

VIKING FABRICATION SERVICES LLC
Standard Terms and Conditions of Sale

The terms set forth in this form are the sole terms for the sale of goods and services by Viking Fabrication Services LLC ("VFS"), unless otherwise specifically provided for by VFS in this document, and shall apply to the exclusion of any inconsistent or additional terms contained in the end purchaser's ("Buyer") order or acknowledgment or otherwise proposed by Buyer. Buyer's acceptance of these terms shall be conclusively presumed by Buyer's submission of a purchase order to Supply Network, Inc. d/b/a Viking SupplyNet, or by Buyer's acceptance of delivery of, or payment for, the goods and services. Any contract made for the sale of goods or services by VFS is expressly conditional on Buyer's assent to the terms stated in this document. VFS objects to any additional or inconsistent terms proposed by Buyer.

1. **Inspection/Acceptance/Return.** Buyer may not return any goods, under warranty claim or otherwise, without first reporting to VFS the reasons for such return and first obtaining and then observing such reasonable instructions as VFS may give in authorizing any return. All returns must be accompanied by a valid VFS RMA (return material authorization). Material accepted for return is subject to a minimum 20% restocking fee, or the standard restocking fee charged by the manufacturer or supplier on returns to them. Returned material must be unused or not installed, in its original packaging, and of current design. Any returned material not in this condition is subject to additional charges to cover inspection, handling, repackaging, refurbishment, or any other expenses incurred by VFS in accepting the material. VFS may deny credit on returned merchandise not meeting these requirements.

2. **Special Order Items.** Purchase orders which include special order items, must contain both the manufacturer's item number and a full description. Manufacturer's and supplier's terms and conditions may apply. Special items cannot be cancelled or returned unless agreed to by the manufacturer of such items. Cancellation fees and payment for any materials used and labor expended in manufacturing the order will apply.

3. **DISCLAIMER OF WARRANTY.**

a. TO THE EXTENT THAT VFS PROVIDES FABRICATION SERVICES DIRECTLY TO BUYER, VFS WARRANTS SOLELY THAT IT WILL PROVIDE SUCH SERVICES ACCORDING TO THE SPECIFICATIONS PROVIDED BY BUYER, AND SPECIFICALLY DISCLAIMS ANY AND ALL OTHER WARRANTIES WITH REGARD TO SUCH SERVICES PROVIDED BY VFS. BUYER ACKNOWLEDGES THAT BUYER IS NOT RELYING ON VFS IN ANY WAY FOR DESIGN OR ENGINEERING WITH RESPECT TO THE GOODS OR THE ADEQUACY OF THE SPECIFICATIONS PROVIDED BY BUYER. BUYER'S RESPONSIBILITY SHALL INCLUDE, BUT NOT BE LIMITED TO, RESPONSIBILITY FOR DETERMINING SUITABILITY OF GOODS AND SERVICES PROVIDED BY VFS AND THEIR COMPLIANCE WITH SYSTEM DESIGN REQUIREMENTS WHEN INTEGRATED INTO A SYSTEM. TO THE EXTENT THAT FABRICATION SERVICES ARE CONTRACTED BY VFS THROUGH A THIRD PARTY FABRICATOR, BUYER CONSENTS AND AGREES THAT ALL CLAIMS OF BUYER WITH RESPECT TO SUCH FABRICATION SERVICES SHALL BE MADE DIRECTLY BY BUYER TO SUCH THIRD PARTY FABRICATOR, AND VFS HEREBY DISCLAIMS ALL WARRANTIES WITH REGARDS TO SUCH THIRD PARTY FABRICATION SERVICES. IN THE EVENT THAT BUYER HAS SUCH A CLAIM AGAINST A THIRD PARTY FABRICATOR, BUYER SHALL CONTACT THE THIRD PARTY FABRICATOR DIRECTLY.

b. BUYER ACKNOWLEDGES THAT ANY WARRANTY FOR PRODUCTS ACQUIRED BY VFS THROUGH A THIRD PARTY MANUFACTURER IS LIMITED TO THE WARRANTY PROVIDED BY THE MANUFACTURER OF THE GOODS ACQUIRED. BUYER CONSENTS AND AGREES THAT ALL CLAIMS OF BUYER WITH RESPECT TO THE CONDITION OR PERFORMANCE OF SUCH GOODS SHALL BE MADE DIRECTLY BY BUYER TO SUCH MANUFACTURERS. VFS HEREBY DISCLAIMS ALL WARRANTIES WITH REGARDS TO SUCH GOODS. IN THE EVENT THAT BUYER HAS SUCH A CLAIM, BUYER SHALL CONTACT MANUFACTURER DIRECTLY.

c. NOTWITHSTANDING ANY OTHER PROVISION IN THIS DOCUMENT, VFS EXPRESSLY DISCLAIMS AND EXCLUDES ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

4. **Force/Majeure.** VFS and Buyer assume the non-occurrence of the following contingencies which, without limitation, might render performance by VFS impractical: acts of God, governmental actions, terrorist acts, utility interruptions, strikes, riots, fires, war, assertions by third parties of infringement claims, late or non-delivery by suppliers to VFS, and all other contingencies beyond the reasonable control of VFS.

5. **NO CONSEQUENTIAL DAMAGES.** UNDER NO CIRCUMSTANCES WHATSOEVER SHALL VFS BE LIABLE FOR ANY INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES, WHETHER FORESEEABLE OR UNFORESEEABLE AND WHETHER BASED UPON LOST GOODWILL, LOST RESALE PROFITS, LOSS OF USE OF MONEY, WORK STOPPAGE, IMPAIRMENT OF OTHER ASSETS, OR OTHERWISE AND WHETHER ARISING OUT OF BREACH OF WARRANTY, BREACH OF CONTRACT, STRICT LIABILITY IN TORT, NEGLIGENCE, MISREPRESENTATION, OR OTHERWISE, EXCEPT ONLY IN THE CASE OF PERSONAL INJURY WHERE APPLICABLE LAW REQUIRES SUCH LIABILITY.

6. **Governing Law.** Michigan law shall govern all transactions to which these standard terms and conditions apply. VFS and Buyer agree that any action arising out of the sale of goods or services in accordance with this document will be brought, heard and decided in Kent County, Michigan. Buyer submits to personal jurisdiction in Michigan.

7. **Buyer's Design Responsibility.** Buyer acknowledges that VFS's goods are produced or provided according to Buyer's specifications. Buyer acknowledges that Buyer is not relying on VFS in any way with respect to the suitability of its products or the adequacy of the specifications. VFS has no responsibility for design, engineering, or other advice, regarding any product specifications provided by Buyer. Buyer shall defend, indemnify and hold VFS harmless against all product liability, product recall, and other claims, liabilities and expenses, including but not limited to actual attorney fees, incurred by VFS arising out of any claimed design or engineering defect relating to specifications provided by Buyer to VFS.

8. **Indemnification of VFS (General).** Buyer shall indemnify, defend and hold VFS and its agents harmless from all claims, liabilities, and expenses, including but not limited to actual attorney fees, sustained by VFS or its agents that are caused by any action of Buyer relating to the goods or services sold by VFS to Buyer. Buyer shall further defend, indemnify and hold VFS harmless against all product liability, product recall, and other claims, liabilities and expenses, including but not limited to actual attorney fees incurred by VFS arising out of any claimed design or engineering defect relating to specifications provided by Buyer to VFS.

9. **Indemnification of VFS (Patents).** Buyer shall indemnify, defend, and hold VFS and its agents harmless from all claims, liabilities, and expenses, including but not limited to actual attorney fees, arising out of any claim of infringement of a patent, copyright, trademark, trade name, or other proprietary right, or claim of unfair trade or of unfair competition in connection with the manufacture, sale, or use of the goods sold to Buyer, except to the extent that any claim, liability, or expense arises solely from specifications developed by VFS.

10. **Compliance Statement.** Commodities, technologies, or software exported by VFS from the United States are in accordance with Export Administration Regulations. Any export or re-export contrary to U.S. law is prohibited.

11. **Assignment.** Buyer shall not assign its rights or delegate its duties under this document without VFS's prior written consent. VFS may assign to any third party its rights and obligations with respect to Buyer.

12. **Entire Agreement and Amendment.** This document contains all of the terms of the agreement between VFS and Buyer with regard to its subject matter and supersedes all prior oral or written representations, agreements, and other communications between VFS and Buyer. The contract evidenced by this document may be amended only in writing signed by Buyer and an authorized agent of VFS.

13. **Severability.** All terms shall be enforced only to the maximum extent permitted by law. if any term is invalid or unenforceable, all other terms shall remain in effect.