

MAFI-TRENCH PURCHASE ORDER TERMS & CONDITIONS OF PURCHASE

- EXCLUSIVE TERMS:** Any acceptance of this purchase order is limited to the acceptance of the express terms and conditions contained herein. Any proposal for additional or different terms or any attempt by Seller to vary in any degree any of the terms of this offer in Seller's acceptance is hereby objected to and rejected, but such proposal shall not operate as a rejection of this offer unless such variances are in the terms of the description and specification of the goods, prices, quantities, delivery schedules, or terms of payment, but shall be deemed a material alteration thereof, and this offer shall be deemed accepted by Seller without said additional or different terms. If this purchase order shall be deemed an acceptance of a prior offer by Seller, such acceptance is limited to the express terms and conditions contained herein, on the reverse side of this document, attached to this document, or delivered by Buyer with this document. Additional or different terms and conditions or any attempt by Seller to vary in any degree any of the terms and conditions of this purchase order shall be deemed material and shall be rejected; however, this purchase order shall not operate as a rejection of Seller's offer unless this purchase order contains variances in the description and specification of the goods, prices, quantities, delivery schedules or terms of payment."
- DELIVERY:** Delivery shall be defined as the physical delivery of all merchandise according to the terms of this contract. Seller agrees to deliver to Buyer the articles covered by this order free and clear of all liens, claims and encumbrances.
- CHANGES & ALTERATIONS:** Any change of instructions, or substitution of materials without Buyer's written consent will be the Seller's responsibility. No changes in terms, conditions, prices or deliveries shall be made without Buyer's specific authorization therefore in writing. Buyer may at any time, by written notice to the Seller only, make changes within the general scope of this order in any one or more of the following: (1) drawings, designs, or specifications; (2) method of shipping or packing; (3) places of inspection, acceptance, and/or point of delivery; and (4) delivery schedule. If such changes require a change in price or time for performance, Seller shall notify Buyer and equitable adjustment shall be made and the order shall be modified in writing accordingly. Any claim by the Seller must be asserted in writing within 30 days after receipt by Seller of notification of change or such longer period as may be authorized in writing by Buyer. Nothing contained herein shall relieve Seller from proceeding without delay in the performance of this order as changed.
- INSPECTION:** Seller shall provide a complete inspection system satisfactory to Buyer, or any customer of Buyer as noted herein, covering the inspection of all items on this order of parts thereon. All merchandise shall be subject to inspection at reasonable times during the period of manufacture, prior to shipment, and upon delivery of destination according to the terms hereof.
- REJECTION:** Buyer reserves the right to have rejected materials replaced at Buyer's option at the purchase price stated in the order, and also the right to accept that part of any shipment that conforms to the order and reject any part that is non-conforming and to consider the order breached to the extent of the amount of the rejected material. The specific quantity ordered must not be changed without Buyer's consent in writing. Buyer reserves the right to reject (and return) material exceeding the quantity ordered. Buyer assumes no obligation for materials shipped in excess of the purchase order and will not be responsible for any material furnished without a written order. Any expenses incurred in replacing, returning, transporting, or otherwise disposing of rejected materials shall be borne by the Seller.
- TITLE AND RISK OF LOSS:** Title to the merchandise and risk of loss shall pass to the Buyer at time of delivery of merchandise or performance of services according to the terms of this contract.
- PRICE:** This order must not be filled at a higher price than shown herein or, if price is not shown, than last price quoted or charged by Seller for the same goods, unless otherwise stated on the face of this order, or otherwise approved in writing by the Buyer.
- PAYMENTS:** Invoices shall (a) be rendered in duplicate, (b) with the order number noted thereon, and (c) be sent to the address hereon. Invoices, shipping notices, and bills of lading are to be mailed within twenty-four (24) hours after shipment. Cash discounts, if any, shall be computed from date of invoice or date of shipment of goods, whichever is later. On invoices returned for correction, the cash discount will date from the receipt of the corrected invoice. On all prepaid shipments chargeable to Buyer, attached transportation receipt to the invoice. Payment of invoice does not constitute acceptance of merchandise covered by this order and is without prejudice to any and all claims of Buyer against Seller. Payment of invoices may be withheld pending final acceptance by Buyer. All State, Federal, or local taxes of any nature which are billed to Buyer shall be stated separately on the invoice. Any adjustments to Seller's invoice due to shortages, late deliveries, rejection, or other failure to comply with the requirements of this order may at Buyer's option be made by Buyer before payment, but failure to adjust shall not deprive Buyer of the right to do so thereafter. Any indebtedness of Seller to Buyer may, at Buyer's option, be set off and credited against Buyer's indebtedness to Seller.
- MODIFICATION:** No change in, modification or revision to this order or any of the terms and conditions thereof shall be valid unless in writing and signed by Buyer, and no condition stated by Seller in accepting or acknowledging this order shall be binding upon Buyer if in conflict with, inconsistent with, or in addition to the terms and conditions contained herein unless expressly accepted in writing by Buyer.

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10. **TERMINATION (CANCELLATION):** The performance of work or rendition of services under this contract may be terminated for any of the following reasons:
- A) **MUTUAL AGREEMENT:** This agreement can be terminated by a writing signed by both parties or their duly authorized agents.
 - B) **FOR DEFAULT:** Time is of the essence for this order and Buyer reserves the right to cancel this order, or any portion of the same, without any liability by Buyer to Seller, if Seller does not make deliveries as provided in this contract or if Seller breaches any of the terms hereof, including the warranties of Seller. In the event of termination for default, Buyer may purchase similar articles elsewhere and Seller shall be liable for the excess cost to Buyer, resulting therefrom.
 - C) **FOR INSOLVENCY:** If there is a filing of a voluntary or involuntary petition to have Seller declared bankrupt; the appointment of a receiver or trustee for Seller; the execution by Seller of any assignment for the benefit of creditors, or it at any time, in the judgment of the Buyer, Seller's financial condition shall be such as to endanger performance under this contract, Buyer shall have unrestricted right to cancel and terminate this contract. Rights of the parties under such termination shall be determined under paragraph above, regarding default. If there is a filing of a voluntary or involuntary petition to have Seller declared bankrupt; the appointment of a receiver or trustee for Seller; the execution by Seller of any assignment for the benefit of creditors, or if at any time in the judgment of the Buyer, Seller's financial condition shall be such as to endanger performance under this contract, Buyer shall have unrestricted right to cancel and terminate this contract. Rights of the parties under such termination shall be determined under paragraph 10(B), above.
 - D) **OTHER CONTINGENCIES:** Buyer reserves the right at Buyer's option, either to suspend shipments of materials covered by this order, or to cancel this order, in whole or in part, at any time where such suspension or cancellation is caused by or reasonably results from United States Government orders or other requirements, embargoes, acts of the civil or military authorities, acts of the public enemy, inability to secure transportation facilities, strikes, differences with workmen, accidents at Buyer's work, or other contingencies, whether similar or dissimilar to the foregoing, beyond Buyer's control.
11. **PACKAGING & SHIPPING:** Ship only as specified on this purchase order or subsequently directed in writing. Pack all pieces of a single part number separately from all other part numbers. Each package must be numbered and labeled with Buyer's order number, part number, contents and weight. Each delivery must be accompanied by a packing slip specifying the exact quantity, the description of the delivery and Buyer's purchase order number. Buyer's count and weight shall be final and conclusive on shipments not accompanied by packing lists. No charges will be allowed for boxing, wrapping, crating, or cartage unless so specified on this order. Seller must pack or otherwise prepare all articles for shipment in a manner suitable for the method of shipment used and so as to secure the lowest transportation rates and meet carrier's requirements. Materials must be delivered within the time stated in the order, time being the essence thereof. **BUYER RESERVES THE RIGHT TO CHARGE SELLER FOR ANY EXCESS TRANSPORTATION COSTS RESULTING FROM FAILURE TO COMPLY WITH SHIPPING INSTRUCTIONS.** Buyer also reserves the right to refuse, or return at Seller's risk and expense, shipments made in advance of the scheduled of deliveries appearing on the face of this order or as later mutually agreed upon. If Buyer chooses to return items shipped in advance, time for payment and discount shall be based on scheduled delivery dates.
12. **SPECIFICATIONS AND DISCLOSURES & USE OF INFORMATION AND ITEMS:** Any manufacturing or other specifications referred to on the face of this order are hereby made a part thereof as if fully set forth herein. All material furnished must conform to Buyer's specifications where indicated. Goods made in accordance with Buyer's specifications and drawings shall not be furnished or quoted to any other person or concern. All specifications, designs, processes, drawings, tools, jigs, dies, fixtures, patterns, and other items or technical or proprietary information furnished by Buyer or the cost of which is charged against this order shall be confidential and remain the property of the Buyer. Upon completion or termination of this order, Seller shall return all such information and items to Buyer or make such other disposition thereof as may be directed or approved by Buyer. Patent rights to all improvements embodied in designs, tools, patterns, drawings, information and equipment supplied by the Buyer under this contract and exclusive rights for the use and reproduction thereof are reserved by the Buyer. Seller understands and agrees that the benefits of Buyer's designs and manufacturing information shall not extend beyond the scope and subject matter of this order.
13. **INDEMNIFICATION:** Seller agrees to indemnify, defend and hold harmless Buyer, its officers, directors, shareholders, agents and customers, and other rightfully claiming under Buyer against any and all claims, demands, losses and liabilities, including attorney costs and fees against any of Buyer's property as referred to in No. 12 above or resulting from actual or alleged infringement of ant U.S. patent, trademark, or copyright arising from the manufacture or sale of any articles furnished to Buyer under this order, except insofar as the articles supplied or the manufacture thereof are in accordance with any special requirements specified by the Buyer and the Seller gives

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prompt notice of such claims to the Buyer. In the event Seller, its employees, agents, and/or subcontractors enter premises occupied by or under control of Buyer in the performance of this order, Seller shall indemnify and hold harmless Buyer, its officers and employees, from any loss, cost, damage, expense or liability by reason of property damage or personal injury or death of whatsoever nature or kind arising out of and as a result of, or in connection with such performance occasioned in whole or in part by the actions or omissions of Seller, its employees, agents and/or subcontractors. Without in any way limiting the foregoing undertakings, Seller agrees to procure a policy or policies of public liability and property damage insurance in from satisfactory to the Buyer, insuring all property, if any, on Seller's premises owned by Buyer against loss or damage resulting from fire (including extended coverage), malicious mischief and vandalism, and the other obligations set forth above. Seller shall also maintain proper Workman's Compensation Insurance covering all employees performing this order.

- 14. **COVENANTS AND WARRANTIES:** Seller expressly warrants all articles and materials covered by this order to be of quality, quantity, size, description, and dimensions specified and free from defects, including latent defects and that they are, in all respects, merchantable. Such warrants shall survive delivery and include workmanship of the materials and shall not be deemed waived either by reason by Buyer's acceptance of said materials or articles or of payment for them. Seller agrees to save Buyer harmless from any loss, damage, or expense whatsoever that Buyer may suffer from breach of this Warranty.
- 15. **ADVERTISING:** Seller shall not without first obtaining written consent of Buyer, in any manner advertise or publish the fact that Seller has furnished or contracted to furnish to Buyer the articles herein mentioned.
- 16. **LABOR DISPUTES:** Seller agrees that whenever any actual or potential labor dispute delays or threatens to delay the timely performance of this order, Seller shall immediately give notice thereof to the Buyer.
- 17. **COMPLIANCE WITH STATUTES AND REGULATIONS:** By accepting this order, Seller represents and warrants that he will comply with all applicable Federal, State, and local statutes, rules, and regulations, and orders, including laws and regulations pertaining to labor, wages, hours, equal opportunity and other conditions of employment, the environment, safety, and applicable price ceilings, if any. Seller agrees to hold Buyer harmless from and indemnify Buyer for any losses, expenses, costs of damages resulting from Seller's breach of this warranty.
- 18. **APPLICABLE LAW:** This order and the performance of the parties hereunder shall be construed in accordance with the laws governed by the state in which materials were manufactured and sold including all sections of the **Uniform Commercial Code** as adopted by the state which are effective and in force on the date of this agreement.
- 19. **INTERPRETATION:** This contract contains the entire agreement of the parties. Failure of any party to enforce any of its rights hereunder shall not constitute a waiver of such rights.
- 20. **RIGHTS & REMEDIES:** The rights and remedies herein contained shall be cumulative, and additional to any other rights and remedies provided in law or equity.
- 21. **EQUAL OPPORTUNITY:** Unless this contract is exempted by Rules and Regulations of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246, as amended and 41 as amended, there is incorporated herein by reference Paragraphs (1) through (7) of the contract clause set forth in Section 202 of Executive Order 11246, as amended and 41 CFS 60 1 4.

Accepted by Seller: _____ Date: _____

Printed Name: _____ Company: _____