

TERMS AND CONDITIONS OF SALES

These Terms and Conditions of Sale (the "Agreement") apply to the sale of the products identified in the accompanying Seller invoice or quote ("Products") by MMC Enterprises Corporation, a New York corporation (hereinafter "Seller" or "MMC") to the purchaser of the Products ("Buyer"). Any terms set forth in any Buyer purchase order, acknowledgment or other document that are in addition to or inconsistent with this Agreement are expressly rejected by Seller and will be of no force or effect. If this document is provided in response to Buyer's purchase order, such purchase order is deemed a request for quotation only, and this Agreement is an offer to sell the Products ordered.

This Agreement incorporates only those terms of Seller-accepted purchase orders that relate to the prices or quantities of the Products. Orders or requests for purchases that have not been accepted in writing by Seller are not binding on Seller until and unless the Products are shipped to Buyer. Seller's failure to object to any term or condition contained in any communication from Buyer shall not be deemed a waiver of the terms and conditions herein. This Agreement may be amended, modified or superseded only by means of a written agreement executed by an authorized representative of each party.

1. WARRANTY AND CLAIMS: Seller warrants that each product delivered hereunder will be of the kind designated or specified. No other warranties, except of title, are given and none are implied. If the product is modified, processed, or damaged after leaving Seller's possession or the location that quoted; or if the product is subjected to any use or condition other than normal and customary ones or to any use or condition that is not specified to Seller by the customer, all warranties (other than title) shall be irrevocably waived. All warranties, other than title, shall expire sixty (60) days after delivery of the product to customer (The "Warranty Period").

If any product sold hereunder is not of the kind specified or designated, the customer shall immediately notify Seller. If any tests are conducted, the parties shall agree on the test protocols and testing laboratory and both parties may be represented at those tests. Tests that are not in accordance with this procedure shall be deemed of no effect.

In the event Seller is in breach of its warranties or otherwise liable in tort, contract, or on any other basis, Seller may, at its option, satisfy all of its legal obligations by either (1) correcting the defect or defects by making available at the customer's plant a repaired or replacement product, OR (2) refunding the purchase price of the defective product to the extent that the customer has paid Seller for the product and by waiving any claim for the unpaid balance of the purchase price. In no event shall Seller be liable for damages that exceed the cost of correcting defects in the product sold by Seller. Seller shall not be liable for special, incidental or consequential damages. Buyer must notify Seller of any Products that do not conform to the foregoing warranty during the Warranty Period. Buyer must return no-conforming Products to Seller in accordance with Seller's RMA then-current procedures. Replacement Products may be refurbished. Buyer will pay for all transportation charges on any Products returned from buyer to Seller. After expiration of the aforesaid sixty-day warranty period, Seller shall not be liable for breach of warranty (other than warranty of title) or any related claim. The warranties stated in this paragraph are exclusive and in lieu of all other warranties, whether statutory, express or implied, written or oral, including any warranty of merchantability or fitness of a particular purpose.

Seller is not obligated to provide any support or maintenance for the Product unless otherwise mutually agreed by the parties hereto in writing.

2. PRICES: Unless otherwise agreed in writing by Seller, prices for the Products shall be Seller's then-current list prices (in U.S. Dollars) at the time of Seller's receipt of Buyer's purchase order. The price charged by Seller shall be that agreed to by the parties or, if there has been no agreement concerning price, it shall be the Seller's regular price in effect at the time of shipment. Notwithstanding the foregoing, if delivery has been delayed by circumstances beyond the reasonable control of Seller, the price shall be the

regular price in effect on the date of shipment. If delivery has been delayed as a result of the act or omission of the customer, the price shall be the higher of the agreed-upon price or Seller's regular price on the date of shipment.

All prices are quoted and all orders are accepted exclusive of federal, state, or local excise, sales, use, or similar taxes, or any export or import fees, customs duties and similar charges applicable to the sale or to the products sold, except taxes based upon Seller's net income ("Taxes"). Buyer agrees to pay any and all Taxes and other charges incidental to the purchase or sale of the Products, or, in lieu thereof, Buyer shall provide Seller with a properly executed tax exemption certificate prior to shipment.

3. NOTICE, RESCHEDULING AND CANCELLATION: All notices sent to either party shall be in writing. All modifications of the terms and conditions of this sale must be in writing and signed by the party being charged.

Rescheduling, Cancellation of or deferred shipments on orders placed can only be made with MMC's written consent and upon terms that will indemnify us against loss if there are any.

4. ARBITRATION: All controversies and disputes arising from, or relating to the products or services being sold by Seller to customer as well as any other disputes between the parties shall be resolved through binding arbitration according to the commercial arbitration rules of the American Arbitration Association. The arbitration hearing shall be conducted in Nassau County, New York by the American Arbitration Association and judgment may be entered on any resulting award in any court of competent jurisdiction. For this limited purpose the parties consent to the jurisdiction of the arbitrator.

5. PAYMENT: Payment will be made in United States dollars. Each shipment shall be considered a separate and independent transaction and payment therefore shall be made accordingly. Unless otherwise specified in writing, terms of payment are net 30 days. Products are held for a customer at the risk and expense of the customer. Seller, at its option, may require payment for the products being held as if they had been delivered to the customer or Seller may require payment of warehousing charges. If Seller shall at any time deem itself insecure about the ability or willingness of the customer to satisfy its obligations under the contract, Seller may require full or partial payments in advance or other appropriate assurances. If the customer is the subject of a voluntary or involuntary proceeding pursuant to the Federal Bankruptcy laws or the insolvency laws of any state, Seller may at its option terminate its contract with respect to any products which had not been shipped or which had not yet been made. Such termination shall be without prejudice to any other remedy available to Seller. If Buyer does not make any payment on or before its due date, Buyer shall be also be liable for a Finance Charge at the rate of 1.5% per month, provided, however, that in no event shall the Finance Charge exceed that permitted pursuant to any and all applicable usury laws. In the event of any litigation or arbitration to recover payments owed to Seller by customer, the prevailing party shall be entitled to recover its reasonable attorney's fee, collection fee, costs and expenses.

Non-recurring engineering charges, design fees, tooling charges, set-up charges, and the like shall be paid in full upon shipment of the first product unless an earlier date is agreed. If work is delayed by the customer, Seller may, at its option, demand prompt payment for work in progress in a reasonable amount that includes a reasonable profit as well as recoupment of all related direct and indirect costs and expenses.

6. SECURITY INTEREST: Buyer hereby grants to Seller a first priority, purchase money security interest in the Products and all proceeds or receivables arising from the sale, lease, or other disposition of such Products. At Seller's request, Buyer will promptly execute and deliver any documents that Seller deems advisable to perfect the security interest hereunder and maintain the first priority thereof. Buyer hereby authorizes Seller to sign and file any such document.

7. VARIATIONS: Unless otherwise specified in writing, any variation in quantity not exceeding 10% of the number ordered shall constitute compliance with the order and the unit price specified in the order shall apply. If the customer supplies materials or other items for additional processing, the customer shall supply 10% more than is necessary to complete the order.

8. TECHNICAL ADVICE: Any technical services furnished by Seller or any of its representatives or agents are believed to be reliable. However, the customer agrees that it is not relying on that advice and it acknowledges that no warranty, express or implied, has been given concerning the accuracy of such advice. The customer assumes complete responsibility for loss, damage or liability resulting from the handling or use of any product, or from technical advice supplied by Seller or its representatives or agents.

9. TOOLS: Dies, patterns and tools used in the manufacture of products hereunder are, and shall remain, the property of Seller for all purposes. Seller may, at its option, offer them for sale to customer. Seller shall make a reasonable effort to maintain special dies, patterns and tools used in the manufacture of a particular product for two years after the completion of customer's most recent order for such product. In that way, Seller anticipates being able to fill additional orders using those dies, patterns and tools, subject to a reasonable allowance for wear and tear and other appropriate factors.

10. TITLE AND DELIVERY, ACCEPTANCE: Unless otherwise specified in writing, title to the product passes to the customer when it is received by the carrier for shipment and all risk of loss or damage passes to the customer at that point. Customer is responsible for filing claims with the carrier. Freight is paid by the customer.

Products delivered to Seller shall be deemed to be irrevocably accepted upon receipt. Buyer will reimburse Seller for all freight and insurance charges paid by Seller. Seller will use its discretion to set the delivery date, fill orders, and determine the order in which orders are filled. Seller will use commercially reasonable efforts to meet the delivery date set forth on Seller's order acknowledgment on the condition that Buyer provides all necessary order and shipping information sufficiently in advance of such delivery date.

Delivery dates are only estimates. They depend on prompt receipt of all necessary information, supplies and materials and on other factors. Delivery of each order is subject to availability of the Products. Seller may deliver partial shipments. Delay in delivery of any installment will not relieve Buyer of its obligation to accept the remaining shipments. Seller shall not be liable for any delay due to causes beyond its reasonable control. If the event of any such delay, the date of delivery shall be extended by a period equal in length to the delay.

10. FORCE MAJEURE: Each party will be excused from performance of its obligations hereunder (other than payment obligations) if such party is unable to perform such obligations due to any cause beyond its reasonable control, such as acts of God, acts of civil or military authority, terrorism, changes in government regulations, embargoes, epidemics, war, terrorist acts, riots, insurrections, fires, explosions, earthquakes, floods, power outages, unusually severe weather conditions, and supply or transportation failures, delays, or interruptions.

11. PATENTS: The customer agrees to hold Seller, its officers, directors, agents, sales representatives shareholders, employees and contractors harmless from any claim, loss or expense, including legal fees, arising from any infringement or alleged infringement of patents, trademarks, copyright or the like caused by compliance with designs, specifications or instructions provided directly or indirectly by customer. Except as set forth in the preceding sentence, Seller shall defend any action or proceeding brought against its customer to the limited extent that it is based on a claim that any product supplied by Seller under this contract, or any part of such product, infringes on any valid patent of the United States. Seller shall not be liable for any costs, expenses, judgment, award or settlement incurred prior to its receipt of written notice of the claim. Seller shall have no liability or responsibility hereunder (1)if the customer fails to give prompt written notice to Seller (2)if the customer fails to provide Seller with authority to defend, settle, and/or appeal the action at Seller's

discretion, (3) if the customer does not give prompt and full information and assistance until the matter is finally resolved, or (4) if customer settles or otherwise compromises the matter without the written consent of Seller. Further, Seller's obligations shall not apply and Seller shall not be liable hereunder for claims relating to products or parts of products (1) which were not designed by Seller (2) are based on designs and specifications provided directly or indirectly by customer or based on modifications or additions made by customer, customer's customer, or any other third party, or (3) were used in a manner not authorized by Seller. If customer provides notice, authority, assistance and information as aforesaid, Seller shall at its expense and option defend the action and pay any damages or costs awarded against the customer or settle the claim. Seller shall have the right to select counsel to defend the claim. In the event that the claims made against the customer involve matters or issues for which Seller is not required to provide a defense hereunder, Seller's responsibility shall be reduced to an appropriate and equitable degree. If, in an action defended by Seller, the product produced by Seller is held to constitute infringement; the use of the product or part thereof is enjoined; AND Seller is liable to purchaser for such infringement, Seller shall at its option (1) replace the product or part with a non-infringing product (2) modify the product so that it is not infringing (3) remove the product and refund the purchase price and related transportation costs, or (4) procure the right to continue using the product or infringing part. Customer agrees that Seller is subrogated to customer's right to recover expenses and costs relating to defending any claim (including attorney's fees and expert witness fees) and any payment made to compromise or pay a claim or award from the party making a claim against customer, any insurance policy which is obligated to defend or indemnify customer in connection with the claim, and any other third party. Neither the sale of the product nor the disclosure of information in connection with the sale, conveys any license under patent claims covering combinations of these products with other devices or elements or any manufacturing prices. The foregoing states the entire scope, nature, and extent of Seller's liability for any infringement of any patent, copyright, or other proprietary rights relating to its products or services.

12. GENERAL: Neither party shall be liable for incidental, consequential, or special damages. Any assignment of this order or any portion thereof without the prior written consent of Seller shall, at Seller's option, be voidable. This document and related invoice(s) constitute the entire agreement between the parties regarding the subject matter of this document. Other written agreements that modify the obligations described herein and which are prior to the invoice are superseded. Modifications, representations, promises, and conditions shall not be binding unless they are in writing and signed by an authorized representative of Seller.

If any provision or any part thereof is held to be invalid, the remainder shall remain in full force and effect. This document and the related transaction shall be governed by the laws of New York State.

The parties are independent contractors and nothing herein shall be construed to imply a partnership, joint venture, principal-agent, or employer-employee relationship between the parties. Neither party shall have the right, power, or authority to create any obligation, expressed or implied, on behalf of the other party. Buyer may not assign, by operation of law or otherwise, any of its rights, or delegate any of its duties, under this Agreement to any third party without Seller's prior written consent. Any assignment, delegation or transfer in violation of the foregoing will be null and void. This Agreement constitutes the entire agreement between the parties as to the subject matter hereof and supersedes and merges all prior or contemporaneous oral or written agreements, representations, statements, negotiations, understandings, proposals, and undertakings with respect to the subject matter of this Agreement.