



TERMS OF PURCHASE

Acceptance/Entire Agreement

This writing is an offer (an "Offer" or "Order") by Stainless Tank and Equipment, LLC ("Buyer") to buy the goods and/or services described in Exhibit "A" attached hereto and incorporated herein by reference (and in accordance with all specifications and data submitted to Seller herewith) ("Products") from the seller to which this Offer is addressed ("Seller"), subject to the terms and conditions set forth in this Offer. This is not an acceptance of any offer by Seller to sell; and, except for any additional warranties given by Seller, Buyer hereby objects to any additional or different terms contained on any of Seller's quotation, acknowledgment, invoice, or other forms, or in any other correspondence from Seller. This Offer expires [thirty (30)] days from its date or upon prior written notification thereof to Seller, unless Products conforming hereto are subsequently shipped by Seller and accepted by Buyer. The terms of this Offer, when accepted by Seller explicitly, by shipment of conforming Products or otherwise, shall constitute the entire agreement between the parties on the subject hereof, superseding all prior communications and negotiations.

Prices; Security Interest

All prices are firm for the term of this Offer, and no additional charges will be allowed unless specifically provided for herein. This Order may not be filled without Buyer's written consent at a higher price than last quoted or charged by Seller. If the price is not stated in this Offer, it is agreed that the Products shall be billed at the price last quoted, or billed at the prevailing market price, whichever is lower. Notwithstanding any provision to the contrary herein, Seller agrees that if Seller sells the Products or similar products in like quantities to any third parties at a price less than that set forth herein, Seller shall make the same price available to Buyer. All time periods for determining payment due dates and availability of discounts (specified in Section 3 hereof) commence with Buyer's receipt of the items or receipt of an invoice, whichever is later.

If Buyer is to make any payment before Buyer's receipt of the Products, Seller grants Buyer a security interest in the Products and all proceeds thereof to secure performance of Seller's obligations hereunder, and agrees to execute, deliver, and authorize filing of, such financing statements as Buyer may reasonably consider necessary or appropriate to perfect its security interest. In any jurisdiction so permitting, a carbon, photographic, or other reproduction of this Offer shall be sufficient as a financing statement. In addition, however, Seller shall pay all expenses and, upon request, take any action reasonably deemed advisable by Buyer to preserve the Products, or to establish, determine priority of, perfect, continue perfected, terminate and/or enforce Buyer's interest in the Products or Buyer's rights under this Offer.

Payment

Unless otherwise specified herein, Buyer will pay invoices for Products shipped to Buyer or its designee within [thirty (30)] days of receipt of the Products or receipt of any invoice, whichever is later. [If Buyer pays said invoice within fifteen (15) days of such later date, Buyer shall deduct [2%] of the invoice amount as a prompt payment discount.]

Delivery Schedule

Seller shall deliver the Products "delivered" or "F.O.B. destination" within the time, which is of the essence, in the quantities and at the prices specified herein, in accordance with Buyer's specifications (as well as the sample approved by Buyer, if any). If Seller fails to comply with such requirements, Buyer may, in addition to any other rights or remedies, cancel this Order, and be relieved of all liability for any undelivered portion. Seller shall not unreasonably anticipate delivery by purchasing materials or manufacturing quantities in excess of what is reasonably required to meet Buyer's delivery schedule. Products received in advance of Buyer's delivery schedule may, at Buyer's option, be returned at Seller's expense, or be accepted and payment withheld until the scheduled delivery date.

Packing and Shipping

All Products shall be suitably packed, marked conspicuously with Buyer's purchase order number, and shipped in accordance with shipping instructions specified herein and otherwise in accordance with the requirements of common carriers so as to obtain the lowest transportation cost. Buyer shall have the right to route all shipments. No charge shall be made to Buyer for packaging, boxing, or cartage unless separately itemized herein. Seller shall be liable to Buyer for any loss or damage resulting from Seller's failure to act so as to provide adequate protection during shipment. Additional expenses, charges, or claims incurred as a result of deviation from the specified route, non-compliance with other shipping instructions or improper description of the shipment in shipping documents shall be Seller's responsibility. Immediately upon shipment Seller shall notify Buyer of complete shipping and routing information.

Inspection

Seller shall allow Buyer access to Seller's plant at all reasonable times to inspect any Products or work in process for production of such Products. All items are subject to final inspection and approval at Buyer's plant or other place designated by Buyer as destination. Such inspection shall be made within a reasonable time after delivery, irrespective of the date of payment. Notwithstanding any payment that may be made, no Products are to be deemed accepted until Buyer has had a reasonable opportunity to inspect them.

Rejected Items

Buyer may return rejected Products at Seller's expense. Seller shall not ship replacement Products for Products rejected and returned to Seller as defective unless so directed by Buyer in writing.

Risk of Loss

Seller shall bear the risk of loss (including but not limited to the cost of damages, mysterious disappearance, theft, or delay in transit) to, and be responsible for insurance and freight costs of, the Products until the Products are actually delivered to Buyer in conformity with the terms of this Order.

Changes

Buyer may change drawings, specifications, quantities, delivery schedules, or methods of shipment or packaging on any item at any time by issuing a written change order (a "Change Order") to Seller, and Seller agrees to make such changes. If such changes result in an increase or decrease in cost, an equitable adjustment of price and delivery schedules may be made, or Buyer may, at its option, cancel this Order pursuant to Section 15 hereof if agreement on an equitable adjustment cannot be reached. Buyer must assert claims for equitable adjustment within ten (10) days of the Change Order. This Order, together with any Change Orders or instructions, shall constitute one contract.

Warranty/Remedy

In addition to its standard warranty and/or service guaranty, Seller warrants that all Products supplied hereunder shall: (a) be free and clear of all liens and encumbrances with good and merchantable title thereto being in the Seller; (b) be free from any defects in design, material, or workmanship, and be of good and merchantable quality; (c) conform to Buyer's specifications and the sample approved by Buyer, as the case may be; (d) be fit for the known purposes for which purchased hereunder; and (e) comply and have been produced, processed and delivered in conformity with all applicable federal, state or other laws, administrative regulations, rules, judgments, orders, and decrees, including, without limitation, those related to intellectual property, customs, labor, employment, working conditions, board of health and environmental matters.

If Seller breaches the foregoing warranty or fails to perform or comply with any provision of this Offer, Seller is liable to Buyer for all damages arising therefrom. Buyer expressly retains all its rights and remedies provided by law in the event of such breach. Without limiting the foregoing, Buyer may, at its option, require Seller to repair or replace, at Seller's expense, any Products that breach Seller's warranty even if such Products are located other than at Buyer's facility. In the event that any breach requires a field campaign for such repair or replacement, or Seller otherwise initiates a field campaign to repair a Product, Seller agrees that Buyer, at its option, may participate in any such field campaign at Seller's expense. Seller further agrees to give Buyer 30 days' prior written notice of any such field campaign Seller initiates.

The foregoing warranties and remedies for breach thereof shall survive inspection, delivery and payment, and shall run in favor of Buyer, and its dealers and customers.

Pass Through Warranties

Warranties issued by Seller's suppliers of parts, subassemblies, materials and/or equipment used in the Products shall: (a) be collected by Seller, indexed and bound; (b) be submitted to Buyer with the Products; and (c) be issued or assignable by their terms to Buyer and in the latter case will be transferred to Buyer.

Non-Assignability

Seller shall not assign or sublet the work to be done hereunder without the prior written consent of Buyer; but this provision shall not restrict Seller in the procurement of component parts or materials. If this Order shall be terminated for Buyer's convenience, Buyer's liability to Seller with respect to such parts or materials shall not exceed the amount for which Seller would be liable to its supplier or suppliers if such liability were determined on the basis of Section 15 hereof.

Taxes

Except as otherwise expressly set forth in this Order, Buyer shall not be liable for any federal, state or local taxes, duties, customs, or assessments of any kind in connection with the sale, purchase, transportation, use, or possession of the Products ordered hereunder.

Indemnity

Except for Products ordered, manufactured and delivered in accordance with Buyer's own design, Seller warrants that the sale or use of Products furnished hereunder will not infringe or contribute to infringement of any patent, copyright, trade secret, trade name, trademark, or any proprietary right of another in the United States or elsewhere, and Seller shall defend, indemnify and hold harmless Buyer, its successors and assigns, and its dealers and customers ("Indemnitees") whether direct or indirect, against any and all losses, damages and expenses (including attorneys' fees and other costs of defending any infringement action) which they, or any of them, may sustain or incur as a result of an alleged breach of this warranty.

If any Product or the use thereof is held to constitute infringement of any intellectual property right and the use thereof is enjoined, Seller shall, at its expense, either procure for Indemnitees, the right to continue using said Product, or replace said Product with a substantially equal but non-infringing product acceptable to Buyer, its successors or assigns. If further use of the Product is not possible, in addition to Seller's obligation to defend, indemnify and hold harmless Indemnitees, Seller shall accept the return of any unsold Product and refund to Buyer, its successors or assigns the purchase price and transportation costs therefor.



TERMS OF PURCHASE

Seller also shall defend, indemnify and hold harmless Indemnitees whether direct or indirect, against any and all losses, damages, and expenses (including attorneys' fees and other costs of defending any action) which they, or any of them, may sustain or incur as a result of any claim of negligence, breach of warranty, or strict liability in tort in connection with the Products, except such as may be caused solely by the negligence of Indemnitees.

Cancellation by Buyer

Buyer shall have the right to cancel this Order without cause, and in such event Buyer's liability for cancellation shall be limited to Seller's actual cost for work and materials, applicable solely to this Order, which shall have been expended before notice of cancellation has been received by Seller.

Tools, Drawings, Specifications and Technical Information

Any and all tools, dies, jigs, fixtures, molds, drawings, specifications, photographs, and other engineering and manufacturing information supplied by Buyer or its customer shall remain the property of Buyer or its customer and shall be treated as confidential information ("Confidential Information"). Confidential Information shall be returned to Buyer or its customer, as applicable, upon completion of this Order or upon demand without retaining any copy thereof. Seller shall insure, and bear the risk of loss of, any property of Buyer in Seller's possession for performance of the Order. Tool charges convey ownership of the tools to Buyer, and Seller shall deliver such tools (and other property of Buyer) to Buyer on demand. Buyer or its customer also shall have the right to remove or repossess the above-described property at any time upon cancellation, with or without cause, of any Order or part thereof, free of any claims by Seller for lien or otherwise against the same. Any information which Seller may disclose to Buyer with respect to the design, manufacture, sale or use of the Products shall be deemed to have been disclosed as part of the consideration for this Order, and Seller shall not assert any claim (other than a claim for patent infringement) against Buyer by reason of Buyer's use thereof. This Section 16 shall survive inspection and delivery of, and payment for, the Products, as well as cancellation of this Order.

Fair Labor Standard Certificate

Seller hereby certifies that all Products furnished hereunder shall have been produced in compliance with all applicable requirements of Sections 6, 7, and 12 of the Fair Labor Standards Act of 1938, as amended, and of regulations and orders of the Administrator of the Wage and Hour Division issued under Section 14 thereof, and in accordance with all applicable state and federal laws and regulations governing general conditions for labor employed in the production of such Products.

Government Contracting

If this Order is in furtherance of a U.S. Government contract or subcontract, or is otherwise subject to the provisions of the Equal Opportunity Clause as promulgated by Section 2.02 of Executive Order 11246, dated September 24, 1965, or to 41 C.F.R. §60-250 (requiring affirmative action to employ certain veterans), or to 41 C.F.R. §60-741 (requiring affirmative action to employ certain handicapped individuals), or to any other federal law, rule or regulation applicable to Buyer as a U.S. Government contractor or subcontractor (including but not limited to any applicable section of 48 C.F.R. Chapter 1), the contract provisions required therein are hereby incorporated by reference. Seller also agrees to comply with all applicable local, state and federal laws, executive orders and regulations that are applicable to buyer as a U.S. Government contractor or subcontractor.

Delay

Buyer shall not be liable for any damage as a result of any delay or failure in Buyer's performance hereunder due to any act of God, act of Seller, embargo or other governmental act, regulation or request, fire, accident, strike, slowdown or other labor difficulties, war, riot, delay in transportation, defaults of common carriers, inability to obtain necessary labor, materials, or manufacturing facilities or, without limiting the foregoing, any other delays beyond the control of Buyer which shall affect its ability to receive and use the Products or services. In the event of such delay, the date of delivery shall be extended for a period equal to the time lost because of the delay.

In the event of a delay in delivery or nondelivery by Seller otherwise excusable under Section 2-615 of the Uniform Commercial Code, Seller shall notify Buyer pursuant to paragraph (c) thereof. Seller agrees to meet all of Buyer's requirements hereunder prior to any allocation among Seller's customers pursuant to Section 2-615(b) of the Uniform Commercial Code, if applicable, unless Buyer instead terminates this Order under Section 2-616(l)(a) thereof.

Governing Law

THIS OFFER AND ANY AGREEMENT OF SALE RESULTING FROM THE ACCEPTANCE HEREOF SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF WISCONSIN (WITHOUT REFERENCE TO PRINCIPLES OF CONFLICTS OF LAWS).

Venue for Disputes; Consent to Jurisdiction

All disputes arising out of or related to this Order will be subject to the exclusive jurisdiction of the Wisconsin State Courts of Columbia County, Wisconsin (or, if there is federal jurisdiction, the United States District Court for the Western District of Wisconsin) and the parties' consent to the personal and exclusive jurisdiction of these court.