

Micro Spring and Presswork Standard Terms and Conditions of Purchase

Micro Spring & Presswork
Brookside, Elizabeth Way
Enfield Industrial Estate
Redditch
Worcestershire
B97 6BL

T 00 44 (0)1527 69121
F 00 44 (0)1527 61758
E email@microspring.co.uk
W www.microspring.co.uk

1 – Contract

Buyer's purchase order, including all of its terms and conditions, together with any documents of Buyer or supplemental terms and conditions of Buyer stated or referenced on the face of the purchase order, constitutes the complete, final and exclusive statement of the contract between Buyer and Seller. Acceptance of Buyer's order is expressly limited to these terms and conditions. Additional, different or inconsistent terms and conditions proposed by Seller in its quotation, acknowledgement or acceptance of this purchase order or otherwise, are objected to and rejected. Buyer's acceptance of goods or services from Seller shall not be deemed to be an acceptance of any such conditional, different or inconsistent terms and conditions. No changes or additions of any kind to the terms and conditions stated herein, or waiver of any kind shall be binding on Buyer unless agreed to in writing signed by an authorised representative of Buyer. Commencement of performance by Seller shall be an acceptance of all of Buyer's terms and conditions.

2 – Shipping and Billing

Seller agrees to comply fully with all shipping and billing instructions of Buyer. Goods are to be prepared for shipment with due care but no charge shall be allowed for cartage, packing or other handling activities unless agreed upon in writing. Packing lists in duplicate and itemised invoices all bearing the purchase order number and their own identification numbers, are to be posted to Buyer on the day of shipment. A billing of lading or express receipt, bearing the purchase order number after the Buyer's name, shall be attached to Seller's invoice. All expenses incurred by Seller's failure to furnish necessary documents shall be charged to and paid by Seller. Seller shall bear all risk of loss or damages to all goods ordered until they are actually received by the Buyer.

3 – Price

Seller warrants that the prices quoted to Buyer are complete and that no additional charges of any type are added without Buyer's express written consent in advance. Seller agrees that any price reduction for these or similar goods or services after placement of this order but prior to payment will be applicable to this order.

4 – Changes

Buyer shall have the right at any time prior to the complete delivery of the goods or services to make changes therein and changes in packaging, time, place and schedule of delivery and method of transportation and Seller agrees to accept such changes. If any such changes cause an increase or decrease in cost or the time required for performance, and an itemised claim for adjustment is made within thirty (30) days of the notice of changes, and equitable adjustment will be made and this agreement modified in writing in accordance with the adjustment.

5 – Inspection and Quality Assurance

All goods and services, ordered by Buyer may be Subject before delivery to inspection, tests and audits by Buyer, its upstream customers or regulatory bodies at reasonable times and places. Seller agrees to provide access for Buyer, its upstream customers or regulatory bodies to all related facilities and sub-contract facilities at all reasonable times for such inspection, tests and audits, and at no additional cost, to provide all tools, equipment, and assistance reasonably necessary. Inspection, tests, or audits before delivery to Buyer do not constitute final acceptance nor do they or any other inspecting, testing, or auditing by Buyer, its upstream customers or regulatory bodies or failure of Buyer, its upstream customers or regulatory bodies to do so, relieve seller from exclusive responsibility for furnishing goods or services in full conformance with this order. Seller warrants that it has and will maintain an adequate assurance and/or control program for the goods or services ordered and that it makes and maintains adequate authenticated quality control and/or assurance reports, records, certificates, affidavits, and the like relating to the goods or services ordered. Seller agrees that upon request and at no additional charge, it will promptly furnish authenticated copies thereof as well as applicable certificates of conformance and/or compliance acceptable to Buyer at the time of or after delivery. The Seller agrees to communicate applicable requirements identified in the purchase order to any sub-contract suppliers. The Seller and its subcontractors agree to make provision to guarantee availability of any related certifications or process documents for a period of no less than 30 years following the completion of orders by the Buyer.

Seller undertakes to notify Buyer of any non-conforming product and will act in accordance with Buyer's instructions relating to deviation/concession.

Seller agrees to notify Buyer of any changes in product or process, and where appropriate, obtain Buyer's approval.

6 – Rejection

Goods and services of Seller shall be received subject to Inspection and approval by Buyer after delivery. Buyer may give Seller notice of rejection or revocation of acceptance ('rejection' herein), notwithstanding any payment, passage of title, approval, prior test or inspection. No inspection, approval, test delay or failure to inspect or test or failure to discover any defect or other non-conformance shall relieve Seller of any obligations hereunder or impair or waive any right or remedy of Buyer. If it is Buyer's judgment that they do not conform with the requirements of the order, Buyer shall have the right to reject them and, in addition to its other rights and remedies, Buyer shall have, without limitation, all of the following rights: (1) to return them to Seller for reimbursement, credit, replacement, or corrections as Buyer may direct; (2) to correct, rework and/or replace them with the additional cost to be charged to and paid by Seller; and (3) to hold them at Seller's risk and expense for disposal or correction according to Seller's instructions. Any goods rejected by Buyer that are returned to Seller shall be at Seller's risk and expense with the cost of packaging, handling, inspection, examination, transportation and the like incidental thereto, to be charged to and paid by Seller. Such goods shall not thereafter be tendered to Buyer for acceptance unless the previous rejection and requirement of correction are disclosed to Buyer in writing.

7 – Termination

Buyer has the right to terminate this order and Contract for convenience, in whole or in part, at any time upon written notice to Seller. Unless such termination is due to default of Seller or failure of Seller to assure adequate performance, Buyer shall pay Seller on a pro rata basis for work completed as of the date of termination and upon such payment all equipment, materials, work-in-progress, finished goods, drawings, information, special tooling, and other things for which Buyer has paid shall at Buyer's option become the property of Buyer and be released by Seller to Buyer upon demand for pick-up and removal. The provisions of this clause are without prejudice to any other rights or remedies of Buyer including those resulting from default by Seller

8 – Cancellation

Buyer shall have the right to cancel this order and contract, in whole or in part, if the goods or services are in Buyer's judgement non-conforming or defective or not delivered as scheduled, or if Seller fails to comply with or fulfil any of the terms and conditions of the order with Buyer's shipping and billing instructions, or if in Buyer's opinion the credit or ability of Seller to perform becomes impaired, whereupon Buyer shall have the continuing right to obtain the goods or services ordered from another source with any resulting increase in cost thereof charged to and paid by Seller, all without prejudice to any other rights or remedies of Buyer and in addition thereto.

9 – Payments

Payments by Buyer of an invoice from Seller does not constitute acceptance of the goods or services covered by the invoice. If the work covered by this order may give rise to mechanics' liens or the like, payment shall not be due and the cash discount period shall not commence until Seller has delivered to Buyer a complete release of all liens arising out of the work or receipt in full covering of labour and materials for which a lien could be filed or a bond satisfactory to the Buyer indemnifying it against any lien.

10 – Confidentiality

Seller agrees not to publicise the fact that Buyer has contracted with Seller and not to disclose any details or other information about the order without Buyer's written permission. Unless otherwise known to the public, all information disclosed by Buyer to Seller is confidential and proprietary and Seller agrees that it shall not be disclosed or used except for the purpose of performing this agreement. All things (such as drawings, documents, etc.) containing such information are the property of the Buyer and are to be delivered to it upon demand. Seller agrees that no information disclosed by it to Buyer shall be confidential unless due notice thereof is given in advance to and accepted by Buyer in writing.

11 – Warranties

Seller warrants that all goods and services furnished under the order will conform to applicable specifications, instructions, drawings, data, samples, standards, and regulations, will be merchantable, of best quality, material and workmanship and free from all defects, will be as described and advertised and fit for the intended purposes, and will be free from all liens and encumbrances. These warranties are in addition to all other warranties, expressed, implied or statutory. Seller shall indemnify, defend and hold Buyer fully harmless from any breach of these warranties and this shall be without prejudice to any other rights or remedies of Buyer. Limitations on Buyer's remedy (or disclaimers of warranties) in documents of Seller, or otherwise, shall not be effective and are rejected. All warranties and all provisions of this clause shall survive inspection or acceptance of payment for, and use of the goods or services ordered and completion, termination, or cancellation of the contract, and shall run to Buyer, its customers, successors, and assigns, and to users of the goods or services.

12 – Independent Contractor

Seller is and shall remain an independent contractor. No employee, agent, or representative of Seller or its sub-contractors shall be deemed to be an employee of Buyer. Seller shall provide all safeguards and take all necessary precautions in connection with work and services performed by or for it relating to this purchase order to prevent the occurrence of any accident, injury, death, loss, or damage to any person or property and shall be solely responsible therefor. Seller warrants that all work and services relating to this purchase order will be done in a safe, proper, and workmanlike manner and in compliance with all applicable codes, regulations, laws, standards and specifications concerning safety, performance, and otherwise and, without limitation, including work and services on or to premises controlled by Buyer and to or with property or parts of Buyer. Seller agrees to indemnify, defend and hold Buyer harmless from all claims based on injury to or by Seller's employees, agents or representatives or those of its sub-contractors.

13 – Indemnification

Seller shall defend, indemnify, and hold harmless the buyer, its officers, employees, agents, representatives, customers, and users of Seller's goods and services from and against all demands, claims, damages, loss or liabilities of every kind and nature (including legal fees and recall costs) based upon any allegations of, or resulting from, any defect or non-conformity in the goods or services purchased by Buyer, or any default or breach of this contract by Seller, or any act or omission of Seller, its agents employees, or representatives, or those of its sub-contractors. Seller agrees to indemnify, hold harmless, protect and defend the Buyer, its successors and assigns, its customers and the users of its products against all suits and from all claims, demands, judgments, settlements, costs, losses, damages and legal fees for actual or alleged infringement of patents, trademarks, copyrights, trade secrets, or other actual or alleged rights of third parties in connection with the goods or services of Seller, provided that they are used as normally intended and are not made or performed to Buyer's own specifications. All obligations of Seller to indemnify, hold harmless, protect and defend are in addition to warranty obligations and all other rights or remedies of Buyer and survive acceptance and use of the goods or services, payment, and completion, termination, or cancellation of the contract.

14 – Insurance

Seller agrees at its own expense to maintain insurance in kinds and amounts deemed reasonable by Buyer and to submit adequate certificates of insurance coverage when requested by Buyer. Seller shall maintain public liability insurance, including products liability, completed operations, contractor's liability and protective liability, automobile liability insurance, (including non-owned automobile liability), comprehensive general liability, workmen's compensation and employees liability insurance, that will adequately protect Buyer against all demands, claims, damages, loss, liabilities, or expenses (including legal fees) for which Seller is obliged to indemnify Buyer. If Seller, either as principal or by agent or employee, enters upon the property of the Buyer in order to do any work, Seller agrees to maintain insurance appropriate for the Seller's and Buyer's personnel and any other persons affected by work carried out by the Seller.

15 – Force Majeure

Buyer reserves the right to cancel the contract in whole or in part or to delay delivery or acceptance for causes beyond its control. At Buyer's request, Seller will hold goods or services pending Buyer's instructions and Buyer shall be liable only for a reasonable increase in Seller's direct costs due to such holding.

16 – Compliance with Laws

Seller agrees to ascertain and comply with all United Kingdom laws, regulations, and orders applicable to the production, sale, and delivery of goods and services covered by this contract. Upon request, Seller will furnish Buyer with certificates of compliance with them.

17 – Compliance with Export Legislations

The purchase order may contain, and/or reference documents containing information subject to the International Traffic Arms Regulations (ITAR) and/or Export Administration Regulations (EAR). Seller shall not export, release or disclose any information provided by the Buyer in violation of ITAR and/or EAR.

18 – Assignments and Subcontracting

No part of this order or payments to be made by Buyer may be assigned or subcontracted without written prior approval of Buyer. Such approval shall not relieve Seller of any of its obligations under this contract, or otherwise, and it shall remain fully responsible for compliance with all terms and conditions.

19 – Notifications

Seller agrees to immediately notify Buyer of any actual or possible safety problems with goods or services furnished by it. Seller also agrees to give Buyer reasonable advance notice of potential material shortages, labour disputes, insolvency or other matters that might delay or interfere with its performance.

20 – Limitation on Buyer's Liability

In no event shall Buyer be liable for consequential, incidental, or special damages of any kind, or for damages in excess of the price allowable to the portion of the goods or services on which the claim is based. Action on any claim against Buyer must commence within one year after the cause of action has accrued.

November 2008