

Machine Sciences Corporation

Purchase Order Terms & Conditions, SLP-011.F2 Rev A

1. ORDER: Unless otherwise expressly provided herein, this purchase order ("order") constitutes the entire contract between the seller named on the face hereof ("seller") and Machine Sciences Corporation, Inc. ("buyer") covering the goods and related services ("goods") described herein. Any provisions in any acknowledgment form or other document prepared by seller which vary from or are additional to the provisions of this order shall not bind buyer unless buyer expressly assents thereto in writing. Seller's acceptance of this order will be presumed unless seller acknowledges exceptions in writing within fifteen (15) days after the date of this order. Any shipment or partial shipment of the goods by seller shall be deemed to be an acceptance of this order. In the event of any inconsistency between the terms of this order and any purported acceptance by seller, the terms of this order shall prevail. To the extent this order is deemed an acceptance of a previous offer by seller, any such acceptance is expressly conditioned on assent by seller to the terms of this order.

2. INSPECTION AND ACCEPTANCE: Buyer may inspect and test the goods at any time at the place of manufacture, prior to shipment or upon receipt or at such time or place as it shall choose, notwithstanding its having paid for the goods prior to inspection. Goods shall also be subject to final inspection and acceptance at buyer's facility. Payment for items ordered hereunder shall not constitute acceptance. No acceptance by buyer shall be effective with respect to latent defects. The process of inspection shall not be deemed to constitute acceptance of the goods nor shall it be deemed a waiver of any of buyer's rights and remedies hereunder. Failure to inspect the goods shall not be deemed to constitute: (a) Acceptance of any defective or nonconforming goods; or (b) Waiver of any of buyer's rights or remedies arising by virtue of any defect or nonconformance.

3. PAYMENT: Invoices shall be submitted in duplicate and shall contain the following information: purchase order number, item number, description of items, quantities, unit price, extended totals, and seller's packing slip number, in addition to any other information specified elsewhere herein. Bills of lading, express receipts, or other proof of delivery shall be furnished upon request. Payments of invoices shall be subject to adjustment for errors, shortages, defects in goods, or other failure of seller to meet the requirements of the order. Buyer may at any time set off any amount owed to seller or any of its affiliated companies. Unless otherwise specified in this order, payment shall be net forty five (45) days after, and any applicable early payment discount shall be calculated from, the last to occur of: (a) Receipt of the goods by buyer at the point of delivery specified in or pursuant to section 10 hereof, or (b) Receipt by buyer of seller's invoice acceptable to buyer. Any packing, storage, transportation or delivery charges prepaid or payable by buyer shall be separately stated on seller's invoice.

4. PRICE: Seller warrants that the price charged for the goods ordered herein are not less favorable than those currently extended by seller to its other customers buying the same or similar goods in equal or smaller quantities under similar circumstances. If, before delivery of the goods, seller reduces the prices for like goods to one or more of its customers for similar quantities of goods of like quality, then the prices specified in this order shall be likewise reduced and seller shall promptly grant buyer a corresponding price reduction or account credit for the amount of the price reduction for each unit of affected goods obtained from seller which is in buyer's inventory on the effective date of the price reduction. No extra charges of any kind, including charges for packing or cartage, will be allowed unless specifically agreed to by buyer in writing in advance. If price terms are omitted from the face of this order the price of the goods shall be the lower of: (a) The price last quoted by seller; (b) The last price paid by buyer to seller for like goods; or (c) The prevailing market price at the time of shipment. In the event that seller should increase the price charged for the goods ordered herein prior to the delivery thereof, seller will honor this order at the prices quoted on the face of this order or as provided in this section 4, as applicable.

5. TAXES: Unless otherwise specified, the prices set forth in the order include all acceptable federal, state and local taxes. All such taxes shall be stated separately on seller's invoice.

6. CHANGES; TERMINATION WITHOUT CAUSE: (a) Buyer may at any time make changes in the delivery schedules, shipment methods, place of delivery, designs, quantities, and specifications for the goods ordered hereunder. Buyer may terminate this order in whole or in part at any time and for any reason upon written notice to seller and seller shall immediately stop work and terminate all orders and subcontracts to the extent that they relate to the terminated work upon receipt of such notice and protect all property in which buyer has or may acquire an interest. Seller shall proceed promptly to comply with buyer's direction with respect to each of the foregoing without awaiting settlement or payment of any claim allowable under this section 6. (b) There shall be no charges for canceling orders for standard items. (c) If any change or termination, as described in section 6(a), causes an increase or decrease in the cost of or the time required for performance of this order, the sole and exclusive remedy for seller will be, as applicable: (i) the cost (without profit) of unique work in process for cancelled items; (ii) the cost (without

profit) of paying claims to seller's vendors for such work directly allocable to items cancelled and which cannot be diverted to other customers of seller's vendors; or (iii) an equitable adjustment to the delivery schedule, and the order shall be modified in writing accordingly. No claim by seller for any adjustment hereunder shall be valid unless asserted within fifteen (15) days from date of receipt by seller of the notification of change, provided that such period may be extended upon the written approval of buyer. Seller shall, whenever possible, place such work in process, as described in section 6(c), into inventory and sell it to other customers. In no event shall any claim for nonstandard items exceed the total price quoted for the items cancelled. Upon payment of seller's claim, buyer shall be entitled to all work and materials paid for. Buyer shall have the right to inspect seller's work in process records and to audit all relevant documents prior to paying seller's claim. This section 6 shall be applicable only to a termination for buyer's convenience, without any default on seller's part, and shall not affect or impair any other rights of buyer to terminate this order upon seller's default in the performance hereof.

7. TERMINATION FOR DEFAULT: (a) Buyer may, by written notification, terminate this order in whole or part if seller fails to (i) make delivery of the goods or perform the services within the time specified herein, or within any extension thereof by written change order or amendment; (ii) replace or correct defective goods in accordance with the specifications of this order; or (iii) perform any of the other provisions of this order or so fails to make progress as to endanger performance in accordance with its terms. Buyer is sole judge under such circumstances. (b) If this order is terminated pursuant to this section 7, buyer may procure, upon such terms and in such manner as buyer may deem appropriate, goods similar or substantially similar to those terminated, and seller shall be liable to buyer for any excess cost occasioned buyer thereby, provided that seller shall continue the performance of this order to the extent not terminated. (c) If this order is terminated pursuant to this section 7, buyer, in addition to other rights provided herein or by law, may require seller to transfer title and deliver to buyer, in the manner and to the extent directed by buyer: (i) any completed goods, and (ii) such partially completed goods and/or services (including but not limited to materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights) as seller has produced or acquired for the performance of this order, and seller shall, upon direction of buyer, protect and preserve property as directed in this section 7 which is in the possession of seller. Payment for completed goods and services delivered to and accepted by buyer shall be in an amount agreed upon by seller and buyer (not to exceed the contract price). However, seller's obligation hereunder to carry out buyer's directions as to delivery, protection, and preservation shall not be contingent upon prior agreement as to such amount.

8. TRANSPORTATION AND RISK OF LOSS: (a) Unless otherwise specifically provided on the face of this order, or otherwise agreed to in writing by buyer and seller, deliveries must be made in the quantities and according to the time deadlines specified in this order. (b) Unless buyer provides otherwise in writing, the terms, choice of carrier and routing of shipment shall be F.O.B destination basis to the delivery address designated by buyer. Buyer may revise shipping instructions as to any unshipped goods. (c) When shipment is F.O.B. place of destination, risk of loss shall remain with seller until delivery of the goods to buyer at the named destination, regardless of the point of inspection, if any, and seller shall maintain insurance against loss in transit to such point, and buyer shall not be required to assert any claims against common carriers. (d) Seller shall bear all risk of loss as to properly rejected goods.

9. OVERSHIPMENTS: Buyer will pay only for quantities ordered. Overshipments will be held at seller's risk and expense for a reasonable time awaiting shipping instructions. Return shipping charges for over-shipped quantities will be at seller's expense.

10. PACKAGING, MARKING AND SHIPMENT: Unless otherwise specified, seller shall pack, mark and ship all goods in compliance with all applicable transportation regulations, good commercial practice, and in a manner adequate to insure the safe arrival of the goods at the named destination. An itemized packing list showing this order number, supplier part number and quantity desired shall be included with each shipment and each container shall be marked to show the order number. Seller shall mark all containers with necessary lifting, handling, and shipping information, and with purchase order numbers, date of shipment, and the names of consignee and consignor. No partial or complete delivery shall be made hereunder prior to the date or dates shown unless buyer has given prior written consent.

11. PROMPT DELIVERY OF CONFORMING GOODS: Unless expressly noted on the face of this order, timely delivery of conforming goods in the full quantities specified herein is critical to buyer. Any unauthorized quantity is subject to rejection and return at seller's expense. Seller agrees to exert every reasonable effort, including overtime and premium shipment at seller's expense, to meet the promised delivery date, provided, however that failure of such efforts to achieve prompt delivery of conforming goods shall not relieve seller of liability for such failure. Seller agrees to notify buyer immediately if at any time it appears that the delivery schedule set forth herein may not be

met. Such notification shall include the reasons for possible delays, steps being taken to remedy such problems and a proposed new delivery date.

12. WARRANTY: (a) By accepting this order seller warrants that the goods to be furnished hereunder will be: (i) in full compliance with buyer's specifications, blueprints, drawings and data or seller's samples, if any; (ii) fit for the use intended by buyer; (iii) free from any actual or claimed patent, copyright, trade secret, or trademark infringement. Seller warrants that it has title to the goods; and (iv) free from defects in materials and workmanship and, in the case of services, performed in a workmanlike manner. (b) Seller agrees that the warranties herein contained shall survive acceptance and payment by buyer and shall be in addition to any warranties implied in law or expressly made by seller other than hereunder. (c) The goods, including all parts and components thereof, will be neither used nor reconditioned without the prior written consent of buyer.

13. WAIVER AND MODIFICATION: Buyer's failure to enforce at any time any of the provisions of this order, to exercise any election or option provided herein, or to require at any time performance by seller of any of the provisions hereof, shall in no way be construed to be a waiver of such provisions, nor in any way to affect the validity of this agreement or any part thereof, or the right of buyer thereafter to enforce each and every such provision. To be binding upon buyer, any modification of this order must be in writing and signed by buyer's authorized representative.

14. INSOLVENCY: In the event of the institution of any proceedings by or against either party hereto, whether voluntary or involuntary, under bankruptcy, reorganization or insolvency laws, or in the event of the appointment of a receiver or trustee or a general assignment for the benefit of creditors of either party hereto, buyer shall be entitled to terminate this order without incurring any costs or liability to seller.

15. SUBCONTRACTING: No subcontracting shall be made by seller with any other party for furnishing any of the completed or substantially completed articles, spare parts, or work herein contracted for without buyer's prior written approval.

16. PATENTS, ROYALTIES, AND ENCUMBRANCES: All goods which are the subject of this order shall be free from liability for the payment of royalties, infringement of U.S. or foreign patent rights, copyrights, or other third party intellectual property rights, and mechanics liens or other encumbrances. Seller shall indemnify buyer and buyer's employees, officers, agents and customers and hold them harmless against any costs, expenses, losses, damages or liabilities (including attorneys' fees) incurred because of the actual or alleged infringement of any patent, copyright, or other third party intellectual property rights arising out of, resulting from or relating to the use or sale by buyer or use by buyer's customers of the goods or any component thereof. Buyer shall notify seller of any such claim or demand and seller shall defend any suits or proceedings based thereon. If an injunction issues as a result of any such claim, seller agrees, at its expense, to either: (i) procure for buyer the right to continue using and distributing the goods, as applicable; (ii) replace such goods with non-infringing goods, having the same functionality, operating characteristics, compatibility and interoperability as the goods that are replaced; (iii) modify the goods so that they become non-infringing; or (iv) at buyer's option, refund to buyer the amount paid for the goods.

17. COMPLIANCE WITH LAWS: Seller warrants that no law, rule, regulation, or ordinance of the united states, any state, or any other governmental agency including but not limited to OSHA, the fair labor standards act and executive order 11246, as amended, will be violated in the manufacture or sales of goods or in the performance of services covered in this order, and seller will indemnify, defend and hold buyer harmless from loss, cost, and damages as a result of any such actual or alleged violation. In addition, seller shall procure, maintain and pay for adequate workers' compensation coverage, including employer's liability covering its employees. Seller shall provide buyer with all appropriate documentation with respect to all hazardous materials shipped pursuant to this order, and shall comply with all applicable laws affecting any such shipment.

18. INSURANCE: Seller agrees to procure, maintain, and pay and shall require its subcontractors at all times to maintain insurance for comprehensive product liability, property damage and general liability including blanket contractual coverage insuring claims resulting from the indemnification of buyer required by this order and shall maintain proper worker's compensation insurance covering all employees performing obligations under this order. Upon request of buyer, seller shall furnish to buyer certificates of insurance and any other documents for the purpose of verifying seller's compliance with this section 18.

19. GRATUITIES: Seller warrants that it has not offered or given and will not offer or give to any employee, agent, or representative of buyer any gratuity with a view towards securing any business from buyer or influencing such person with respect to the terms, conditions, or performance of any contract with or order from buyer.

20. NON-DISCLOSURE OF CONFIDENTIAL INFORMATION: Without buyer's prior written authorization, seller shall not disclose to any person, drawings, specifications, technical information or other data furnished by buyer to seller or developed for seller by buyer, in connection with this order nor any other information pertaining to buyer's affairs, particularly buyer's engineering developments and/or marketing plans, except as is necessary for seller to furnish the goods pursuant to this order. Upon termination of this order, seller shall return to buyer all drawings, blueprints, descriptions and other documents, including copies, which include all such technical information and other data supplied to seller by buyer. Nothing in this section 20 shall restrict seller's right to use or disclose drawings, specifications, technical information and other data which are or become generally known to the public without breach of this section 20 by the seller or which are rightfully obtained from other sources.

21. ASSIGNMENTS: Neither this order nor any interest therein, except the right to receive payment from buyer, may be assigned by seller without the prior written consent of buyer. No assignment of the right to receive payment shall affect buyer's right of setoff against seller nor shall such assignment be binding on buyer unless and until buyer receives an executed copy of the assignment and each invoice to be paid to the assignee is clearly marked to show such assignment. This order shall bind and inure to the benefit of buyer's assigns and successors, including, without limitation, any entity with which or into which buyer shall merge or consolidate.

22. DESIGNS, TOOLS AND MATERIALS SUPPLIED BY BUYER: If the goods are to be produced by seller in accordance with designs, drawings or blueprints furnished by buyer, or with the assistance of tools, machinery, or equipment furnished by buyer, or are to incorporate or utilize parts and materials supplied to seller by buyer, seller shall return the same to buyer at the earlier of completion of this order or cancellation of this order unless otherwise expressly instructed by buyer in writing. In addition, seller shall not use the same in the production of materials for any third party or for itself without buyer's express prior written authorization. All such designs, drawings, blueprints, tools, machinery and equipment shall remain buyer's property. Seller shall use such property at its own risk and shall be responsible for all losses of or damage to said property while in seller's custody. Seller shall maintain all such property in good condition and repair and buyer makes no warranties or representations, expressed or implied, of any nature with respect to such property and expressly disclaims the warranties of non-infringement, merchantability, and fitness for a particular purpose. Buyer retains title to said parts and materials, and seller agrees to pay buyer for all such parts and materials lost, damaged or destroyed while not in buyer's immediate custody. Seller shall insure buyer's property and be liable for any loss or damage while buyer's property is in seller's possession or control, ordinary wear and tear excepted.

23. INDEMNIFICATION: Seller hereby agrees to indemnify and hold buyer harmless from and against any and all claims by third parties for property damages, personal injury, death, expenses (including reasonable attorney's fees), economic loss, foregone profits and losses or damages of any kind whatsoever actually or proximately resulting from the failure of the goods to conform to the warranties and representations contained herein.

24. INTELLECTUAL PROPERTY LICENSE: Notwithstanding other conditions stated herein, if seller defaults in the performance of the terms of this order, then seller, as partial consideration for this order and without further cost to buyer, hereby grants to buyer a perpetual, irrevocable, non-exclusive, royalty-free license to reproduce, display, distribute, modify, make, have made, use, sell, offer for sale, and import, any and all products embodying any and all intellectual property rights of the seller, including but not limited to inventions, discoveries and work of authorship made, conceived, or actually reduced to practice, in connection with the performance of this order.

25. APPLICABLE LAW AND VENUE: The parties acknowledge and agree that this order is entered into in Portland, OR and shall in all respects be interpreted, enforced and governed by and under the uniform commercial code and other laws of the state of Oregon applicable to instruments, persons and transactions which have legal contacts and relationships solely with the state of Oregon and the laws of the United States of America. The parties exclude in its entirety the application to this order of the United Nations convention on contracts for the international sale of goods.

26. WARRANTY THAT GOODS ARE OF U.S. ORIGIN: Seller hereby warrants that each of the goods specified by this purchase order are of U.S. origin within the meaning of the customs laws of the united states, as presently interpreted by the u.s. custom service. If seller supplies goods of foreign origin and fails to notify buyer in writing, or notifies buyer incorrectly of the country of origin, whether through negligence or without negligence, seller shall indemnify buyer for all its expenses, duties, penalties, damages, including but not limited to compromise or mitigated settlements, and attorney fees incurred by buyer by such failure to notify or by any incorrect notification.

27. REMEDIES OF BUYER: If seller breaches any terms or conditions of this order, buyer may exercise, singly or in any combination and in any order, all rights and remedies available to the buyer at law or in equity, as well as any

other rights provided for under this order, including, without limitation, the right to, at buyer's option: (a) In the case of defective or nonconforming goods, require seller to promptly repair or replace the goods or any component thereof, and upon seller's failure to or refusal to do so, to repair or replace the same at seller's expense; (b) Refund the purchase price and cost of shipment to buyer; (c) In the case of defective or nonconforming goods, to reject any shipment or delivery or part thereof; (d) Cancel any outstanding deliveries under this order and treat the breach by seller as seller's repudiation of this order; (e) Hold seller liable for all delays or other failures to timely deliver conforming goods in the quantities specified herein regardless of whether such delays or failures arise or result from actions or inactions of seller, third parties or from any other actual or proximate cause, whatever its nature and such liability shall include, without limitation, all consequential, special and contingent damages including losses sustained or anticipated to be sustained by buyer as a result of buyer's inability to meet its contractual obligations to third parties or to enter into contracts with third parties; (f) When conforming goods fail to arrive at the destination and within the time specified by this order, buyer may, but need not, immediately purchase substitutes therefore and seller shall be liable for all damages and expenses resulting from such failure; and (g) Hold seller liable to buyer for all consequential and incidental damages and expenses (including reasonable attorneys' fees) actually or proximately arising from an breach of seller's warranties and representations

28. REMEDIES OF SELLER: IF BUYER IS IN BREACH OF ANY TERMS AND CONDITIONS OF THIS ORDER, SELLER'S EXCLUSIVE REMEDY SHALL BE TO RECOVER THE GOODS OR, IN THE EVENT SAID GOODS HAVE BEEN SOLD BY SELLER OR BUYER TO A THIRD PARTY, TO RECOVER THE PURCHASE PRICE FOR THE GOODS PROVIDED HEREIN LESS THE NET PROCEEDS, IF ANY, RECEIVED BY SELLER FROM SUCH THIRD PARTY. IN NO CASE WILL BUYER BE LIABLE TO SELLER FOR INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES. BUYER'S LIABILITY TO SELLER IN ANY CASE OF DIRECT DAMAGES WILL BE LIMITED TO THE PRICE OF THE AFFECTED GOODS AS DETERMINED BY THE TERMS OF THIS ORDER.

29. GENERAL: (a) Seller shall not, without buyer's prior written consent, make any news release or public announcement concerning this order or the goods which directly or indirectly identifies buyer. (b) Seller's warranties and representations, all proposals, negotiations, representations and communications regarding the transaction contemplated hereby and made prior to the date of this order are incorporated herein. (c) If any of the terms or provisions provided herein are declared invalid or unenforceable by any court or other body, the remaining terms and provisions hereof shall be deemed valid and enforceable to the extent possible. (d) This order and any attachments incorporated or referred to herein constitute the entire agreement between the parties hereto and supersede all prior contemporaneous oral or written understandings, agreements, and representations relating to the subject matter.

30. Counterfeit Parts: Suppliers will be requested to identify themselves as either an OCM, OEM, or as an authorized distributor. This is a requirement per our process. We will facilitate this identification via a supplier survey. We take the selling of counterfeit parts very seriously and we cannot under any circumstances be sold or shipped counterfeit parts.

(a) Definitions for purposes of this contract:

- (i) "Counterfeit parts" are a part, component, module, or assembly whose origin, material, source of manufacture, performance, or characteristics are misrepresented. This could include but is not limited to parts scrapped by the original manufacturer or used parts provided as "new".
- (ii) Machine Sciences Corporation can accept only "authentic" or "genuine" parts from the legitimate source being represented or sold.
- (iii) "Independent Distributor" are those persons, businesses, or firms that are not authorized or franchised by an Original Component Manufacturer (OCM).

Rev	Revision Summary	Author / Date	Approval
A	Original issue	A. DeSantis 12-26-12	DCO 028