



Joint Venture between U.S. Steel & Kobe Steel

PRO-TEC COATING CO. LLC  
CGL1/CGL2 COMPLEX  
5500 PRO-TEC Pkwy  
Leipsic, Ohio 45856  
(previously 5000 Co.Rd.5)

**General Conditions for CONSULTING & ENGINEERING Work on PRO-TEC Premises**

PRO-TEC COATING CO. LLC  
CAL COMPLEX  
5000 PRO-TEC Pkwy  
Leipsic, Ohio 45856

PRO-TEC COATING CO. LLC  
CGL3 COMPLEX  
4500 PRO-TEC Pkwy  
Leipsic, Ohio 45856

Onsite Services will be performed by:

*Vendor Name  
Address  
Contact; Phone  
Email*

Acceptance by Consultant of Purchaser's Purchase Order, to which these General Conditions are attached or by reference made a part of, shall constitute an agreement between Consultant and PRO-TEC Coating Company LLC, a Delaware limited liability company (the "Purchaser") with respect to all work to be performed by Consultant on or about Purchaser's premises (the "Agreement"). Each Purchase Order shall be the basis of a separate agreement consisting of a set of "Contract Documents", as follows: (i) the applicable Purchase Order (which for these purposes shall also mean each Release against a Blanket Purchase Order), (ii) the Pro-Tec Coating Company LLC Purchase Order General Terms and Conditions, as in effect at the time these General Conditions were executed by Consultant, (iii) these General Conditions, and (iv) any supplemental, blanket or site terms or conditions, specifications or other documents signed by Consultant and Purchaser or expressly incorporated by reference on the face of the applicable Purchase Order. In the event of a conflict or inconsistency between these General Conditions and any such other terms and conditions, these General Conditions shall control. All other terms and conditions are excluded, as set forth in the Pro-Tec Coating Company Purchase Order General Terms and Conditions. The Contract Documents shall remain effective unless and until otherwise agreed in writing by Purchaser and Consultant.

1. **Scope of Work.** The term "work" or "Work" wherever appearing herein or in Purchaser's Purchase Order shall mean any and all work, materials, labor and/or services of any type, nature or description whatsoever furnished or performed by Consultant, Consultant's agents, servants or employees (or by others on Consultant's behalf) hereunder, including, without limitation, work commonly known in the industry as modifications and enhancement to, and the writing of new, software, in each case as directed by Purchaser.

2. **Changes and Extras.** Purchaser reserves the right to make changes in, deductions from and additions to the work pursuant to the procedures described in the "Purchase Order Changes" section of the Pro-Tec Coating Company LLC Purchase Order General Terms and Conditions. Should Consultant request or be asked by Purchaser to perform work that Consultant believes to be outside the scope of the subject Purchase Order because it is additional work or a change in the scope of the work, then Consultant shall obtain concurrence and approval from Purchaser in writing describing any change in the scope of the work, price and schedule prior to commencing such work, which written order shall fix Consultant's total compensation, including any claims for acceleration, impact, loss of efficiency, quantum meruit, quasi-contract, unjust enrichment or other similar claims. Any claim for extension of time for completing the work resulting from any such change shall also be submitted and disposed of in like manner and in the same written order. Consultant acknowledges and agrees that any extra or changed work performed without the written authorization of Purchaser described above shall be undertaken at Consultant's own risk and Purchaser shall not be obligated to pay for any such work. In the event any deductions from the work result in a material change in the value of the work, an equitable reduction shall be made to the contract price.

3. **Workmen's Compensation and Unemployment Compensation.** Consultant shall provide and pay, and require its subcontractors, if any, to provide and pay, and to secure the payment of: (a) compensation for occupational diseases and for injuries sustained by, or death resulting to, employees of Consultant and its subcontractors as required by law, including the laws of each state wherein any work hereunder is performed and where employment contracts of such employees were made; and (b) contributions and payments with respect to employees of Consultant and its subcontractors to state unemployment compensation funds when and as required by such state unemployment compensation laws. Consultant shall furnish to Purchaser satisfactory evidence that Consultant and its subcontractors have complied fully with all of the requirements of such laws.

4. **Responsibility for Safety of Persons and Property.** The safety of all persons employed by or representing Consultant and its subcontractors on Purchaser's premises, and any other person who enters upon Purchaser's premises at Consultant's request for reasons relating to the Contract Documents, shall be the responsibility of Consultant. Consultant shall take all reasonable measures and precautions within Consultant's control at all times to prevent injuries to or the death of any of its employees or any other person who enters upon Purchaser's premises at Consultant's request. While on Purchaser's site, Consultant agrees to participate in and be bound by the Purchaser's Contractors' Safety program as the same may be effective or imposed during the term of the Contract Documents. THE DOCUMENTS TITLED "CONTRACTORS' SAFETY RESPONSIBILITIES" OR "CONTRACTORS' SAFETY SPECIFICATION" AND ANY SUCCESSOR AND SUPPLEMENTARY MANUALS ARE PROVIDED FOR INFORMATION PURPOSES ONLY AND ARE NOT INTENDED TO (AND DO NOT) PROVIDE LEGAL OR OTHER PROFESSIONAL ADVICE, AND PURCHASER MAKES NO REPRESENTATIONS OR WARRANTIES THAT THE INFORMATION CONTAINED THEREIN SATISFIES REQUIREMENTS OF FEDERAL, STATE, OR LOCAL LAWS. CONSULTANT AGREES THAT IT SHALL CONSULT WITH AND RELY SOLELY UPON ITS OWN LEGAL COUNSEL OR OTHER QUALIFIED PERSONS WITH RESPECT TO SATISFYING REQUIREMENTS OF ANY SUCH LAWS AS ARE APPLICABLE TO THE WORK. CONSULTANT ACKNOWLEDGES AND AGREES THAT (A) IT IS NOT RELYING ON ANY CLAIM OR REPRESENTATION OF PURCHASER RELATIVE TO ANY SUCH SAFETY REQUIREMENTS, (B) PURCHASER EXPRESSLY DISCLAIMS ANY CLAIM OR REPRESENTATION THAT THE INFORMATION CONTAINED IN

ANY SUCH SAFETY REQUIREMENTS WILL PRODUCE ANY PARTICULAR RESULTS, AND (C) PURCHASER SHALL NOT BE RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THE DESIGN, IMPLEMENTATION, AND/OR ENFORCEMENT OF ANY SUCH SAFETY REQUIREMENTS. CONSULTANT SHALL REMAIN COMPLETELY RESPONSIBLE FOR ITS COMPLIANCE WITH THE REQUIREMENTS OF APPLICABLE FEDERAL, STATE, OR LOCAL LAWS RELATING TO THE WORK.

5. **Environmental Controls.** Consultant shall be responsible for the handling, transportation, removal from Purchaser premises, and disposal of all waste materials and toxic substances brought onto Purchaser's premises by Consultant or otherwise used in the performance of the Work, in a safe and workmanlike manner, and in full compliance with all applicable environmental laws, ordinances, orders, consent decrees, rules, and regulations. Consultant will obtain, and require its subcontractors (if any) to obtain, all permits, licenses, certificates, or approvals required to comply with all applicable environmental laws, ordinances, orders, rules, and regulations in connection with the handling, transportation, and/or disposal of such waste materials. Such materials shall be stored by Consultant in full compliance with Purchaser' established safety requirements and all applicable laws, ordinances, orders, rules, and regulations. Consultant shall not store, or permit to be stored, on Purchaser's premises any materials not used in the performance of the Work hereunder. Consultant shall report immediately to Purchaser, and be fully responsible for, all potential or actual incidents of air or water pollution or other releases of wastes that occur as a result of the performance of the Work or the acts of Consultant or its subcontractors at Purchaser's site. Without limiting the foregoing, Consultant shall be solely responsible for the proper handling and storage of all materials used or brought on Purchaser' premises by Consultant or its subcontractors in the performance of the Work, and shall take all actions necessary to prevent the work or the presence of any such materials from causing Purchaser to be in violation of any applicable environmental laws, ordinances, orders, consent decrees, rules, and regulations.

6. **Insurance.**

a. Consultant shall maintain in full force and effect during the performance of the work, insurance coverage (under an "Occurrence " policy form and including, without limitation, professional errors and omissions, general commercial liability, property damage liability, automobile liability and contractual liability coverage) with an insurance company or companies possessing an A.M. Best Company rating of B+, Class VI or better, insuring (i) the Consultant's obligations to Purchaser under the indemnification and remedies clauses of the Contract Documents, including the terms and conditions set forth on the reverse side of the Purchase Order, and (ii) Consultant's and Purchaser's liability for any costs, expenses or damages relating to any property damage or bodily injuries or death received or sustained by any person or persons in any manner caused by, arising from, incident to, connected with or growing out of Consultant's performance of the work, or caused by, arising from, incident to, connected with or growing out of the use of vehicles in connection therewith. Consultant's general liability insurance shall have limits of not less than Two Million Dollars (\$2,000,000) for property damage, bodily injuries or death for any one occurrence, with minimum aggregate limits of Five Million Dollars (\$5,000,000).

b. All policies shall be endorsed to include Purchaser as an Additional Insured on a primary and non-contributory basis. Any insurance or self-insurance maintained by Purchaser shall be in excess of the Consultant's insurance and shall not contribute with it. The coverage shall contain no special limitations on the scope of protection afforded to any Additional Insured. Waiver of subrogation shall be provided to the benefit of the Additional Insured. Consultant shall not be required to have Purchaser named as an additional insured or to provide waiver of subrogation under its professional errors and omissions and workers compensation coverage if an additional insured endorsement is not available.

c. Prior to the commencement of any Work or services on Purchaser's Premises, Consultant shall furnish to Purchaser Certificates of Insurance evidencing full compliance with the requirements herein, including copies of all policy endorsements. The Certificates of Insurance must show that the required insurance is in force, the amount of the carrier's liability thereunder, and a listing of all applicable endorsements. Consultant must provide Purchaser with thirty (30) days' advance written notice of any cancellation or reduction in coverage or in limits, or deletion of the certificate holder herein as an Additional Insured under the policies, and the Certificate of Insurance will provide that the insurer(s) also will endeavor to provide such notice to Purchaser. All Certificates of Insurance shall be on an ACORD form with content acceptable to Purchaser.

d. All indemnification and remedies provisions of the Contract Documents shall be deemed to be an "insured" or "covered" contract, or the equivalent, thereunder.

e. The Insurance provisions of this Section are intended to be a separate and distinct obligation on the part of the Consultant. Therefore, these provisions shall be enforceable and Consultant shall be bound thereby regardless of whether or not any indemnity provisions of the Contract Documents are determined to be unenforceable. The above-described insurance coverage to be provided by Consultant hereunder will extend coverage to all Work or services performed under any purchase order to which these terms and conditions apply. In the event Consultant or its insurance carrier defaults on any obligations hereunder, and if such default is not cured within 10 days after Purchaser issues notice to Consultant, Consultant will be liable for all reasonable expenses and attorneys' fees incurred by Purchaser to enforce the provisions hereunder. The obligation of the Consultant to provide the insurance hereinabove specified shall not limit in any way the liability or obligations assumed by the Consultant elsewhere in the Contract Documents and Purchaser's recourse is not limited to such insurance policies.

f. Purchaser reserves the right to require additional or different insurance coverage if Purchaser determines that Consultant's scope of work requires such coverage including, without limitation, errors and omissions insurance, pollution liability insurance and/or MCS-90 coverage.

7. **Permits and Licenses.** Consultant shall secure and pay for all licenses and permits which may be required to comply fully with all applicable laws, ordinances, rules and regulations of the proper public authorities in connection with the performance of its work including, without limitation, all necessary permits from any agency or regulatory body enforcing environmental laws and regulations. Any fines or penalties levied by any governmental authorities upon the Purchaser due to the failure of the work or any part thereof to comply with any Federal and State laws, ordinances, rules or regulations, including, but not limited to, the Department of Labor OSHA Federal Register and the United States and Ohio Environmental Protection Agencies, or any other governmental regulatory agency, shall be fully paid by the Consultant until compliance is achieved.

8. **Modification.** No terms or conditions, other than those stated in the Contract Documents, and no agreement or understanding in any way modifying the terms and conditions herein stated, shall be binding upon either party unless made in writing and signed by both parties.

9. **Liens.** Consultant hereby irrevocably waives any rights it may now have or which it may acquire during the operation of the Agreement to file mechanics', materialmen's or other similar liens against Purchaser or Purchaser's property. Consultant shall also pay, satisfy, and discharge all mechanics', materialmen's and similar liens and related costs (including costs of investigation, attorney's fees and all other costs of litigation or threatened litigation) which may be asserted against Purchaser or its property by Consultant's subcontractors in connection with work for which Purchaser has already made payment to Consultant hereunder. Upon request of Purchaser, Consultant shall obtain written lien waivers, in form acceptable to Purchaser, from all of its subcontractors prior to receiving payments from Purchaser.

10. **Breach of General Conditions.** Each of the parties hereto acknowledges that in connection with a breach or violation of these General Conditions, the non-breaching party shall have, in addition to any remedies provided for herein, those remedies (including, without limitation, indemnification) set forth in the PRO-TEC Coating Company LLC Purchase Order General Terms and Conditions, and all such remedies shall survive indefinitely the termination, completion of work under, or expiration of any or all of the Contract Documents unless such survival is expressly limited by the terms of the Contract Documents.

By accepting Purchaser's Purchase Order, Consultant agrees to be bound by, and to carry out, perform and discharge fully and faithfully every undertaking, liability and obligation above set forth and set forth in the Purchase Order, including the terms and conditions contained on the reverse side thereof for five (5) years.

**PRO-TEC COATING COMPANY**

**VENDOR**

By: \_\_\_\_\_  
Mr. Richard E. Veitch  
President

By: \_\_\_\_\_  
Print: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Mr. Brent Rosebrook  
Vice President, Finance & Admin.

Date: \_\_\_\_\_

**PRO-TEC COATING COMPANY LLC**  
**PURCHASE ORDER GENERAL TERMS AND CONDITIONS**

**AGREEMENT:** (A) No terms or conditions, other than those stated or incorporated by reference herein, and no agreement or understanding in any way modifying the terms and conditions stated or incorporated by reference herein, shall be binding upon the Purchaser unless made in writing and signed by the Purchaser's duly authorized Purchasing Agent. Written acceptance of the purchase order and/or the provision of goods or services to Purchaser by Seller shall constitute Seller's assent to these exclusive terms and conditions of purchase. Purchaser hereby expressly objects to and rejects any and all additional or different terms proposed by Seller (including, without limitation, any attempted disclaimer or limitation of warranties or liability), irrespective of where contained, and no such different or additional terms shall form part of this contract or be binding on Purchaser. Purchaser's acceptance of or payment for goods or services shall not constitute Purchaser's acceptance of any counter-proposal submitted by Seller unless otherwise specifically accepted in a writing signed by Purchaser's authorized Purchasing Agent. (B) The agreement between Purchaser and Seller with respect to this purchase order consists only of the terms contained in or on: (i) these Purchase Order General Terms and Conditions; (ii) the face of the purchase order; and (iii) any supplemental, blanket or site terms or conditions, specifications or other documents signed by Seller and Purchaser or expressly incorporated by reference on the face of the purchase order. The documents listed in the preceding sentence shall constitute the entire agreement between Seller and Purchaser and supersede all prior oral or written representations, proposals and agreements. Any reference in the purchase order to any quotation, RFP response, offer to sell or proposal of Seller is solely for the purpose of incorporating the descriptions and specifications of the goods and/or services contained in the offer or proposal to the extent that those descriptions and specifications do not conflict with the descriptions and specifications contained in or referred to on the face of the purchase order, and such reference is not an agreement by Purchaser to be bound by any legal or general terms and conditions contained therein.

**PURCHASE ORDERS; BLANKET PURCHASE ORDERS:** These Purchase Order General Terms and Conditions govern all purchase orders issued by Purchaser to Seller, including those issued as a Blanket Purchase Order (a "BPO"). All references to "purchase order" in these General Terms and Conditions shall be deemed to include the BPO. If Purchaser has issued to Seller a BPO, deliveries of goods and/or the rendering of services shall be made only upon receipt of Purchaser's "Release" form by Purchaser's authorized purchasing agent. All goods and services shall be billed at the designated unit price shown on the BPO. No obligation to purchase any minimum quantity of goods or services shall arise from Purchaser's issuance of a BPO except as otherwise expressly stated on the face of the BPO or any subsequent Release. There shall be no increases in any prices, reduction of any discounts or rebates, or changes in the price list dates indicated on the BPO without prior written approval from Purchaser's authorized purchasing agent as evidenced by the issuance of a written revision or other formal change order to the BPO. All requests by Seller for price changes (including discounts and rebates) shall be made in writing at least thirty (30) days prior to their proposed effective date. Purchaser is not required to accept any such request by Seller and any such request shall be deemed to be denied if Purchaser does not accept the request by a written revision or other formal change order signed by Purchaser's authorized purchasing agent prior to the end of such 30-day period. Purchaser reserves the right to cancel the BPO at any time upon completion of the purchase of all goods and services covered by any outstanding Releases (subject to Purchaser's right to cancel for default or convenience as provided herein).

**PURCHASE ORDER CHANGES:** Purchaser reserves the right to modify the purchase order with respect to quantities, delivery schedules and/or specifications as desired by issuing to Seller a written revision or other formal change order (a "Revision") signed by Purchaser's authorized purchasing agent. If Seller's costs are reduced because of changes, Seller shall reduce the purchase order price to reflect all such quantifiable cost savings, whether direct or indirect. If Seller's costs are increased because of changes in scope or circumstances, whether requested by Purchaser in a Revision or otherwise, Purchaser will consider Seller's request for a reasonable adjustment to the purchase order price; provided, however, that if Seller does not notify Purchaser of a cost impact within ten (10) days of the issuance of the Revision or prior to the commencement of any other extra or changed work, then Seller shall be deemed to waive any claim for a price increase due to the Revision or extra or changed work. If Seller does provide notice of a cost impact and the parties cannot agree upon a reasonable price adjustment within ten (10) days of such notice, the Revision will not become effective, Seller shall not be required to perform such Revision or extra or changed work, and Seller shall not be entitled to any additional compensation or price changes if it does perform such Revision or extra or changed work before obtaining Purchaser's written acceptance of any price adjustment. Written acceptance of a Revision and/or the provision of goods or services to Purchaser by Seller shall constitute Seller's assent to the changes. Purchaser hereby expressly objects to and rejects any and all additional or different terms (including price changes) proposed by Seller in any manner, except any that are expressly accepted in writing and reflected in a Revision issued by Purchaser.

**SHIPPING AND BILLING:** Seller agrees to properly pack, load and ship goods in accordance with the requirements of Purchaser and involved carriers in a manner that secures safe transportation at the lowest transportation cost; to route shipments in accordance with Purchaser's instructions, if any; and to make no charge for handling, packaging, storage, transportation or drayage of goods unless otherwise stated in the purchase order. Time for payment shall not begin until correct and complete invoices are received and proper documentation of all freight charges has been provided, and Seller's cash discount privileges to Purchaser shall be extended until such time as payment is due.

**DELIVERY SCHEDULES:** Deliveries shall be made both in quantities and at times stated in the Purchase Order. Purchaser shall not be required to make payment for goods delivered to Purchaser that are in excess of quantities specified in Purchaser's delivery schedules. Purchaser reserves the right to change the rate of scheduled shipments or direct temporary suspension of scheduled shipments. For BPOs or other orders of goods where quantities and/or delivery schedules are not specified, Seller shall deliver goods in such quantities and times as Purchaser may direct in subsequent releases. Time is of the essence in Seller's performance hereunder.

**REQUIREMENTS:** If this purchase is based upon Purchaser's requirements, "buyer's requirements" or words of similar intent in the purchase order shall mean Purchaser's requirements for the product which is the subject of the purchase order, which requirements Purchaser determines subjectively from time to time in its sole discretion to be in its best interests, economic or otherwise, without regard to estimates by Purchaser, historical levels of usage, or any course of performance or dealing. Any specific quantity or quantity range set forth in the purchase order which refers to Purchaser's requirements is merely a good faith estimate and not a guarantee of Purchaser's expected requirements for the specified time period, based upon Purchaser's then-existing business conditions, such as the market for Purchaser's steel products, the level of operations at Purchaser's facilities, and other changing factors and circumstances, many of which are beyond the Purchaser's ability to foresee or control. Seller acknowledges that no agreement to purchase any minimum quantity is expressed or implied and that the purchase order does not constitute a "take or pay" contract.

**INSPECTION:** Notwithstanding payment, passage of title or prior inspection, all items are subject to final acceptance or rejection by Purchaser at the destination specified herein. Seller agrees that Purchaser and its agents shall have the right to enter Seller's facility at reasonable times and upon reasonable notice to inspect the facility, goods, materials and any property of Purchaser covered by the purchase order. Such inspection of the goods, whether during manufacture prior to delivery or within a reasonable time after delivery shall not constitute acceptance of any work-in-progress or finished goods, whether or not a breach of warranty or other defect had become evident at the time. Seller shall obtain similar rights for access and inspection to lower-tier suppliers shops if requested in writing by Purchaser.

**WARRANTY:**

**Goods.** Seller warrants to Purchaser that all materials, goods, facilities, equipment, and machinery that are furnished by Seller shall (a) be new, (b) strictly comply with all the specifications, drawings, samples, descriptions or performance guarantees furnished to Purchaser by Seller or otherwise agreed upon by Seller and Purchaser, (c) be suitable for Purchaser's intended purposes (as disclosed to Seller) and for the operating conditions at Purchaser's site, (d) be transferred to Purchaser so that Purchaser will receive full ownership and title thereto, free and clear of any liens, claims, or encumbrances, and (e) not require an additional license or sub-license from a third party for Purchaser to own, use or operate them. Seller shall secure and provide to Purchaser all manufacturers' pass-through warranties, as applicable, which shall be additional to the foregoing warranties.

**Services.** Seller warrants to Purchaser that (a) all of its and its subcontractors' personnel to be utilized hereunder are qualified to fully perform the applicable services, and (b) all such work performed by it or its subcontractors shall comply with any requirements set forth or referenced in the purchase order and shall be performed in a skillful manner to the highest standards of care and diligence practiced by reputable, recognized firms in performing work of a similar nature.

**Exclusive Warranties.** THE WARRANTIES SET FORTH ABOVE, TOGETHER WITH ANY WARRANTIES SET FORTH IN OTHER DOCUMENTS FORMING PART OF THE AGREEMENT BETWEEN SELLER AND PURCHASER, ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES FROM SELLER, WHETHER WRITTEN, ORAL OR IMPLIED.

**WARRANTY REMEDIES:** If any of Seller's warranties is breached in any manner within two (2) years after completion of final delivery/performance by Seller under this Purchase Order, Purchaser may, at its election, return such items to Seller at Seller's risk and expense and require repayment of any amounts paid for returned items (including shipping and insurance costs), or require Seller, at Seller's expense, to promptly replace or correct such items. Seller's warranty obligations shall include, without limitation, paying all expense of furnishing and installing parts or making alterations to existing parts, including but not limited to "in and out" costs (i.e., tear out, rebuild, etc.), and costs of tests made necessary by failure or breach of such warranty. If, in the reasonable judgment of Purchaser, Seller's response time is not sufficient to avoid loss of operation, downtime, or other significant damage to Purchaser, then Purchaser may carry out the warranty remedy itself at Seller's expense.

**QMS/ISO STANDARDS:** Seller shall maintain a Quality Management System (QMS) based on or certified to all applicable ISO or other standards required by Purchaser from time to time. Seller shall maintain a QMS that ensures that all finished goods/services have been inspected and accepted prior to delivery. This inspection should verify that the material being furnished against this purchase order meets the requirements, drawings and specifications referenced. There should also be a record of these inspections on file at the vendor's facility. Without limiting the foregoing, prior to release of externally provided products into its production flow, Seller shall confirm and be able to provide evidence that externally provided processes, materials, goods, products and services conform to the latest applicable statutory, regulatory and other requirements in the countries where they are manufactured and in the United States. Seller's QMS is subject to audit and approval or disapproval at all times by Purchaser.

**INDEMNITY:** Seller shall defend, indemnify and hold harmless Purchaser and its agents, employees, representatives, officers and directors, and its and their respective successors and assigns, from and against any and all claims, actions, damages or causes of action at law or in equity, together with any and all losses, costs, and expenses and attorneys' fees arising in connection therewith or related thereto, (i) for damage to property and/or bodily injury, disease or death suffered by any person (including, without limitation, employees of Seller or its subcontractors) arising or in any manner growing out of the work governed by the purchase order, except to the extent any of such claims, actions, damages, costs or expenses are initiated or proximately caused by, or result from, the conduct, fault or negligence of Purchaser or such other party to be indemnified hereunder, (ii) that relate to or arise out of any claim for additional compensation by Seller's subcontractors, materialmen and suppliers (including mechanic's lien claims), provided that Purchaser has made all undisputed payments due to Seller in accordance with the Purchase Order, (iii) that are caused by any breach by Seller of any of the terms or conditions of the purchase order, including these Purchase Order General Terms and Conditions and any general, blanket or site terms and conditions entered into by the parties, or (iv) that arise out of any infringement or claimed infringement of any patent, trademark, copyright or other intellectual property right in the design, manufacture, sale and/or use of the articles or materials covered by the purchase order. Notwithstanding the foregoing, Purchaser may be represented in any such legal actions or settlement of such claims by attorneys of its own selection at its own expense. With the specific intent of ensuring that the indemnification provisions above are enforceable under applicable law with respect to bodily injury, disease or death suffered by employees of Seller or its subcontractors, Seller does hereby expressly and specifically waive its constitutional and statutory immunity from suit and causes of action provided to employers by Section 35, Article II of the Ohio Constitution and O.R.C Section 4123.74, as well as any other similar immunity provided for by any other statute, law or constitution of any applicable jurisdiction. The foregoing sentence shall not be deemed to grant any additional rights or remedies to any persons or entities other than the indemnified parties described above, and therefore this provision shall not be construed as a general waiver by Seller of its immunity to direct suits by its employees or any employees of its subcontractors except as is necessary to achieve the stated purpose of the immediately preceding sentence. The foregoing indemnity provisions shall be construed as an "insured" or "covered" contract under Seller's general liability insurance policy(ies).

**CONFIDENTIAL INFORMATION:** Any information or data provided or disclosed by Purchaser, or to which Seller is provided access directly or through Purchaser's system or equipment, in connection with this Purchase Order, including but not limited to specifications, samples, plans, documents, data, business operations, volume, pricing, discounts or rebates, whether or not marked, designated or otherwise identified as "confidential" or the like, is "Confidential Information" hereunder and will be treated as Purchaser's proprietary information and trade secrets by the Seller and its affiliates at all times during and after performance of the Purchase Order. Confidential Information shall not be directly or indirectly copied or disclosed to any third party or directly or indirectly used by Seller for any purpose other than to perform the Purchase Order, unless authorized by prior written consent of Purchaser. Confidential Information shall only be disclosed within Seller's internal organization to those employees whose duties justify their need to know such information to perform the Purchase Order and then only on the basis of clear understanding by such employees of their obligation to maintain the confidentiality of all such Confidential Information. Seller agrees to implement administrative, physical and technical safeguards that are no less rigorous than accepted industry practices (e.g., SOC 2, ISO, PCI-DSS, etc.) to protect the security, confidentiality, integrity and availability of Confidential Information. Seller agrees that all Confidential Information that it stores, processes or maintains will not be stored, processed or maintained on or transferred to any portable or laptop computing device or any portable storage medium, unless that device or storage medium has been approved by Purchaser and is encrypted by Purchaser-approved standards. Seller acknowledges that Confidential Information in written or other tangible form is the property of Purchaser and, upon written request, shall be promptly destroyed or returned to Purchaser, together with all reproduction thereof, in any form, which Seller may have in its possession or control.

**OWNERSHIP AND USE OF WORK PRODUCT:** Seller agrees that all drawings, field notes, specifications, software, and any other documents, materials or work product, whether in written, audio, video or electronic form, that are developed for Purchaser or that are unique to the subject matter of the purchase order ("Work Product"), shall be delivered to and will become the property of Purchaser. **All Work Product shall be considered a "work for hire" under the federal Copyright Act of 1976 and any successor or replacement act, and all amendments thereto and regulations issued thereunder.** Seller agrees to assign all of its right, title and interest, including without limitation copyrights, for all such Work Product to Purchaser. Seller hereby grants Purchaser the irrevocable and transferable right and license to use any other drawings, field notes, specifications, software, documents and materials that are not considered Work Product for any purpose pertaining to the Purchaser's installation, operation, maintenance and repair of the goods purchased hereunder, including the right to contract with others for the manufacture of replacement parts or the installation of additional or complementary equipment, software or components.

**COMPLIANCE WITH LAWS:** Seller will, and will cause its suppliers and subcontractors to, comply with all applicable Government Requirements relating to the design, production, sale, distribution and/or performance of the goods and/or services to be provided hereunder. A Government Requirement includes any law, order, rule, regulation or requirement of a Government. The term Government refers to any governmental body or entity (at any level, whether within the United States or a foreign country) that regulates the goods and/or services provided hereunder, including any equipment or construction/installation work and/or other type of services so provided. Any clause(s) required to be included in a contract of this type by any applicable Federal, state or local laws, orders, rules or administrative or procurement regulations having the effect of law shall be deemed incorporated herein and are hereby made a part hereof.

**ECONOMIC SANCTIONS COMPLIANCE:** (A) Seller represents and warrants that, with respect to its supply obligations under this contract and any other agreement with Purchaser, it is currently in compliance with, and shall remain in compliance with, the laws, regulations and Executive Orders administered by the Office of Foreign Assets Control ("OFAC") of the U.S. Department of the Treasury, which prohibit, among other things engaging in transactions with, and providing services to, certain countries, territories, entities and individuals. Seller represents and warrants that neither Seller nor

any person having a beneficial interest in Seller is (i) a Person whose name appears on the list of Specially Designated Nationals and Blocked Persons published by OFAC (an "OFAC Listed Person") or (ii) a department, agency or instrumentality of, or is otherwise directly or indirectly controlled by or acting on behalf of any OFAC Listed Person or the government of a country subject to comprehensive U.S. economic sanctions administered by OFAC (each OFAC Listed Person and each other entity and country described in clause (ii), a "Blocked Person"). (B) Seller further represents and warrants that none of the goods or services that it is supplying to Purchaser originate from or involve, in whole or in part, from any Blocked Person. Seller further represents and warrants that no part of the proceeds from any transaction with the Purchaser constitutes or will constitute funds obtained on behalf of any Blocked Person or will otherwise be used, directly or indirectly, in connection with any investment in, or any transactions or dealings with, any Blocked Person. (C) Seller hereby acknowledges and agrees that Seller's breach of any of the terms of this section at any time during the term of this Purchase Order shall be deemed a material breach of the agreement between Seller and Purchaser. (D) Seller hereby agrees to indemnify, defend and hold harmless Purchaser and its officers, directors and employees from and against any and all claims, demands, damages, costs, penalties and fines arising in connection with any breach by Seller or its agents of this representation and warranty. Purchaser may reject, suspend, or cancel any shipment or delivery from a Blocked Person without penalty or payment for the rejected, suspended, or cancelled goods or services, and/or cancel or terminate this Purchase Order or any other applicable agreement with Purchaser, in whole or in part, if it has a good faith basis for believing that Seller or its agent has violated or intends to violate the above representation and warranty. If Seller provides goods or services that do not conform with this section, Purchaser has the right to demand that Seller replace the nonconforming goods or services with conforming goods or services that satisfy the quality, size, volume, and any other identifying requirements at no additional charge and on an emergency "rush" basis. Seller will pay all costs, additional fees, penalties, rush payments, and damages for replacing goods or services furnished in violation of this section.

**ANTI-CORRUPTION COMPLIANCE:** Seller hereby represents and warrants to Purchaser that Seller is aware of and familiar with the provisions of the U.S. Foreign Corrupt Practices Act, as amended ("FCPA"), and any other anti-corruption law applicable in a jurisdiction in which Seller may have conducted or will conduct business, and that neither Seller nor any of its agents or intermediaries that will be utilized to provide the goods or services in connection with this Purchase Order has violated any applicable laws relating to bribery, corruption, and prohibited business practices. In performing pursuant to this Purchase Order, Seller represents and warrants that it, and each of its directors, officers, and employees, as well as any subcontractors, agents, representatives, vendors, and any other intermediaries/third parties that it engages pursuant to this contract, will comply in full with the FCPA and any other applicable bribery, corruption, and prohibited business practice laws. Seller and its affiliates have not and will not, for the purpose of influencing or inducing anyone to influence decisions in favor of Purchaser or any of its affiliates, offer, promise, or make or agree to make, directly or indirectly, (a) any political contributions of any kind or any payment to or for the benefit of any public official, whether elected or appointed, (b) any payments for gifts, meals, travel, or other value for a government employee or his/her family members, or (c) any payments or gifts (of money or anything of value) to anyone.

**GOVERNING LAW:** The purchase order and these terms and conditions shall be governed exclusively by the laws of the State of Ohio, excluding Ohio conflict of laws provisions. SELLER IRREVOCABLY AGREES THAT ANY LEGAL ACTION OR PROCEEDING SEEKING THE ENFORCEMENT OR INTERPRETATION OF THE PURCHASE ORDER OR THESE TERMS AND CONDITIONS SHALL BE BROUGHT IN THE COURTS OF THE STATE OF OHIO IN PUTNAM COUNTY, OHIO OR THE FEDERAL DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO. BY ITS ACCEPTANCE OF THE PURCHASE ORDER, SELLER HEREBY IRREVOCABLY SUBMITS ITSELF TO THE JURISDICTION OF ANY SUCH COURTS, AND WAIVES ANY OBJECTION IT MAY NOW OR HEREAFTER HAVE TO THE PLACING OF VENUE IN ANY SUCH COURTS AND ANY RIGHT TO REMOVE ANY SUCH ACTION OR PROCEEDING TO ANOTHER COURT.

**IMPORTED GOODS:** Unless otherwise expressly stated on the face of the purchase order or agreed to in writing by Purchaser, all goods purchased hereunder that originate from sources or suppliers based outside the United States of America shall be sold and delivered on a Delivered Duty Paid (DDP) basis per *Incoterms 2010* to Purchaser's plant in Leipsic, Ohio (or other delivery point designated on the face of the purchase order). Seller shall act as the importer of record into the United States for all such goods. THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS (CISG) SHALL NOT APPLY TO THE PURCHASE ORDER.

**REMEDIES:** Purchaser may withhold out of amounts otherwise due Seller under the purchase order such sums sufficient to compensate itself for any amount at any time that may be owed from Seller to Purchaser in connection with the purchase order. In addition, Purchaser hereby reserves all additional rights and remedies provided by law or equity.

**LIMITATION ON CONSEQUENTIAL DAMAGES:** Whether as a result of breach of contract, warranty, tort, strict liability or otherwise, in no event shall either party be liable to the other party for indirect, special, consequential, or punitive damages of any type or nature whatsoever including, but not limited to, the loss of business, reputation, use, income, profit or productivity.

**CANCELLATION:** Purchaser may immediately cancel the purchase order, without liability to Seller, in the event of any of the following or any other comparable events: (i) insolvency or bankruptcy of the Seller, appointment of a receiver or trustee for Seller, or execution of an assignment for the benefit of creditors by Seller, (ii) termination is required to avoid non-compliance with any law, order, regulation, request or imminent action of any government entity, or (iii) a force majeure or other event beyond the reasonable control of Purchaser occurs and Purchaser determines that cancellation is in its best interest as a result thereof. Purchaser reserves the right to cancel all or any part of the purchase order, without liability to Seller, if Seller breaches any of the terms and conditions applicable to the purchase order and Seller does not correct such failure or breach within ten (10) days (or such shorter period of time if commercially reasonable under the circumstances) after receipt of notice from Purchaser specifying such failure or breach. Purchaser may also terminate all or any part of the purchase order for its own convenience, in which case Seller shall be entitled to, but only to, an equitable amount equal to the proportional share of the price of the order based on the percentage of such order completed by Seller prior to the notice of termination, less amounts previously paid by Purchaser, salvage value and any other amounts recoverable by Seller. The payment required by the foregoing sentence shall constitute Purchaser's sole liability in the event of termination for Purchaser's convenience. Seller shall use its best efforts to minimize any such costs.

**NON-ASSIGNMENT:** Seller may not assign or delegate its own rights or obligations under the purchase order without Purchaser's prior written consent.

**AUDIT:** (A) Seller shall establish an accounting system and maintain current, accurate and complete books and records (whether in printed, electronic or other format) covering (i) all costs, expenditures and revenue associated with the work performed or goods supplied, (ii) all amounts invoiced to and paid by Purchaser hereunder, (iii) all claims and other matters involving the business relationship between Seller and Purchaser hereunder, and (iv) any other matters relating to the purchase order (Seller's foregoing and other below identified records being hereinafter called "Books and Records"). (B) Seller's Books and Records shall also include (without limitation) all records relating to any (i) changes or extra work, (ii) disputed work, (iii) claim(s) for requested adjustment of the price or time schedule, (iv) entertainment and gifts, (v) business, financial or other transactions between Seller and any Purchaser employees, (vi) allowable termination costs and/or other allowable charges covered under the purchase order, and all other books and records of Seller relating to the purchase order. (C) Seller's Books and Records shall be maintained, preserved and open to inspection and/or audit by designated Audit representatives of Purchaser during reasonable business hours during the life of the purchase order and for a period of three (3) years thereafter. In connection with any audit covered hereunder, Seller shall, at all times, cooperate fully with designated representatives of Purchaser (i) in arranging interviews with any current or former employees of Seller, (ii) in providing reasonable and appropriate on-site workspace for use by such designated representatives, and (iii) in otherwise producing or making available all Books and Records covered by this provision. (D) Seller, through appropriate provision in its subcontracts and purchase orders, shall require its subcontractor(s) and/or supplier(s) to (i) similarly maintain and preserve current, accurate and complete books and records (as described under this section) relating to each subcontract and/or purchase order awarded or

issued by Seller in connection with the purchase order, (ii) permit the inspection and/or audit thereof by Purchaser upon the conditions and time period as provided in this section, and (iii) cooperate fully in the performance of any inspection and/or audit by designated representatives of Purchaser hereunder.

**LIEN WAIVERS; OWNERSHIP:** If goods covered by the purchase order are to be installed in whole or in part upon Purchaser's premises, Seller shall keep such premises free of all mechanic's and similar liens arising in connection with work or goods covered by the purchase order and shall execute or cause to be executed and submit with each invoice such lien waivers, sworn statements and related forms as Purchaser shall request. Seller shall execute such documents as Purchaser may reasonably require as evidence of Purchaser's interest in any equipment or property owned by Purchaser in the possession of Seller.

**ENVIRONMENTAL; HEALTH; MSDS; SAFETY:** All materials supplied under the purchase order must satisfy current governmental and safety considerations on restricted, toxic and hazardous materials; as well as environmental, electrical and electromagnetic considerations (applicable to the country of manufacture and sale) and ANSI, ASME and all other national consensus safety standards. A Material Safety Data Sheet (MSDS) and subsequent revisions thereof that comply with O.S.H.A. requirements (29 C.F.R. 1910.1200) must be provided to Purchaser's industrial hygiene or safety department with the initial shipment and first shipment after revisions for all hazardous materials that are the subject of the purchase order. The MSDS must indicate the purchase order number and release number and the in-plant receiving location truck stop number and phone number shown on the face of the purchase order. All containers of hazardous materials shall be properly labeled in accordance with Section 1910.1200, paragraph (f) of the O.S.H.A. hazards communication standard. Containers not meeting these labeling requirements shall be subject to refusal of delivery at the receiving location and will be returned at the expense of Seller. Seller shall adhere to all plant specific safety requirements including those referenced in Safety Specification S-001. All contractors, delivery drivers, sales and service personnel, subcontractors and general visitors shall comply with all plant visitor rules and other applicable safety and security requirements of the Purchaser. Copies of such plant visitor rules and security requirements are available from the plant Safety Department.

**TAX INSTRUCTIONS:** Seller shall be responsible for and shall hold harmless Purchaser from any and all federal, state, local or foreign taxes, fees, premiums or surcharges measured or based, in whole or in part, on the net income, net profits, gross income, gross profits or gross receipts applicable to amounts received by Seller under the purchase order, and all excise, privilege, net worth, capital, franchise, commercial activity, value added and occupational taxes or any other taxes, fees, premiums or surcharges applicable to amounts received by Seller under the purchase order on all materials and supplies furnished or work performed by Seller, including any real or personal property tax assessed against any and all real or personal property owned or used by Seller in the performance of its obligations under the purchase order. Purchaser shall be responsible for sales and use taxes imposed by any state or local jurisdiction on the purchase price of personal property or services purchased under the purchase order. Purchaser maintains Ohio Direct Pay Permit No. 98-002485. Seller shall comply with reasonable requests to include sufficient detail on its invoices so Purchaser may properly determine the tax base for any sales and use tax. Seller will exercise a good faith effort to reduce the overall transaction taxes relating to purchases of goods and services and extend to Purchaser the benefit of any tax savings. Such efforts shall include but not be limited to the use of resale certificates and claiming certain exceptions when reasonably available. Seller is responsible for paying sales tax on materials purchased for real estate construction. Seller is taxable as the consumer of materials in real estate contracts. Seller is expressly prohibited from using Purchaser's direct pay permit for purchases of material, equipment, supplies or services for use in the performance of any work or supply of goods governed by the purchase order. Seller shall obtain either its own direct pay permit or resale exemption certificate for use in such regard.

**INSURANCE REQUIREMENTS:** If Seller is to enter onto or otherwise perform work on Purchaser's premises, upon demand of Purchaser Seller will be required to comply with Purchaser's contractor insurance program.

**MISCELLANEOUS:** Seller and Purchaser are independent contracting parties and nothing in the purchase order, including these Purchase Order General Terms and Conditions, shall make either party the agent, partner, joint venturer or legal representative of the other for any purpose whatsoever, nor does it grant either party any authority to assume or to create any obligation on behalf of or in the name of the other. The failure of either party at any time to require performance by the other party of any provision of the purchase order, including these Purchase Order General Terms and Conditions, shall in no way affect the right to require such performance at any time thereafter, nor shall the waiver of either party of a breach of any provision of the purchase order, including these Purchase Order General Terms and Conditions, constitute a waiver of any succeeding breach of the same or any other provision. If any term of the purchase order, including these Purchase Order General Terms and Conditions, is invalid or unenforceable under any statute, regulation, ordinance, executive order or other rule of law, such term shall be deemed reformed or deleted, but only to the extent necessary to comply with such statute, regulation, ordinance, order or rule and the remaining provisions of the purchase order shall remain in full force and effect.

**PRO-TEC COATING COMPANY**

**VENDOR**

By: \_\_\_\_\_  
Mr. Richard E. Veitch  
President

By: \_\_\_\_\_  
Print: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_  
Mr. Brent Rosebrook  
Vice President, Finance & Admin.

Date: \_\_\_\_\_

Date: \_\_\_\_\_