

MFI - Procurement Terms and Conditions

All goods and services procured by Metal Forming Industries (the “Buyer”) shall be in accordance with the following terms and conditions unless otherwise stated in writing:

1. **ACCEPTANCE.** This Purchase Order (“order”) for goods and/or services (collectively, “Goods”) expressly limits acceptance to the terms and conditions stated herein. Any additional or different terms proposed by Seller or set forth in forms submitted by Seller, including documents attached or incorporated herein by reference or in Seller’s acknowledgement or invoice, are hereby objected to and rejected unless expressly accepted in writing by Buyer’s Purchasing Agent whose name appears on the reverse side hereof. Acceptance of this Order by Seller shall occur upon the earlier of Seller’s written acceptance or by Seller’s commencement of performance or first shipment. Any reference in this Order to Seller’s quotation(s) or other Seller documents shall be limited to the specifications for the Goods being ordered or other transaction-specific terms to the extent expressly set forth on the face of this Order; in no event shall this Order incorporate any pre-printed or standard terms or conditions of Seller even if contained in documents referenced herein.

2. **DELIVERY.** Time is of the essence. If Seller does not comply with Buyer’s specified delivery schedule, Buyer may, in addition to any other rights which Buyer may have under this Order or at law, require Seller to accomplish delivery by the fastest means, and all charges, including air freight, resulting from the expedited transportation shall be fully prepaid and absorbed by Seller. Unless otherwise specified herein, no variation in the quantity of Goods ordered hereunder including partial delivery will be allowed. Any Goods shipped in excess of the quantity herein designated may be returned to Seller at Seller’s expense.

3. **INSPECTION.** Buyer shall not be obligated to inspect or test any Goods, but all Goods ordered hereunder will be subject to inspection and testing at any time or place as directed by Buyer. Buyer reserves the right to make final inspection and acceptance at its plant, notwithstanding any prior inspection or payment. If any of the Goods are found at any time to be defective in material or workmanship, or otherwise not in conformity with the requirements herein stipulated, Buyer, in addition to any other rights and remedies it may have under warranties or otherwise, shall have the right to exercise the following options: (a) return Goods to Seller, at Seller’s expense, for repair, replacement or full credit, at Buyer’s option (b) retain Goods with an equitable reduction in price; and (c) retain and repair Goods at Seller’s expense. Buyer’s inspection or acceptance of the Goods shall not terminate or in any way impair the representations or warranties provided herein.

4. SHIPPING INSTRUCTIONS

A. No charges of any kind, including charges for boxing, cartage, freight, insurance, dunning, storage and handling, will be paid by Buyer unless specifically agreed to by Buyer in writing. Where price as agreed is a function of weight, the price to Buyer shall be for net weight of accepted Goods, unless otherwise agreed. Packaging requirements for shipments on Commercial Bills of Lading must meet commercial standards and accepted practices of the industry, with full protection of the Goods to ultimate destination, and must conform to governing classifications, including but not limited to: Uniform Freight Classification, for rail; National Motor Freight Classification, for truck; Railway Express Classification, for express; U.S. Official Postal

Manual, for parcel post; Official Air Freight Rules Tariffs, for air freight. Seller shall be responsible for packing and packaging necessary to withstand transportation hazards.

B. Seller shall strictly comply with the “INSTRUCTIONS” on the front side hereof.

C. Unless otherwise specified herein, all Goods covered by this Order shall be shipped F.O.B. destination with applicable freight charges prepaid by Seller and added to invoice.

D. Unless otherwise specified herein, all custom duties and tariffs relating to Goods covered by this Order, including Goods which are imported into the United States, shall be paid by Seller.

5. **TITLE AND RISK OF LOSS.** Except as otherwise expressly provided herein, title to and risk of loss and/or damage on all Goods shipped by Seller to Buyer hereunder shall be upon Seller until the Goods are physically delivered to Buyer’s plant and shall pass to Buyer only upon Buyer’s inspection and acceptance of such Goods.

6. **CHANGES.** Buyer may at any time direct changes to drawings or specifications for the Goods to be produced hereunder, the method of shipping or packing the Goods or their place of delivery, and Seller agrees to make such changes, provided that Seller shall be entitled to an equitable adjustment of the price of goods or the time required for performance under this Order. No claim for adjustment shall be valid unless asserted within thirty (30) days from date Seller receives notification of such change.

7. **PRODUCT AND SERVICES WARRANTY.** In addition to any warranty implied by law, Seller expressly warrants all Goods provided hereunder (i) to be free from defect in design, workmanship, and materials, (ii) to conform strictly to applicable specifications, drawings, and approved samples, if any; (iii) to be fit and sufficient for ordinary commercial purposes and the purpose intended by Buyer; (iv) to be of merchantable quality; and (v) to be in accordance with applicable federal and state laws, codes and standards. Seller further expressly warrants that all services performed at the premises of Buyer in connection with Goods provided hereunder shall be performed in a good and workmanlike manner, by agents or employees of Seller with a degree of skill and expertise appropriate to the complexity of the services performed. All of the aforesaid warranties shall run to Buyer, its successors, assigns and customers. In no event shall Seller’s warranty have a duration or terms less favorable than those extended by Buyer to the customer that purchases such Goods or any product into which the Goods are incorporated; Seller recognizes that Buyer may be required to extend warranties to customers that are at least equal to the time and mileage limitations of the automobile and parts warranties extended to consumers. All such warranties shall survive inspection, testing, acceptance and payment by Buyer. In the event of breach of warranty, Buyer may, in addition to other rights it may have at law, at its option, either return for credit or require prompt correction or replacement of the defective or non-conforming Goods, at Seller’s expense. Buyer’s approval of Seller’s designs shall not relieve Seller of the warranties or other obligations set forth herein.

8. **PRICE TO BUYER.** Seller warrants that the prices for the Goods sold to Buyer under this Order are not less favorable than those currently extended to any other customer for the same or like goods in equal or less quantities or for services of the same or like scope. In the event Seller reduces its price to third parties for such goods or services during the term of this Order, Seller agrees to reduce the price to Buyer accordingly effective as of the date of the first reduction.

9. **PAYMENT TO SELLER.** Upon the submission of proper invoices, Seller shall be paid the prices stipulated

herein for Goods delivered and accepted, consistent with the payment terms set forth on the face of this Order. Unless otherwise requested by Buyer, invoices shall be rendered separately for each delivery and shall prominently indicate the information required by the “INSTRUCTIONS” on the front side hereof. The date for cash discount, if any, shall commence on the date the Goods are accepted by Buyer or the date of the receipt of a proper invoice, whichever is later. All invoices and charges shall be subject to audit, including as may be required by Buyer’s customers.

10. **INTELLECTUAL PROPERTY.** Except as otherwise provided herein, each party will retain ownership of its Intellectual Property as the same existed prior to negotiations leading to the issuance of this Order. “Intellectual Property” shall include, without limitation, all patents, patent applications, copyrights, trademarks, trade secrets, know how, designs and other technology. Notwithstanding the foregoing, any Intellectual Property developed by Seller in the course of developing or producing Goods pursuant to this Order, including customized goods or services, shall be owned by Buyer, and, in the case of designs or other copyrightable materials, shall be deemed “works made for hire” for Buyer’s benefit. In any event, Seller hereby grants Buyer a royalty-free, non-exclusive, irrevocable, world-wide license to the Intellectual Property of Seller used in developing or producing the Goods pursuant to this Order, which shall include a license to manufacture, have manufactured and sell Goods of the general type covered by this Order. In the event that Seller makes or creates any invention, discovery, improvement or process, patentable or otherwise, based on or relating to the Goods or technical data, information or proposals provided by Buyer, Seller shall notify Buyer thereof and the parties shall negotiate in good faith concerning the ownership of the Intellectual Property rights.

11. **NONDISCLOSURE OF CONFIDENTIAL INFORMATION.** Goods produced hereunder with Buyer’s specifications, drawings or Intellectual Property shall not be quoted for sale or sold to other parties without Buyer’s express prior written authorization, which Buyer may grant or withhold in Buyer’s sole and absolute discretion. Any specifications, drawings, methods, samples, plans, customer information or other data or Intellectual Property furnished or owned by Buyer, its parent company or their customers shall be treated as confidential information by Seller, not disclosed by Seller to any third parties without Buyer’s express written consent, and shall remain Buyer’s (or its customer’s) property and shall be returned to Buyer on demand. Any documents or data prepared by Seller that incorporate or disclose any confidential information of Buyer shall be returned to Buyer upon demand, or destroyed upon demand of Buyer and Seller shall promptly transmit a certification of such destruction. Seller shall comply with all confidentiality requirements of Buyer’s customers, and shall not disclose the identity of Buyer’s customers except upon Buyer’s express written consent.

12. **HEALTH AND SAFETY HAZARDS.** If any Goods shipped to Buyer by Seller may in any way constitute or create real or potential hazards to human health and safety, Seller shall: (A) clearly and prominently label such Goods to indicate their handling, storage, and use limitations and recommend precautionary measures in compliance with government and safety regulation for the country of manufacture and sale; and (B) prior to or concurrently with the shipment of such Goods furnish, under separate cover to the Purchasing Agent whose name appears on the reverse side of this Order, specifications and data which completely describe the handling, storage and use limitations and the recommended precautionary measures (including Material Safety Data Sheets). Seller is required to abide by applicable federal, state, and local laws and regulatory requirements while performing work at any facility of Buyer or its customers or suppliers.

13. **INSURANCE.** In the event that Seller is required to enter into the premises owned, leased or occupied by, or under the control of, Buyer or its customers or suppliers during the performance of services hereunder or during delivery of goods herein contemplated, Seller agrees to maintain and require its subcontractors to maintain; (a) public liability and property damage insurance, in amounts satisfactory to Buyer to cover the obligations set forth herein; (b) proper Workmen's Compensation Insurance covering all employees engaged in the performance of such services and/ or the delivery of goods and (c) other types of insurance appropriate to the nature of the services to be rendered to Buyer including as may be specified by Buyer. Where this Order calls for the sale of goods, Seller shall procure a minimum of \$1,000,000 coverage of commercial liability and products liability insurance and other coverages, in such amounts and terms as may be required by Buyer or its customers. The above insurances shall name Buyer as an additional insured. In the event Seller does not procure and maintain insurance coverage as required by Buyer or its customers, Buyer may procure such coverage at Seller's cost. Seller shall furnish to Buyer, promptly upon Buyer's request, certificates currently evidencing insurance in types and amounts of coverage as Buyer may request and providing that no cancellation thereof shall be effective except upon thirty (30) days prior written notice to Buyer.

14. **TERMINATION FOR BREACH.** Buyer may, by written notice and without liability to Buyer, terminate this Order and refuse to accept deliveries, in whole or part, if Seller: (a) repudiates or breaches any provision of this Order; (b) fails to deliver goods or perform services within the time specified herein; or (c) fails to make sufficient progress in fulfillment of its obligations so as to endanger timely performance hereunder and such failure is not cured within ten (10) days (or such shorter time as may be commercially reasonable under the circumstances) after written notice from Buyer. In the event of termination hereunder, Buyer may procure, upon such terms as Buyer deems appropriate, substantially similar Goods and Seller shall be liable to Buyer for any excess cost to Buyer, provided that Seller shall continue the performance of this Order to the extent not terminated. Buyer may require Seller to deliver to Buyer any completed or partially completed Goods or inventory that Seller has produced or acquired for the performance of this Order, with payment for any such Goods or inventory accepted by Buyer to be in such reasonable amount as Seller and Buyer shall mutually determine, but not to exceed the contract price.

15. **TERMINATION WITHOUT CAUSE.** In addition to any other rights of Buyer to terminate this Order, Buyer may at any time immediately terminate all or any part of this Order, for any reason, upon written notice to Seller, including upon termination of or volume reductions under orders placed by Buyer's customer. In such case, Buyer shall pay Seller all amounts due hereunder for delivered and accepted Goods, and shall pay Seller an amount equal to the actual cost of raw materials and work-in-process applicable to the terminated portion of this Order, provided that Seller shall submit to Buyer within thirty (30) days after the termination notice a written claim in such form and with supporting documents as specified by Buyer. Buyer shall not otherwise be liable to Seller or any subcontractor of Seller, and in no event shall Buyer be liable for loss of anticipated profit, unabsorbed overhead, product development and engineering cost, unrecovered depreciation costs, or general or administrative expense related to any termination. Buyer reserves the right to verify Seller's claims hereunder.

16. **LIMITATION OF LIABILITY.** IN NO EVENT UNDER THIS ORDER, OR IN CONNECTION WITH ANY TRANSACTION BETWEEN BUYER AND SELLER, OR INVOLVING THE GOODS OR SERVICES COVERED BY THIS

ORDER, SHALL BUYER OR ITS PARENT OR AFFILIATED COMPANIES BE LIABLE TO SELLER (OR TO ANYONE ASSERTING A CLAIM ON SELLER'S BEHALF) FOR (I) INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES OF ANY NATURE, INCLUDING WITHOUT LIMITATION LOST PROFITS, OR (II) PUNITIVE OR EXEMPLARY DAMAGES.

17. **INSOLVENCY/CHANGE IN OWNERSHIP.** Buyer may immediately cancel this Order with no liability to Buyer in the event of the insolvency of Seller; filing of a voluntary or involuntary petition in bankruptcy concerning Seller; appointment of a receiver or trustee for Seller; the making of an assignment for the benefit of creditors of Seller; a change in the control or ownership of Seller; or a comparable event.

18. **EMERGENCY ORDERS.** Buyer may from time to time place emergency orders in addition to regular orders placed under this Order, or may request that Seller deliver Goods sooner than the time originally specified by Buyer. Seller agrees to exert its best efforts to comply with such emergency orders or revised timetable.

19. **INDEMNIFICATION; RECALL.** Seller shall indemnify and hold Buyer harmless from and against any and all causes of action, claims, liabilities, losses, damages, costs or expenses (including attorney's fees and litigation expenses) arising out of any actual or alleged (a) infringement of any patent, copyright, trademark or any other Intellectual Property right covering any item provided hereunder; (b) death or injury to any person or damage to any property alleged to have resulted from any Goods purchased hereunder or work performed by Seller; (c) failure of Seller or the Goods to comply with applicable laws or safety regulations; (d) failure of Seller of the Goods to conform to all warranties or other requirements of this Order; or (e) any design or manufacturing defect relating to any of the Goods. Seller also shall indemnify and hold Buyer harmless, to the extent attributable to Seller, for all costs incurred by Buyer (including costs for notification, replacement parts, labor, penalties, fines and buybacks) as a result of any recall, service campaign or similar program initiated by Buyer or Buyer's customer, or any governmental agency, with respect to the Goods or the products of Buyer into which the Goods are incorporated.

20. **SUBCONTRACTING.** Seller shall not subcontract any other party to furnish any completed or substantially completed Goods covered by this Order without Buyer's prior written approval.

21. **TOOLING AND DOCUMENTS.** All specifications, drawings or other documents and data furnished by Buyer, and all tools, dies, molds, jigs, gauges, fixtures and patterns which have been furnished, paid for or charged against Buyer, or which have had their cost amortized in connection with the contract price, shall remain at all times the property of Buyer, treated as confidential information and delivered in good condition, normal wear and tear excepted, by Seller to Buyer F.O.B. Seller's plant, immediately upon demand. Seller warrants that such items and information will not be used for any production intended for parties other than Buyer.

22. **FORCE MAJEURE.** No cause shall constitute a basis for excusable delay unless Seller has notified Buyer in writing of the existence of such cause within three (3) days from the inception thereof. Subject to the foregoing limitation, neither party hereto shall be liable to the other for default or delay in performing its obligations hereunder if caused by fire, strike, riot, war, acts of terror, act of God, governmental order or regulation, and/or any other occurrence beyond the reasonable control of the party so defaulting or delaying.

23. **CUMULATIVE REMEDIES: WAIVER OF TERMS & CONDITIONS.** The remedies set forth herein shall be cumulative and in addition to any other remedies provided by law, including the Uniform Commercial Code of Indiana. Buyer's failure to insist on performance of any term, or to exercise any right or privilege, or its waiver of any breaches, shall not thereafter waive any such or other terms, conditions, rights or privileges.

24. **TAXES.** The purchase price(s) to Buyer for the Goods ordered hereunder include all federal, state and local taxes in effect on the date of this Order. The amounts of any such taxes shall be shown separately on Seller's invoice to Buyer.

25. **COMPLIANCE WITH LAWS AND WITH BUYER'S QUALITY CONTROL PROGRAM.** Seller warrants that all Goods supplied hereunder shall be produced and priced in compliance with all federal, state and local laws and governmental regulations. Seller agrees to promptly provide certification(s) of compliance as Buyer may reasonably request, including but not limited to certifications of Seller's compliance with Occupational Safety and Health Act, Fair Labor Standards Act, Federal Automotive Safety Act and any applicable Equal Employment Opportunity Act requirements. Seller agrees to indemnify and hold harmless Buyer from any damages resulting to Buyer from any breach of warranties and obligations pertaining to this paragraph. Where this Order calls for the sale of goods directly incorporated into Buyer's product, Seller represents and warrants that all Goods shall be compliant with all ISO (International Organization for Standardization) and Buyer requirements including but not limited to documentation, processes, audits, and any other designated activities, and that Seller shall maintain ISO certification to the Buyer-specified ISO Standard through continuous registration requirements.

26. **GOVERNING LAW/FORUM.** This Order and the performance of the parties hereto shall be construed according to the internal laws of the State of Indiana, without reference to its choice-of-law rules. Seller may bring claims against Buyer relating to this Order, the Goods or the performance hereunder only in the federal or state courts for the State of Indiana. Seller consents to the personal jurisdiction of such courts for all claims of Buyer. Buyer reserves the right to assert claims in any other forum, including where any claims may be asserted by Buyer's customers. Seller hereby waives any objections to personal jurisdiction or the convenience of any such venue.

27. **NON-ASSIGNABILITY.** Seller shall not assign or transfer any rights or delegate any duties under this Order without the prior written consent of Buyer. Any assignment without such consent shall be void and of no effect.

28. **MISCELLANEOUS PROVISIONS.**

A. This Order represents the parties' entire agreement and supersedes any and all prior and contemporaneous written or oral correspondence, negotiations, representations and agreements with respect to the subject matters hereof. The parties agree that they have not relied on any representations or terms except as expressly set forth or incorporated herein.

B. If any term or condition of this Order is held invalid, the remaining terms and conditions shall be affective and shall remain in full force and effect.

C. This Order may be amended only by a written document executed by a duly authorized representative of Buyer.

29. **VALIDITY OF PROVISIONS.** In the event any provision or any part or portion of any provision of this Order shall be held to be invalid, void or otherwise unenforceable, such holding shall not affect the remaining part or portions of that provision, or any other provision hereof.

30. **NO PUBLICITY.** Except as specifically authorized in writing by the Buyer, Seller shall not publicly disclose (in any press release, customer list or otherwise) that it is selling Products to, or performing services for Seller.

Revised September 2, 2014. This revision supersedes all previous revisions and versions.