



MACRO Industries, Inc. – Terms and Conditions of Purchase

(1) Acceptance of Terms and Conditions - These Terms and Conditions are incorporated into and made a part of each purchase order, release, requisition, work order, shipping instruction, specification and other document, whether expressed in written form, by electronic data interchange, or any other format, relating to goods and/or services to be provided to MACRO Industries, Inc., an Alabama corporation (“**Purchaser**”) by the supplier of such goods and services (“**Seller**”) (such documents inclusive of these Terms and Conditions are collectively referred to as this “**Contract**”). This Contract limits acceptance by Seller to the Terms and Conditions contained herein (these “**Terms and Conditions**”). Except as otherwise agreed to by Purchaser, in the event of a conflict or inconsistency between these Terms and Conditions and any other purchase order, release, requisition, work order, or other document, these Terms and Conditions shall control. Purchaser rejects any additional or different terms, conditions or specifications proposed by Seller, whether stated in Seller’s purchase order, release requisition, work order, or any other document. To the extent the Contract includes, in whole or in part, the performance of services by Seller for Purchaser, these Terms and Conditions shall be read to govern such services by substituting the word “services” for “goods” wherever applicable. Seller acknowledges and agrees that it has read and understands these Terms and Conditions.

(2) Application - The Purchase Order constitutes an offer by Purchaser to purchase products and/or services from Seller in accordance with the Terms and Conditions. The Purchase Order shall be deemed to be accepted on the earlier of Seller issuing written acceptance of the Purchase Order or any act by Seller consistent with fulfilling the Purchase Order, at which point and on which date the Contract shall come into existence. These Terms and Conditions shall apply to the Contract to the exclusion of any terms that Seller seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. No terms or conditions endorsed on, delivered with, or contained in Seller’s quotation, sales conditions, order confirmation or acknowledgement, specification, invoice or other document shall form part of the Contract except to the extent that Purchaser otherwise agrees in writing. All of these Terms and Conditions shall apply to the supply of both products and services except where the application to one or the other is specified.

(3) Price Warranty - Seller warrants that the prices for goods under this Contract are:

(a) not less favorable than those currently extended to any other comparable customer of Seller for the same or substantially similar goods in similar quantities; and

(b) complete and include all applicable taxes, transportation, delivery, packaging, labeling, customs duties, storage, boxing, crating, insurance and other charges, unless otherwise expressly agreed to in writing by Purchaser.

(4) Payment - Seller shall send to Purchaser a detailed invoice referencing the applicable Purchase Order (including the Purchase Order number), packaging note and date of delivery, together with any products or services reference number. The terms of payment shall be as stated on the Purchase Order.

(5) Delivery and Risk of Loss - products and services shall be delivered on the dates, at the rates, and at the places specified in the Purchase Order. Delivery may be direct to Purchaser’s end user, if so specified on the Purchase Order. The Purchaser may reasonably delay or alter delivery dates, rates, or location of delivery by giving Seller prior written notice of said delay or alteration, as applicable. Seller and Purchaser understand and agree the time is of the essence for all deliveries. Seller shall ensure that all products are marked in accordance with the provisions of the Contract and any instructions issued by Purchaser. Seller shall use commercially reasonable efforts to ensure that products reach the places of delivery undamaged and in good condition. Seller shall provide in respect of each shipment of products a packaging note

MACRO

MACRO Industries, Inc. – Terms and Conditions of Purchase

detailing the applicable Purchase Order number, description, code number (if any) and the quantity of products shipped. If Seller fails to deliver in accordance with the Contract, then Purchaser may cancel the Contract or any part of it and reserves all rights in damages and otherwise arising including but not limited to the right to purchase substitute products or services elsewhere and to hold Seller liable for any loss, expense or additional cost incurred. Risk of loss to the products passes to Purchaser on delivery to the location specified in the applicable Purchase Order without prejudice to any right of rejection to which Purchaser may be entitled to under the law or these Terms and Conditions. Any of Seller's property brought onto Purchaser's premises will be at and will remain at risk of Seller. Any MACRO Issued Material or material issued by a manufacturing partner will be at Seller's risk whilst in Seller's possession and/or control.

(6) Inspection; Rejection and Title - Seller warrants that it has inspected and tested the products for compliance with the Contract prior to delivery and shall, if requested, supply Purchaser with certificates of origin and/or testing. Such certificates must state the Purchase Order number together with any product item numbers detailed within the Purchase Order. If the products and/or services do not comply with the Purchase Order, Purchaser shall within ten (10) business days give notice of rejection to Seller and without prejudice to any of its other rights, Purchaser may in its discretion require Seller to comply with the Contract by expeditiously replacing or repairing as appropriate any rejected products and replacing or otherwise correcting or re-performing any rejected services. The rejected products shall be returned within thirty (30) business days to Seller at Seller's risk and expense. Any reference to Seller in this clause includes any affiliate or sub-contractor of Seller. Where Seller repairs, replaces or re-performs any products or services pursuant to this Section 6, the Conditions shall apply to the repaired, replaced or re-performed products or services. Purchaser reserves the right at reasonable times on reasonable prior written notice to inspect or test the products or the services at any stage before delivery and Seller shall give rights of access to its premises and such facilities as Purchaser may reasonably require for such inspection. Purchaser is not required to perform incoming inspections on any goods, and Seller waives any right to require Purchaser to conduct any such inspections. All goods shall be subject to Purchaser's right to final inspection and acceptance, but such inspection or acceptance shall not relieve Seller from any obligations or liability under a purchase order.

Because goods may be received and put in inventory or storage without examination until such goods are to be used or resold, inspection and acceptance shall not be deemed to have occurred until actual inspection and acceptance by Purchaser. Seller warrants that it has good title to the products it is selling to Purchaser. Title for goods shall pass from Seller to Purchaser upon actual acceptance by Purchaser. No reasonable delay in rejection or return of goods, nor payment for goods, shall be considered acceptance or waiver of Purchaser's rights to reject, return or retain such goods or any other remedy as provided herein or by law. Any goods not in precise conformity with Purchaser's specifications, ordered quantities, delivery requirements, or Seller's warranties may be rejected, returned or retained by Purchaser at Seller's risk and expense, including without limitation the cost of substitution or "cover," transportation both ways, labor and administrative expenses, reloading and trucking.

(7) Certification; Quality; Audit - Seller shall comply with all of Purchaser's quality and other procedures and warrants that it has appropriate systems, processes and documentation in place to ensure compliance to Purchaser's current standard. Seller must be IATF 16949 and/or ISO-9001 certified. If required by Purchaser, Seller shall be ISO-14001 certified. Seller will promote continuous quality improvement in the manufacture, production and distribution of goods, or services. Seller will comply with the quality assurance processes, inspections, and standards specified by the Purchaser for suppliers providing goods or services similar in nature to the goods provided by Seller. At its expense, Seller will furnish, keep in good condition, and replace when necessary all of its machinery and equipment, including

MACRO

MACRO Industries, Inc. – Terms and Conditions of Purchase

related tooling, jigs, dies, gauges, molds, patterns, fixtures and other accessories, required for the production of goods covered by this Contract (collectively “Seller’s Equipment”). Seller will insure Seller’s Equipment with fire and extended coverage insurance for its full replacement value. Seller shall be subject to a full process audit by Purchaser (or Purchaser’s designated agent) at any time during product development or manufacturing.

(8) Purchaser’s Property - Any and all molds, tools, dies, jigs, fixtures or similar items ordered herein or delivered to Seller by Purchaser shall become and remain the property of Purchaser (“**Purchaser’s Property**”), shall be used in the manufacture of articles for Purchaser exclusively, and shall be promptly delivered to Purchaser upon Purchaser’s request at no additional cost, unless otherwise agreed by Purchaser. Purchaser’s Property, and whenever practical, each individual item thereof, shall be plainly marked or otherwise adequately identified as Purchaser’s Property. While Purchaser’s Property is in possession of Seller and until Seller delivers Purchaser’s property to Purchaser, Seller bears all risk of loss and damage thereto. At its cost, Seller is responsible for (i) maintaining Purchaser’s Property in good working condition and in a manner that ensures the integrity of the goods produced; (ii) repairing or replacing Purchaser’s Property if damaged or destroyed regardless of cause or fault or no longer able to produce conforming goods in its current condition. Seller shall not substitute any property for Purchaser’s Property and shall not use such property except in filling Purchaser’s orders. Any special tooling, the full cost or a substantial portion of the cost of which is included in the price of this Contract, shall constitute Purchaser’s Property and shall be returned to Purchaser, or otherwise disposed of at Purchaser’s request, at Seller’s expense upon completion or termination of this Contract.

(9) Confidential Information - All non-public, confidential or proprietary information of Seller, including but not limited to specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by Purchaser to Seller, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as “confidential” in connection with this Agreement is confidential, solely for the use of performing this Agreement and may not be disclosed or copied unless authorized in advance by Purchaser in writing. Upon Purchaser’s request, Seller shall promptly return all documents and other materials received from Purchaser. Purchaser shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain; (b) known to Seller at the time of disclosure; or (c) rightfully obtained by Seller on a non-confidential basis from a third party.

(10) Indemnification - Seller shall indemnify, defend, and hold harmless Purchaser and its parent, officers, directors, partners, members, shareholders, employees, agents, successors, and permitted assigns (collectively, “**Purchaser Indemnified Party**”) against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys’ fees, fees, and the costs of enforcing any right to indemnification under this Agreement and the cost of pursuing any insurance providers, incurred by Purchaser Indemnified Party (collectively, “**Losses**”), arising out of or relating to any Claim of a third party: (a) alleging or relating to any negligent or more culpable act or omission of Purchaser; (b) relating to the marketing and/or purchasing a Good (directly or indirectly) by Purchaser and not directly relating to a claim of breach of Seller’s Limited Warranty; and (c) relating to any failure by Seller to comply with any applicable Laws.

(11) Force Majeure - No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is caused by or results from acts beyond the impacted party’s (“**Impacted Party**”) reasonable control, including, without limitation, the following force majeure events (“**Force Majeure Event(s)**”): (a) acts of God; (b) flood, fire, earthquake, or explosion; (c)

MACRO

MACRO Industries, Inc. – Terms and Conditions of Purchase

war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order, law, or actions; (e) embargoes or blockades in effect on or after the date of this Agreement; and (f) national or regional emergency; and (g) strikes, labor stoppages or slowdowns, or other industrial disturbances; and (h) shortage of adequate power or transportation facilities; and (i) other similar events beyond the reasonable control of the Impacted Party. The Impacted Party shall give notice within ten (10) days of the Force Majeure Event to the other party, stating the period of time the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event that the Impacted Party's failure or delay remains uncured for a period of thirty (30) days following written notice given by it under this Section 16, either party may thereafter terminate this Agreement upon ten (10) days' written notice.

(12) Assignment - Seller shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Purchaser. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Seller of any of its obligations under this Agreement.

(13) Relationship of the Parties - The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

(14) No Third-Party Beneficiaries - This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.

(15) Governing Law - All matters arising out of or relating to this Agreement is governed by and construed in accordance with the internal laws of the State of Alabama without giving effect to any choice or conflict of law provision or rule (whether of the State of Alabama or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Alabama.

(16) Submission to Jurisdiction - Any legal suit, action or proceeding arising out of or relating to this Agreement shall be instituted exclusively in the federal courts of the United States of America or the courts of the State of Alabama in each case located in the City of Huntsville, and County of Madison, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding.

(17) Notices - All notices, request, consents, claims, demands, waivers and other communications hereunder (each, a “**Notice**”) shall be in writing and addressed to the parties at the addresses set forth on the face of the corresponding order acknowledgment or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section 17.

(18) Severability - If any provision of these Terms and Conditions is found to be invalid, illegal, or unenforceable by a court of competent jurisdiction, such invalidity, illegality, or unenforceability shall not affect the remaining provisions of these Terms and Conditions, which shall remain in full force and effect.



MACRO Industries, Inc. – Terms and Conditions of Purchase

The parties agree to replace any invalid, illegal, or unenforceable provision with a valid, legal, and enforceable provision that most closely reflects the original intent of the parties.

(19) Survival - The provisions of these Terms and Conditions that by their nature should survive termination or expiration of this Agreement shall so survive, including, but not limited to, provisions regarding ownership, indemnity, disclaimers, limitations of liability, and confidentiality. Any rights and obligations of the parties that, by their nature, should survive termination or expiration, including without limitation, the rights to payment or obligations to protect confidential information, shall continue in full force and effect after the termination or expiration of this Agreement.