



MPG Terms and Conditions of Purchase

The entity set forth on the purchase order or purchase contract issued in connection with these terms and conditions (“Purchase Order”) and adopting this Order (“Buyer”) agrees to purchase, and the seller identified on the face of such Purchase Order (“Seller”) agrees to sell the goods (“Goods”) and/or provide the services (“Services”) as described in the Purchase Order, which includes these terms and conditions and any exhibit, document, drawing, specifications, and data referenced or incorporated by reference in the Purchase Order (collectively, “Order”), subject to the following:

- 1. ACCEPTANCE.** ACCEPTANCE OF THE OFFER REPRESENTED BY THIS ORDER IS EXPRESSLY LIMITED TO THE TERMS AND CONDITIONS OF THIS ORDER AS CONTAINED HEREIN AND ANY ADDITIONAL OR DIFFERENT TERMS PROPOSED BY SELLER ARE HEREBY OBJECTED TO AND REJECTED AND SHALL HAVE NO EFFECT ON BUYER. There are no understandings or agreements, express or implied, oral or otherwise, relating to the subject matter of this Order other than as set forth in this Order. The previous sentence notwithstanding, to the extent Buyer is purchasing Goods and/or Services pursuant to a master agreement between Buyer and Seller, such master agreement shall govern to the extent any provision of this Order conflicts with such master agreement. Seller shall be bound by this Order when it executes and returns the acknowledgement copy of this Order, when it otherwise indicates acceptance of this Order or when it ships any Goods and/or provides any Services ordered herein to Buyer or otherwise commences performance hereunder. Buyer’s acceptance of Goods and/or Services shall not be construed as an acceptance of any terms and conditions contained in any such document. No modification of or addition to this Order (whether or not such modifications or additions are written), or waiver of any of the provisions of this Order, will be effective unless agreed to in writing by an authorized representative of Buyer. Buyer and Seller agree that no course of performance or prior dealings between the parties or usage of trade inconsistent with the terms and conditions herein shall be relevant to give particular meaning to supplement or qualify this Order, and none of the provisions of this Order shall be deemed to have been waived by any act of or acquiescence on the part of either Seller or Buyer, or their respective agents or employees other than by an instrument in writing signed by an authorized representative of the waiving party.
- 2. PRICE.** The price of the Goods and/or Services is the price stated in this Order. If the applicable price for any Goods or Services are not shown in this Order, it is agreed that the Goods or Services shall be billed at the price last quoted or paid for the same Goods or Services, or the prevailing market price, whichever is lower. Prices for Goods are DDP Buyer’s Designated Location (as defined below) (Incoterms 2020) unless otherwise agreed to by Buyer in writing. Shipments sent under any other delivery terms are subject to Buyer’s rejection and will be made at Seller’s risk. The prices herein shall not be increased without Buyer’s written consent and no additional charges of any type shall be added including, but not limited to, any charges for insurance, shipping, transportation, taxes, customs duties, fees, storage, packing or crating, unless authorized in writing by Buyer. Seller will give Buyer the benefit of any price reductions available or in effect at the actual time of shipment and/or performance.
- 3. PAYMENT TERMS.** Unless provided in the Purchase Order or otherwise expressly agreed by Buyer in writing, Seller shall invoice Buyer only after the delivery of all Goods and the completion of all Services included in the Order, and Buyer shall pay all properly invoiced amounts within 90 days after Buyer’s receipt of such invoice, except for any amounts disputed by Buyer in good faith.
- 4. CHANGES.** Buyer reserves the right at any time to make changes to this Order without the consent of Seller including, but not limited to: specifications, drawings and data; methods of shipment or packing; and place or time of delivery and/or performance; provided, however that no additional changes to this Order, including but not limited to those listed above, will be made unless authorized in writing by Buyer. If any such change causes an increase or decrease in the cost of or the time required for performance of this Order, either party may request in writing an equitable adjustment to the price or delivery schedule, or both, within ten (10) business days following the receipt by Seller of Buyer’s notice of the related change. If an increase or decrease in cost or time for delivery is not requested by a party within such ten (10) business day period, the parties’ right to an adjustment shall be deemed waived. If the parties cannot agree to the actual amount of the price or time adjustment within ten (10) business days of the written request for a change, either party may terminate this Order upon five (5) business days prior written notice to the other party, with no liability to the other party for the Goods or Services cancelled. Any



MPG Terms and Conditions of Purchase

changes, if authorized by Buyer in writing, whether initiated by Seller or Buyer, shall be denominated as a "Revision" to this Order. Only Buyer shall issue Revisions and, if issued, shall be in writing. Each such Revision shall be subject to and expressly incorporate the terms and conditions of this Order. Seller shall not make any changes to the design, materials or processes used to manufacture the Goods or to provide Services or to the location at which the Goods are manufactured, without the prior written consent of Buyer.

5. **TERMINATION.** Buyer reserves the right to terminate this Order, or any part hereof, for convenience upon five (5) business days' notice to Seller. Immediately following Seller's receipt of notice of Buyer's termination of all or a portion of this Order for convenience, Seller shall immediately stop all work hereunder and shall immediately cause any of its suppliers and subcontractors to cease any work related to this Order. If this Order, or part thereof, is terminated by Buyer for convenience, Buyer shall pay to Seller: (i) any amounts due for Goods or Services accepted prior to the effective date of termination and (ii) the reasonable costs incurred by Seller prior to the effective date of Buyer's termination in the performance of this Order (exclusive of profits), but solely to the extent related to Goods or Services that were not accepted by Buyer; provided, however, that Seller shall use its best efforts to mitigate such costs, and such costs shall not exceed the price stated in this Order for the cancelled Good or Services. Seller must notify Buyer of any claim resulting from Buyer's termination for convenience within ninety (90) days of the effective date of Buyer's termination. Buyer may also terminate this Order, or any part hereof, or any other Order between the parties, for Cause immediately upon notice to Seller. As used in this Section "Cause" includes Seller's default or non-compliance with any term or condition of this Order, late delivery, delivery of defective or non-conforming Goods and/or Services, cessation of the conduct of Seller's business, failure of Seller to pay its debts generally as such debts become due, commencement of any proceeding under the bankruptcy code or insolvency laws by or against Seller, appointment of a receiver for Seller or a substantial portion of its business or assets, or an assignment for the benefit of Seller's creditors. In the event Buyer terminates this Order for Cause, Buyer shall not be liable to Seller for any amounts hereunder, other than payment for the Goods and/or Services accepted prior to the effective date of Buyer's termination, and, notwithstanding anything to the contrary in this Order, Seller shall be liable to Buyer for any and all damages sustained by Buyer due to such termination including, without limitation, Buyer's direct, indirect, incidental and consequential damages, costs (including attorneys' and other professionals' fees and costs), expenses and losses. Seller may not cancel or modify this Order in whole or in part, including these terms and conditions, without Buyer's written consent.

6. **DELIVERY / TITLE / RISK OF LOSS.** Except as otherwise provided in this Order, delivery and/or performance shall be at the location shown on the face of this Order or if no location is listed, at the location provided in writing by Buyer to Seller (the "Designated Location"). Title to Goods and risk of loss thereof, or damage thereto, shall pass to Buyer upon delivery to Buyer at Buyer's Designated Location. If Goods are to be installed by Seller at Buyer's facility or a facility designated by Buyer, title will pass to Buyer upon completion of the installation and written approval by Buyer. Seller shall deliver the Goods and/or provide the Services on the date specified in this Order (the "Delivery Date"). Time is of the essence and if delivery of Goods and/or performance of the Services is not completed by the Delivery Date, Buyer reserves the right, without liability and in addition to its other rights and remedies, to terminate this Order by notice to Seller effective as to Goods not yet shipped and/or Services not yet performed and to purchase substitute Goods and/or alternative Services elsewhere and charge Seller for any additional expenses, costs and losses incurred as a result. Seller shall promptly notify Buyer in writing if the delivery of the Goods and/or provision of the Services will be delayed, indicating the cause and extent of the delay, but this shall not relieve Seller of its obligation to deliver and/or perform as required by this Order unless otherwise instructed by Buyer in writing. If, in order to meet the Delivery Date it becomes necessary for Seller to ship by a more expensive way than specified in this Order, increased transportation costs shall be paid by Seller unless the necessity for such rerouting or expedited handling has been caused solely and exclusively by Buyer. Seller shall be solely responsible for proper packing, crating, or boxing of the Goods, as directed by Buyer or, absent such direction, in standard commercial containers capable of safe delivery to Buyer, in each case, at Seller's sole expense, unless otherwise agreed by Buyer in writing.

7. **INSPECTION AND REJECTION.** Receipt of any Goods and/or Services or payment for any Goods and/or Services will not constitute acceptance of any Goods and/or Services hereunder. At any time, Buyer may inspect and reject



MPG Terms and Conditions of Purchase

all or any portion of the Goods and/or Services if it determines the Goods and/or Services are of inferior quality or workmanship, not in compliance with this Order, shipped and/or provided contrary to instructions, not in the quantities specified, otherwise do not conform to this Order or that violate any applicable law. In addition to other rights and remedies available to Buyer, Buyer may, at its election, terminate this Order in whole or in part, and any Goods rejected may, at Buyer's option, be returned to Seller for prompt reimbursement (including freight charges), credit, refund or replacement, or held by Buyer for pickup by Seller, all at Seller's expense and risk. Buyer may charge Seller any expenses incurred in unpacking, examining, repacking, storing and reshipping any Goods so rejected. If Buyer requests replacement of Goods and/or Services, and Seller does not promptly replace the rejected Goods and/or Services, Buyer may replace them with Goods and/or Services from a third party, and Seller shall reimburse Buyer for the cost thereof. Nothing contained in this Order relieves Seller, in any way, from the obligation of testing, inspection and quality control of Goods and/or Services.

8. **CONFIDENTIALITY.** Each party acknowledges that its respective performance of its obligations hereunder may require that it have access to confidential business and proprietary information of the other ("Confidential Information"). Each party may disclose Confidential Information to its officers, directors, employees, representatives and agents solely for the purpose of performing this Order and agrees on behalf of itself and its officers, directors, employees, representatives and agents to use its/their best efforts to prevent unauthorized access, use, duplication or disclosure, by or to a third party, of Confidential Information, including, without limitation, data, plans, specifications, formulae, drawings or any other information whether business or technical, of a confidential nature, which has been furnished directly or indirectly, in writing or otherwise by one party hereto (the "Disclosing Party") to the other party (the "Receiving Party"). For the avoidance of doubt, each party shall be responsible for a breach of this Section by its officers, directors, employees, representatives and agents. Confidential information shall include such information as would be apparent to a reasonable person, familiar with the Disclosing Party's business and the industry in which it operates, that such information is of a confidential or proprietary nature and that maintenance of its confidentiality would likely be of commercial value to the Disclosing Party. Confidential information shall not include information that is in the public domain prior to its disclosure, becomes part of the public domain through no wrongful act of the Receiving Party, was in the lawful possession of the Receiving Party prior to its disclosure to the Receiving Party or was independently developed by the Receiving Party. Disclosure of Confidential Information pursuant to order by a court shall not be a violation of this Section; provided, however, that the party subject to such order shall, to the extent allowed by law, notify the other party in advance of such disclosure.

9. **WARRANTY.** Seller warrants to Buyer, Buyer's successors, assigns, and customers, and users of the products manufactured by Buyer incorporating the Goods, that: (a) Seller has good title to any and all Goods supplied hereunder and has the right to transfer title of said Goods to Buyer free and clear of any and all liens and encumbrances; (b) all Services shall be performed in a workmanlike manner using best industry standards, using personnel of required skill, experience and qualifications, and in accordance with this Order and with applicable laws; (c) all Goods shall conform to all Buyer-approved drawings, specifications and appropriate standards and all other requirements of this Order; (d) all Goods (including their component parts) will be new (and not counterfeit); (e) all Goods will conform to any statements made on the containers or labels or advertisements for such Goods, and any Goods will be adequately contained, packaged, marked and labeled; (f) Goods supplied hereunder will be of merchantable quality; (g) Goods supplied hereunder shall be fit for the particular use intended, free from defects, whether patent or latent, in material and workmanship, and shall conform to all specifications and requirements of this Order; and (h) Seller shall, in the performance of its obligations hereunder, comply with all, and shall not violate any, applicable federal, state, and local laws and governmental regulations and orders. The foregoing warranties shall survive acceptance, testing, inspection, or use of the Goods and/or Services by Buyer and shall be cumulative and in addition to any warranties of additional scope given to Buyer by Seller and/or provided by law or in equity. Seller shall replace or correct defects of any Goods and/or Services not conforming to the foregoing warranty promptly, without expense to Buyer, when notified of such nonconformity by Buyer, provided Buyer elects to provide Seller with the opportunity to do so. Alternatively, if Buyer elects not to do so, or in the event of failure of Seller to correct defects in or replace nonconforming Goods and/or Services promptly, Buyer may make such



MPG Terms and Conditions of Purchase

corrections or replace such Goods and/or Services, and in either case may engage third parties to do so, and charge Seller for the cost incurred by Buyer in doing so.

10. **INTELLECTUAL PROPERTY.** Seller warrants that neither the Goods, Services, nor use thereof shall infringe on any existing or pending patent, copyright, trademark, trade name, invention or process of manufacturing or other intellectual property right; provided, however, that this warranty shall not apply to the extent that the Goods were manufactured or the Services were performed according to Buyer's specifications and such specifications would have resulted in a violation of this warranty. Seller will, upon receipt of notification thereof, promptly assume full responsibility for defense of any suit or proceeding which may be brought against Buyer and its affiliates, and their respective successors, assigns, agents, customers, users of its products incorporating the Goods, and other vendors for alleged infringement, as well as for any alleged unfair competition resulting from similarity in design, trademark or appearance of Goods and/or Services provided hereunder, and Seller will indemnify, defend and hold Buyer and its affiliates, and their respective successors, assigns, agents, customers, users of its products incorporating the Goods, and other vendors harmless against any and all claims, demands, actions, damages, losses, liabilities, injuries, expenses, costs (including attorneys' fees and court costs), fines, interest and penalties resulting from any such suit or proceeding, including any settlement thereof. Any settlement of any action must be approved by Buyer. Buyer may be represented by and actively participate through its own counsel in any such suit or proceeding if it so desires, and the costs of such representation shall be paid by Seller. If the Goods and/or Services are held to violate the intellectual property rights of any third party and/or sale and/or use thereof is enjoined, Seller shall, at Buyer's election, either (1) procure for Buyer the right to continue using same; (2) replace the same with non-infringing Goods and/or Services; or (3) modify the same so that it becomes non-infringing. Any Goods and/or Services which are capable of copyright protection made, designed or developed for Buyer pursuant to this Order shall be a "work made for hire." Seller hereby grants and assigns to Buyer and its successors and assigns any and all inventions, discoveries, computer programs, software, data, technologies, designs, innovations and improvements and related patents, copyrights, trademarks and other industrial and intellectual property rights and applications therefor made or conceived by Seller or its agents or employees in connection with the performance of this Order.

11. **INDEMNIFICATION.** Seller shall defend, indemnify and save harmless Buyer and its affiliates, and their respective officers, directors, successors, assigns, employees, agents, customers and users of products incorporating the Goods (the "Indemnitees"), of and from any claim, loss, demand, action, damage, liability, injury, cost, fine, penalty, interest or expense (including reasonable attorneys' fees) sustained or incurred by one or more of the Indemnitees directly or indirectly arising out of: (a) injury to persons or property by reason of any defects in the Goods and/or Services; (b) breach by Seller of any of its warranties, or Seller's failure timely to deliver the Goods and/or Services purchased hereunder; (c) any noncompliance or violation of law as provided herein; (d) the negligence or willful misconduct of Seller or its employees, contractors, agents, or representatives, and/or (e) any breach of this Order by Seller. Any settlement of any indemnifiable action must be approved by the applicable Indemnitee. The Indemnitee may be represented by and actively participate through its own counsel in any such proceeding, if it so desires, and the costs of such representation shall be paid by Seller.

12. **LIMITATION OF LIABILITY.** IN NO EVENT SHALL BUYER BE LIABLE TO SELLER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF WHATSOEVER NATURE, OR FOR ATTORNEY'S FEES, LOSS OF MARKET SHARE, OR LOST PROFITS HOWSOEVER THESE MAY BE CHARACTERIZED. BUYER'S LIABILITY FOR ANY CLAIM ARISING OUT OF OR RELATED TO THIS ORDER, SHALL NOT EXCEED THE PRICE ALLOCABLE TO THE GOODS, OR UNIT THEREOF, AND/OR SERVICES WHICH GIVES RISE TO THE CLAIM.

13. **OWNERSHIP.** Unless otherwise agreed to in writing, all property of any description furnished to Seller by Buyer or unconditionally appropriated to this Order, or any replacement thereof, or any materials affixed or attached thereto, shall be and remain the property of Buyer and shall be used only in fulfilling this Order and for no other purpose and shall not be duplicated or disclosed to others. Such furnishing of Buyer's property shall not be construed as granting any rights whatsoever, express or implied, to any such property to Seller.



MPG Terms and Conditions of Purchase

14. **INSURANCE.** During the provision of Goods and/or Services under this Order, and for one year thereafter, Seller shall, at its own expense, maintain and carry insurance in full force and effect, which includes, but is not limited to: (a) commercial general liability (including product liability) in a sum not less than \$1,000,000 per occurrence combined single limit for bodily injury and property damage; (b) Workers' Compensation insurance at the statutory limit for the jurisdiction in which Seller operates; (c) for any Services to be provided on Buyer's property or property of Buyer's customers, automobile liability insurance covering all owned, hired and non-owned vehicles with a minimum combined single limit for bodily injury and property damage liability of \$1,000,000 per accident or occurrence; and (d) Employer's liability insurance with a minimum amount of \$1,000,000 per accident. Such insurance shall be with financially sound and reputable insurers. Prior to providing Goods and/or Services, Seller shall provide Buyer with a certificate of insurance from Seller's insurers evidencing the insurance coverage required by this Order. The certificate of insurance shall name Buyer as an additional insured. Seller shall provide Buyer with ten (10) days' advance written notice in the event of a cancellation or material change in Seller's insurance policy. Except where prohibited by law, Seller shall require its insurer to waive all rights of subrogation against Buyer's insurers and Buyer or the Indemnitees.
15. **WORK ON BUYER'S OR BUYER'S CUSTOMER'S PREMISES:** If Seller's provision of Goods and/or Services under this Order involves operations by Seller on the premises of Buyer or any of Buyer's customers, Seller shall take necessary precautions to prevent injury to person or property during such work, including, but not limited to, adhering to the rules, policies, procedures or other requirements governing Buyer's or Buyer's customer's premises.
16. **APPLICABLE LAWS:** Seller shall comply with all applicable treaties, trade agreements, laws, regulations and ordinances in providing Goods and/or Services under this Order including, but not limited to, (a) all applicable requirements of the Occupational Safety and Health Act of 1970, as amended, (b) the Fair Labor Standards Act of 1938, as amended, (c) Executive Order 11246, and all regulations issued under such laws, (d) the Restriction of Hazardous Substances Directive (RoHS) (2002/95/EC and 2011/65/EU), and (e) all applicable export and import laws, directives and other requirements of all countries involved in the sale of Goods under this Order, including, but not limited to, those of United States Customs and Border Protection. Seller assumes all responsibility for shipments of Goods requiring any government import or export clearance. Seller shall maintain in effect all licenses, permissions, authorizations, consents and permits that Seller needs to carry out its obligations under this Order. Buyer may terminate this Order with no liability to Buyer if any governmental authority imposes antidumping or countervailing duties or any other penalties on Goods.
17. **NON-WAIVER.** The failure by either party to pursue any remedy hereunder shall not constitute a waiver on its part to pursue such remedy with respect to the same or similar breach. No waiver by Buyer of any provision of this Order shall be effective unless set forth in writing by Buyer.
18. **REMEDIES / GOVERNING LAW / JURISDICTION.** Each of the rights and remedies herein set forth shall be cumulative and in addition to any other available rights or remedies provided in law or equity. This Order shall be construed in accordance with the laws of the State of Delaware, without regard to the conflicts of laws provisions thereof. Any action brought by either party arising out of or relating to this Order must be brought in a U.S. District Court or state court in New Castle County, Delaware. Seller waives any objection to jurisdiction or venue in respect of said courts and to any service of process issued under their authority.
19. **SEVERABILITY.** If any provisions of this Order shall be deemed illegal or unenforceable, such illegality or unenforceability shall not affect the validity and enforceability of any legal and enforceable provisions hereof which shall be construed as if such illegal and unenforceable provision or provisions had not been inserted herein, unless such illegality or unenforceability shall destroy the underlying business purpose of the Contract.
20. **SETOFF.** Without prejudice to any other right or remedy it may have, Buyer shall have the right to set off any amount payable at any time by Buyer to Seller in connection with this Order against any amounts due from Seller or its affiliated companies to Buyer.



MPG Terms and Conditions of Purchase

21. **RELATIONSHIP OF THE PARTIES.** Nothing contained in this Order shall be construed as establishing or implying any partnership or joint venture between the parties and nothing in these terms and conditions shall be deemed to construe either of the parties as the agent or distributor of the other party.
22. **ASSIGNMENT / SUBCONTRACTING.** Neither party may assign this Order, in whole or in part, without the prior written consent of the other, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, Buyer may assign this Order, or any rights or obligations hereunder, to an affiliated entity as part of a merger or reorganization, or to an acquirer of control of Buyer's equity or all or substantially all of Buyer's assets, and such assignment shall not require Seller's consent. Seller shall not subcontract this Order, or any part hereof, without the prior written authorization of Buyer, which may or may not be granted in Buyer's sole discretion. For the avoidance of doubt, any assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve Seller of any of its obligations hereunder.
23. **FORCE MAJEURE.** Performance by either party hereunder shall be excused in the event and for the period of time that such party is unable to perform its obligations because of fire, flood, war, breakdowns, delays in or lack of transportation, governmental priorities or allocation, or any other cause beyond the reasonable control of such party ("Force Majeure Event"); provided, however, that, with respect to Seller, Seller's economic hardship, changes in market conditions, strikes, labor or supply chain-related delays shall not be considered force majeure. The party unable to perform due to the Force Majeure Event shall give notice within 5 days of the Force Majeure Event to the other party, stating the period of time the occurrence is expected to continue. The party unable to perform due to the Force Majeure Event shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The party shall resume the performance of its obligations as soon as reasonably practicable.
24. **NOTICES.** Notices to either party hereunder shall be sent by a nationally recognized overnight courier service to the addresses specified on the face hereof and shall be effective one day after dispatch.
25. **NO THIRD-PARTY BENEFICIARIES.** This Order is for the sole benefit of the parties hereto and their respective successors and permitted assigns. Nothing herein, express or implied, is intended to or will confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Order.
26. **VERIFICATION.** Seller shall verify the legal status and employment eligibility of all of Seller's personnel using the federal electronic verification program jointly operated and administered by the Department of Homeland Security and the Social Security Administration ("E-Verify"). In accordance with the Immigration Reform and Control Act of 1986 and the rules and regulations pertaining to E-Verify, Seller shall maintain records of all documents involved in the hiring process.
27. **EQUAL OPPORTUNITY.** Unless exempt, Seller shall comply with the Equal Opportunity clauses set forth in 41 CFR 60-1.4(a), 41 CFR 60-300.5(d), 41 CFR 60-741.5(d) and 29 CFR Part 471, Appendix A, Subpart A. The following shall apply to the extent the Seller is a federal contractor:

Seller represents and warrants that Seller is committed to the maintenance of policies that promote equal employment opportunity. 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a)

Seller, and Seller's permitted subcontractors, if any, shall abide by the regulations of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status. To the extent applicable, the clauses with respect to government