

MIAMI MACHINE CORPORATION  
VENDOR TERMS AND CONDITIONS

1. Acceptance

Agreement by Seller to furnish the materials or services hereby ordered, or its furnishing such materials or services in whole or in part, or the commencement of work by the Seller with reference thereto, shall constitute acceptance by Seller of this order subject to these terms and conditions. In the event that this order does not state price or delivery, Buyer will not be bound to any prices or delivery to which it has not specifically agreed in writing. Any terms or conditions proposed by Seller inconsistent with or in addition to the terms and conditions of purchase herein contained shall be void and of no effect, unless specifically agreed to by Buyer. Modifications hereof or additions hereto, to be effective, must be made in writing and be signed by Buyer. These terms and conditions together with such modifications and with such data relating to price and delivery as are accepted in writing by Buyer constitute the entire agreement between the parties. The rights of both parties hereunder shall be in addition to their rights and remedies at law of equity. Failure of Buyer to enforce any of its rights shall not constitute a waiver of such rights or of any other rights.

2. Prices

The acceptance of this order constitutes a warranty that the prices to be charged for articles of services ordered herein are not in excess of prices charged to other customers for similar quantities and delivery requirements.

3. Delivery

It is understood and agreed that time is of the essence of this order.

4. Packing and Shipment

Unless otherwise specified, price is to cover net weight of material ordered hereunder and no charges will be allowed for boxing, crating, carting, or storage. Without the Purchaser's prior written consent, deliveries against this order shall not be made in whole nor in part prior to the date or dates shown hereon, nor shall they exceed the quantities specified.

5. Over shipments

Buyer will pay only for maximum quantities ordered. Over shipments will be held at Seller's risk and expense for a reasonable time awaiting shipping instructions. Return shipping charges for excess quantities will be at Seller's expense.

6. Inspection

The articles and all parts, materials, and workmanship entering into the performance of this order shall be subject to inspection, test and count by Buyer at all times and places whether during or after manufacture. If any of the articles shall be defective in material or workmanship or otherwise not in conformity with the requirements of this

order. Buyer, in addition to its other rights, may reject the same for full credit or may rework same at Seller's expense, including transportation charges.

#### 7. Warranty

Seller warranted that all materials ordered hereunder will conform in all respects with the specifications, drawings, sample, or other description furnished or specified by the Buyer, and will be merchantable and free from any defects in material and workmanship; and Seller further warrant that all material purchased hereunder that is manufactured in accordance with the Seller's specifications shall be fit and sufficient for the purposes for which it was designed. Seller agrees that the foregoing warranty shall survive acceptance of and payment for the material and shall save Buyer harmless from any loss, damage, or expense, whatsoever, including attorney's fees, that Buyer may incur as a result of any breach of such warranties.

#### 8. Payment

- (a) All payments are made conditional upon acceptance by the Buyer of the articles called for under this Purchase Order.
- (b) No invoice will be passed for payment unless it bears this Purchase Order Number and contains the following certification: "The Supplier herein represents that the good and/or services covered hereby were produced in compliance with the requirements of the Fair Labor Standards Act of 1938 as amended."
- (c) Invoices for tools will not be honored until production pieces are approved by the Buyer's.

#### 9. Changes

The Buyer may at any time, by a written order, make changes, within the general scope of this order, in any one or more of the following:

- (a) applicable drawings, designs, or specifications;
- (b) method of shipment or packing;
- (c) place of delivery.

If any such change causes an increase or decrease in the cost of or in the time required for performance of this order, and equitable adjustment shall be made in the other price or delivery schedule, or both, and the other shall be modified in writing accordingly. Any claim by the Seller for adjustment hereunder must be asserted within 20 days from the date of receipt by the Seller of the notification of change provided, however, that such period may be extended upon approval of the Buyer. However, nothing in this clause shall excuse the Seller from proceeding with the order as changed or modified.

#### 10. Termination of Default

- (a) The Buyer may terminate all or any part of this order, without liability to the Seller, by written notice of default if Seller fails to perform its obligations under this order as specified, or so fails to make progress as to endanger performance under this order and in accordance with its terms. The Buyer is the sole judge under such circumstances.

(b) In the event of Seller's default or potential inability to perform this order, Seller aggress upon demand by Buyer to deliver to Buyer the raw materials and work in process acquired in order to perform under this order, and Buyer may then complete the work deducting the cost of such completion from the price, or in the alternative pay to the Seller the cost of such raw materials and work in process.

#### 11. Insolvency, Loss of Profits, Damages

The insolvency or adjudication of bankruptcy of, or the filing of voluntary petition in bankruptcy, or the making of an assignment for the benefit of creditors by either party, shall be a material breach hereof. In no event shall Seller be entitled to anticipatory profits, or to special or consequential damages.

#### 12. Patents, Royalties, and In cumbrances

All materials supplied must be free from liability of royalties, patent rights, and mechanic's liens or other encumbrances, and vendor agrees to indemnify the purchaser against all claims, demands, costs, and actions for actual or alleged infringements of patent rights in the use, sale, or resale of said material or merchandise.

#### 13. Buyers Protection in Connection with Work Done at it's Plant

In the performance of work at Buyer's plant, Seller, it's employees, agents, and subcontractors will exercise due care to prevent personal injury or property damage during the course of said work; Seller will indemnify and hold harmless the Buyer from any all loss liability and damages arising out of any act or omission of Seller, its employees, agents, and subcontractors; Seller will keep in force and effect comprehensive insurance coverage including, without limitation, public liability, property damage, employer's liability, worker's compensation, and occupational disease coverage, naming Buyer as an additional insured and containing a waiver or subrogation clause. A certificate or certificates of insurance will be delivered to Buyer prior to commencement of work.

#### 14. Compliance with Laws

The Seller warrants that no law, rule or ordinance of the United States, a State or any other governmental agency has been violated in the manufacture or sale of the items or in the performance of services covered by this order, and will defend and hold the Buyer harmless from loss, cost of damage as a result of any such actual or alleged violation. Goods consisting of tools, machinery, equipment and accessories, or parts thereof, will comply with all applicable federal, state, or local governmental laws, regulations or orders (including occupational safety and health laws, regulations and orders) as to design, construction and performance at Buyer's place of use, and Seller will notify Buyer if goods ordered do not so comply; furthermore, it is agreed that the purchase prices includes, and Seller agrees to furnish, all accessories, parts, and appliances required by any such law, regulation or order for use or operation at Buyer's place of use.

#### 15. Gratuities

Seller warrants that it has not offered or given and will not offer or give to any employee, agent or representative of Buyer any gratuity with a view toward securing any business from Buyer of influencing such person with respect to the terms and conditions or performance of any contract with or order from Buyer. Any breach of this warranty shall be a material breach of each and every contract between Buyer and Seller.

#### 16. Nondisclosure of Confidential Matter

Materials purchased hereunder with the Buyer's specifications of drawings shall not be quoted for sale to others without the Buyer's written authorization. Such specifications, drawings, samples or other data furnished by the Buyer shall be treated as confidential information by the Seller, shall remain Buyer's property and shall be returned to it on request.

#### 17. Assignment

No right or obligation under this order (including the right to receive moneys due and to become due hereunder), shall be assigned by Seller without the prior written consent of Buyer, and any purported assignment without such consent shall be void.

#### 18. Buyer-Furnished Property

All tools or other materials furnished by the Buyer for use in the performance of this order shall remain the property of the Buyer (or of the Government, as the case may be), shall be used by the Seller in the performance of this order only, in accordance with the requirements of the order relating to such use, and shall be returned to the Buyer with requested upon the completion or termination of the order to the extent not previously delivered to the Buyer.

#### 19. Notice of Labor Disputes

Whenever an actual or potential labor dispute is delaying or threatens to delay the timely performance of this order, Seller will immediately notify the Buyer of such dispute and furnish all relevant details. Seller will include a provision identical to the above in each subcontract hereunder and immediately upon receipt of any such notice pass it on to the Buyer.

#### 20. Patent License

The Seller, As part consideration for this purchase order and without further cost of the Buyer, here by grants and agrees to grant the Buyer and to the extent requested by the Buyer, and irrevocable, non-exclusive royalty-free right and license to use, sell, manufacture, and cause to be manufactures, products embodying any and all inventions and discoveries made, conceived or actually reduced to practice in connection with the performance of this purchase order.

#### 21. Special Tooling

If all of the costs of special tooling used in the performance of this order have been charged to this order, or to this order and other orders placed by the Buyer, title to such special tooling shall vest in the Buyer at the option of the Buyer. Such tooling is

to be used only in the performance of such Purchase Orders unless otherwise approved by the Buyer. The Seller agrees that it will follow normal industrial practice in the identification and maintenance of property control records on all such tooling, and will make such records available for inspection by the Buyer at all reasonable times. After the termination or completion of such order(s) and upon the request of the Buyer, the Seller shall furnish a list of such tooling and shall make such tooling available for disposition by the Buyer.

## 22. Hazardous Materials

Seller warrants and represents that materials furnished pursuant to this purchase order do not consist of materials listed in the Section 3.13 Toxic Release Inventory, 40 C.F.R. 372 dated November 30, 1994. In the event Buyer determines, in its sole discretion, that materials furnished or to be furnished pursuant to this purchase order are not suitable for Buyer's intended purpose or that the materials, when used for Buyer's intended purpose, potentially create a health or environmental hazard or risk. Buyer shall have the right to immediately terminate all future shipments of the materials. In the event of termination by Buyer pursuant to this paragraph, Buyer shall be required to pay only for materials shipped to Buyer on or before the date Buyer's notice of termination is deposited in the U.S. mail, addressed to Seller at the address contained on the face here of, postage prepaid, certified, or registered mail.