

## Terms and Conditions

**SHIPPING INSTRUCTIONS:** All shipping instructions must be adhered to when specified. No c.o.d. shipments will be accepted nor will drafts be honored unless previously agreed to in writing. No charge will be allowed for boxing, packing, or storage unless previously agreed to in writing. BUYER'S count to be accepted as final and conclusive on shipments not accompanied by SELLER'S itemized packing list. Acceptance of deliver and/or payment shall not constitute acceptance as to quality.

**DELAY:** SELLER shall promptly notify BUYER of any delay, or of any anticipated delay, encountered in delivery.

**TAXES:** SELLER shall be responsible for all taxes assessed upon SELLER in connection with this transaction, unless BUYER shall have agreed in writing to pay such taxes.

**GOVERNMENT COMPLIANCE:** SELLER shall comply with all applicable Federal, State and local laws and rules and regulations applicable to any and all aspects for the fulfillment of this Order, including but not limited to assuring the goods purchased herein have been produced in compliance with the requirements of the Fair Labor Standards Act. In performing hereunder, SELLER agrees that all products supplied hereunder have been produced in accordance with all government laws, regulations and standards applicable to contractors and subcontractors of the Federal Government, including but not limited to Executive Order 11246 as amended regarding Equal Employment Opportunity, SELLER hereby agrees to execute upon request by BUYER separate documents incorporating all the necessary representations and certifications required of SELLER or BUYER by such laws, regulations or standards. SELLER agrees to hold BUYER harmless from all loss and liability resulting from the failure of such compliance.

**PRICES:** SELLER warrants that the prices, terms and conditions for the goods sold to BUYER hereunder are not less favorable than those currently extended to any other customer for the same or similar articles in similar quantities. In the event SELLER reduces its price for such goods during the terms of the Agreement, SELLER agrees to reduce the prices herein correspondingly.

**WARRANTY:** SELLER expressly warrants that all of the materials or equipment sold to BUYER under this Order shall comply with applicable specifications, drawings, standards, samples or other descriptions furnished or specified by the SELLER or BUYER, will be free from defect in materials and workmanship, will be merchantable and will be suitable and fit for the particular purposes for which such goods are required by BUYER. All such warranties of SELLER shall run to BUYER, its successors, assigns and its customers, and users of product sold by BUYER which contain SELLER'S goods. SELLER'S obligations under this paragraph shall apply whether or not SELLER is a merchant of the goods. SELLER warrants full and unrestricted title to BUYER for all goods and services furnished by SELLER under this Purchase Order, free and clear of any and all liens, restrictions, reservations, security interests, and encumbrances.

**DOCUMENTATION AND REPLACEMENT PARTS:** All documentation and communications are to be in English, and all measurements in inches. SELLER shall furnish the following for each component of equipment supplied: Manufacturers' Identity and part number for each purchased part, and the right to purchase direct in event of approval of SELLER is required. Subcontractors name and address for all major components assembled or fabricated, by other than SELLER. Layout, assembly, component, and parts detail drawings. Spare parts list showing manufacturer's part number and price. SELLER warrants that spare parts supplied by SELLER will be free from defects in material and workmanship for a period equal to that provided in the warranty for the equipment, from the date of installation or the "shelf life" of limited life parts, and will replace same at SELLER'S full expense, in the event of failure under normal operating conditions. SELLER agrees to accept the return of spare parts at any time that said spare parts are being offered by sale by BUYER and refund to BUYER, the actual purchase price less ten percent (10%) for handling.

CHANGES: BUYER shall have the right by written direction to make changes in the specifications and drawings for goods or services covered by this Purchase for such goods or services, SELLER shall notify BUYER in writing (with adequate supporting documentation) within five (5) calendar days after receipt of said written direction. SELLER shall suspend performance of the change unless thereafter released in writing by BUYER to perform such change and BUYER and SELLER shall mutually agree in writing upon an equitable adjustment in the price and/or delivery date to reflect the effect of such change. SELLER'S request for any adjustment shall be deemed waived unless submitted in writing within such five (5) calendar days after SELLER received direction to make such changes. SELLER shall not suspend performance of the unaffected portion of this Purchase Order while BUYER and SELLER are in the process of making such changes and any related adjustments or at any time thereafter unless so instructed in writing by BUYER. If released in writing by BUYER, SELLER shall comply with and perform such change in accordance with the terms of the Purchase Order during the time SELLER and BUYER require to mutually agree upon an equitable adjustment. No substitutions shall be made in the Purchase Order without the prior written authority of BUYER. No agreement or understanding modifying the conditions or terms of this Purchase Order shall be binding upon BUYER nor will extra compensation be paid by BUYER unless the agreement or understanding is made in writing.

CANCELLATION FOR DEFAULT: In the event SELLER shall be adjudged bankrupt, make a general assignment for the benefit of its creditors, or if a receiver shall be appointed an account of SELLER'S insolvency, or in the event SELLER is in default of any provision or requirement of this Purchase Order, BUYER may, by written notice to SELLER, without prejudice to any other rights or remedies which BUYER may have, cancel further performances by SELLER under this Purchase Order. In the event of such cancellation, BUYER may complete the performance of this Purchase Order by such means as BUYER selects, and SELLER shall be responsible for any additional costs incurred by BUYER in so doing, with the terms of this Purchase Order prior to such cancellation shall be subject to setoff of BUYER'S additional costs of completing the Purchase Order and other damages incurred by BUYER as a result of SELLER'S default.

TERMINATION FOR CONVENIENCE: BUYER shall have the right to terminate for its convenience further performance of all or any separable part of this Purchase Order at any time by written notice to SELLER. On the date of such termination stated in the notice, SELLER shall discontinue all work pertaining to this Purchase Order, shall place no addition orders and shall preserve and protect materials on hand, purchased for or committed to this Purchase Order, work in progress, and completed work both in SELLER'S and in its suppliers' plants, pending BUYER instruction, and shall dispose of same in accordance with BUYER'S instruction. Termination payment to SELLER or refund to BUYER, if any, shall be promptly and mutually agreed to by BUYER and SELLER, based on: that portion of the work satisfactorily performed to the date of cancellation, including reimbursement for reasonable overhead and profit on such work, plus reasonable and necessary expenses resulting from the termination, as substantiated by documentation satisfactory to and verified by BUYER, disposition of work and material on hand, and amounts previously paid by BUYER. SELLER shall not be entitled to any loss of prospective profits, contribution to overhead or incidental, consequential or other damages because of such termination. SELLER shall deliver or assign all goods with all applicable warranties or dispose of goods directed by BUYER prior to final payment.

PATENT INDEMNIFICATION: SELLER warrants that the product to be purchased hereunder will not infringe any patent directly or indirectly by reason of its use, either alone, or in combination with any other materials or equipment. SELLER agrees to indemnify and hold BUYER and its customers harmless from any and all losses suffered by them as a result of any claim of breach or any breach of this warranty by SELLER, including but not limited to damage, cost, expenses, attorney's fees and any losses attributable to injunctive relief.

RESPONSIBILITY FOR EQUIPMENT: SELLER is responsible for any materials, tools, patterns, and equipment furnished by BUYER for use of fabrication by SELLER in all such items lost or damaged while in SELLER'S possession or not returned by SELLER to BUYER.

INDEPENDENT CONTRACTOR: In the event SELLER'S obligations under the Agreement require or contemplate performance of services by SELLER'S employees or persons under contract of SELLER, to be done on BUYER'S or BUYER'S customers' property, SELLER agrees that all such work shall be done as an independent contractor and that the persons doing such work shall not be considered employees of BUYER or of BUYER'S customer.

APPLICATION TO SERVICES: All terms and conditions set forth on the face and back hereof and attached hereto by the BUYER shall apply to the purchase from SELLER of labor or services.

INDEMNIFICATION: SELLER agrees to indemnify and hold BUYER harmless against all liability, claims, or demands for injuries or damages, including but not limited to attorney's fees, to any person or property arising out of the performance of this Purchase Order by SELLER, its servants, employees, agents or representatives, regardless of whether or not such loss, damage, liability, cost or expense is caused in part by BUYER. Neither this Article nor any other provision of this Purchase Order shall be construed in any circumstances to constitute an indemnification against any loss, damage, liability, cost or expense caused solely by the negligence of BUYER. In addition, owner shall be entitled to all expenses, including attorneys' fees (which fees shall include hourly charges of in-house legal staff charged at rates of comparable experienced counsel in the same location as the in-house staff) reasonably necessary to enforce this indemnification.

APPLICATIONS: Any legal questions hereunder shall be governed under the laws of the State of New Jersey. Any litigation involving this or any related Agreement must be brought in a state or federal court located in New Jersey and both BUYER and SELLER hereby waive any venue or jurisdictional challenges or defenses related to said location.

WAIVER: BUYER'S failure to insist on performance of any term, condition, or instruction, or failure to exercise any right or privilege or its waiver of any breach, shall not thereafter waive any such term, condition, instruction, right, or privilege.

ASSIGNMENT: Neither this Purchase Order nor any portion hereof shall be assigned or delegated without BUYER'S prior written consent and any such assignment or delegation shall be void. BUYER reserves the right to assign this Purchase Order to BUYER'S successors or affiliates.

ENTIRE AGREEMENT: The terms and conditions set forth on the face and back hereof and attached hereto by MEI constitute the entire agreement between the parties for the materials or equipment. Reference hereon to documents or other information from SELLER are for identification only and form no part of said final agreement except as specifically indicated to the contrary. Any term or condition stated by SELLER in acknowledging or otherwise accepting this offer shall be considered to be a proposal for addition to the contract and shall not become part of the contract unless specifically accepted in writing by BUYER.