

Terms and Conditions of Sale (01-2008) Measurement Specialties Incorporated

1. Quotations and Acceptance:

- (a) Quotations are valid for a period of sixty (60) days from date of quotation, and represent no obligation until Measurement Specialties, Inc. (hereafter MEAS) accepts the written Purchase order.
- (b) In the event of inconsistency between MEASUREMENT SPECIALTIES and the Purchaser's conditions, MEASUREMENT SPECIALTIES shall prevail. No variation of MEAS's conditions shall be binding upon MEASUREMENT SPECIALTIES unless and until the variation has been accepted in writing by a duly authorized person on behalf of MEAS.

2. Price and Delivery:

- (a) Unless otherwise agreed, Delivery will be F.O.B. Origin and goods will be packed to normal specification in non-returnable packaging. Transportation will be arranged at the request and at the expense of the Purchaser. Where applicable, COD charges will be added to the price of the goods.
- (b) Any delivery period quoted is an estimate only and commences from MEAS's acknowledgment of the Purchaser's order. The sole remedy of Purchaser for failure of MEASUREMENT SPECIALTIES to deliver in a timely manner shall be for Purchaser to acquire the goods from another source, in which case said quantity shall be eliminated from this contract, and Purchaser shall have no claim against MEASUREMENT SPECIALTIES for damages.
- (c) MEASUREMENT SPECIALTIES reserves the right to deliver in more than one lot and to invoice each lot separately.
- (d) Shortages, defective or damaged goods must be reported to MEASUREMENT SPECIALTIES within thirty (30) days of Delivery. All goods are shipped at Purchaser's risk and claims for goods damaged or lost in transit should be filed by the consignee direct with the transportation company.
- (e) All returned materials must have a Returned Materials Authorization (RMA) number issued by MEAS. This authorization is valid for a period of 30 days. Returns at the customer convenience are limited to standard, catalog items, and are subject to a \$100 or 15% restocking fee, whichever is greater, excluding freight charges. Returned materials for Quality Complaints will be evaluated by the quality department and a credit issued when the complaint is approved. Customer specific products may not be returned except for Quality Complaints or MEASUREMENT SPECIALTIES error.
- (f) For all Customer Specific Products, MEASUREMENT SPECIALTIES reserves the right for a shipping tolerance of 5% for each shipment and for the total order. Cancellation charges and/or inventory carrying costs may be imposed for products when orders are canceled or modified within eight weeks of the scheduled ship date.

3. Title and Risk of Loss:

- (a) Title will pass to the Purchaser only on receipt by MEASUREMENT SPECIALTIES of payment for the full invoice price of the goods.
- (b) Risk of loss shall pass to the Purchaser on leaving MEASUREMENT SPECIALTIES premises.

4. Payment:

- (a) Payment shall be due 30 days from date of invoice, subject to credit approval, except where MEASUREMENT SPECIALTIES stipulates CWO or COD terms. Payment shall not be withheld on account of any claim by the Purchaser against MEAS. MEASUREMENT SPECIALTIES reserves the right to charge interest at 1.5% per month on any sum outstanding after the due date.
- (b) MEASUREMENT SPECIALTIES reserves the right, among other remedies, either to cancel this contract or to suspend further deliveries under it in the event Buyer fails to pay for any one shipment when payment becomes due. Should Buyer's financial responsibility become unsatisfactory to MEAS, cash payments or satisfactory security may be required by MEAS.
- (c) Any tax, duty, custom, or other fee of any nature imposed upon this transaction by any federal, state, or local government authority shall be paid by the Purchaser, in addition to the price quoted or invoiced. In the event MEASUREMENT SPECIALTIES is required to prepay any such tax, Purchaser will reimburse MEAS.
- (d) Unless specifically otherwise stated, all payments are to be made in United States Dollars (\$), with the payment check drawn on a US Bank. All banking charges, if any, are to be pre-paid by the Purchaser.

5. Technical Assistance and Data: MEASUREMENT SPECIALTIES may, at Purchaser's request, furnish technical assistance, advice and information with respect to the goods supplied under this Contract, if and to the extent that such assistance, advice and information is readily available, except for proprietary techniques or procedures. It is expressly agreed that there is no obligation to provide such information, and that the information is subject to the limitation of liability in paragraph 10 below. MEASUREMENT SPECIALTIES accepts no liability in contract, tort or otherwise for any damages or injury arising directly or indirectly from any error or omission in such technical data or literature.

6. Warranty:

- (a) MEASUREMENT SPECIALTIES warrants title to the product sold hereunder and that for a period of 1 year from Delivery it conforms to MEASUREMENT SPECIALTIES specifications and is free from defects in material and workmanship. If the product fails to meet said warranties, MEASUREMENT SPECIALTIES shall replace/repair the non-conforming product at no cost to Buyer. The foregoing is Buyer's sole and exclusive remedy for failure of MEASUREMENT SPECIALTIES to deliver or supply product that meets the foregoing warranties. **MEASUREMENT SPECIALTIES MAKES NO OTHER WARRANTY OF ANY KIND EXPRESS OR IMPLIED INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS OF THE PRODUCT FOR ANY PARTICULAR PURPOSE EVEN IF THAT PURPOSE IS KNOWN TO MEAS, OR ANY WARRANTY RELATING TO PATENTS, TRADEMARKS, COPYRIGHTS OR OTHER INTELLECTUAL PROPERTY.**
- (b) Purchaser warrants that the designs and specifications furnished by it to MEASUREMENT SPECIALTIES will not infringe any patent, trademark or copyright with respect to the manufacture and sale of the resulting products.

7. Tools: Tools made for the manufacture of goods to be supplied under the contract and the copyright therein remain MEASUREMENT SPECIALTIES property notwithstanding that the Purchaser may have been debited with any sum in respect of their cost.

8. Excusable Delays: No liability shall result from delay in performance or non-performance in whole or in part if performance as agreed has been made impracticable by compliance in good faith with any applicable foreign or domestic governmental regulation or order whether or not it later proves to be invalid, or by the occurrence of a contingency the non-occurrence of which was a basic assumption on which this contract was made, including, but not limited to, acts of God, fire, flood, accident, riot, war, sabotage, strike, labor trouble or shortage, or embargo. MEASUREMENT SPECIALTIES inability to obtain at prices and on terms deemed by it to be practicable any required raw material, energy source, equipment, labor, or transportation, or any increased costs due to capital improvements for environmental protection shall also be sufficient to relieve MEASUREMENT SPECIALTIES of its obligation to perform hereunder. If any of such circumstances affect only a part of MEASUREMENT SPECIALTIES capacity to perform, MEASUREMENT SPECIALTIES shall have the right to allocate production and deliveries among all of its customers and its own requirements in a manner and at such times as MEASUREMENT SPECIALTIES may determine. Quantities affected by this paragraph may, at the option of either party, be eliminated from the contract without liability, but the contract shall remain otherwise unaffected.

9. Indemnification: Buyer agrees to indemnify, defend and hold MEASUREMENT SPECIALTIES harmless from and against that portion of any liability, cost, expense (including reasonable attorneys' fees), claim, judgment, settlement or damage that MEASUREMENT SPECIALTIES may be required to pay to any third party (including, but not limited to, any employee of Buyer who alleges or proves that he or she has been injured in the course of his or her employment while working with the products supplied by the MEASUREMENT SPECIALTIES under this agreement), which is caused or contributed to by the negligence or fault of Buyer; or ii) results from the infringement of any patent, trademark or copyright related to the products (or designs and specifications therefore) supplied to Buyer hereunder. In case the Buyer resells the products supplied by the MEASUREMENT SPECIALTIES under this agreement, Buyer will request and if possible obtain from its purchaser an indemnification similar to the foregoing for the benefit of Buyer and MEAS.

10. Limitation of Liability: MEASUREMENT SPECIALTIES shall not be liable on contract, tort or otherwise for any loss or damage suffered by the Purchaser whatsoever or howsoever arising out of or in connection with the supply of goods or services by MEASUREMENT SPECIALTIES other than to supply goods conforming to the original agreed specifications or at MEASUREMENT SPECIALTIES option to refund to the Purchaser any monies already paid in respect of the goods. MEASUREMENT SPECIALTIES liability with respect to this contract and the products purchased under it shall not exceed the purchase price of the portion of such product as to which liability arises and MEASUREMENT SPECIALTIES shall not be liable for any injury, loss or damage, resulting from the handling or use of the product shipped hereunder whether in manufacturing process or otherwise. In no event shall MEASUREMENT SPECIALTIES be liable for special, incidental or consequential damages, including, but not limited to, loss of profits, capital or business opportunity; downtime costs; or claims of customers of Buyer. Failure to give MEASUREMENT SPECIALTIES notice of any claim within 30 days of Delivery of the product concerned shall constitute a waiver of such claim by Buyer. Notwithstanding any applicable statute of limitations to the contrary, any action by Buyer relating to a claim hereunder must be instituted no later than two (2) years after the occurrence of the event upon which the claim is based. All of the foregoing limitations shall apply irrespective of whether Buyer's claim is based upon breach of contract, breach of warranty, negligence, strict liability, or any other legal theory.

11. Termination: If the Purchaser commits any breach of the terms and conditions of the contract or suffers distress or execution or becomes insolvent or commits an act of bankruptcy or enters into any arrangement or composition with his creditors or goes or is put into liquidation (other than solely for amalgamation or reconstruction while solvent) or if a receiver is appointed over any part of the Purchaser's business, MEASUREMENT SPECIALTIES may without prejudice to any rights which may have accrued or which may accrue to it terminate the contract summarily by notice in writing.

12. Entire Agreement: This agreement constitutes the entire contract of sale and purchase of the product herein named. It is not assignable by Buyer without the written consent of MEAS. No modification of this contract shall be of any force or effect unless in writing signed by the parties and no modification shall be effected by the acknowledgment or acceptance of purchase order forms containing different terms or conditions.

13. Governing Law: This contract shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia. Any lawsuit brought by Buyer arising out of the transactions covered hereunder shall be instituted in the appropriate state or federal court located in the City of Norfolk, Virginia, and Buyer further submits itself to the jurisdiction of said courts in the event MEASUREMENT SPECIALTIES elects to institute any action in said courts.