

TERMS AND CONDITIONS OF PURCHASE ORDERS FOR MCR OIL TOOLS, LLC AND AFFILIATES

These Terms and Conditions of Purchase Orders shall apply to and be incorporated into all purchase orders (each an "Order") issued by MCR Oil Tools, LLC ("MCR") or any affiliate of MCR to any supplier to MCR or an affiliate of MCR.

As used herein, "Buyer" means MCR or that affiliate of MCR named on the document titled "Order" issued by MCR or its affiliate associated with an Order, and "Supplier" means the seller of the goods or goods and incidental services ("Products") that are the subject of such Order.

1. OFFER AND ACCEPTANCE. Each Order is an offer to purchase the Products on the terms and conditions set forth, first, on the relevant Order and, second, within these Terms and Conditions of Order (collectively "Buyer's Terms"). **SUPPLIER'S WRITTEN ACCEPTANCE (INCLUDING BY ELECTRONIC MAIL), OR RECEIPT OF ANY PAYMENT, OR COMMENCEMENT OF WORK ON, OR SHIPMENT OF ALL OR ANY PORTION OF THE PRODUCTS, WHICHEVER OCCURS FIRST, SHALL BE DEEMED AN EFFECTIVE MODE OF ACCEPTANCE OF BUYER'S OFFER. ANY ACCEPTANCE OF THE ORDER IS LIMITED TO AND SHALL CONSTITUTE ACCEPTANCE OF BUYER'S TERMS. IF THE ORDER SHALL BE DEEMED AN ACCEPTANCE OF A PRIOR OFFER BY SUPPLIER, SUCH ACCEPTANCE IS LIMITED TO THE BUYER'S TERMS. THE TERMS AND CONDITIONS OF ANY SUPPLIER'S ACCEPTANCE, BID, PROPOSAL, INVOICE, STATEMENT, PUBLISHED RATE SCHEDULE OR ANY OTHER TYPE OF MEMORANDA OR ATTACHMENT, WHETHER WRITTEN OR ORAL, SHALL NOT GOVERN THE TRANSACTION BETWEEN BUYER AND SUPPLIER.** Additional or different terms proposed by Supplier or any attempt by Supplier to vary in any degree any of the terms of the Order constitutes a counteroffer by Supplier, which counteroffer is hereby rejected by Buyer. No change, modification, or revision of Buyer's Terms will be effective unless in writing and signed by a duly authorized representative of Buyer. The Order, along with these terms and conditions, constitutes the entire agreement between the parties with respect to, and supersedes and replaces all prior discussions and agreements with regard to, the sale and purchase of the Products.

2. SCHEDULE. Delivery of the Products shall be in strict accord with the schedule set forth on the Order, which schedule is a material provision of the Order. Supplier shall immediately report any expected delays to Buyer. Receipt of such report shall not operate as a waiver of any of Buyer's rights. Supplier shall take all reasonable steps to avoid or end delays, and Buyer is not responsible for any additional cost thereof. Where delay or interruption is a result of a Force Majeure event (as described below) Buyer may either (a) provide written notice to Supplier of cancellation for cause of all or part of the Order, or (b) equitably extend the date of performance, but in no event will Supplier be entitled to any extra compensation or damages. Supplier's performance shall not be excused where alternate sources of supply inputs are available. Upon request from Buyer, Supplier shall prepare and submit one or more report) detailing the status of Supplier's performance of the Order.

3. INSPECTION. The Products shall be subject to Buyer's reasonable inspection and approval. Inspection may take place at Supplier's location or at the ultimate destination. Products rightfully rejected by Buyer at the destination will be held for Supplier's instructions, and Buyer's reasonable expenses incurred in connection therewith shall be for Supplier's account.

Products rejected at Supplier's location shall be reworked by Supplier to meet Buyer's requirements as specified in the Order. Buyer's failure to inspect shall not constitute a waiver of any of Buyer's rights or remedies or relieve Supplier of any of its obligations under the Order. Buyer's inspection of Products shall not constitute or waive acceptance of such Products.

4. PACKING. All Products shall be suitably packed, marked, and shipped by Supplier in accordance with prudent industry standards and practices in a manner and as specified in the Order. No packing or cartage charge shall be allowed, except as set forth in the Order. One set of packing slips shall be placed in each shipment. Supplier shall also maintain a copy of such packing slips for six months from the delivery date, and Supplier shall fax or email one set of the packing slips to Buyer's designated contact simultaneously with shipment. As requested by Buyer, Supplier shall supply Buyer with information relative to equipment operation and features. Buyer shall have the right, at no additional charge, to use and/or reproduce for operational and training purposes Supplier's applicable literature, such as operating and maintenance manuals, technical publications, prints, drawings, training manuals, and other similar supporting documentation and sales literature pertaining to the Products purchased by Buyer pursuant to the Order.

5. PERMITS. For any service to be performed on Buyer-owned property, Buyer shall provide building permits as required. Supplier shall procure at Supplier's sole cost all other necessary permits, certificates, and licenses necessary for the performance of the Order required by Applicable Law (defined in Section 8).

6. RISK OF LOSS AND TRANSPORTATION. Cost allocation and risk of loss to Products shall pass from Supplier to Buyer upon delivery of Product at the Delivery Point(s) identified in the Order.

7. TITLE. Unless otherwise specifically provided in the Order, ownership and title to the Products shall pass from Supplier to Buyer at the Delivery Point.

8. REPRESENTATIONS, COVENANTS AND WARRANTIES. Supplier represents, covenants, and warrants to Buyer that:

a. Supplier is, and shall remain while doing business with MCR, familiar with applicable laws, regulations, ordinances, codes, orders, and decrees of any governmental authority ("Applicable Law") affecting the Order or the Products, and shall comply and cause all its employees, agents, subcontractors and other representatives to comply with Applicable Law and any and all applicable Buyer policies that are identified in Buyer's Terms;

b. The Products (i) shall strictly conform to Supplier's affirmations of fact and promises, to the descriptions, samples, and models furnished by Supplier, to industry standards and practices for similar Products, and to all Buyer specifications, (ii) are new and of good material and workmanship and free from defects in design, (iii) are and will remain free from defects in material, workmanship, and manufacture for the earlier of twenty-four months from the date of delivery of the defective Product to Buyer or twelve months from the date the defective Product was placed into operation by Buyer, (iv) are fit for any ordinary or known particular purpose, and (v) are manufactured, procured, and produced in compliance with Applicable Law; and

c. Supplier has and shall transfer good title to the Products to Buyer free and clear of any liens, adverse claims, or other encumbrances.

The covenants and warranties made by Supplier hereunder are in addition to, and shall not be construed as restricting or limiting, any warranties of Supplier, expressed or implied, which are otherwise provided by Supplier or by law. **BUYER IS ENTITLED TO ALL REMEDIES UNDER LAW FOR BREACH OF THE ABOVE WARRANTIES.**

9. INTELLECTUAL PROPERTY. If during the performance of the Order and in the course of using Buyer's specifications or other information, Supplier develops new methods, processes, inventions, discoveries, improvements, copyrightable works, or creations (collectively "**Intellectual Property**") pertaining to the Products or their use or manufacture, Supplier agrees to fully and promptly disclose such Intellectual Property to Buyer. Buyer and Supplier agree to discuss the possibility of transferring ownership of such Intellectual Property from Supplier to Buyer. If the parties agree that an assignment of the Intellectual Property is mutually beneficial, the parties will negotiate in good faith to enter into a separate agreement that will make the transfer of ownership of the Intellectual Property from Supplier to Buyer on mutually agreeable terms. If the parties elect to forego the assignment of Intellectual Property from Supplier to Buyer or cannot agree on the terms of an Intellectual Property assignment, Supplier agrees to grant and hereby does grant to Buyer a perpetual, royalty-free, fully-paid, worldwide license under the Intellectual Property as necessary to use, market, transfer, trade in, and fully enjoy the Products. Such a license to the Intellectual Property shall be freely transferable by Buyer to an Affiliate or in connection with a transfer of the Products or any change in ownership or sale of assets by Buyer. Supplier shall execute any and all documents necessary to evidence the license of Intellectual Property to Buyer.

10. INVOICING. Supplier shall submit its invoice(s) according to the schedule set forth in the Order. If the Order is silent about the timing for invoices, Supplier shall submit an invoice to Buyer for the Products not later than 30 days from the delivery date of such Products, and if Products are delivered in multiple shipments, Supplier shall submit multiple invoices corresponding with Products delivered on such multiple delivery dates. Unless explicitly provided otherwise in the Order, Supplier waives its right to payment for any amounts not invoiced within 120 days following final delivery of Products under the Order. All of Supplier's invoices shall be directed to the address specified on the Order, reference the Order's number, and be accompanied by documentation supporting all amounts invoiced. Except for invoice amounts to which Buyer has objected, Buyer shall pay Supplier by check or wire transfer within thirty days following Buyer's receipt of Supplier's invoice. If Buyer has any objections to all or part of an invoice, Buyer shall so notify Supplier, giving reasons for Buyer's objections, and pay only the undisputed portion of the invoice. Representatives of Buyer and Supplier shall confer to resolve any disputed invoices. Payment shall not be deemed to constitute final acceptance of Products, nor deemed to constitute a waiver by Buyer of any of its rights or remedies. If any services are provided, Supplier's invoice must be accompanied by a waiver of lien rights from each of its subcontractors performing any services. Such waiver(s) must be in a form reasonably acceptable to Buyer.

11. LIENS. Supplier shall pay when due all of its obligations to third parties incurred in connection with the Products and shall keep Buyer's property free and clear of all liens and other encumbrances. If Supplier breaches this section, then, in addition to other rights Buyer may have against Supplier, Buyer may withhold payment from Supplier until sufficient funds have been withheld to satisfy such obligations and/or to cause the release of such liens or other encumbrances.

12. BUYER'S MATERIALS. Any materials furnished by Buyer in connection with the Order shall be deemed as held by Supplier in trust for application to the Order, and title of such materials shall at all times remain with Buyer. Buyer-supplied materials, while in Supplier's custody or control, shall be (a) held at Supplier's risk, (b) adequately marked as Buyer's property and segregated from property of Supplier, (c) kept insured by Supplier at Suppliers' expense in an amount equal to the replacement cost with loss payable to Buyer, and (d) subject to removal at Buyer's written request, in which event Supplier shall redeliver to Buyer in the same condition as originally received by Supplier. All such materials not used in the manufacture or installation of the Products shall be returned in good condition as directed by Buyer at Buyer's expense. Supplier shall pay for all materials not incorporated into the Products or returned to Buyer.

13. CANCELLATION FOR CONVENIENCE. Buyer reserves the right for its own convenience to cancel the Order, in whole or in part, without cause at any time by giving Supplier written notice of such cancellation. Upon receipt by Supplier of any such notice, Supplier will (a) immediately stop performance to the extent set forth in such notice, (b) cancel all orders and subcontracts pertaining to the Ordered Products to the extent set forth in such notice, (c) preserve and protect any materials on hand purchased for or committed to the Order, all work in progress, and all completed Products both in its own and in its suppliers' plants, pending Buyer's instructions, (d) comply with Buyer's directions to terminate the delivery of Products, and (e) promptly use commercially reasonable efforts to minimize the amount of third-party termination charges associated with any such cancellation. Buyer shall pay for Supplier's performance pursuant to the Order insofar as satisfactorily completed as of the date of receipt of Buyer's notice of cancellation, as substantiated by documentation reasonably satisfactory to and verified by Buyer together with any required third-party termination charges (the "**Cancellation Payment**"). The Cancellation Payment shall not exceed the price that would otherwise be payable to Supplier under the Order. Buyer shall not have liability from the cancellation of the Order beyond the Cancellation Payment.

14. CANCELLATION FOR CAUSE.

a. Default: Supplier shall be in default if Supplier: (i) breaches any provision of the Order and fails to cure such condition within three days following Supplier's receipt of notice from Buyer advising of the breach, or, if such condition is not reasonably capable of being cured within such time, fails to commence a cure during such three-day period and promptly and thereafter in a continuous fashion diligently pursue the cure; (ii) makes an assignment for the benefit of creditors or consents to or acquiesces in the appointment of a receiver, liquidator, fiscal agent, or trustee; or (iii) becomes insolvent or enters into a voluntary or involuntary bankruptcy or receivership (singularly and collectively, a "**Default**").

b. Remedies: If Supplier is in Default, Buyer may, in its sole discretion, avail itself of any or all of the following remedies:

(i) elect not to pay Supplier for any monies due for the purpose of set off against and to the extent of Buyer's damages caused by Supplier's Default, (ii) terminate or suspend Supplier's performance hereunder, in whole or in part, effective immediately upon Supplier's receipt of Buyer's notice thereof, or (iii) pursue and enforce any and all other rights or remedies of Buyer hereunder or available under Applicable Law.

c. **Wrongful Cancellation:** If a court or arbitrator should determine that Buyer's alleged cancellation for cause was wrongful, then Buyer's cancellation shall be considered cancellation for convenience subject to Section 13. The indemnifications set forth in this Section 15 shall survive acceptance of the Products by Buyer and payment therefor.

15. INDEMNITY. In this Section 15, "Claims" means every claim, demand, cause of action, liability, loss, or expense of any kind (including penalties, interest, court costs, expert fees, and attorney fees) for personal injury (including death), property damage, and any other damage, loss, or expense.

a. Supplier shall, at its sole expense, indemnify, hold harmless, and defend Buyer and its affiliates and their respective managers, officers, employees, representatives, and agents from and against all Claims to the extent arising from 1) Supplier's failure to comply with Supplier's obligations hereunder; or 2) acts or omissions of employees, subcontractors or agents of Supplier in the performance of the Order or at the premises owned or controlled by Buyer; or 3) defects in the Products.

b. Supplier shall, at its sole expense, indemnify, hold harmless, and defend Buyer and its affiliates and their respective managers, officers, employees, representatives, and agents from and against all Claims arising from or related in any way to alleged infringement of trademarks, copyrights, patent rights, or of any kind of trade secret or other legally protected property right arising from the use, ownership, or disposition of Products (other than materials provided by Buyer).

c. Buyer shall, at its sole expense, indemnify, hold harmless, and defend Supplier and its affiliates and their respective managers, officers, employees, representatives, and agents from and against all Claims to the extent arising from 1) Buyer's failure to comply with Buyer's obligations hereunder; or 2) acts or omissions of employees, subcontractors or agents of Buyer in the performance of the Order or at the premises owned or controlled by Supplier.

16. FORCE MAJEURE.

a. As to Buyer, strikes, fires, accidents, or other unforeseeable causes beyond the reasonable control of Buyer, which affect Buyer's ability to receive and use the Products, shall entitle Buyer to (i) suspend acceptance of delivery of all or any part of the Products, which suspension shall be effective upon Supplier's receipt of Buyer's notice thereof and without expense, penalty, or cost to Buyer, and/or (ii) cancel the Order as a result of such suspension causes, in which case, Section 13, Cancellation for Convenience, shall apply.

b. As to Supplier, strikes, fires, accidents, or other unforeseeable causes beyond the reasonable control of Supplier, which affect Supplier's ability to perform under the Order ("Supplier Force Majeure"), shall entitle Supplier to suspend its obligation to perform the Order to the extent affected. Supplier shall notify Buyer of the occurrence of any Supplier Force Majeure as soon as practicable, but not later than three days after Supplier first becomes aware of (i) the occurrence of the event or (ii) the likelihood of an occurrence of such event. If such

Supplier Force Majeure is reasonably anticipated by Buyer to result or actually results in a suspension of longer than forty-five days from the date of Supplier's notice to Buyer (or such shorter time as is material to any schedule set forth on the Order) Buyer shall have the right to cancel the Order effective immediately upon notice to Supplier. Any such cancellation shall be without expense, penalty, or cost to Buyer with regard to any Products not delivered prior to the date of such cancellation. Unless and until Buyer exercises such right of cancellation, Supplier shall continuously and diligently use reasonable efforts to overcome as quickly as possible the effects of the Supplier Force Majeure. If the Order is not so cancelled, the date of delivery of Products will be extended by a period of time reasonably necessary to overcome the effect of such Supplier Force Majeure.

17. CONFIDENTIALITY. Supplier shall (a) not advertise or publish, in any manner, that Buyer has placed the Order, (b) maintain as confidential and proprietary all information provided by Buyer pursuant to the Order ("**Buyer's Information**") and not divulge or disclose any of Buyer's Information to third parties without the prior written consent of Buyer, (c) not use any of Buyer's Information to the detriment of Buyer or the benefit of third parties, and (d) return all of Buyer's Information to or as directed by Buyer upon termination or expiration of the Order or as otherwise requested by Buyer.

18. INSURANCE FOR SERVICES. To the extent that the Order provides for the Supplier to perform services on Buyer's location or a third party's or public location other than or in addition to the delivery of goods, such as, but not limited to, Product installation at Buyer's destination, Supplier shall obtain and maintain throughout the term of the Order, at Supplier's sole expense and with insurance companies reasonably satisfactory to Buyer and authorized to do business in the jurisdiction in which the services are to be performed, insurance coverage of the types and limits described in the Order below. If Supplier hires a subcontractor to provide any or a portion of such services, then Supplier warrants that, as a part of the subcontract, subcontractor shall obtain and maintain the same insurance coverage of the types and limits as required of Supplier and meeting all other requirements of this section applicable thereto.

19. GENERAL. The indemnities, representations, and warranties herein and in the Order shall survive the Order's termination, expiration, or completion. Except as may be otherwise provided in the Order, nothing in the Order provides any legal rights to any third party. If a provision of the Order is partially or completely unenforceable due to Applicable Law, then, at Buyer's option, either (i) such provision shall be deemed amended to the extent needed to make it enforceable, if possible, and if not possible, shall be deemed deleted, or (ii) Buyer may cancel the Order for Convenience pursuant to Section 13. No delay or omission by Buyer exercising any right or remedy shall constitute a waiver of such right or remedy, or prejudice Buyer's right to enforce such right or remedy at any subsequent time. Supplier is an independent contractor and no past relationships or course of dealings between the parties shall affect its status as an independent contractor.

20. GOVERNING LAW. The Order shall be governed and construed in accordance with the laws of the State of Texas. **To the fullest extent permitted by law, each party hereby irrevocably waives its right to any jury trial with respect to any dispute arising under, in connection with, or related to any Order.**

