



## Terms & Conditions of Sale

### **1. Overview**

All Midwest Products and Engineering Inc. ("MPE") products are rendered exclusively on the basis of the following terms and conditions, which will apply to both this and all future business transactions with any customer with whom MPE does business (hereafter referred to as "Buyer"). Any deviations from these terms and conditions not explicitly acknowledged in writing by MPE, will not be binding on MPE, even if MPE fails to object thereto in a particular instance.

### **2. Prices and extra charges**

- a. Unless otherwise indicated, all prices quoted are F.O.B. Point of Origin.
- b. Pricing is for immediate acceptance only and is subject to change without notice any time before purchase orders are accepted by MPE.
- c. Typographical errors shall not be binding and are subject to correction.
- d. Buyer shall be solely responsible for all taxes, duties, excises or other similar charges payable to any government organization (federal, state, or local), regardless of whether MPE is responsible for collection or payment thereof, unless satisfactory evidence of an exemption for the payment thereof is supplied by Buyer.

### **3. Acceptance of a purchase order**

- a. Purchase orders and other agreements must be confirmed in writing, signed or acknowledged by MPE, with only the contents of this confirmation being effective. If no written confirmation is made, the purchase order will be deemed to have been accepted upon acceptance of the shipment by the Buyer, and the Buyer's agent or a carrier acting on Buyer's behalf.

### **4. Terms of payment**

- a. All invoices are due for payment in full 30 days after the invoice date. Any deviation to terms of payment will be subjected to separate written agreement.
- b. MPE is entitled to refuse to render any further product or service until all past due payments are received or if the Buyer's financial solvency comes into question.
- c. Interest shall accrue on all overdue amounts at the rate of one percent (1%) per month, or the maximum percentage allowed under applicable law, whichever is less. Buyer shall be obligated to reimburse MPE for all costs of collection on all past due amounts including without limitation, reasonable attorney's fees.

### **5. Passage of risk and shipment**

- a. Title to and risk of loss of all products sold will pass to the Buyer upon shipment from MPE, F.O.B. Point of Origin.
- b. Unless specifically agreed to by MPE in writing, Buyer shall be solely responsible for arranging and paying for the transportation of all products purchased from MPE.

- c. If MPE agrees in writing to pay the cost of freight for a particular purchase order, then MPE shall have the right to select the carrier, routing and means of transportation.

- d. Buyer shall inspect all product deliveries before unloading, in order to confirm the amount of product delivered, and to determine if there is any product damage and/or loss. In the event of short shipments of product, the non-conformance must be communicated to MPE within 5 business days, and subsequently confirmed in writing so that the surrounding facts and circumstances can be confirmed on site by MPE, at its option. All F.O.B. Point of Origin shipments resulting in a claim for damage or loss of shipment during transportation to the Buyer must be reconciled with the Buyer's requested common carrier.

- e. Buyer shall be responsible for providing MPE with written shipping and delivery instructions, which will become binding only if accepted by MPE in writing.

- f. Unforeseen circumstance such as, Acts of God, power outages, strikes, lock-outs, and other operational disturbance as well as other obstacles beyond MPE's control which prevent the timely completion of a purchase order shall extend delivery deadlines as the circumstances reasonably warrant.

### **6. Warranty**

- a. MPE warrants that the design, manufacture and delivery of products for sale comply at all times with applicable federal, state and local laws, rules and regulations. MPE also warrants that for a period of 6 months from the date of invoice all products are properly manufactured per the Buyer approved specifications, excluding cosmetic requirements. MPE further warrants that for a period of 45 days all products will meet the approved cosmetic specifications. Where no customer specifications exist, products will be manufactured to industry and/or MPE internal standards and specifications.

- b. Buyer will indemnify MPE for any property damage, bodily injury, intellectual property infringement, or any other right of a third party, because of MPE's compliance with the specifications furnished by Buyer. Buyer, upon MPE's written request, will defend any such action brought against MPE at Buyer's sole cost and expense.

- c. MPE has the right at its option to cure any product defect within a reasonable period or to replace the product concerned. Should it be impossible to remedy the non-conformity or to replace the non-conforming product, Buyer's sole remedies shall be to either negotiate with MPE a mutually acceptable reduction or credit for non-conforming product, or to have the defective product replaced with new product, or to cancel the purchase order. Except as herein provided, MPE shall have no other liability of any kind whatsoever to Buyer.

- d. Should the product be damaged or lost after the risk has passed to Buyer due to improper storage or handling, MPE will neither be obliged to nor required to remedy the damage, replace the product, grant a reduction in price, or cancel the purchase order.