

**MICROGROUP, INC.**  
**STANDARD TERMS AND CONDITIONS**  
**FOR THE SALE OF GOODS AND SERVICES**

1. **Basis of the Sale.** All sales are expressly limited to and made conditional upon Customer's acceptance of all the terms and conditions contained herein, and any of the Customer's terms and conditions which are in addition to, conflicting with or different from those contained herein are hereby objected to and shall be of no effect. Subject to the execution of any additional agreements by the parties (including, but not limited to, a Kanban Demand-Pull Agreement), this Agreement is the entire agreement between the MicroGroup and the Customer.

2. **Prices.** Applicable prices are those specified in MicroGroup's Order Verification and do not include applicable destination charges or federal, state and local excise, sales, use and similar taxes, and any duties, and Customer shall be responsible for all such items. Prices are subject to revision when interruption, delays, engineering changes or changes in the quality, quantity, or scope of order are caused or requested by Customer. Prices may be increased by MicroGroup if the market price of fuels, materials, raw materials, equipment, labor and other production costs, increase beyond normal variations in pricing. All prices quoted and confirmed are subject to correction for typographical or clerical errors. Unit prices apply only to the specific quantity and delivery schedule quoted.

3. **Packaging.** Standard packaging for domestic commercial shipment is included in the quoted price. When special packaging is specified or required, Customer shall reimburse MicroGroup for all such costs incurred.

4. **Shipment and Delivery.** All goods shall be shipped F.O.B. MicroGroup's plant, Medway, Massachusetts and shall become the property of Customer upon delivery to the carrier. Customer shall assume all risk and liability for loss, damage, or destruction after delivery to the carrier. Unless specific instructions from Customer specify which method of shipment is to be used, MicroGroup will exercise its own discretion. If the order calls for delivery by installments, each such installment will be deemed sold under a separate and independent contract, and default in any shipment or delivery shall not invalidate this contract as it pertains to any other shipments or deliveries. Delay in delivery of any installment will not relieve Customer of its obligation to accept remaining deliveries.

5. **Payment.** Payment for any goods, services or other costs to be paid by Customer hereunder is due thirty (30) days net from the date of invoice and shall be made in lawful U.S. currency. In the event Customer becomes the subject of a bankruptcy or other insolvency proceeding, or fails to pay MicroGroup's invoices as they become due, MicroGroup may cancel any order then outstanding and receive reimbursement for the cancellation damages. In case of a partial return of goods by Customer owing to defects covered by warranty, the relevant invoice shall be paid within the term stated and for the amount corresponding to the goods accepted. Customer is in no event entitled to make reductions on the invoice unit prices or quantities without prior written approval of MicroGroup. If invoiced amounts are not paid when due, Customer will pay, in addition to all amounts otherwise due MicroGroup and without limiting any remedies available to MicroGroup at law or in equity, a delinquency charge in the amount of the lower of one and one-half percent per month (eighteen percent per annum), or the maximum rate allowable by law, on such overdue amounts, plus all court costs, expenses, and attorney's fees incurred.

6. **Cancellation/Reschedule.** Cancellations or rescheduling of orders can only be made with MicroGroup's consent and on condition of payment for all finished goods and work-in-process, 110% of the cost of all raw materials and supplies procured for Customer, 100% of the cost of all raw materials and supplies on order and not cancelable, any supplier cancellation charges and any applicable re-stocking fees (collectively, "Cancellation Charges"). In no event, however, will cancellations to all or part of any order accepted be permitted within sixty (60) days of a confirmed delivery date. MicroGroup reserves the right to cancel all or part of any order accepted if inaccurate or incorrect information is supplied by Customer, which in MicroGroup's judgment, affects MicroGroup's financial risk or ability to perform its obligations under the order, or otherwise materially changes the rights or responsibilities of Customer and/or MicroGroup under the order.

7. **Restocking Fee.** MicroGroup may, at its option, agree to accept standard stock product returns from Customer. Such standard stock product must be in its original condition to allow for resale. MicroGroup reserves the right to charge a restocking fee of a minimum of twenty five percent (25%) of the selling price. Customer shall also be responsible for the payment of all shipping charges for the returned product. Engineered products and custom tubing cannot be returned for a restocking fee.

8. **Customer Requested Changes.** Customer may request, in writing, that MicroGroup incorporate changes in drawings, designs or specifications ("Engineering Change"), where the products to be manufactured by MicroGroup are to be specifically manufactured for Customer in accordance therewith. Such request will include a description of the proposed Engineering Change sufficient to permit MicroGroup to evaluate its feasibility and cost. MicroGroup shall not be obligated to proceed with the change until the parties have agreed upon the Engineering Change and pricing and upon the implementation costs to be borne by the Customer including, without limitation, Cancellation Charges in accordance with Section 6 for any work in process and raw materials and supplies made excess and obsolete as a result of the Engineering Change.

9. **Inspection & Acceptance.** Customer shall inspect all goods promptly upon receipt thereof and provide written notice to MicroGroup, specifying in detail the reason or reasons, for any goods rejected or otherwise nonconforming. Customer's inspection and/or acceptance tests shall not exceed the inspection and/or test procedures customary in the industry for the goods delivered by MicroGroup and shall be at Customer's expense. Customer will be deemed to have irrevocably accepted any and all goods with respect to which Customer has failed to give MicroGroup written notice of rejection by registered or certified mail within thirty (30) days from the date of receipt of the goods.

10. **Limited Warranty; Disclaimer; Limitation of Liability.** MicroGroup hereby warrants that the goods sold hereunder will conform to Customer's drawings and specifications, if applicable. This limited warranty is of no effect if (i) the nonconformity resulted from Customer's misuse, accident or improper storage or handling; (ii) the nonconformity resulted from Customer's design; or (iii) the nonconformity resulted from damages occurring after delivery. Notwithstanding anything else contained herein, MicroGroup assumes no liability for or obligation related to the performance, accuracy, specifications, failure to meet specifications or defects of or due to tooling, designs, or instructions produced or supplied by Customer and Customer shall be liable for costs and expenses incurred by MicroGroup related thereto. *EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, MICROGROUP MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL MICROGROUP BE LIABLE FOR LOSS OF PROFITS, DIRECT, INDIRECT, INCIDENTAL,*

*SPECIAL, CONSEQUENTIAL OR OTHER DAMAGES UNDER THIS AGREEMENT OR FROM ANY CAUSE WHATSOEVER. CUSTOMER ASSUMES ALL LIABILITY FOR ANY AND ALL DAMAGES ARISING FROM OR IN CONNECTION WITH, THE USE OR MISUSE OF THE PRODUCTS BY BUYER, ITS EMPLOYEES, OR OTHERS. THIS LIMITATION OF LIABILITY EXPRESSLY SURVIVES ANY REMEDY'S FAILURE OF ESSENTIAL PURPOSE.*

11. **Limitation of Remedy.** Provided MicroGroup is notified within thirty (30) days after receipt of the shipment of any goods sold hereunder, Customer may, after obtaining a returned material authorization, return to MicroGroup, at MicroGroup's expense any goods sold by MicroGroup to Customer hereunder which do not conform to Customer's drawings and specifications, for repair, replacement or credit, at the election of MicroGroup. THE FOREGOING SHALL BE MICROGROUP'S SOLE AND EXCLUSIVE LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR ANY GOODS THAT DO NOT CONFORM TO CUSTOMER'S DRAWINGS AND SPECIFICATIONS OR FOR MICROGROUP'S BREACH OF THE LIMITED WARRANTY CONTAINED IN SECTION 9 (LIMITED WARRANTY). MicroGroup may charge to Customer any costs resulting from the testing, handling, and disposition of any goods returned by Customer which are not found by MicroGroup to be nonconforming. Credit balances that have occurred for any reason, including but not limited to returned material, that are not utilized by the customer within 180 days of issue are invalid.

12. **Indemnification/Patents.** To the maximum extent allowed by law, Customer must defend and indemnify MicroGroup and its employees and agents against all sums, costs, liabilities, losses, obligations, suits, actions, damages, penalties, fines, interest and other expenses (including investigation expenses and attorneys' fees) that MicroGroup may incur or be obligated to pay as a result of (i) Customer's negligence or misconduct, or its use, ownership, maintenance, transfer, transportation or disposal of the goods sold hereunder; (ii) any infringement or alleged infringement of any industrial or intellectual property right of any other party arising from Customer's drawings and specifications (including Customer's trademarks and brand names) or production of the goods ordered by Customer; (iii) Customer's violation or alleged violation of any federal, state, county or local laws or regulations, including without limitation, the laws and regulations governing product safety, labeling, packaging and labor practices; and (iv) Customer's breach of the sales agreement.

13. **Force Majeure.** MicroGroup will not be responsible or liable for any delay or failure in performance arising as a result of fire, accident, acts of God, acts of public enemy, war, labor disputes, failure or delays, transportation, inability to secure product, raw materials or machinery for the manufacturing process, requirements or acts of any government or agency thereof, judicial action or other causes beyond MicroGroup's control. In such event, MicroGroup may defer performance for a period equal to the time lost by reason of the delay. If such time exceeds forty-five (45) days, MicroGroup may, at its option, by written notice to Customer cancel the affected order(s) as to any products then undelivered and refund any amounts already paid by Customer therefor without further liability to Customer.

14. **Proprietary Information.** MicroGroup shall exclusively own all intellectual property rights in all know-how, technology, processes, procedures, ideas and concepts invented or developed by MicroGroup or its employees, agents, affiliates or contractors in the course of manufacturing the goods, any modifications, enhancements, improvements to the manufacturing processes for the goods, and any other idea, design, concept, technique, invention or discovery related to the manufacture of the goods.

15. **Governing Laws.** This contract will be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts. Customer agrees that it will submit to the personal jurisdiction of the competent courts of the Commonwealth of Massachusetts and of the United States sitting in controversy or claim arising out of the sale contract, and that service of process mailed to it at, by registered mail, return receipt requested, shall be effective service of process in any such court. This Agreement shall not be governed by the U.N. Convention on the International Sale of Goods.

16. **Severability.** If any provision or provisions contained herein shall be determined to be unenforceable, then the parties shall in good faith negotiate for a substitute provision addressing the same subject matter as the unenforceable provision(s) as may then be considered to be enforceable, provided, however, if no substitute provision can be formulated which shall be accepted by the parties as enforceable, this Agreement shall nonetheless continue in full force and effect with the unenforceable provision(s) stricken here from. In such case the applicable law shall apply with regard to unenforceable and/or void provisions.

17. **Entire Agreement and Modification.** This provisions contained herein set forth the entire agreement between parties with respect to the subject matter hereof and as such, supersedes all prior and contemporaneous negotiations, agreements, representations, understandings and commitments with respect thereto and shall take precedence over all terms, conditions and provisions on any purchase order form, or order acknowledgment, or order release purporting to address the same subject matter. No change or waiver of any provision hereof will be binding on MicroGroup unless made in writing and signed by a duly authorized representative of MicroGroup.

18. **Headings.** The section headings contained herein are intended only as a convenience and shall not be given any effect to interpret the provisions of this agreement.

19. **Waiver.** The failure of delay of either party to enforce at any time any provision hereof shall not be construed to be a waiver of such provision or of the right thereafter to enforce each and every provision. No waiver by either party to this agreement, either express or implied, of any breach of any term, condition, or obligation of this agreement, shall be construed as a waiver of any subsequent term, condition, or obligation of this agreement.

20. **Limitation of Actions.** No action whether in contract or tort, including negligence, arising out of the performance of either party hereunder may be brought by the other party more than eighteen (18) months after the cause of the action has arisen, except that an action for nonpayment may be brought within applicable statutory periods.

21. **Notice.** No notice or other communication is sufficient to affect any rights, remedies or obligations of either party unless the notice or communication is in writing and mailed in registered or certified form, to the party to which notice or communication is being given at the following address: (a) If to MicroGroup: MicroGroup, Inc., 7 Industrial Park Road, Medway, MA 02053; (b) If to Buyer, at its address designated on the face of the purchase order.