

## MP COMPONENTS (TENNESSEE)

### STANDARD TERMS FOR SALES OF GOODS OR SERVICES

1. Formation of Contract. The terms set forth in this form are the sole terms for the sale of goods and services by MP Components LLC, a Tennessee limited liability company ("Seller"), unless otherwise specifically provided for by Seller in this document, and shall apply to the exclusion of any inconsistent or additional terms contained in Buyer's order or acknowledgment or otherwise proposed by Buyer. Buyer's acceptance of these terms shall be conclusively presumed by Buyer's signature on this form, by Buyer's submission of a purchase order in response to this document, or by Buyer's acceptance of delivery of, or payment for, the goods and services. Any contract made for the sale of goods or services by Seller is expressly conditional on Buyer's assent to the terms stated in this document. Seller objects to any additional or inconsistent terms proposed by Buyer.

2. Price. All price quotations are offered for prompt acceptance and are subject to change without notice as prices are based on the cost of raw materials at the time of delivery.

a. Exclusions. The quoted price does not include applicable taxes such as city, state or federal, sales, use, or excise taxes. Furthermore, the quoted price does not include any other products, services or work not specifically described in this document. All taxes and charges shall be Buyer's responsibility and may be added to the invoice as a separate and additional charge to Buyer unless an acceptable exemption certificate is presented to Seller. Seller shall also have the right to separately bill Buyer, at any time, for any taxes and charges that are attributable to this sale that the Seller may be required to pay. Buyer shall reimburse Seller on demand for all such amounts.

b. Price Increases. The price quoted by Seller shall be subject to any increases in Seller's cost of labor or materials occurring after the date of the quotation and before shipment, as well as any increases based on additional data received by Seller after the date of quotation, including without limitation data gathered following Seller's receipt of production level part print and/or production level math data. The price shall also be subject to increases to accommodate shipment in any quantities other than Seller's standard pack unit, in the event Buyer does not desire shipment at one time of all the goods covered by the quotation.

3. Invoicing. All invoices issued by Seller shall be payable according to the terms contained in Paragraph 4, below. Unless otherwise stated by Seller in writing, Seller shall issue invoices to Buyer when deliveries of goods or services are made to Buyer.

4. Payment Terms. Unless otherwise specified by Seller, payment in full on all invoices is due thirty (30) days after the date of the invoice. Invoices not paid within thirty (30) days shall have a service charge added to the amount due of one and one half percent (1 ½ %) per month. No cash discounts shall be allowed. Payments must be made in the manner set forth in the invoice. Buyer shall reimburse Seller for any and all expenses, including reasonable attorneys' fees, incurred by Seller in the collection of any

delinquent account or enforcing its rights with respect to Buyer.

5. Security Interest. Buyer hereby grants to Seller a continuing security interest in all goods furnished or to be furnished by Seller to Buyer, together with all tooling, parts, attachments, accessories, dies or appurtenances to such goods, all substitutions, improvements and replacements of such goods, all additions to such goods, and all proceeds of such goods and any of the foregoing. The continuing security interest described in this paragraph may be in the form of a purchase money security interest, a moldbuilder's lien pursuant to the terms of the laws of the State of Tennessee, or a special tool builder's lien pursuant to the terms of the laws of the State of Tennessee. The form of such security interest shall be determined by Seller in its sole discretion.

6. Perfection of Security Interest. Buyer hereby authorizes Seller to cause all financing statements or other instruments in respect of the security interest granted hereby, including without limitation all Uniform Commercial Code, moldbuilder's lien, special tool builder's lien or other financing statements, as applicable, to be filed and recorded or re-filed and re-recorded. Buyer agrees to execute, or otherwise authenticate, and hereby does authenticate, and deliver any statement, instrument or other document requested by Seller for such purpose. Buyer further agrees that it shall execute, or otherwise authenticate, and hereby does authenticate, and deliver to Seller upon Seller's request such further instruments, assurances and other documents as Seller deems necessary or advisable for the confirmation of perfection of Seller's rights hereunder. Buyer authorizes Seller to file any such instrument or other document, including without limitation, any Uniform Commercial Code, moldbuilder's lien, special tool builder's lien or other financing statements, as applicable, without Buyer's signature and, if the signature of Buyer is required thereon, Buyer irrevocably appoints Seller as Buyer's attorney-in-fact to execute and file any such statement or other instrument in the name and on behalf of Buyer.

7. Shipping and Risk of Loss. Unless otherwise indicated, all quoted prices are F.O.B., Seller's plant, at which time title shall pass to Buyer. Regardless of the F.O.B. point, Buyer is solely responsible for all costs of shipping and insurance for the goods and shall bear all risk of loss or damage to the goods during transit. Freight may be prepaid by Seller at its option and added to the invoice. Buyer shall promptly inspect all goods received from Seller and promptly inform Seller of any defects before using the goods. Shipping dates are estimates only, and based on mutually agreed upon ship dates that are required to be confirmed via written documentation. "Drop in" orders to support just-in-time requirements (via electronic data interchange or otherwise) will be managed on a case-by-case basis where mutually agreed upon ship dates will be developed. Seller shall not be liable for premium freight requirements in the case of "drop in" orders and/or where mutually agreed upon ship dates have not been developed. Seller may ship all the goods at one time or in portions from time to time. Seller shall have the right to determine

the method of shipment and routing of the goods, unless otherwise specified by Buyer. Buyer shall pay such delivery charges as Seller may establish from time to time, which will be included on Seller's invoice. Delivery in a manner directed by Buyer shall be at Buyer's sole cost. Seller shall not be liable for damages caused by delays in shipping or delivery for any reason whatsoever.

8. Reasonable Efforts. Seller will use commercially reasonable efforts to supply Buyer with goods offered by Seller and ordered by Buyer. If Buyer causes or requests delay in the shipment of products or the provision of services, Buyer shall pay Seller for all expenses and losses of Seller resulting therefrom. In times of short supply, Seller is entitled to allocate products among its customers as it determines in its sole discretion to be appropriate under the circumstances. Under no circumstances will Seller be liable for any failure to deliver goods ordered by Buyer that is caused by the lack of availability of necessary raw materials.

9. Limited Warranty and Disclaimer. Seller warrants to the original Buyer that the goods manufactured by Seller shall be free under normal use and service from defects in material or workmanship at the time of delivery to Buyer and for a period of twelve (12) months thereafter. For purposes of this warranty, normal use does not include use or service with corrosive or abrasive chemicals or materials. This warranty shall not apply if any of the following occur:

- a. Installation or start-up not performed by or under the direct supervision of a Seller representative;
- b. Work performed or materials furnished by others in connection with installation or start-up without the supervision of Seller;
- c. Work performed or materials furnished by others in lieu of the requirements specified by Seller; or
- d. Goods repaired or altered by others, unless such repairs were specifically agreed to in writing by an officer of Seller.

If a defect occurs within the twelve (12) month warranty period, Buyer is required to give Seller written notice specifying the particular defect or defects. Seller shall determine, in its sole discretion, if the workmanship or material was defective prior to installation. If such a determination is made, Seller will correct, without charge, any workmanship defects and will repair or replace, without charge, ex. works, Seller's factory parts which are found to be defective under normal use. All work of removal and re-installation or installation of parts, whether or not found defective, along with shipping charges for defective or replacement parts, shall be the responsibility of the Buyer. Seller's obligation under its warranty is expressly limited to Seller's repair or replacement, at Seller's sole discretion, of those goods sold by Seller to Buyer that do not satisfy this warranty, provided that written notice of the defect is given to Seller by Buyer within thirty (30) days after the defect is discovered. If Buyer shall have approved a sample or drawings of, or specifications for, the goods, then the goods shall not be defective to the extent that they conform to the sample, drawings, or specifications.

With respect to any services provided by Seller to Buyer, Seller represents and warrants that the services shall be performed in a competent, professional manner and in compliance with all applicable laws. This warranty does not include repairs or other services made necessary by or related to, the following: (a) abnormal wear or damage caused by misuse or by failure to perform normal and routine maintenance as set out in the Seller maintenance manual or operating instructions, (b) accidents, (c) catastrophe, (d) acts of god, (e) any malfunction resulting from faulty maintenance, improper repair, damage and/or alteration by non-Seller authorized personnel, (f) goods on which any original serial numbers or other identification marks have been removed or destroyed, or (g) goods that have been repaired with any unauthorized or non-Seller components. In addition, in order to ensure safe operation of the goods, only Seller accessories should be used. Seller reserves the right to invalidate this warranty if any goods are used with accessories not manufactured by Seller.

#### **DISCLAIMER**

**NOTWITHSTANDING ANY OTHER PROVISION IN THIS DOCUMENT, SELLER EXPRESSLY DISCLAIMS AND EXCLUDES ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND ALSO DISCLAIMS AND EXCLUDES ALL LIABILITY FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT OR ANY OTHER SPECIAL DAMAGES OF BUYER, INCLUDING LOST PROFITS, FOR BREACH OF WARRANTY OR OF CONTRACT OR OTHERWISE.**

**THIS LIMITED WARRANTY IS THE SOLE AND EXCLUSIVE REMEDY OF BUYER AGAINST SELLER.**

10. Buyer's Design Responsibility. This section shall apply to the extent that Seller's goods are produced according to Buyer's specifications. Buyer acknowledges that Buyer is not relying on Seller in any way for design or engineering with respect to the goods or the adequacy of the specifications provided by Buyer. Seller has no responsibility for design, engineering or other advice regarding any product specifications provided by Buyer. Buyer's responsibility shall include, but not be limited to, responsibility for determining how goods made by Seller will perform when integrated into an assembly or subassembly with goods not made by Seller. Buyer shall defend, indemnify and hold Seller harmless against all product liability, product recall, and other claims, liabilities and expenses, including but not limited to actual attorneys' fees, incurred by Seller arising out of any claimed design or engineering defect relating to specifications provided by Buyer to Seller.

11. Changes. Seller shall have the right to make design or engineering changes in its parts, equipment, processes and methods of manufacture, but shall make no changes in operational or dimensional specifications submitted by Buyer without Buyer's prior approval.

12. License Regarding Buyer's Specifications. Buyer grants to Seller an irrevocable nonexclusive license to produce parts pursuant to any specifications provided by

Buyer. Buyer warrants that it has the authority to grant this license to Seller, and that neither the granting of this license nor Seller's manufacture and sale of parts produced according to Buyer's specifications will violate any agreement to which buyer is subject, any patent or other intellectual property right to any party, or any applicable law.

13. Indemnification of Seller (General). Buyer shall indemnify, defend, and hold Seller, its agents and employees harmless from all claims, liabilities, and expenses, including but not limited to actual attorney fees, sustained by Seller or its agents or employees that are caused by any action of Buyer relating to the goods or services sold by Seller to Buyer.

14. Indemnification of Seller (Patents). Buyer shall indemnify, defend, and hold Seller, its agents and employees harmless from all claims, liabilities, and expenses, including but not limited to actual attorney fees, arising out of any claim of infringement of a patent, copyright, trademark, trade name, or other proprietary right, or claim of unfair trade or of unfair competition in connection with the manufacture, sale, or use of the goods sold to Buyer, except to the extent that any claim, liability, or expense arises solely from specifications developed by Seller.

15. Cure. If a shipment of goods is rejected by Buyer, Seller shall have the right to cure in any reasonable manner the error, defect, shortage or other nonconformity giving rise to the rejection.

16. Tools. All tools, jigs, dies, fixtures, patterns and equipment furnished to Seller by Buyer to perform the contract, or for which Seller has been reimbursed by Buyer, shall remain the property of Buyer ("Buyer's Tools"). Seller shall keep Buyer's Tools in reasonable repair. Seller may charge a storage fee for Buyer's Tools left at Seller's place of business for more than 90 days after Seller has completed using them for the manufacturing and delivery of goods. All shipping charges for Buyer's Tools shall be Buyer's responsibility. Risk of loss during shipment of Buyer's Tools shall be on Buyer. All other tools, jigs, dies, fixtures, patterns and equipment used in connection with the goods shall belong to Seller.

Seller and Buyer agree that Seller shall have a security interest in Buyer's Tools as security for payment of any sums owing from Buyer to Seller at any time for any reason. Seller shall have the right to retain possession of all those items until full payment for the goods has been made, without affecting any other rights or remedies available to Seller. Should Buyer desire to move tooling to another production source a tool design charge will be quoted by Seller. If a period of two (2) years shall have elapsed since Seller received orders from Buyer requiring use of Buyer's Tools, Seller may dispose of such tools and dies without accounting to Buyer for the proceeds therefrom.

17. Force Majeure. Any delay or failure of Seller to perform its obligations will be excused if and to the extent that it is caused by an event or occurrence beyond Seller's reasonable control, such as: acts of God; governmental actions; embargoes; fires; explosions; natural disasters; riots; wars; sabotage; terrorist acts, utility interruptions, failures or delays by Seller's vendors (including without limitation the lack of availability of necessary raw materials), or court injunction or order.

18. Cancellation or Change. Except as otherwise agreed by Seller in writing, a sale of goods or services under this document is not subject to cancellation or change. The following terms shall apply to any cancellation approved by Seller in writing except as otherwise agreed in writing:

a. Any items completed at the time Seller receives a written cancellation notice from Buyer will be shipped and invoiced at the contract price.

b. Work on the balance of the order will be stopped as promptly as reasonably possible and Seller shall be reimbursed for all actual expenditures, commitments, liabilities and costs, determined in accordance with generally accepted accounting practice, made or incurred with respect to those items not completed, plus a profit of ten percent (10%) on those expenses, less any net recovery to Seller on disposition of returned goods to others within a period of forty-five (45) days after the cancellation. In addition, Seller has the right to recover from Buyer all damages for cancellation, including but not limited to incidental, consequential and indirect damages and lost profits.

19. Waiver. No right or remedy of Seller shall be deemed to have been waived or renounced, in whole or in part, unless that waiver or renunciation is supported by consideration and is in writing signed by Seller.

20. Confidentiality of Seller's Information. Any information disclosed by Seller to Buyer is confidential, and Buyer agrees not to use or disclose any of that information without Seller's prior written consent.

21. Buyer's Default. Buyer is in default if any of the following occurs:

a. Buyer breaches, repudiates, or threatens to breach any term in the contract evidenced by this document or in any other agreement between Buyer and Seller, including but not limited to a failure to pay all sums when due;

b. Insolvency of Buyer or filing a voluntary or involuntary petition in bankruptcy with respect to Buyer;

c. Appointment of a receiver or trustee for Buyer;

d. Buyer's credit becomes impaired; or

e. Execution of an assignment for the benefit of creditors of Buyer.

22. Seller's Remedies. In the event of Buyer's default, Seller may exercise any remedies available under applicable law, including but not limited to the following remedies:

a. Seller may require payment in advance;

b. Seller may ship goods only via C.O.D.;

c. Seller may suspend performance or cancel all or any part of the balance of any contract with the Buyer;

d. Seller may reduce any unpaid debt of Buyer by enforcing its security interest, created hereby, in all goods (and proceeds therefrom) furnished by Seller to Buyer;

e. Seller may take any other steps necessary or desirable to secure Seller fully with respect to Buyer's payment for goods and services furnished or to be furnished by Seller to Buyer; and

f. Buyer shall reimburse Seller for all damages suffered due to Buyer's breach, including but not

limited to incidental, consequential, and other damages, as well as lost profits, reasonable attorney fees, and court costs.

The remedies in this document shall be cumulative and in addition to any other remedies allowed to Seller under applicable law. No waiver by Seller of any breach or remedy shall be a waiver of any other breach or remedy.

23. Maintenance, Spare Parts. Unless otherwise agreed by Seller in writing, Seller has no obligation to (a) maintain any inventory of spare or replacement parts with respect to any goods or services provided to Buyer, or (b) provide ongoing maintenance or service except as otherwise specifically provided in the description of Seller's warranty described herein.

24. Insurance. Seller shall have no obligation to maintain insurance in excess of Seller's usual business needs as determined by Seller in its sole discretion. Buyer shall insure (a) all goods during shipment and afterward, and (b) all of Buyer's Tools provided to Seller, against loss or damage.

25. Compliance With Laws. Unless otherwise expressly agreed in writing by Seller, Seller shall not be liable to Buyer for, and Buyer agrees to indemnify, defend and hold Seller harmless from, any and all liability arising or alleged to arise out of any failure of the goods sold by Seller to conform to any federal, state or local law, order, regulation or standard.

26. Independent Contractor. Seller shall at all times be deemed to be an independent contractor. Nothing herein shall be deemed to make Seller or its employees or agents an employee, partner or joint venturer of Buyer.

27. Time For Bringing Action. Any action by Buyer against Seller for breach of Seller's obligations hereunder or for any other claim arising out of or relating to the goods or their design, manufacture, sale or delivery must be brought within one (1) year after the cause of action accrues.

28. No Audit Rights. Unless Seller shall provide its prior written consent, which may be withheld by Seller in its sole discretion, Buyer shall not, under any circumstances, have the right to conduct any audit or review of Seller's corporate books, records or financial information.

29. General.

a. Compliance with Laws. Buyer warrants that it is and will remain in compliance with all federal, state and local laws, regulations and ordinances relating to Buyer's ability to perform its obligations under this purchase order.

b. Setoff. Seller has the right to deductions or setoffs of any sums due to Seller from Buyer (whether or not arising from this agreement) against any sums due to Buyer from Seller (whether or not arising from this agreement).

c. Assignment. Buyer shall not assign its rights or delegate its duties under this document without Seller's prior written consent. Seller may assign to any third party its rights and obligations with respect to Buyer.

d. Entire Agreement and Amendment. This document contains all of the terms of the agreement between Seller and Buyer with regard to its subject matter and supersedes all prior oral or written representations, agreements, and other

communications between Seller and Buyer. The contract evidenced by this document may be amended only by a writing signed by Buyer and an officer of Seller.

e. Severability. All terms shall be enforced only to the maximum extent permitted by law. If any term is invalid or unenforceable, all other terms shall remain in effect.

f. State Law. The sale of goods and services in accordance with this document shall be governed in all respects by the laws of the State of Tennessee.

g. Jurisdiction and Venue. Seller and Buyer agree that any action arising out of the sale of goods or services in accordance with this document will be brought, heard and decided in Putnam County, Tennessee. Buyer submits to personal jurisdiction in Tennessee.