

MODERN METALCRAFT, INC.
STANDARD TERMS AND CONDITIONS

The Modern Metalcraft, Inc. Standard Terms and Conditions ("MMI Terms") contained herein apply to all work performed and goods produced ("Work") by Modern Metalcraft, Inc. ("MMI"), whether the Work is performed under a purchase order issued by a Buyer ("Purchase Order"), under a quotation given by MMI ("Quotation"), or any other arrangement. MMI's acceptance of any Purchase Order, or agreement to provide service under any Quotation, is expressly limited to the Buyer's acceptance of the MMI Terms. In the event of conflict between these MMI Terms and the terms of any Purchase Order issued by the Buyer, the Buyer agrees that the MMI Terms shall govern. All Purchase Orders are subject to written acceptance by MMI.

If any provision of the MMI Terms is held to be unenforceable, then the remaining provisions will remain in full force and effect.

In the case of conflict between the MMI Terms printed on this page and those contained in any written Quotation or other document produced by MMI and relating to the Work, the latter shall control.

QUOTATIONS AND PURCHASE ORDERS

In providing Quotations or responding to Purchase Orders, MMI relies upon the information supplied by Buyer. MMI does not assume responsibility for the accuracy of the Buyer's designs, drawings, calculations, or specifications. When a Quotation or Purchase Order specifies material to be furnished by Buyer, ample allowance must be made by Buyer for reasonable spoilage, and material must be of suitable quality to facilitate efficient production.

Any additional engineering/design information, alterations of specifications, and/or design or shop drawings changed or submitted after the Quotation is issued or Purchase Order accepted by MMI, shall entitle MMI to terminate the contract, or alternatively, to condition MMI's performance on changes in the contract terms.

Lead-times specified for the Work begin upon MMI's written acceptance of a Purchase Order or upon MMI's receipt of written acceptance of MMI's Quotation by Buyer, receipt of fully detailed and approved drawings and specifications, and a down payment, if specified. Quoted lead-times are approximate only, are not guaranteed, and shipment will be made within reasonable proximity to estimated date.

PRICING

Pricing set forth in a Quotation will be valid for thirty (30) days unless a different term is stated in the Quotation. MMI retains the right to adjust the price, upon notice to Buyer, in the event of significant changes in design or labor and material costs or outside contract services.

Any notice or instruction from the Buyer received subsequent to a confirming Purchase Order which has the effect of changing the specifications, scope of work, or other terms, will be effective only upon acceptance of any such change by MMI in writing and an appropriate adjustment in the price and/or delivery date.

All prices are quoted as U.S. dollars, and are F.O.B. MMI's Midland, Michigan, facility. Prices are exclusive of, and Buyer agrees to pay, any applicable federal, state, local, or foreign sales or use taxes, tariffs, customs, duties, and other governmental charges, and shipping charges. Buyer will supply appropriate tax exemption forms, if applicable.

The prices and terms in a Quotation or accepted Purchase Order are not subject to verbal changes or other agreements, and can be changed only in writing by an authorized representative of MMI.

PAYMENT TERMS/TAXES

Buyer agrees to pay to MMI the purchase price for the products and/or the services constituting the Work. In the event MMI is required to bill or pay any tax, fee, or charge in addition to the quoted price, the Buyer shall reimburse MMI or submit an exemption certificate or other document acceptable to the authority imposing such tax, fee, or charge.

Payment shall be made in U.S. dollars by cash, check issued from a United States bank, wire transfer or credit card (Visa, MasterCard, or Discover). New customers must submit credit application information along with a Purchase Order or written authorization to proceed with order. Wire transfer instructions can be obtained from MMI; any wire transfer charges are at Buyer's expense.

If Buyer is approved for credit, MMI standard payment terms are: payment due on receipt, net 30 days from date of Invoice, without discount. The amount of credit or terms of payment may be changed, or credit withdrawn by MMI at any time.

Payment terms may include a percentage of the total price to be paid at time of order placement.

If product is delivered in installments, Buyer shall pay separately for each installment. Payment shall be made for the product without regard to whether Buyer has made or may make any inspection of the product.

If shipment(s) are delayed by Buyer, payments are due from the date when MMI is prepared to make shipment(s). If Buyer is unable to make payment, product will not be released. Any product held for non-payment, awaiting additional information from Buyer, or awaiting Buyer's selected carrier for delivery, are at Buyer's risk and expense and may be subject to additional fees (see Delivery/Delay/Storage/Cancellation).

Any amount not paid by due date will be subject to a late payment charge at a rate equal to the lesser of 1.5% per month or the maximum rate allowed by law.

WARRANTY/INSPECTION/CLAIMS

MMI warrants to the Buyer, and to the Buyer only, that Work is manufactured in conformance to the drawings and/or specifications furnished and/or approved by Buyer. Buyer must inspect all product immediately upon receipt and must notify MMI in writing within ten (10) days after

receipt of any apparent defect, shortage, or other failure to conform to the contract requirements, or the products shipped will be deemed to meet all product specifications. If Buyer notifies MMI of an apparent failure to meet product specification within the prescribed period, and it is proved to MMI's satisfaction that the product is defective or nonconforming, Buyer's sole and exclusive remedy is repair or replacement of the rejected product or credit against purchase price for same, at MMI's sole discretion. In no event will MMI be responsible for indirect, consequential, or resulting damages.

This warranty does not apply to any product which has been repaired or altered outside MMI's control in any way that, in MMI's judgment, affects its conformance to drawings and/or specifications used for manufacture, or has been subjected to misuse, negligence, or accident. Components of the product manufactured by others are subject to the original manufacturer's warranty.

The above warranties are the only warranties made by MMI with respect to the Work, including any product or services provided as part of the Work. MMI disclaims all other warranties, express or implied, as to any matter whatsoever, including without limitation description, quality, design, performance, specifications, condition, merchantability, and fitness for any particular purpose. MMI has made no affirmation of fact and has made no promise relating to the Work which has been part of the basis of the bargain made or has created or amounted to an express warranty that the Work would conform to any such affirmation or promise. Buyer acknowledges that Buyer is not relying on MMI's skill or judgment to select or furnish Work for any particular purpose.

DELIVERY/DELAY/STORAGE/CANCELLATION

Delivery will be F.O.B. the MMI facility in Midland, Michigan. MMI will ship using best way option and will invoice Buyer for shipping/handling/freight separate from agreed-to purchase price. The Buyer assumes title of the Work and owns the Work while in transit, and Buyer must file all freight claims. Buyer hereby grants MMI a purchase-money security interest in all products to secure payment of the purchase price and any other charges due to MMI.

'Ship to' instructions must be displayed prominently on the Purchase Order or on other written authorization. If Buyer requests a specific shipping carrier, all valid Buyer billing account information for the carrier must be included on the Purchase Order and is subject to MMI approval.

For International orders, Buyer is responsible for supplying shipping instructions and Buyer's account information. All duties, taxes, brokerage fees, other fees, and shipping costs are the responsibility of the Buyer. An International MMI Processing Fee may apply and will be included on the Quotation. Buyer will comply with all export control laws of the United States and other jurisdictions as they may apply to the Work.

Buyer may cancel all (or any portion) of an order for Work at any time. However, cancellation of an order is subject to MMI's prior written approval, and Buyer will be responsible for all expenses incurred prior to cancellation plus a cancellation charge of fifteen percent (15%) of the purchase price. MMI will make an attempt to return to suppliers any special ordered material, and in the event that MMI is unable to do this or if there is a restocking fee assessed, these charges will be paid by Buyer.

If shipment(s) is delayed by Buyer, or Buyer cannot take possession due to non-payment, Buyer will be subject to a storage/handling fee at prevailing commercial rates from Work finish date and Buyer assumes all risk from Work finish date.

In the event of *force majeure* events or other circumstances outside the control of MMI, the dates for performance by MMI will be extended for a reasonable period of time after resolution of the intervening event or events.

APPLICABLE LAW AND FORUM

These MMI Standard Terms and Conditions and all transactions hereunder will be governed by the laws of the State of Michigan, without regard to principles of conflict of laws. The state and federal courts having jurisdiction in Midland County, Michigan shall be a proper forum for any litigation between MMI and Buyer; Buyer consents to such jurisdiction, and waives any argument of inconvenient forum. Buyer shall reimburse MMI for all costs and expenses, including reasonable attorneys' fees and costs incurred in connection with MMI's enforcement of its rights hereunder including any expenses in connection with the collection of any delinquent sums owing hereunder.

ADDITIONAL TERMS

Any notice given by MMI or by Buyer shall be effective when personally delivered, when delivered by national courier service, or three days after mailing by certified mail. The addresses for MMI and Buyer shall be as indicated in the Quotation or Purchase Order, or at a changed address made known to the party giving notice. The MMI Terms are for the sole benefit of Buyer and MMI, and no third party shall be deemed in any way to be a beneficiary of such terms. The failure of MMI to require strict conformance to the MMI Terms on one or more occasions shall not constitute a waiver unless expressed as such by MMI in writing, and MMI may later require strict compliance with the MMI Terms. Electronic signatures, and/or electronic or facsimile images of signatures, shall be binding to the same extent as original signatures on Quotations, Purchase Orders, and other documents and communications between the parties.

In the event of a dispute between MMI and Buyer, the parties shall participate in non-binding mediation before the commencement of litigation. Either party may demand non-binding mediation by written notice, specifying the matters in dispute, and proposing a mediator. The party receiving the notice shall be deemed to accept the proposed mediator unless that party responds within ten days, and proposes an alternative mediator. If an alternative mediator is timely proposed, then within ten days after the date of the counter-proposal the parties shall agree on the mediator. If no agreement is reached, then the two proposed mediators shall designate a third mediator, who shall mediate the matter. Each party shall pay one-half of the mediator's costs and fees, and the mediation shall take place in Midland County, Michigan. Either party may commence litigation only after the mediator certifies that the parties have been unable to reach agreement. If a party commences litigation prior to completion of the foregoing mediation procedure, the litigation shall be dismissed and the responding party shall be entitled to recover its costs and attorney fees actually incurred. Provided, however, that either party may initiate proceedings for injunctive relief, intended solely to preserve the status quo, without violating this provision.