

**MICOR INDUSTRIES, LLC**  
**STANDARD TERMS AND CONDITIONS**  
**FOR ITS PURCHASE ORDERS**

**ENTIRE AGREEMENT:** All Micor Industries, LLC ("Micor") Purchase Orders, when issued by Micor and accepted by Seller, shall be the entire agreement of the parties relating to the good(s) or service(s) ordered and shall supersede any other agreement whether written or oral. SELLER'S ACCEPTANCE OF MICOR'S PURCHASE ORDER IS EXPRESSLY CONDITIONED UPON SELLER'S ACCEPTANCE OF MICOR'S TERMS AND CONDITIONS STATED ON THE FACE OF MICOR'S PURCHASE ORDER AND MICOR'S STANDARD TERMS AND CONDITIONS FOR ITS PURCHASE ORDERS, AS CONTAINED IN THIS DOCUMENT. DIFFERENT OR ADDITIONAL TERMS IN SELLER'S OFFER OR QUOTE, SELLER'S RESPONSES, ANY CHANGE ORDER RELATED TO MICOR'S PURCHASE ORDER, ANY INVOICES, OR ANY OTHER DOCUMENT GENERATED BY SELLER TO MICOR, ARE HEREBY REJECTED AND NO PRIOR OR SUBSEQUENT CONDUCT OF MICOR SHALL BE DEEMED TO BE AN ACCEPTANCE OF DIFFERENT OR ADDITIONAL TERMS. No modification of the agreement shall be valid unless in writing and signed by each of the parties, however THE TERMS AND CONDITIONS CONTAINED IN THIS DOCUMENT SHALL NOT BE MODIFIED UNLESS CHANGES ARE MADE IN WRITING UPON A PRINTED VERSION OF THIS DOCUMENT, WITH SUCH CHANGES INITIALED AND WITH THE DOCUMENT SIGNED BY EACH OF THE PARTIES.

**ACCEPTANCE OF OFFER:** Micor's Purchase Order constitutes an offer by Micor to Seller. Any documentation generated prior to Micor's Purchase Order constituting an offer from Seller upon the subject of Micor's Purchase Order is specifically rejected. Seller may accept Micor's Purchase Order/offer: (1) in writing; (2) by delivery of all or part of the good(s) or service(s) specified herein; or (3) by accepting payment from Micor for all or part of the good(s) or service(s) specified herein, but no matter the form of Seller's acceptance, such acceptance is expressly conditioned upon acceptance of Micor's specific terms and conditions as contained in the Purchase Order and in this document.

**WARRANTIES:** Seller warrants that it has absolute title and full right to transfer good and merchantable title to all good(s) and service(s) delivered or provided hereunder; that the good(s) are now and at the time of delivery shall be free of any security interest, lien or encumbrance; and that all good(s) and service(s) provided hereunder shall strictly conform to the descriptions and specifications set forth or referred to herein, shall be new and shall be of merchantable quality for the industry, shall be free from defects in workmanship, material and design, and shall be fit for the purpose intended and shall perform the required functions in a manner satisfactory to Micor. Such warranties shall extend for a period not less than one (1) year or for any longer period as the Seller or manufacturer of the good(s) normally provides. Seller agrees to protect and hold Micor harmless from any loss or claim arising out of Seller's failure to comply with the foregoing warranties.

**INSPECTION:** Micor reserves the right of inspection prior to final acceptance and such inspection and acceptance shall be at Micor's premises by Micor. Micor may inspect goods at Seller's plant but inspection by Micor prior to delivery does not relieve Seller from responsibility of furnishing goods in strict compliance with specifications, nor preclude Micor's subsequent rejection if the good(s) fail to comply with Seller's warranties. At Micor's election, it may correct any non-conforming good(s) and service(s) at Seller's expense, replace any non-conforming or rejected goods if adequate assurances are not timely provided, hold any non-conforming or rejected good(s) at Seller's risk to cover, and/or return any rejected and non-conforming good(s) to Seller at Seller's expense. Payment by Micor shall not be construed as constituting acceptance of good(s) or service(s) if these fail to comply with Seller's warranties. Inspection may involve sampling or testing, and Micor's acknowledgment of delivery does not constitute final acceptance hereunder.

**DELIVERY:** Unless otherwise agreed by the parties, in writing, each package shall be numbered and labeled by Seller with Micor's Purchase Order number, part number, contents and weight, shall contain an itemized packing slip and shall be properly packed for shipment. Invoices must accurately reflect price and quantity and show terms of payment and delivery. Bills of lading, express receipts, invoices, etc. must be sent forward on the day shipment is made and all shipments must be made in the name of the Seller. Delivery shall be made F.O.B. Micor's premises unless otherwise specified by Micor. Notwithstanding any agreement to pay freight, express or other transportation charges, the risk of loss or damage in transit shall be upon Seller. Title shall pass to Micor on delivery of the conforming good(s) to Micor's premises. Delivery shall not be complete until the good(s) have been actually received, inspected, tested and accepted by Micor as provided in this Agreement. **TIME IS OF THE ESSENCE IN CONNECTION WITH DELIVERY HEREUNDER.** If any good(s) or service(s) are not delivered within the time specified in the Purchase Order or within a reasonable time, if no time is so specified, or if Seller is not in compliance with any schedule or timetable developed hereunder, Micor, in addition to other remedies, shall have the right to refuse acceptance of such good(s) or service(s) and/or terminate the Purchase Order.

**TERMINATION:** Micor may terminate the Purchase Order for any reason at any time in whole or part as to undelivered good(s) or as to unperformed service(s), including but not limited to any default in the terms of the Purchase Order by Seller or Seller's subcontractors at any tier ("Seller's Default"). Upon a termination of the Purchase Order by Micor for Seller's Default, in addition to any other remedies available, Micor may procure upon such terms as it deems appropriate goods or services similar to those so terminated and recover the increase in the cost of procuring such goods or services from Seller. The rights and remedies of Micor provided this article shall not be exclusive and are in addition to any other rights or remedies provided by law or under the Purchase Order. In event of termination, provided Seller is not in default as to any requirement hereunder and excluding termination for late delivery or noncompliance with scheduling, Micor and Seller will negotiate an equitable

settlement of the terminated portion of the Purchase Order, which settlement shall consist only of Seller's actual costs to the date of termination, including an allowance for obsolescence, rework or scrappage, if any, but only for work in process within Seller's normal manufacturing cycle required to meet the delivery schedule, plus a reasonable profit thereon, less any value thereof to Seller. In no event shall such settlement exceed the amount which would have been payable hereunder for such terminated portion had the Purchase Order been completed by the Seller.

**MICOR'S INFORMATION/CONFIDENTIALITY:** Any specifications, drawings, sketches, models, samples, patterns, dies or other tools, technical information or data, written, oral or otherwise (all hereinafter called "Information"), furnished to or left with Seller by Micor in contemplation hereof or in connection herewith shall be and remain Micor's property and shall be kept confidential by Seller. All copies of such Information in written, graphic, or other form upon completion of performance under the Purchase Order by Seller shall be returned to Micor unless directed otherwise by Micor, in which case Seller shall follow Micor's directions with respect to the destruction of such Information and upon such destruction Seller shall confirm that fact to Micor in writing.

**INFRINGEMENT OF PATENTS, PROPRIETARY INFORMATION, TRADE-MARKS OR COPYRIGHTS:** Seller shall indemnify and hold harmless Micor, its customers and agents, for any costs, loss, damage, expense, or liability including, but not limited to, attorney's fees and costs of litigation that may result by reason of any claim, suit, action or proceeding by reason of alleged infringement of any patent, proprietary information, design, appearance, trademark or copyright or alleged unfair competition based on the manufacture, use, sale, delivery or disposal of the good(s) furnished under the Purchase Order, as well as for the cost of replacing such good(s).

**INDEMNITY:** To the fullest extent permitted by law, and without limiting any other rights or remedies, Seller agrees to indemnify and hold Micor harmless from any and all costs, loss, damage, claims and liability, including but not limited to all costs, expenses, attorney's fees and costs of litigation, regardless of the nature thereof or person asserting such claim and despite the sole or concurrent or gross negligence of Micor, caused by, incident to or resulting from the good(s) or service(s) supplied pursuant to the Purchase Order, or arising from or related to any acts or failure to act, in whole or in part, of Seller, its agents or employees, in the performance of any aspect of the Purchase Order.

**NON-WAIVER:** The failure of Micor to insist upon strict performance of any term or condition herein shall not be deemed to be a waiver of any rights or remedies that Micor shall have and shall not be deemed to be a waiver of any subsequent default of such term or condition by Seller.

**COMPLIANCE WITH LAWS:** Seller warrants its compliance with all applicable federal, state and local laws and regulations in the performance of the Purchase Order. Without limiting the foregoing, Seller warrants and agrees to certify on the face of all invoices, if requested, (1) its compliance in the performance of the Purchase Order with the Fair Labor Standards Act of 1938, as amended, and all negotiations and orders thereunder; (2) the regulations of standards relating to pricing of products of any federal or state agency or price commission; (3) all requirements of the Federal Occupational Safety and Health Act of 1970, as amended, and all regulations and rules thereunder; (4) the provisions of 29 CFR Part 470; and (5) any and all other federal and state laws, orders or regulations applicable to goods or services hereunder.

**INSOLVENCY:** Micor may forthwith cancel the Purchase Order or any contract resulting from the acceptance of the Purchase Order in the event of the happening of any of the following or of any other comparable event: insolvency of Seller, the admission in writing by Seller of the inability to pay its debts; the filing by Seller of a voluntary petition in bankruptcy; the entry of any order for relief in an involuntary bankruptcy case against the Seller; the appointment of a receiver or trustee for Seller; or the execution by Seller of an assignment of substantially all its assets for the benefit of creditors.

**ENVIRONMENTAL/SAFETY INDEMNITY:** Seller agrees to comply with all environmental laws, ordinances, rules, regulations, orders and decisions issued by any federal, state or local body or agency relating to Seller's providing any good(s) and/or service(s) pursuant to the Purchase Order. Seller shall indemnify and hold Micor harmless from any claims or liabilities arising from any noncompliance by Seller with any such laws, ordinances, rules, regulations, orders or decisions. If applicable or unless otherwise waived by Micor, Seller shall supply to all of its employees, sub-contracted personnel, and independent contractors performing work or services on Micor's premises (excepting Micor's Administration facility) such personal protective equipment as Micor requires. In addition, Seller shall supervise and be responsible for ensuring that all employee, sub-contracted personnel, and independent contractors wear the required items of personal protective equipment at all times while on Micor's premises or Micor's client's premises.

**APPLICABLE LAW/REMEDIES:** The Purchase Order shall be governed by the laws of the State of Alabama, without regard to such state's principles of conflicts of laws. Jurisdiction and Venue for any cause of action between the parties shall lie exclusively in the Circuit Court of Morgan County, Alabama, and neither party shall have a right to bring or remove any action in or to any Federal Court. In the event any action between the parties is brought or removed to Federal Court, this exclusive venue clause shall be contractually controlling, and upon motion to transfer or remand by Micor, the Federal Court shall transfer or remand the action to the Circuit Court of Morgan County, Alabama despite any objection or opposition by Seller to such transfer or remand. Reference to specific remedies of Micor herein does not exclude other available remedies of Micor.

**EQUAL EMPLOYMENT OPPORTUNITY:** The non-discrimination clauses contained in Section 202 of Executive Order 11246 as amended, pertaining to equal employment opportunity for all persons, are incorporated

herein. The affirmative action clauses pertaining to employment of the handicapped contained in 41 C.F.R. 60-741.4 issued under Section 503 of the Rehabilitation Act of 1973, as amended, are incorporated herein. The affirmative action clauses pertaining to employment of disabled veterans and veterans of Vietnam Era contained in 41 C.F.R. 60-250.4, issued under the Vietnam Era Veterans Readjustment Assistance Act of 1974, are incorporated herein. The Americans with Disabilities Act of 1990, as amended, is incorporated herein.

**PRICES:** Prices of good(s) or service(s) covered by the Purchase Order shall not be increased except with the prior written consent of Micor. Micor shall be entitled to and protected against declining prices on any undelivered portion of the Purchase Order. Seller may elect to meet price reductions of other vendors or its own lower prices to other purchasers, but if Seller should refuse to do so, Micor shall have the right to cancel any undelivered portion of the Purchase Order without cost to Micor.

**ASSIGNMENT:** Seller shall not assign its right or delegate its performance, in whole or in part, under the Purchase Order without the prior written consent of Micor and any attempted assignment thereof without such written consent shall be totally void.

**SEVERABILITY:** If any provision of the Purchase Order is determined by a court of competent jurisdiction to be unenforceable, such provision shall be reformed and construed so as to be valid, operative, and enforceable to the maximum extent permitted by law or equity while preserving its original intent. The invalidity of all or part of the Purchase Order shall not render invalid the remainder of the Purchase Order.

**CERTIFICATES:** Seller shall furnish to Micor any certificate required to be furnished by any provision of the Purchase Order, and any certificate required by any future law, ordinance, or regulation with respect to Seller's compliance with the terms and provisions of such laws, ordinances, or regulations. As used in this article, the word "Certificate" shall include any plan or course of action or record keeping function.

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