

TERMS AND CONDITIONS

PARTIES

These Terms and Conditions apply to Metal Cutting Corporation ("Seller") and purchaser identified on the front of document ("Purchaser") regarding products and/or services ("Goods") provided to Purchaser by Seller as part of quotations, purchase orders and acknowledgments prepared by and/or accepted by Seller.

I PRICES

Prices offered by Seller are only for the Goods and Terms in Seller's Quotation and Order Acknowledgement. Prices quoted by Seller do not include taxes, shipping charges and payment fees of any kind such as charged by third parties. Such charges are additional to the Seller's quoted prices and are the sole responsibility of the Purchaser. Any change to the Seller's quoted pricing, delivery and description requested by Purchaser must be agreed to in writing by Purchaser and Seller in advance. If Purchaser is supplying raw material for an order, Seller's quoted prices and shipping dates require Purchaser's material a) to arrive at Seller within 90 days of Seller's Quotation, b) to be one lot or mixable multiple lots and c) to be at the length and quantity specified in Seller's Quotation, unless otherwise agreed. Seller reserves the right to correct all clerical or typographic errors without penalty.

II TERMS

Upon establishment of credit satisfactory to Seller, terms of Net 30 Days FOB Seller's factory in Cedar Grove NJ USA are given unless otherwise stated. Seller reserves the right to modify, change or withdraw credit terms at any time without notice and to require guarantees, security or payment in advance of the amount of credit involved. If credit is not established, Seller at its sole option and choice may require alternative payment terms. If Purchaser fails to pay any amount when due, Seller shall also be entitled to interest thereon from the due date at the lesser of 2% per month or the maximum permitted by law. Seller reserves the right to make changes to or substitute Goods provided the foregoing does not adversely affect the Goods. The purchase price includes standard packing for normal shipment. Special packing shall be undertaken at Purchaser's expense. Unless otherwise agreed to in writing, title and risk of loss or damage to Goods shall pass to the Purchaser upon delivery FOB Seller's factory in Cedar Grove, NJ USA. All of Seller's obligations hereunder are completed when Seller delivers the Goods, properly consigned to a common carrier or to Purchaser's carrier and delivery to such carrier shall constitute delivery thereof to the Purchaser. In the event of damage in transit, notice of claim must be filed by Purchaser with carrier.

III QUANTITY

Purchaser's Purchase Order is considered completed when Seller has shipped Goods in a quantity from 10% over to 10% under the quantity on Purchaser's Purchase Order.

IV DELIVERY

Purchaser acknowledges that Seller's shipping dates are approximate and may be dependent upon the prompt receipt of all necessary information from Purchaser and/or raw material from external source(s) including Purchaser where applicable. If these items are not furnished on time, date of shipment may be extended to the extent caused thereby. Seller will attempt to establish delivery schedules as closely as possible in accordance with the Purchaser's expressed needs. Seller shall not be liable for any delay in the performance or for damages suffered by Purchaser by reason of such delay. Goods shall be deemed accepted within ten (10) days after receipt by Purchaser unless notice of claim is given in writing to Seller within that period. If Purchaser requests partial shipments, any delay of any of these separate installments does not relieve Purchaser of its obligation to accept all remaining installments within one year of original Purchase Order. Purchaser is to furnish to the Seller explicit shipping instructions including Purchaser's full shipping account information.

V FORCE MAJEURE

Seller shall not be liable for loss or damage due to delay in delivery resulting from any cause beyond its reasonable control or due to compliance with, including but not limited to, any regulations, orders, acts, instructions or priority requests of any Federal, State, or Municipal government, or any department or agency thereof, civil or military, acts of God, fires, floods, weather, failure of electrical power or other utilities, strikes, lockouts, factory shut downs, or alterations, embargoes, wars, riots, delays, or shortages in transportation or inability to obtain labor or manufacturing facilities or material from its usual sources, and acts of omission of the Purchaser. Any delay resulting from any such causes shall extend delivery dates to the extent caused thereby. The Purchaser's acceptance of delivery of the Goods shall constitute a waiver of any claims for delay.

VI LIMITED WARRANTY

A. The only warranty offered by Seller to Purchaser is for the merchandise to i) meet the requirements of the provided raw material certification and ii) the dimensional specifications to be correct based on a sample taken by Seller of Goods using AQL=1.0 of the Zero Acceptance Number Sampling Plans, Fifth Edition, ASQ Quality Press, unless in advance Purchaser and Seller agree in writing to a different final inspection criteria. All numerically undefined specifications are defined by Seller's standards. If Goods fail to meet the warranty, Seller's sole obligation shall be to replace the defective Goods in a reasonable time period or, if for any reason this cannot be accomplished, refund the purchase price paid for the defective Goods.

B. Replacement is limited to the material and service where both were provided by Seller. Replacement shall be under the Seller's Terms or, at Seller's sole option and choice, to issue to Purchaser credit for such Goods.

C. Replacement is limited to the Seller's services only where Purchaser provided their own or third party raw material for Seller to process. Purchaser shall be responsible for replacement of their own or third party raw material in the event of loss or damage.

D. Under no circumstances is the Seller responsible for any remedy beyond stated herein and no consequential, direct, indirect, incidental, special, punitive or any other damages or charges of any kind, either for labor, expenses, or otherwise, suffered or incurred by the Purchaser, including but not limited to inspecting, sorting, repairing, and/or replacing defective Goods will be allowed.

E. This Warranty does not extend to any Goods which has been subjected to Purchaser's production processes; shipping damage; abuse; misuse; neglect; accident; improper installation; and whose properties, chemistry, appearance, and shape has been altered or any other cause beyond the control of Seller.

F. No person or entity is authorized to assume any liability on behalf of the Seller or to impose any obligation upon the Seller in connection with the sale of such Goods other than as outlined above.

G. EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED HEREIN, THERE ARE NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

VII CLAIMS

Purchaser will inspect Goods immediately upon receipt. If Goods are found by Purchaser not to be in accordance with V.I.A. in Seller's Terms and Conditions, Purchaser is to request from Seller in writing an RMA (Return Material Authorization) number and return only such Goods along with the RMA number and the lot traceability data with which Goods was shipped to Purchaser. All claims for defective Goods must be made in writing within one (1) month from the Seller's invoice date.

VIII CANCELLATIONS

Seller's Goods produced for Purchaser are specially prepared and fabricated to Purchaser's custom specifications. Therefore, Purchaser's Purchase Order is not cancelable by the Purchaser in whole or part unless Seller, at its sole option and choice, elects to do so, in which event, it will adjust the invoice as Seller deems fit in its sole discretion.

IX LIABILITY & INDEMNIFICATION

Purchaser's remedies with respect to any claim arising out of any order, or Seller's performance in connection therewith, including any claim arising out of any defect or alleged defect in any Goods furnished by Seller, shall be limited exclusively to the remedies specified herein. Seller's liability shall in no event exceed a refund of the purchase price paid by the Purchaser for the Goods. In no event shall the Seller be liable for any property or personal injuries or damage of any kind resulting directly or indirectly from the use of any Goods nor for any consequential, direct, indirect, incidental, special or punitive damages, regardless of the form of action, whether in an agreement, tort, strict product liability or otherwise, even if advised of the possibility of such damages and even if the damages were foreseeable. Under no circumstances shall Seller have any liability whatsoever for loss of use or any indirect or consequential damages. Purchaser assumes all liability for any and all damages arising from or in connection with the use or misuse of the Goods by the Purchaser or its assignees and/or customers. Purchaser agrees to indemnify, defend and hold harmless Seller from and against any and all claims, liabilities, damages and expenses, including attorney's fees and costs (collectively "Claim(s)") of any nature, including any Claim related and/or incident to Purchaser's purchase and/or use of any Goods, or any act or omission by Purchaser, its agents or employees. Purchaser indemnifies, holds harmless and defends Seller against all costs and liabilities of any kind incurred by Purchaser's actual or alleged patent or other intellectual property infringement in any way arising out of Seller's providing Goods in accordance with Purchaser's Purchase Order.

X GENERAL

A. Applicable Law/Disputes. **The transaction shall be governed by and construed in accordance with the laws of the State of New Jersey.** The parties specifically exclude the provisions of the United Nations Convention on Contracts for the International Sale of Goods. For the purpose of resolving any controversy or claim between the parties, the parties agree to submit to the exclusive jurisdiction of the state or federal courts of New Jersey. If Seller is the prevailing party, Seller shall be entitled to recover all expenses, including attorney's fees and costs. Any action or proceeding by Purchaser arising out of or in connection with this transaction, including any claim for Seller's breach of contract or Seller's breach of warranty, must be commenced within one (1) year after the first to occur of the following: delivery of the Goods to Purchaser or accrual of the cause of action.

B. This acknowledgment constitutes the entire contract between the parties, superseding all prior documents, and the Seller shall not be bound by any agreement, warranty, statement, promise or understanding not expressed herein. Any change, termination, or waiver of any of the provisions of this contract must be consented to in writing by an officer or a properly authorized employee of Seller. In the event that Purchaser's Purchase Order or any other documentation contains written, printed, or stamped provisions or conditions inconsistent with the written, printed, or stamped provisions and conditions herein, the Seller's written, printed, or stamped provisions and conditions shall prevail. Acceptance of Purchaser's Purchase Order by Seller is expressly made conditional on the uncontested acceptance by Purchaser to Seller's Terms and Conditions herein. By issuance of Purchaser's Purchase Order, whether in writing or verbal, Purchaser agrees to be bound by the Seller's Terms and Conditions set forth herein.

C. No course of prior dealings, no usage of the trade and no course of performance shall be used to modify, supplement or explain any of the provisions contained herein. Any order accepted by Seller shall not be assigned, sold or otherwise transferred by Purchaser without Seller's prior written consent.

D. Seller's failure at any time to insist upon strict performance of any term or condition contained herein shall not be construed as a waiver of any subsequent breach of any term or condition.

E. If any provision of these Terms and Conditions is held to be invalid or unenforceable, such provision shall be considered deleted from these Terms and Conditions and shall not invalidate the remaining provisions of these Terms and Conditions.

F. JURY TRIAL WAIVER. THE SELLER AND THE PURCHASER HEREBY WAIVE ANY AND ALL RIGHTS TO A TRIAL BY JURY IN ANY ACTION BASED UPON, OR ARISING OUT OF, OR IN CONJUNCTION WITH THIS PURCHASE ORDER, ACKNOWLEDGEMENT AND SALE OF GOODS.