



TERMS AND CONDITIONS

"Seller," as used in this agreement, shall mean Mr. Stainless, its parent company and affiliates. Acceptance of any order and sale of any goods and/or services shall be expressly conditioned upon the terms and conditions contained herein. Moreover, all descriptions, quotations, proposals, offers, acknowledgments, acceptances and sales of Seller's products and/or services are subject to and shall be governed exclusively by these terms and conditions. Any order or statement of intent to purchase any such goods and/or services, or any direction to proceed with engineering, design, procurement, manufacture, or shipment shall constitute assent to said terms and conditions. The terms and conditions listed herein represent the final and complete agreement of the parties and replace and supersede any other statements or representations made. Any terms or conditions in addition to, or inconsistent with those stated herein, whether proposed by Buyer in any acceptance of an offer by Seller or made or communicated by Buyer to Seller at any time, whether orally or in writing, are objected to and shall not be binding upon Seller. No such additional, different or inconsistent terms and conditions shall become part of the contract between Buyer and Seller unless expressly accepted in writing by an authorized representative of Seller. If any terms or conditions of this agreement are held unenforceable by a court of competent jurisdiction, the remaining terms and conditions of this agreement shall remain in full force and effect.

PRICE All prices quoted are subject to change without notice. In no event shall any price quoted be valid for a period greater than 30 days unless clearly indicated in writing by an authorized representative of Seller. Prices do not include freight, handling, or any applicable sales, use, or other charges payable to state or local authorities. Seller reserves the right to correct all typographical or clerical errors which may be present in its prices or specifications.

PAYMENT On approved open accounts, payment terms are net thirty days from date of invoice. Other payment options include cash, C.O.D., VISA, MasterCard, American Express, or check prepayments. Seller reserves the right to require from Buyer full or partial payment or other adequate assurance of performance before manufacture, shipment, or services are performed, if the financial condition of Buyer so warrants as determined by Seller. Seller reserves the right to suspend its performance until such payment or adequate assurance of performance has been received. If Buyer fails to make payment in accordance with this agreement or its account with Seller becomes exceedingly delinquent, Seller reserves the right to suspend performance or, in its discretion, to cancel this agreement and demand payment for any work performed or expenses incurred. If payment is not made when due, Buyer agrees to pay a finance charge on the amount past due at the rate of 1.5% per month (18% per annum), or that which does not exceed the maximum rate permitted by state law. Nothing herein shall be deemed to extend or otherwise modify Buyer's obligation to make payment when due.

DELIVERY All sales are made F.O.B. point of shipment and each shipment or delivery shall be considered a separate and independent transaction. Regardless of the method of delivery, all title and risk of loss or damage passes to Buyer at FOB point of shipment. Buyer grants Seller a purchase money security interest in goods Seller sells Buyer and Buyer agrees that Seller may take actions in Buyer's name to perfect that interest as Buyer's attorney-in-fact; if Buyer is located in a jurisdiction that recognizes reservation of title, Buyer agrees that Seller retain title to the goods to secure Buyer's payment for them, and Buyer assigns to Seller all proceeds from their sale or pledge. Seller retains ownership of any reusable packaging. Any delivery dates given in advance of shipment are estimates and shall not be deemed to represent fixed or guaranteed shipping dates. Seller shall not be liable for failure to deliver or for delay in delivery or performance due to an act of God, accident, fire, flood, strike, or other labor difficulty, riot or other civil disturbance, an act of governmental authority or of the Buyer, insolvency or other inability to perform by the manufacturer, delays in usual sources of supply, shortages of material, transportation difficulties, failures of and delays by carriers, computer interruptions, replacement orders, new accounts, orders that require review by our credit department, major changes in economic conditions, or for any cause beyond its reasonable control. In no event shall Seller be liable for any consequential, incidental, special or exemplary damages arising out of a delay in or failure of delivery.

LIMITED WARRANTY Seller warrants that the items sold hereunder shall be free from defects in material or workmanship. Any claimed defect in material or workmanship must be submitted to Seller in writing within thirty days from the date the goods and/or services are provided to Buyer or it shall be deemed waived by Buyer. Said

warranty does not apply to normal wear and tear, improper care or use, mistreatment, or improper or careless moving or installation. Minor defects in material, such as scratches and pinpoints, shall not constitute a defect in material or workmanship. This warranty shall not apply to damage after shipment to Buyer where the damage is not directly due

to a defect in material or workmanship of the goods, nor does it apply to goods that have been altered or repaired by anyone other than the Seller's authorized employees. No warranties whatsoever are made with respect to items built or acquired, wholly or partially, to buyer's designs or specifications. The foregoing warranty is given only to the original purchaser and does not extend to any subsequent purchaser or transferee of Seller's products. The original purchaser is not entitled to extend or transfer this warranty to any other party.

THE AFOREMENTIONED WARRANTY COMPRISES THE SOLE AND ENTIRE WARRANTY PERTAINING TO GOODS AND/OR SERVICES PROVIDED UNDER THIS AGREEMENT. SELLER MAKES NO OTHER WARRANTY, GUARANTEE, OR REPRESENTATION OF ANY KIND WHATSOEVER. ALL OTHER WARRANTIES, INCLUDING BUT NOT LIMITED TO, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WHETHER EXPRESS, IMPLIED, OR ARISING BY OPERATION OF LAW, TRADE USAGE, OR COURSE OF DEALING ARE HEREBY DISCLAIMED. NO AGENT, EMPLOYEE, OR REPRESENTATIVE OF SELLER HAS ANY AUTHORITY TO BIND SELLER TO ANY REPRESENTATION, AFFIRMATION, OR WARRANTY CONCERNING THE GOODS AND/OR SERVICES PROVIDED AND ANY SUCH REPRESENTATION, AFFIRMATION, OR WARRANTY SHALL NOT BE DEEMED TO HAVE BECOME A PART OF THE BASIS OF THIS AGREEMENT AND SHALL BE UNENFORCEABLE.

REMEDIES AND LIMITATION OF LIABILITY Seller will not be responsible for any harm arising out of Buyer's purchase, possession or use of any products and/or services supplied by Seller or any advice that Seller may offer, except as agreed in the Limited Warranty set forth above. Seller's liability arising from or in any way connected with the items sold or services provided in this contract shall be limited exclusively to repair or replacement of the items sold or refund of the purchase price paid by buyer, at Seller's sole option. Seller shall have no liability for any goods and/or services provided or delivered unless claim is made by Buyer within thirty days after receipt of such goods and/or services. **IN NO EVENT SHALL SELLER BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR EXEMPLARY DAMAGES OF ANY KIND OR NATURE WHATSOEVER, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, COST OF ANY SUBSTITUTE FOR THE PRODUCTS BUYER BOUGHT, CLAIMS OF THIRD PARTIES OR INJURY TO PERSON OR PROPERTY WHETHER ALLEGED TO ARISE FROM BREACH OF CONTRACT, EXPRESS OR IMPLIED WARRANTY, OR IN TORT, INCLUDING WITHOUT LIMITATION, NEGLIGENCE, FAILURE TO WARN OR STRICT LIABILITY.**

PRODUCT SUITABILITY Many states and localities have codes and regulations governing sales, construction, installation, and/or use of products for certain purposes, which may vary from those in neighboring areas. While Seller attempts to assure that its products comply with such codes, it cannot guarantee compliance, and cannot be responsible for how the product is installed or used. Buyer acknowledges that it has reviewed the product application, and national and local codes and regulations before purchase and use of a product sold and/or installed by Seller, and Buyer ensured that the product, installation, and use will comply with them.

MODIFICATIONS Buyer may request to modify the designs or specifications for the items sold hereunder as well as the quantities and delivery dates thereof, however, no such requested modification shall become part of the contract between Buyer and Seller unless accepted by an authorized representative of Seller in a written amendment to this Agreement. Acceptance of any such requested modification shall be at Seller's discretion, and shall be upon such terms and conditions as Seller may require.

CANCELLATION This order may be cancelled by Buyer only if agreed to in writing by an authorized representative of Seller and only upon payment by Buyer of expenses that have or will be incurred by Seller as a result of this agreement and for any services and/or goods Seller previously furnished to Buyer. Seller has the right to retrieve any goods for which payment has not been received, without legal intervention by Buyer.

RETURNS No goods may be returned to Seller without authorization in writing signed by an authorized representative of Seller.

FORCE MAJEURE Seller shall not be liable for any delay, impairment, or failure in performance of its obligations resulting directly or indirectly, in whole or in part, from events beyond the reasonable control of Seller or those which make it commercially unreasonable for Seller to perform. Such events shall include with limitation, acts of God, accidents, fires, floods, strikes or other labor difficulty, riots or other civil disturbances, acts of governmental authority or of the Buyer, insolvency or other inability to perform by the manufacturer, delays in usual sources of supply, shortages of material, transportation difficulties, failures of and delays by carriers, computer interruptions, major changes in economic conditions, or for any cause beyond the reasonable control of Seller.

ASSIGNMENT Buyer shall not assign its rights under this agreement, in whole or in part, unless an authorized representative of Seller consents in writing to such assignment. Any actual or attempted assignment without Seller's prior written consent shall entitle Seller to cancel this agreement upon notice to Buyer.

TAXES All prices quoted are exclusive of excise, sales, use, property, occupational or like taxes which may be imposed by any taxing authority upon the design, manufacture, sale, delivery, or installation of the items sold hereunder. If any such taxes are required to be paid by Seller or if Seller is responsible for the collection of such tax, the amount thereof shall be in addition to the amounts for the items and/or services quoted. Buyer agrees to pay all such taxes or to reimburse Seller therefore upon receipt of its invoice. If Buyer claims exemption from any sales, use, or other tax imposed by any taxing authority, Buyer must provide seller with a valid certificate acceptable to the taxing authority which imposes said taxes. If any of the aforementioned taxes are not collected by Seller at the time of payment of sales prices, Buyer shall hold Seller harmless from and against any such tax, together with any interest or penalties thereon which may be assessed.

REASONABLE ATTORNEY'S FEES In the event Buyer defaults in payment or otherwise breaches any term contained herein, Buyer shall pay to Seller, in addition to any damages proved by law, reasonable attorney's fees and collection costs.

CHOICE OF LAW All transactions shall be governed by the laws of the State of New Jersey, excluding conflict of law rules, and venue shall be in Middlesex County, State of New Jersey.

WAIVER The failure of Seller to assert a right hereunder or to insist upon compliance with any term or condition will not constitute a waiver of that right or excuse any subsequent nonperformance of any such term or condition by the other party. The waiver by Seller of any breach of these terms and conditions shall be limited to the particular instance and shall not operate or be deemed to waive any future breach of the same provision on any other occasion, nor operate as a waiver of Seller's right to enforce any right by such remedies as may be appropriate.

SELECTION Buyer represents that the goods sold hereunder are fit for their actual or intended use and that Buyer placed no reliance on Seller's skill or judgment in selecting suitable goods or materials or in the design of suitable goods and materials. Buyer has investigated products sold by Seller enough to form an independent judgment concerning their suitability for use, conversion or processing intended by Buyer and will not make any claim against Seller based on Seller's technical or other advice, statements, data, services or recommendations. Further, Buyer will defend, indemnify and hold harmless Seller, its successors, assigns and subsidiaries from and against all costs (including attorney's fees), damages and liabilities resulting from actual or alleged claims asserted or any proposed or assessed penalties for any alleged violation of any federal, state, or local rule, law, standard or regulation, by reason of or in connection with any use of the good delivered or services provided hereunder.

COMPLETE AGREEMENT The terms and conditions in Seller's forms, acknowledgments, quotations, invoices, and websites are incorporated herein by reference, and constitute the entire and exclusive agreement between Buyer and Seller. Said agreement is not subject to modification, alteration, or addition unless approved by an authorized representative of Seller in writing.

NO THIRD PARTY BENEFIT The provisions stated above are for the sole benefit of the parties hereto, confer no rights, benefits or claims upon any person or entity not a party hereto.

RIGHTS AND REMEDIES OF SELLER The rights and remedies of Seller under this agreement shall be cumulative and the exercise of any of them shall not be exclusive of any other rights or remedy provided herein or allowed by law. Nothing contained within this agreement shall be construed to limit or waive any rights of Seller under applicable federal, state, or local laws.