

# PERFORMANCE TRUCK REPAIR FIRE APPARATUS SALES AGREEMENT

## ATTACHMENT "A"

This Agreement ("Agreement") is made this \_\_\_\_\_th day of \_\_\_\_\_ 2024, by and between Performance Truck Repair Inc. (PTR Corp.), 892 W. Tenth St., Azusa, CA 01702 (hereinafter "Company") and City of Riverside (hereinafter "Buyer").

1.) Purchase: The Company agrees to sell, and the Buyer agrees to purchase through the Sourcewell cooperative public purchasing system (**Vendor Contract #113021-RVG-4 and Member #2410**) the fire apparatus and equipment described in the Company's Proposal and the Specifications attached hereto and hereby incorporated by reference (the "Apparatus"), all in accordance with the terms and conditions of this Agreement. Changes to the Specifications attached hereto will only be executed by the Company if documented by a Change Order signed by both parties. In the event of any conflict between the Company's Proposal and the Buyer's Specifications, the Company's proposal shall prevail.

2.) Price: Buyer agrees to pay a purchase price of **two million, one hundred fifty-seven thousand, nine hundred forty-eight dollars, (\$2,157,948.00)**. Unless otherwise specified, this Purchase Price is exclusive of all Federal, State or local taxes of any nature. Any such taxes are the sole responsibility of the Buyer unless specifically added to the Purchase Price, at which time they will be paid by the Company; provided, however, if the Buyer claims the Order is exempt from any tax, Buyer agrees to furnish the applicable exemption certificate to the Company and to hold the Company harmless from any damage which may result from the Company ultimately having any such tax assessed against it.

3.) Pre-Build: A preliminary review of the specification shall be conducted at Buyer's facility at a time that is convenient for both parties but within 60 days from execution of this Agreement. A pre-build conference will be conducted at the manufacturing facility to ascertain and confirm buyer's requirements with respect to the Apparatus ordered by Buyer. Travel and expenses shall accommodate three (3) buyer representatives and shall be the responsibility of the Company.

4.) Delivery: The Apparatus shall be delivered F.O.B. Azusa, California approximately 840 calendar days after receipt of the order, based on execution of this Agreement by Buyer. It is agreed that such delivery is subject to delays caused by war, acts of God, hurricane, labor shortages or strikes, inability to obtain materials, and other causes reasonably beyond the control of the Company and that the Company will not be liable for, and this Agreement may not be terminated on account of such delays. Buyer will be notified no less than fourteen (14) business days in advance of the delivery date. Upon acceptance of the apparatus and prior to dealer supplied upfitting and communications installation, Buyer agrees to pay 80% of the contract price to cover dealer obligations to the manufacturer. The 20% final payment will be due upon Buyer's receipt of the completed apparatus.

5.) Buyer Inspections: Company will notify Buyer when the Apparatus is ready for mid-build and final inspections ("Notice of Inspection") and Buyer will have up to ten (10) business days from the Notice of Inspection to coordinate Buyer's inspections as specified at the Ocala, Florida manufacturing plant. Final inspection shall be conducted within thirty (30) days of "Notice of Inspection". Inspection Travel and expenses shall accommodate three (3) buyer representatives and shall be the responsibility of the Company. In the event Buyer is unable to be physically present for the inspection, the Company shall provide Buyer with a virtual inspection of the Apparatus. After the inspection or in the event the Buyer

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fails to make inspection of the Apparatus within the thirty (30) day period after the Notice of Inspection, Company shall deliver the Apparatus to the Company's Azusa, California facility. Company shall hold the apparatus at the Azusa, California facility until such time as Buyer makes inspection, and/or takes delivery of the Apparatus. In the event Buyer fails to make inspection at the Azusa, California facility and/or fails to take delivery of the Apparatus through no fault of the Company, Company shall charge Buyer a storage fee for each day the Apparatus remains at the Azusa, California facility, calculated pro-rata for each day at an annual rate of 18% on the price specified in paragraph 2. Buyer shall bear the risk of loss or damage to the Apparatus remaining in the possession of the Company after ten (10) business days following the delivery to the Azusa, California facility.

6.) Buyer's Cancellation for Convenience. If Buyer tenders any cancellation hereunder, Buyer shall nevertheless accept delivery of all products which are completed at the time of cancellation. Those products which constitute work-in-process inventory at the time of cancellation shall be paid for by Buyer at a price equal to the completed percentage of the product multiplied by the price specified in Paragraph 2. Buyer also shall pay promptly to Company the costs of settling and paying claims arising out of the termination of work under Company's subcontracts or vendors, plus an additional 15% to defray Company's accounting, legal, and clerical costs arising out of the cancellation.

7.) Title: The Company and Buyer agree that the Manufacturer's Certificate of Origin shall remain with the Company until the Company has been paid in full. Provided that the Company has been paid in full, the Certificate of Origin shall remain with the Company until the Apparatus leaves Company premises in the physical custody of the Buyer. Certificate of Origin will be sent to buyer within ten business days after pick up of vehicle. Upon pick up by Buyer, responsibility for title application, ownership and risk of loss shall pass from Company to Buyer.

8.) Warranty: The Company warrants additional work performed by the Company on the new Apparatus against defects in material and workmanship for a period of one year from the acceptance/delivery date. New Apparatus warranty is based on the in-service date per the manufacturer's Warranty Registration Card. Warranties beyond one year may be applicable to certain components of the Apparatus as described in the Statements of Warranty provided with the Apparatus. This warranty is in favor of the original user/purchaser.

9.) Notices: The parties to this Agreement designate \_\_\_\_\_ as representative of the Buyer and David Killackey Sr. as representative of the Company for purposes of all communications regarding this Agreement.

10.) Waiver of Jury Trial: The parties to this Agreement agree that any dispute arising hereunder, if brought before a court having proper jurisdiction, shall be adjudicated in binding arbitration and the parties expressly waive any right to have such matter(s) tried before a jury.

11.) Entire Agreement: This Agreement, including its attachments and exhibits, constitutes the entire understanding between the parties relating to the subject matter contained herein and supersedes all prior discussions and Agreements. No agent or representative of the Company has authority to make any

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representations, statements, warranties or Agreements not herein expressed and all modifications or amendments of this Agreement, including its attachments and exhibits, must be in writing signed by an authorized representative of each of the parties hereto.

12.) Acceptance by Company: This Agreement shall not constitute a valid and binding obligation of the Company until accepted in writing by an officer of the Company at its offices in Azusa, California. When requested by the Company, the Buyer shall furnish a satisfactory written opinion of the Buyer's attorney that the Buyer has the power to make the Agreement, that the individual signing is authorized to sign on behalf of the Buyer, and that this Agreement is a valid, legal and enforceable obligation of the Buyer.

13.) Mutual Attorneys' Fee Provision: Should the Company or the Buyer bring any action against the other with respect to this Agreement, the party that does not prevail upon the action, as determined by the court, shall be liable to the other party for any reasonable attorneys' fees, costs and expenses (including expenses of litigation) incurred by such other party and as determined by the court. This provision shall survive payment and delivery of the Apparatus. IN WITNESS WHEREOF, The Company and the Buyer have caused this Agreement to be executed by their duly authorized representatives as of the date set forth by each.

BUYER: CITY OF RIVERSIDE

COMPANY: PTR Corp.

SIGNED \_\_\_\_\_ SIGNED \_\_\_\_\_

PRINTED \_\_\_\_\_ PRINTED David Killackey Sr.

TITLE \_\_\_\_\_ TITLE President

DATE \_\_\_\_\_ DATE \_\_\_\_\_