



## Procurement Terms and Conditions

1. DELIVERY. MIC Group production schedules are based upon the agreement that materials will be delivered to the company by the date specified on the face of this contract. If deliveries are not made at the time agreed upon, the Buyer reserves the right to cancel or to acquire the services elsewhere. .
2. INSPECTION. All materials provided by MIC Group for the services to be provided by Seller are subject to Inspection and rejection upon receipt. Such materials may be tested to determine compliance with contract. If any services provided by Seller are defective or not in conformity with the contract, Buyer may reject such defective or non-conforming materials, require correction, or accept them with an equitable adjustment in price. Payment prior to inspection shall not constitute waiver of any rights hereunder. Acknowledgement of receipt on packing slips or bills of lading shall not constitute acceptance. Materials rejected or not conforming to this contract shall be returned at the Seller's expense, including transportation and handling costs.
3. CHANGES. Buyer may at any time by written change order make changes in the services to be furnished hereunder or their quantities or delivery dates. If the cost of, or time required for, furnishing the services ordered hereby is increased or decreased as a result of such change order, an equitable adjustment in the contract price and/or delivery schedule will be made in the change order. If a price and/or delivery adjustment is not included in the change order, no increase in price or delay in delivery will be allowed.
4. WARRANTY. Seller warrants that all services provided under this contract will be free from defects in workmanship, and will conform to applicable specifications, drawing, samples or other descriptions as provided by the Buyer. Seller further expressly warrants that all services performed under this contract will be free from defects in workmanship. These warranties shall remain in effect as to the services provided by Seller hereunder, for a period of time consistent with the warranty life normally offered by the Seller, which shall not exceed a period of time equal to one (1) year from the date services were rendered by the Seller. All warranties shall be construed as conditions as well as warranties and shall not be deemed to be exclusive.
5. INDEMNIFICATION. Seller shall indemnify Buyer from any and all losses, claims, damages, expenses, or liabilities of any kind suffered by Buyer as a direct result of the services provided by Seller hereunder, subject to the provisions of paragraph 6 below.
6. Buyer's exclusive remedy against Seller and limitation of liability. BUYER'S EXCLUSIVE REMEDY AGAINST SELLER FOR ANY SUIT OR CLAIM ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS CONTRACT, WHETHER FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, INDEMNIFICATION, CONTRIBUTION OR OTHERWISE, IS LIMITED TO AND WILL NOT, IN THE AGGREGATE, EXCEED THE PRICE PAID FOR THE SERVICES BY BUYER TO SELLER FOR THE SERVICES PROVIDED HEREUNDER. IN ADDITION, IN NO EVENT SHALL SELLER BE RESPONSIBLE OR LIABLE FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL OR INDIRECT DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST REVENUE OR PROFIT, BUSINESS INTERRUPTION, DOWNTIME, LOSS OF CAPITAL, ETC.) WHETHER BY ACTION FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, INDEMNIFICATION, CONTRIBUTION OR OTHERWISE.



## Procurement Terms and Conditions

7. **PATENTS.** Seller agrees to save Buyer, its customers, and agents harmless from any loss, damage, or liability on account of any alleged infringement of any patent with respect to the services provided under contract provided that such services are not provided pursuant to Buyer's design. Seller also agrees that it will, at its own expense, defend any action, suit or claim in which infringement is alleged as a result of the services provided hereunder, provided Seller is timely notified as to such suit. .
8. **WAIVER OR AMENDMENT.** A waiver by Buyer of any at the terms and conditions of this contract shall not constitute a waiver of any similar provision or other such breach. This contract shall not be deemed or construed to be modified, amended, rescinded, cancelled, or waived in whole or in part, except by written change order hereto signed by a Buyer's authorized representative.
9. **SHIPPING.** All articles are to be suitably prepared and packed for shipping to prevent damage and shall be shipped pursuant to the specific routing instructions on the face of this purchase order. All packages, packing slips and invoices shall be plainly marked to show Buyer's order number. All invoices shall be sent to Buyer's Accounts Payable Department.
10. **PROPRIETARY INFORMATION.** Seller agrees that all information contained in drawings, specifications, or other written communication which are submitted by Buyer to Seller under or pursuant to this contract is proprietary to Buyer and is submitted with the understanding and agreement by Seller that such Information shall not be utilized in whole or in part by Seller, except for fulfillment of this contract, without prior written permission of Buyer.
11. **INFORMATION PROPRIETARY TO SELLER.** Any information which is proprietary to Seller and which is disclosed in the products or documents furnished by Seller hereunder shall be deemed to have been disclosed as a part at the consideration for this contract and the Buyer shall have full right to its use as Buyer sees fit.
12. **COMPLIANCE WITH APPLICABLE LAWS.** Seller certifies that all of the services to be furnished hereunder will be supplied by Seller in accordance with all applicable provisions and stipulations as of this date, of the Walsh-Healy Act, Fair Labor Standards Act. Occupations Safety and Health Act of 1970, Equal Employment Opportunity Provisions and Executive Orders, or any other federal, state, or local law, wherein such acts, provisions, and orders may be applicable, including but not limit to specifically set forth OSHA standards.
13. **ASSIGNMENT.** Seller may not assign either its rights or obligations under this contract without prior written consent of Buyer.
14. **TERMINATION.** Buyer reserves the right to terminate this contract, or any part hereof, and to cancel all or any part of the undelivered portion of this contract if Seller does not make deliveries as provided in this contract, or, if Seller breaches any of the terms hereof, including warranties. Seller agrees that any delay in delivery or other failure to perform, resulting from Seller's failure to comply with the provisions of the Occupational Safety and Health Act of 1970 and the standards and regulations issued hereunder, shall not be deemed an excusable delay or otherwise excuse Seller from performance as

## Procurement Terms and Conditions

- required. Buyer shall also have the right to terminate this contract or any part thereof, and cancel all or any part of the undelivered portion in the event of the happening of any of the following: insolvency of Seller, filing of a voluntary petition in bankruptcy, filing of an involuntary petition to have Seller declared bankrupt provided it is not vacated within thirty (30) days from the date of such filing, or the execution by Seller of any assignment for the benefit of creditors. Buyer shall have no obligations to Seller in respect of the cancelled portion of this contract and Buyer's liability shall be limited to payment for the portion of actual services provided under this contract at the rate specified on the face hereof (reflecting prices as though this contract had gone to full completion). If, as a result of default of performance by the Seller, this contract is terminated in whole or in part and it is necessary to procure any of the specified services elsewhere, then Seller will be liable for any re-procurement charges which exceed the amount which would have been due the Seller if Seller had satisfactorily completed this contract. These remedies shall be cumulative in addition to any other or further remedies provided in law or equity; provided, however, all such remedies are subject to the limitations set forth in paragraph 6 hereof.
15. Buyer may, for its convenience, terminate work under this contract, in whole or in part, at any time by giving notice to Seller in writing. Seller will thereupon immediately stop work on the contract or the terminated portion thereof and notify any subcontractors to do likewise; Seller shall be entitled to reimbursement for its actual costs incurred up to and including the date of termination, such costs to be determined in accordance with recognized accounting principles. Seller shall also be entitled to a reasonable profit on the work done prior to such termination at a rate not exceeding the rate used in establishing the original price. The total of such claim shall not exceed the pro rata of this contract which is cancelled.
  16. ACCEPTANCE. Unless otherwise provided herein, Seller's acknowledgement of this contract or commencement of any work or performance of any services hereunder shall constitute acceptance by Seller of this contract and all of its terms and conditions. No terms or conditions stated by Seller in acknowledging or otherwise accepting this contract shall be binding upon Buyer unless specifically accepted in writing by Buyer.
  17. GOVERNING LAW. This agreement shall be governed by and interpreted in accordance with the laws of the State of Texas.
  18. PAYMENT TERMS. Shall be governed by the Purchase Order. It is understood that any cash discount period will date from the receipt of the goods, or from the receipt of the invoice, whichever is later.
  19. COSTS. The Seller and Buyer hereby agree to reimburse the prevailing party for all costs and expenses (including reasonable attorney's fees) incurred in connection with any legal proceeding commenced hereunder or otherwise arising out of this contract or its enforcement.
  20. SEVERABILITY. Any provision of this contract which is prohibited or unenforceable in any jurisdiction shall, as to such provision and such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this contract. .



## Procurement Terms and Conditions

21. HEADINGS. The headings herein are for convenience only and do not define or limit the provisions hereof.