



SHARPE ENGINEERING & EQUIPMENT, LLC

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Purchase Order Terms and Conditions

1. Applicability.
 - (a) This purchase order is an offer by Sharpe Engineering and Equipment, LLC (the "Buyer") for the purchase of goods and services specified on the face of this purchase order (the "Purchases") from the party to whom the purchase order is addressed (the "Seller") in accordance with and subject to these terms and conditions (the "Terms"; together with the terms and conditions on the face of the purchase order, the "Order"). This Order, together with any documents incorporated herein by reference, constitutes entire agreement of the parties with respect to the Order, and supersedes all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral, with respect to the subject matter of the Order. The Order expressly limits Seller's acceptance to the terms of the Order.
 - (b) These Terms apply to any Purchases provided by Seller.
 - (c) Buyer is not obligated to any future Purchase obligations under this Order.
2. General Acceptance. Seller accepts this Order and any amendments by signing the acceptance copy of the Order and returning it to Buyer promptly. Even without such written acknowledgment, Seller's full or partial performance under this Order will constitute acceptance of these Terms. By acceptance of this Order, Seller agrees to be bound by, and to comply with all these Terms, which include any supplements to it, and all specifications and other documents referred to in this Order. These Terms apply to everything listed in this Order and constitute Buyer's offer to Seller, which Buyer may revoke at any time prior to Seller's acceptance. This Order is not an acceptance by Buyer of any offer to sell, any quotation, or any proposal. Reference in this Order to any such offer to sell, quotation, or proposal will not constitute a modification of any of these Terms. Terms and conditions different from or in addition to these Terms, whether contained in any acknowledgment of this Order, or with delivery of any goods or services under this Order, or otherwise, will not be binding on Buyer, whether or not they would materially alter this Order, and Buyer hereby rejects them. These Terms may be modified only by a written document signed by duly authorized representatives of Buyer and Seller.
3. Delivery, Packaging, and Shipment. Delivery of Goods shall be as stated in the Order unless otherwise expressly agreed upon and shall be made via the carrier and to the stated address specified on the face of such Order, without charge for boxing, crating, carting or storage unless otherwise specified therein. Seller shall affect delivery by the most expeditious form of land transportation at no additional cost to the Buyer. If no method of shipment is specified in the Order, Seller shall use the least expensive carrier. TIME IS OF THE ESSENCE WITH RESPECT TO DELIVERY. Seller will immediately notify Buyer if it suspects or becomes aware of an inability to timely deliver ordered Purchases. Seller will not be held responsible for any delays caused by action or inactions of Buyer. If the delay is solely the result of any action or inaction of Seller, then Seller shall have 2 weeks to cure the delay, after which, Buyer may, at its option,
 - (a) Decline to accept the Purchases and terminate the Order;
 - (b) Require delivery by the fastest method to meet the delivery dates at the sole expense of Seller.

Seller shall package all Goods in suitable containers to permit safe transportation and handling, insure against damage from weather or transportation and secure the lowest transportation costs. Such containers must be appropriately labeled, contain packing sheets listing each item and its associated Order line item number. Seller must comply with Buyer's specific packaging instructions on the face of the purchase order if specified. If Seller delivers more or less than the quantity of Purchases ordered, Buyer may reject all or any excess Purchases. Any such rejected Purchases shall be returned to Seller at Seller's risk and expense. If Buyer does not reject the Purchases and instead accepts the delivery of Purchases at the increased or reduced quantity, the Price for the Purchases shall be adjusted on a pro-rata basis.

4. Title and Risk of Loss. Title passes to Buyer upon shipment of the Purchases to the Delivery Location. Seller bears all risk of loss or damage to the Purchases until delivery of the Purchases to the Delivery Location. This section does not limit Seller's liability for its negligence or willful misconduct during installation of the Purchases.
5. Inspection and Rejection of Nonconforming Purchases. Buyer may at reasonable times inspect the Purchases covered by this Order at Seller's facility. Buyer's inspection of Purchases before or after delivery shall not constitute acceptance. No inspection or test made prior to final acceptance shall relieve Seller from responsibility for defects or other failure to meet the requirements of Buyer's Order. Buyer may reject or revoke acceptance of any Purchases which are defective in material or workmanship or which do not conform to Buyer's specifications, specifications as defined in supplier's quotation, or to Supplier's Warranty as provided below ("Nonconforming Goods"). Buyer may elect to:
 - (a) Return Nonconforming Goods for the full invoice price plus applicable transportation charges;
 - (b) Retain Nonconforming Goods for repair by Seller or, at Seller's election, for repair by Buyer with such assistance from Seller as Buyer may reasonably require, at Supplier's cost and expense; or
 - (c) Return Nonconforming Goods to Seller for repair or replacement within such time as Buyer may reasonably require, all at Supplier's cost and expense.
6. Payment. Prices for Purchases are as stated in the respective Order. No charges or price increases of any kind shall be allowed unless specifically agreed to by Buyer in writing. Seller shall bear all of Seller's own expenses incurred in providing Purchases.
7. Payment Terms. Seller shall issue an invoice to Buyer on or any time after the completion of delivery and only in accordance with the Terms. Buyer shall pay all properly invoiced amounts due to Seller within 30 days after Buyer's receipt of such invoice, except for any amounts disputed by Buyer in good faith. All payments hereunder must be in US dollars. The parties shall seek to resolve any payment disputes expeditiously and in good faith. Seller shall continue performing its obligations under the Order notwithstanding any such dispute.

The final payment will be contingent upon successful site acceptance testing. Site acceptance testing is defined as consistent, reliable demonstration of the following agreed-upon design criteria and specifications.

8. Warranty. Seller expressly warrants that:
 - (a) Seller will convey clear title to all Purchases to Buyer; free of any liens, claims or other encumbrances;
 - (b) Purchases furnished will conform to all applicable specifications, drawings, samples, or other descriptions furnished, specified or adopted by Buyer and to all other requirements of the Order;
 - (c) Goods will be merchantable, produced using reliable material and workmanship and will be free from defect for at least one (1) year from delivery to Buyer, or such longer limited warranty period as Buyer may specify in the Order;

- (d) All Purchases have been selected, designed manufactured or assembled by Seller based upon Buyer's intended use and will be fit and sufficient for such purposes.

Such warranties, together with Seller's service performance warranties above and other guarantees, if any, will survive inspection, test, acceptance of, and payment for the Purchases and will run to Buyer, its affiliates, successors, assigns, customers at any tier, and all end users. Seller further warrants that all Purchases provided to Buyer will be free from any third-party claims or liability for alleged misuse, misappropriation or infringement of any patent, trademark, copyright or other right.

9. General Indemnification. Seller shall defend, indemnify and hold harmless Buyer, affiliates, shareholders and employees and Buyer's customers (collectively, "Indemnitees") against any and all loss, injury, death, damage, liability, claim, deficiency, action, judgment, interest, award, penalty, fine, cost or expense, including reasonable attorney and professional fees and costs, and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers (collectively, "Losses") arising out of or occurring in connection with the Purchases purchased from Seller, or Seller's negligence, willful misconduct or breach of the Terms. Seller shall not enter into any settlement without Buyer's or Indemnitee's prior written consent.
10. Intellectual Property Indemnification. Seller shall, at its expense, defend, indemnify and hold harmless Buyer and any Indemnitee against any and all Losses arising out of or in connection with any claim that Buyer's or Indemnitee's use or possession of the Purchases infringes or misappropriates the patent, copyright, trade secret or other intellectual property right of any third party. In no event shall Seller enter into any settlement without Buyer's or Indemnitee's prior written consent.
11. Compliance with Law. Seller follows and shall comply with all applicable laws, regulations and ordinances. Seller has and shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under the Order. Seller shall comply with all export and import laws of all countries involved in the sale of Purchases under this Order. Seller assumes all responsibility for shipments of Purchases requiring any government import clearance. Buyer may terminate this Order if any government authority imposes antidumping duties, countervailing duties or any retaliatory duties on the Purchases.
12. Termination. Buyer may terminate all or any part of this Order for convenience at any time by written notice to Seller. Upon such termination, Buyer's liability will be limited to reasonable termination charges mutually agreed by Seller and Buyer, provided that Seller must specify any proposed charges in writing within thirty (30) days after termination. This Order shall terminate automatically, without notice, if Seller becomes insolvent or the subject of any proceeding under the laws relating to bankruptcy or the relief of debtors.
13. Waiver. No waiver by any party of any of the provisions of the Order shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in the Order, no failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from the Order shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.
14. Confidential Information. All non-public, confidential or proprietary information of the Buyer, including, but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by Buyer 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 the Order is confidential, solely for the use of performing the Order and may not be disclosed or copied unless authorized by Buyer in writing. Upon Buyer's request, Seller shall promptly return all documents and other materials received from Buyer. Buyer shall be entitled to injunctive relief for any violation of this Section. This Section shall not

apply to information that is: (a) in the public domain; (b) known to the Seller at the time of disclosure; or (c) rightfully obtained by the Seller on a non-confidential basis from a third party.

15. Force Majeure. Neither party shall be liable to the other for any delay or failure in performing its obligations under the Order to the extent that such delay or failure is caused by an event or circumstance that is beyond the reasonable control of that party, without such party's fault or negligence, and which by its nature could not have been foreseen by such party or, if it could have been foreseen, was unavoidable ("Force Majeure Event"). Force Majeure Events include, but are not limited to, acts of God or the public enemy, government restrictions, floods, fire, earthquakes, explosion, epidemic, war, invasion, hostilities, terrorist acts, riots, or embargoes. Seller's economic hardship or changes in market conditions are not considered Force Majeure Events. Seller shall use all diligent efforts to end the failure or delay of its performance, ensure that the effects of any Force Majeure Event are minimized and resume performance under the Order. If a Force Majeure Event prevents Seller from carrying out its obligations under the Order for a continuous period of more than 20 business days, Buyer may terminate this Order immediately by giving written notice to Seller.
16. Assignment. Seller shall not assign, transfer, delegate or subcontract any of its rights or obligations under the Order without the prior written consent of Buyer. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve the Seller of any of its obligations hereunder.
17. Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in the Order 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. No relationship of exclusivity shall be construed from this Order.
18. No Third-Party Beneficiaries. This Order 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.
19. Governing Law. All matters arising out of or relating to this Order shall be governed by and construed in accordance with the internal laws of the State of Ohio without giving effect to any choice or conflict of law provision or rule (whether of the State of Ohio or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Ohio.
20. Submission to Jurisdiction. Any legal suit, action or proceeding arising out of or relating to this Order shall be instituted in the federal courts of the United States of America or the courts of the State of Ohio in each case located in Delaware County or Franklin County, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding.
21. Cumulative Remedies. The rights and remedies under this Order are cumulative and are in addition to and not in substitution for any other rights and remedies available at law or in equity or otherwise.
22. 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 this Order 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 Order, 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.

23. Severability. If any term or provision of this Order is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.
24. Survival. Provisions of this Order which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Order including, but not limited to, the following provisions: Setoff, Warranties, General Indemnification, Intellectual Property, Indemnification, Insurance, Compliance with Laws, Confidentiality, Governing Law, Submission to Jurisdiction, and Survival.