

MADISON ELECTRIC COMPANY
STANDARD TERMS AND CONDITIONS OF PURCHASE
(Supersedes and cancels all previous Terms and Conditions)

These Purchase Order Terms and Conditions and Order (collectively "Agreement") apply in respect of an agreement between **MADISON ELECTRIC COMPANY** ("Buyer") and the Seller (as defined below) in relation to a purchase order or a work statement (each, an "Order"), and shall (to the extent conflicting with any terms contained in such Order controlling, the terms and conditions under this Agreement are binding between the Buyer and Seller and supersede and replace any Seller terms and conditions or previous agreements for the Goods (as defined below) in scope. Any amendment or modification of this Agreement shall not become binding unless agreed upon in writing in the Order between the parties governing the individual transactions covered by this Agreement. Unless expressly stipulated under this Agreement or required under applicable law, the Buyer expressly rejects any incorporation attempt by the Seller of any other terms and conditions, whether from the Seller or from what is common industry practice, and whether such attempt is made in relation to offering, correspondence, website, order acceptance, counter party compliance inquiries, invoicing or other means.

1. DEFINITIONS

"Affiliates" means, with reference to a party, any company or other legal entity which: (i) controls either directly or indirectly, a Party; or (ii) is controlled, directly or indirectly, by a party; or (iii) is directly or indirectly controlled by a company or entity which directly or indirectly controls a party. For these purposes, "control" means the right to exercise more than fifty percent (50%) of the voting or similar right of ownership; but only for so long as such control shall continue to exist.

"Goods" means the goods, materials, hardware, products being purchased or to be supplied as specified in the order.

"Intellectual Property" (IP) means all patents, rights to, copyright and related rights, trade marks, rights in confidential information and any other intellectual property rights, in each case whether registered or unregistered in any part of the world.

"Order" means the purchase order or work statement, form or quote under which an order is placed by Buyer to Seller covering the Agreement in relation to the supply of Goods by the Seller.

"Sales Tax" means any sales, use, service, value added, goods and services, consumption, cess or duties or other similar taxes or duties in any country which are chargeable on any sum payable in connection with the purchase of the Goods.

"Seller" means any person or company having a contract for the supply of Goods to the Buyer as identified in the Order.

2. SELLER'S OBLIGATIONS AND WARRANTIES

2.1 The Seller warrants that the Goods corresponds with the description in the Order and any applicable specifications; are new (unless otherwise indicated in the Order), of good and merchantable quality and fit for any purpose held out by the Seller, or made known to the Seller by the Buyer expressly or by implication, and in this respect the Buyer relies on the Seller's skill and judgement.

2.2 The Seller warrants that it sells the Goods to the Buyer free from all liens and encumbrances and with full title guarantee (unless otherwise expressly stated in the Order).

2.3 The Seller warrants that use of the Goods by the Buyer does not and will not give rise to any infringement or misappropriation of any Intellectual Property right of any third party.

2.4 The Seller shall be responsible for ensuring all inspections and testing of the Goods is properly and adequately performed. The Goods shall be subject to final inspection and acceptance or rejection by the Buyer upon arrival at their destination as specified in the Order. If following inspection or testing the Buyer considers that the Goods do not conform or are unlikely to comply with the Seller's obligations under this clause 2, the Buyer shall inform the Seller and the Seller shall immediately take the necessary remedial action to ensure compliance.

2.5 The Seller shall ensure that the Goods are properly packed and secured in such a manner as to enable them to reach their destination in good condition and the Seller shall deliver the Goods to the Buyer during the Buyer's usual business hours or those otherwise agreed with the Buyer.

2.6 The Seller warrants that it will comply with applicable laws and regulations in supplying the Goods, including without limitation all import, export, environmental and data privacy laws and regulations; and (iii) any Goods or data sent to Buyer shall (a) contain no hidden files; (b) not alter, damage, or erase any data or computer programs without control of a person operating the computing equipment on which it resides; (c) contain no key, node lock, time-out, scrambling device, or other function, whether implemented by electronic, mechanical or other means, which restricts or may restrict use or access to any programs or data; and (d) not contain harmful code.

2.7 Any third party products sold by the Vendor may carry their own warranties and Vendor shall pass through to Buyer any and all such warranties to the fullest extent. Exercise of such warranty shall be directly between Vendor and the third party provider.

3. MANUFACTURER'S WARRANTIES

3.1 To the extent that the benefit of any warranties made by the manufacturer or previous seller of the Goods to the Seller can be assigned to the Buyer, the Seller assigns them to the Buyer.

3.2 Until such assignment, the Seller will co-operate with the Buyer in any reasonable arrangements to provide the Buyer with the benefit of such warranties or like condition including enforcement at the cost of and for the benefit of the Buyer.

4. DELIVERY, INSPECTION AND ACCEPTANCE

4.1 Time is of the essence for the Order. The time stipulated for delivery of the Goods shall be strictly adhered to. If the Goods are not delivered on time, or do not comply with the undertakings set out in clause 2, then without limiting any of its other rights or remedies, and whether or not it has accepted the Goods, the Buyer may exercise any one or more of the following remedies:

- (a) cancel the Order without any penalty to the Buyer;
- (b) to reject the Goods (in whole or in part) and return the Goods to the Seller at the Seller's own expense;
- (c) to require the Seller to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);
- (d) claim damages for any additional costs incurred by the Buyer which are attributable to Seller's failure to deliver the Goods on the due date.

4.2 The Seller must collect rejected Goods within a reasonable period after notification of rejection. All Goods must be packed, marked and transported as specified in the Order, and if not specified, in a proper and suitable manner, consistent with industry practice.

4.3 Seller shall be responsible for ensuring all inspections and testing of the Goods are properly and adequately performed. The Goods shall be subject to final inspection and acceptance or rejection by the Buyer upon arrival at their destination as specified in the Order.

4.4 In the event the Goods delivered by the Seller do not conform with the Order whether by reason of not being of the quality or in the quantity or measurement stipulated or being unfit for the purpose they are required, the Buyer shall have the right to reject such goods within a reasonable time of their delivery and inspection and to purchase the Goods elsewhere and to claim for any additional expense incurred without prejudice to any other right which Buyer may have against Seller. As provided in 4 above, any prior payments made by Buyer shall not prejudice the Buyer's right of rejection. Acceptance of any part of the Order shall not bind Buyer to accept future shipments of non-conforming Goods, nor deprive it of the right to return non-conforming Goods. At Buyer's option, it may cancel the Order for rejected Goods, obtain a refund, or require Seller to repair or replace such Goods without charge and in a timely manner. Seller shall be liable for all costs incurred by Buyer to return rejected Goods.

5. PRICE AND PAYMENT

5.1 The price of the Goods is the price stated on the Order. The Seller must attach the acknowledged delivery receipt and a copy of the Order to the invoice or billing statement and

forward all documents to the Finance/Accounting Department of the Buyer for payment processing. Unless otherwise stated in the Order, Buyer shall pay all properly invoiced/billed amounts due to Seller within agreed upon terms after receipt of such invoice or billing statement, except for any amounts disputed by the Buyer. Buyer shall have no obligation to pay any invoice/billing statement issued more than ninety (90) calendar days after delivery of all of the Goods stated in the Order.

5.2 The payment by Buyer of any amount (whether in dispute or not) will not constitute acceptance of the Goods or admission of any liability or of any obligation to make that payment. The Buyer may deduct from monies due or to become due to the Seller the following amounts (plus Sales Tax, if any, in respect of deductions payable):

- (a) all debts and monies due from the Seller to the Buyer arising from or in connection with this Order; and
- (b) all liabilities which the Buyer may have paid, suffered or incurred and which Seller is liable to bear pay or reimburse to the Buyer.

6. CHANGE

The Buyer reserves the right at any time to make changes to the Order or any part thereof upon written notice to the Seller. No change to or modification of the items, specifications, terms, conditions and prices appearing on the Order shall be binding upon the Buyer unless expressly agreed to in writing by the Seller and the Buyer.

7. PASSING OF TITLE AND RISK

Property or title to and risk in the Goods shall remain with the Seller until they are delivered at the point specified in the Order and accepted by the Buyer by signing a delivery order. Passing of property or title to the Goods shall not affect the right to reject the Goods.

8. INDEMNITY & LIMITATION OF LIABILITY

8.1 The Seller shall indemnify, defend, and hold Buyer harmless against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Buyer as a result of or in connection with any claim made against the Buyer for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the supply or use of the Goods, to the extent that the claim is attributable to the acts or omissions of the Seller, its employees, agents or subcontractors.

8.2 To the extent permitted by applicable law, in no event will the Buyer be liable for any lost revenues, lost profits, goodwill, or anticipated savings, incidental, indirect, consequential, special (including nominal and exemplary damages), moral or punitive damages. In no event shall the Buyer's liability to the Seller exceed the total amount of fees to be paid by the Buyer to the

Seller under an applicable Order (less fees it actually received pursuant to such order). Seller expressly and irrevocably waives any security interest it may have in any of the Goods, pursuant to any applicable law or other agreement, and agrees that to the extent permitted and not otherwise limited herein (or by any other law), a recovery of monetary damages shall be its sole and exclusive remedy.

8.3 Seller agrees to indemnify and hold Buyer harmless from any deficiency (including penalties and interest) relating to any taxes or government levy, including but not limited to Sales Tax, which, by law, are the responsibility of Seller and to reimburse Buyer for all accounting and counsel fees and expenses incurred in connection with an assessment of such a deficiency.

8.4 This clause shall survive termination of this Agreement.

9. TERMINATION

9.1 Without limiting its other rights or remedies, Buyer may terminate an Order immediately by giving written notice if Seller has committed a material breach of any term of the Agreement and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing to do so.

9.2 Termination of an Order, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination.

9.3 Any provision of the Agreement that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

10. CONFIDENTIALITY

10.1 Each party undertakes that it shall not at any time, disclose to any person any confidential information concerning this Agreement, Order, business, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs.

10.2 No party shall use any other party's confidential information for any purpose other than to perform its obligations under this Agreement.

11. ASSIGNMENT

The Seller will not assign its rights or subcontract its duties without the Buyer's written consent. Any unauthorized assignment is void. The Buyer may assign its rights to an Affiliates without prior written consent from the Seller.

12. WAIVER

A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not:

- (a) waive that or any other right or remedy; or
- (b) prevent or restrict the further exercise of that or any other right or remedy.

13. SEVERANCE

If any provision or part-provision of the Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Agreement.

14. NOTICE

All notices to be given hereunder shall be in writing and shall be deemed to be given when mailed by certified or registered mail, or personal delivery, to the addresses of the parties specified in this Order unless either party shall specify to the other party a different address for the giving of such notice.

15. ENTIRE AGREEMENT

The terms and conditions set out herein apply to the Agreement between the Buyer and the Seller to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. For the avoidance of doubt, any Supplier pre-printed terms and conditions produced, signed or stamped by either the Supplier or the Buyer and for whatever purpose during the currency of this Agreement are hereby disallowed.

16. THIRD PARTY RIGHTS

With the exception of the Buyer's Affiliates, agents, or assigns, no one other than a party to this Agreement shall have any right to enforce any of its terms.

17. TAXES

17.1 All sums payable in connection with the Purchase of the Goods are expressed exclusive of Sales Taxes unless such Sales Taxes are not recoverable for Buyer. If chargeable, the Sales Taxes which can be recovered by Buyer will be payable in addition by Buyer in the manner and at the rate required by applicable law or regulation, provided that Buyer shall not be obliged to pay any amount in respect of Sales Taxes to Seller, whether recoverable or not for Buyer, unless and until Seller produces an invoice (i) complying with such regulations as the authority responsible for the collection of Sales Taxes may stipulate, (ii) addressed to the Buyer legal entity mentioned in the Order and (iii) on which such Sales Taxes are separately itemized.

17.2 Any withholding tax required to be deducted from any payment by Buyer to Seller for the Purchase of the Goods will be deducted by Buyer from the price of the Goods.

18. GOVERNING LAW & JURISDICTION

This Agreement shall be exclusively governed by the exclusive laws of and all disputes relating to this Agreement shall be resolved exclusively in the state of Michigan, without regard to any rule regarding conflict of law.