

Moser's Terms and Conditions for Purchase

****By selling products to Moser, you are agreeing to the terms and conditions below, including to resolve any dispute with Moser in Wyoming**

This Purchase Order Agreement between Buyer, Moser Energy Systems, a Wyoming Corporation, ("Buyer" or "Moser") and the company described in the corresponding purchase order ("Seller") constitutes an offer for Buyer to Purchase the items described in the purchase order, upon acceptance, shall exclusively govern the parties' relationship notwithstanding any additional or inconsistent terms in any confirmation, acceptance, or other document offered by Seller in the course of the transaction.

- (a) **Manner of Acceptance; Enclosure Not Required.** This offer may be accepted by the Seller through any act or acts which Moser may reasonably construe as acceptance, including shipping the requested goods or providing an invoice to Moser. This Purchase Order Agreement expressly incorporates the purchase order tendered by Moser to Seller by reference and need not be physically included in the same email, letter, or other communication.
- (b) **Terms of Agreement.** This offer expressly limits acceptance to the terms of this offer. Notification of objection is hereby given to any term in any response to this offer that does not exactly match the terms of this offer.
- (c) **Deliveries; Time of the Essence; Method of Shipment.** The Buyer's production schedules are based upon the agreement that the ordered materials will be delivered to the Buyer by the date specified on the purchase order. Time is therefore of the essence for this Purchase Order Agreement. If deliveries are not made at the time agreed upon, the Buyer reserves the right to cancel or to purchase the goods at issue elsewhere, and hold Seller accountable therefor. The parties agree that the goods described in the purchase order shall be delivered to the address in purchase order within the time specified in the purchase order. Goods shall be shipped FOB to that address. Title and responsibility for the goods is exclusively with Seller until delivery to the address specified in Buyer's purchase order.
- (d) **Goods Purchased.** Buyer seeks to purchase the goods described in the accompanying purchase order in the quantity specified therein. Buyer has described, to the extent it believes necessary, the precise type, quality, rating, and specification of the goods. If a necessary election as to the good (e.g., a voltage rating or volume capacity) has not been made, Seller is instructed to contact Buyer as quickly as is commercially reasonable to clarify the goods requested. Any ambiguity as to the goods specified in the purchase order shall not affect the timely delivery of the goods.
- (e) **Prices.** Seller's price shall not be higher than the price in the purchase order. If no price is quoted, Seller's price shall not be higher than the price quoted in the most recent purchase order for similar goods, or the price otherwise last charged to the Buyer, whichever is lower.

- (f) **Quantities.** Shipments must equal exact amounts ordered and reflected in the purchase order.
- (g) **Warranty.** Seller warrants all materials or services delivered hereunder to be free from defect of material or workmanship and to conform strictly to the specifications, drawings, or sample specified or furnished by Buyer. Seller warrants that the goods shall be fit for continuous commercial use for a period of no less than two years. This warranty shall survive any inspection, delivery, acceptance, or payment by the Buyer of the materials or services. In addition, the Seller warrants that the Items in Section (c) shall be fit for any particular purposes Buyer has described to Seller in reasonable detail at or before the time this Offer is accepted by Buyer.
- (h) **Right of Assignment of Warranty.** All warranties given by Seller for the goods purchased may be assigned, at Moser's discretion, to any third-party, whether or not related to Moser. Seller agrees to honor such assignment and fulfill its warranty obligation to the fullest extent possible and in good faith.
- (i) **Inspection and Rejection.** Final inspection shall be on the Buyer's premises unless Buyer agrees otherwise in writing. Materials rejected as not conforming to this Purchase Order Agreement (including the purchase order), or as otherwise defective, shall be returned at Seller's expense, including transportation and handling costs, and Seller shall bear the risk of return for rejected goods. Buyer shall provide written notification of the rejection within a reasonable time after receipt of the goods. Buyer shall be entitled to offset the cost of return shipping.
- (j) **Patents.** Seller shall defend, at Seller's expense, the Buyer, its distributors and dealers, and users of the Buyer's products and indemnify them with respect to any and all claims that the products or materials furnished by the Seller under this Purchase Order Agreement infringe any U.S. patent, trademark, or copyright, and with respect to any and all suits, controversies, demands, and liabilities arising out of any such claim, provided that the foregoing shall not apply to any infringement resulting from Seller's use of a patented invention required to comply with the written instructions or specifications of the Buyer if such patented invention is not normally utilized by the Seller.
- (k) **Taxes.** Except as may be otherwise provided in this Purchase Order Agreement, the price in the purchase order includes all applicable federal, state, and local taxes in effect on the date of the purchase order. In case of the repeal of taxes or the reduction of rates for a particular purchase order, Seller shall refund any amounts to Buyer. Seller shall indemnify, defend, and hold Moser harmless for any taxes sought by any taxing authority connected with the purchase order.
- (l) **Assignment.** Seller shall not delegate any duties, nor assign any rights or claims under this Purchase Order Agreement, or for breach thereof, without prior written consent of the Buyer, and any such attempted delegation or assignment shall be null and void.
- (m) **Setoffs and Counterclaims.** All claims for moneys due or to become due from the Buyer shall be subject to deduction by the Buyer for any setoff or

counterclaim arising out of this or any other of the Buyer's purchase orders with Seller, whether such setoff or counterclaim arose before or after any such assignment by Seller.

- (n) **Changes.** The Buyer shall have the right to make, from time to time and without notice to any sureties or assignees, changes as to packing, testing, destinations, specifications, designs, and delivery schedules (postponements only). Seller shall immediately notify the Buyer of any increases or decreases in costs caused by such changes and an equitable adjustment in prices or other terms hereof shall be agreed upon in a written amendment to this Purchase Order Agreement.
- (o) **Bankruptcy.** In the event of any proceedings, voluntary or involuntary, in bankruptcy or insolvency by or against Seller, the inability of Seller to meet its debts as they become due, or in the event of the appointment, with or without Seller's consent, of an assignee for the benefit of creditors or of a receiver, then the Buyer shall be entitled, at its sole option, to cancel any unfilled part of this Purchase Order Agreement without any liability whatsoever.
- (p) **Governing Law; Venue.** This Purchase Order Agreement and the acceptance of it shall be a contract made in the state of Wyoming and governed by the laws thereof without reference to conflicts of law principles. All disputes and claims arising out of or related to this agreement shall be brought exclusively in the state or federal courts in Evansville, Wyoming. Buyer and Seller waive all defenses of venue or lack of personal jurisdiction for any suit commenced in Evansville, Wyoming pursuant to this Section.
- (q) **Traffic Routing.** Any losses accruing from deviation from the Buyer's routing instructions will be charged to Seller's account.
- (r) **Proof of Shipment.** Seller shall forward to the Buyer, with the invoice, the express receipt or bill of lading, signed by the carrier, evidencing the fact that shipment has been made.
- (s) **Supplementary Information.** Any specifications, drawings, notes, instructions, engineering notices, or technical data referred to in this agreement shall be deemed to be incorporated herein by reference as if fully set forth. In case of any discrepancies or questions, Seller shall refer to the Buyer for decision or instructions or for interpretation.
- (t) **Confidentiality; Title to Drawings and Specifications.** The Buyer shall at all times have title to all drawings and specifications furnished by the Buyer to Seller and intended for use in connection with this Purchase Order Agreement. Seller shall use such drawings and specifications only in connection with this Purchase Order Agreement, and shall not disclose such drawings and specifications to any person, firm, or corporation other than the Buyer's or Seller's employees, subcontractors, or government inspectors. Upon the Buyer's request or upon completion of this Purchase Order Agreement, Seller shall promptly return all drawings and specifications to the Buyer.
- (u) **Merger; Negation of Course of Dealing, Trade Usage.** This instrument is intended by the parties to be a final, exclusive, complete, and fully integrated expression of their agreement and its terms. ***NO COURSE OF PRIOR***

DEALINGS BETWEEN THE PARTIES AND NO USAGE OF THE TRADE SHALL BE RELEVANT TO SUPPLEMENT OR EXPLAIN ANY TERM USED HEREIN EXCEPT AS EXPRESSLY REQUIRED TO COMPLY WITH THE WARRANTY REQUIREMENTS HEREIN.

- (v) **Incorporation of Laws.** This document shall be deemed to include the implied warranties or merchantability and fitness for a particular purpose, and all of the buyer's remedies under the Uniform Commercial Code or similar law or provision, including that allow for the recovery of consequential damages.