

MHR, INC.
TERMS & CONDITIONS OF SALES

All sales of products and services by MHR, INC. ("Seller") are made on the following terms and conditions of sale ("Terms of Sale"). In these Terms of Sale, any products sold by Seller to the buyer named in Seller's quotation or acknowledgment ("Buyer") are referred to below as "goods," and any services sold by Seller to Buyer are called "services."

1. **Agreement.** If Buyer has not otherwise agreed to these Terms of Sale, then Buyer's acceptance of delivery of, or payment for, the goods or services shall constitute Buyer's agreement to these Terms of Sale. Seller objects to and will not agree to any terms that are additional to or different from these Terms of Sale. Terms that are printed on or contained in a purchase order or other form prepared by Buyer which are additional to, in conflict with, or inconsistent with those herein shall be considered inapplicable and shall have no force or effect.

2. **Payment Terms.** Unless otherwise specified in Seller's quotation or acknowledgment, payment in full of the price is due net 30 days after shipment of the goods or performance of the services, without discount, except that if at any time Seller determines that Buyer's financial condition or credit rating does not justify a sale on credit or if Buyer is at any time in default in any indebtedness or obligation that Buyer owes to Seller, then Seller may require advance payment or may ship C.O.D. Any payment that is not made when it is due shall accrue a finance charge of 1-1/2% per month. Payment must be made at Seller's office in Holland, Michigan. Buyer may not offset or recoup any claim against amounts due to Seller.

3. **Delivery and Risk of Loss.** Unless Seller agrees otherwise in writing, Seller shall deliver the goods EXW (Incoterms 2000) Seller's facility from which the goods will be shipped, except that if Seller's facility and Buyer's facility are both located in the United States, then Seller shall deliver the goods F.O.B. (Uniform Commercial Code term) Seller's facility, except that, in either case, risk of loss of the goods shall pass to Buyer upon E.X.W. or F.O.B. shipment. Shipping, delivery and performance dates are estimates only. Delivery is determined at the time of Buyer's purchase order, taking Seller's backlog into account. Seller may ship all the goods at one time or in portions from time to time. Seller shall have the right, but not the obligation, to determine the method of shipment and routing of the goods, unless otherwise stated in Seller's quotation or acknowledgment.

4. **Taxes.** Seller's price does not include any privilege, occupation, personal property, value-added, sales, excise, use or other taxes, and Buyer shall be liable for all such taxes, whether or not Seller invoices Buyer for them.

5. **Unavoidable Delay.** If Seller is not able to finish and deliver the goods to Buyer, or to perform the services, on time because of anything Seller cannot reasonably control (such as casualty, labor trouble, accidents, unavailability of supplies or transportation, or Buyer's failure to approve production samples), then the estimated delivery or performance time shall be extended accordingly, and Seller shall not be liable to Buyer for any damages caused by the delay.

6. **Changes.** Seller shall have the right to make design or engineering changes in its parts, equipment, processes and methods of manufacture, but Seller will not, without Buyer's prior approval, make any changes in operational or dimensional specifications. Stenographical and clerical errors in quotations are subject to correction.

7. **Defects; Remedies.** Refer to the sales quotation and acknowledgment for the warranty period and cycles, if any.

8. **Limitations. EXCEPT AS STATED IN PARAGRAPH 7, SELLER DOES NOT MAKE ANY WARRANTY AS TO THE GOODS OR SERVICES AND, IN PARTICULAR, DOES NOT MAKE ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, AND BUYER IS SOLELY RESPONSIBLE FOR DETERMINING THE PROPER APPLICATION AND USE OF THE GOODS.** Seller shall not have any tort liability to Buyer or any other person with respect to any of the goods or services and shall not be liable for consequential, incidental, special, exemplary, indirect or punitive damages arising from any product defect, delay, nondelivery, recall or other breach. Buyer shall not have any right of rejection nor revocation of acceptance of the goods, except as specified in *Paragraph 15* below.

9. **Solvency and Security Interest.** Buyer represents that Buyer is solvent. Seller retains a security interest in the goods to secure payment of the price and all other indebtedness that Buyer now and in the future owes to Seller.

10. **Permits and Compliance.** Seller is not responsible for obtaining any permit, inspection or license that is required for installation or operation of the goods. Seller does not make any promise or representation that the goods will conform to any law, ordinance, regulation, code or standard.

11. **Safety Features.** Buyer shall install and operate the goods properly and according to industry accepted practices and shall not remove or change any safety device, warning or operating instructions that Seller placed on the goods.

12. **Components of Another Product.** If any of the goods constitute parts or components that are to be incorporated or installed in a product that is manufactured or assembled by or for Buyer, then (i) Buyer shall obtain, or cause the end-user of the product to obtain, all permits, inspections and licenses required for installation or operation of the product, (ii) Buyer shall cause the product to conform to all applicable laws, ordinances, regulations, codes and standards, and (iii) Buyer shall place on the product all safety devices and warnings, and shall furnish to its buyer all operating instructions, that are necessary or desirable to prevent any death, personal injury or property damage from being caused by any use or operation of the product.

13. **Resale.** On any resale of the goods, Buyer shall contractually limit its buyer's rights and remedies against both Buyer and Seller to the same extent that *Paragraphs 7* and *8* above limit Buyer's rights and remedies.

14. **Quantities.** Any claim by Buyer that Seller failed to deliver the agreed-upon quantity of goods must be submitted to Seller in writing within 30 days after Buyer receives the goods. If Buyer fails to do so, then it shall be conclusively presumed that the proper quantity was delivered.

15. **Cancellation.**

A. Buyer does not have any right to cancel its agreement to buy the goods or services from Seller. If, however, Seller agrees in writing to permit cancellation, then Buyer shall immediately pay to Seller a cancellation charge in an amount equal to the purchase price less allowances (in amounts that Seller determines) for (i) the realizable value to Seller of any standard components that Seller purchased or ordered before cancellation, (ii) the realizable scrap value to Seller of the remaining material that Seller purchased, fabricated or ordered before cancellation and (iii) any direct labor costs that Seller saved by reason of the cancellation.

B. If Buyer fails to pay or perform any indebtedness or obligation that Buyer at any time owes to Seller, then Seller may consider Buyer's failure to be an anticipatory repudiation of any or all outstanding contracts that provide for Seller to sell goods or services to Buyer, and Seller may, without liability to Buyer, cancel any or all of those outstanding contracts.

16. **Intellectual Property and Confidentiality.** All inventions (whether or not patentable), devices, technologies, ideas, improvements, processes, systems, software and other works and matters that Seller creates or develops in the course of Seller's design, development or manufacture of the goods or performance of the services shall be Seller's property.

17. **Indemnity.** Buyer shall indemnify and hold harmless Seller with respect to all damages, losses, claims and expenses, including consequential and incidental damages and attorney fees, that Seller incurs as a result of Buyer's breach of any of Buyer's obligations under these Terms of Sale.

18. **Seller's Rights.** Seller has all rights and remedies that applicable law gives to sellers. Seller's rights and remedies are cumulative, and Seller may exercise them from time to time. Seller's waiver of any right on one occasion shall not be a waiver of any future exercise of that right.

19. **Time For Bringing Action.** Any action that Buyer brings against Seller for breach of these Terms of Sale or for any other claim that arises out of or relates to the goods or their design, manufacture, sale, delivery or services must be brought within one year after the cause of action accrues.

20. **Applicable Law.** These Terms of Sale between Seller and Buyer shall be considered to have been made in the State of Michigan, and it shall be governed by and interpreted according to Michigan law without regard for conflict of law principles. Either party may bring any action that arises out of or relates to these Terms of Sale in any state court in Allegan County, Michigan or federal court in the western district of Michigan, that has jurisdiction of the subject matter, and Buyer irrevocably consents that any such court shall have personal jurisdiction over Buyer and waives any objection that the court is an inconvenient forum.

21. **Complete Agreement; Amendment.** The terms on Seller's quotation and acknowledgment and these standard Terms of Sale contain the entire agreement between Buyer and Seller. Any change in this agreement must be by a writing signed by an authorized officer of Seller.