGI and Seller, the separately executed Terms and Conditions shall control.

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