TERMS AND CONDITIONS OF SALE

These Terms and Conditions of Sale (these "Terms") are the only terms which govern the sale of the products ("Products") and services ("Services") by MSS, LLC ("MSS") to the buyer to whom MSS is providing such Products and Services ("Buyer"). Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the Products and Services covered hereby, the terms and conditions of said contract shall prevail to the extent they are inconsistent with these Terms. The accompanying MSS proposal, quotation, sales order or invoice ("Sales Order") and these Terms (collectively, this "Agreement") comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. The offer of MSS to Buyer contained in this Agreement expressly limits Buyer's acceptance to the terms of this Agreement. MSS rejects any terms contained in any purchase order or other documents issued by Buyer which are different from, conflict with, modify and/or add to this Agreement; in such event, the terms of this Agreement shall govern and prevail. MSS's execution of any document issued by Buyer shall constitute only an acknowledgment of receipt thereof, and shall not be construed as an acceptance of any of the terms therein. Unless Buyer sets forth each specific objection to this Agreement in this Agreement or in a separate writing signed and dated by Buyer and delivered to MSS contemporaneously with this Agreement, Buyer shall be deemed to have accepted all of the terms of this Agreement. Buyer's issuance of a purchase order or other document which purports to reject some or all of the terms of this Agreement by virtue of Buyer's standard form language, or otherwise, shall not be sufficient objection. Where Buyer specifically objects to any of the terms of this Agreement, no contract shall be formed unless and until MSS accepts in writing Buyer's proposed modifications to this Agreement. This Agreement prevails over any of Buyer's general terms and conditions of purchase regardless whether or when Buyer has submitted its purchase order or such terms. Fulfillment of Buyer's order does not constitute acceptance of any of Buyer's terms and conditions and does not serve to modify or amend this Agreement.

PRICES: Prices quoted are in U.S. dollars and are effective as of the date of the quotation and subject to change. Prices are valid for 30 days unless otherwise agreed in writing.

TERMS OF PAYMENT: Unless otherwise indicated in the Sales Order, payment terms are cash prior to shipment. All payments hereunder shall be in United States Dollars and made by check or wire transfer, unless otherwise agreed upon in writing by MSS. If shipments are delayed by Buyer for any cause, payment shall become due from the date on which MSS is prepared to make shipment and storage shall be at Buyer's risk and expense. If manufacture is delayed by Buyer for any cause, a partial payment based upon the percentage of completion of the order shall become due from the date on which MSS is notified of the delay. MSS may at any time, when in its opinion Buyer's financial condition warrants, alter or suspend credit and delivery until such time as arrangements for payment are made which are satisfactory to MSS. If payment is not received by the date on which it is due, interest shall accrue and be payable by Buyer on the unpaid balance at a rate of one and a half percent (1.5%) per month.

TAXES: MSS prices do not include sales, value added, inventory, use, excise, or other taxes, fees, or export or import duties, which are the sole responsibility of Buyer and which, at MSS's option, may be charged to Buyer in addition to the purchase price under this Agreement, or separately billed at any time by MSS if MSS is required by any taxing authority to collect or pay such tax(es). If Buyer is exempt from the payment of any tax, it is the responsibility of Buyer to furnish to MSS the proper exemption certificate.

DELIVERY OF PRODUCTS; PERFORMANCE OF SERVICES: Deliveries are scheduled only after receipt of order, clarification of required technical information, resolution of commercial issues, and Buyer approval of drawings when required. Shipping dates are estimated based on conditions prevailing at the time of quotation, but are not guaranteed. Unless otherwise agreed in writing by the parties, MSS shall deliver the Products F.O.B. MSS's factory in San Diego, California, USA. In the event that a carrier specified in the order by Buyer is not used by MSS, all excess costs as a result thereof will be at the expense of Buyer. Risk of loss shall pass to Buyer at point of shipment. MSS shall not be liable for delays in the manufacture or delivery of the Products or the performance of the Services due to force majeure or other causes beyond its reasonable control, including, but not limited to, acts of God, acts or omission of civil or military authority, fire, strikes, floods, epidemics, quarantines, restrictions, riot, terrorist act or threat, war, embargo, delays in transportation, transportation vehicle/vessel shortages, delays in customs clearance, or delays due to import/export sanctions, or inability to perform due to inability to obtain necessary labor, materials or manufacturing facilities. In the event of any delay such as above described, the date of delivery or performance shall be extended for a period equal to the time lost by reason of such delay. Unless otherwise indicated in the Sales Order, all installation (including without limitation mechanical, electrical control panel and electrical field wiring) and all permits, licenses and inspections shall be the responsibility of Buyer, at Buyer's sole cost. With respect to the Services, Buyer shall (i) cooperate with MSS in all matters relating to the Services and provide such access to Buyer's premises, and such office accommodation and other facilities as may reasonably be requested by MSS, for the purposes of performing the Services; and (ii) respond promptly to any MSS request to provide direction, information, approvals, authorizations or decisions that are reasonably necessary for MSS to perform Services in accordance with the requirements of this Agreement.

TITLE AND SECURITY INTEREST: The title to and right of possession of the Products (or any part or portion thereof) furnished by MSS shall remain MSS's personal property until paid for in full, and Buyer shall do all things necessary to perfect and maintain such right and title in MSS. To secure payment of sums due, Buyer grants to MSS a security interest in the Products purchased and in the proceeds thereof. At MSS's request, Buyer shall sign financing statements and other documents necessary to perfect and continue the security interest. If MSS in its sole judgment questions Buyer's ability to pay for the Products or Services, MSS may require payment in full in advance of delivery or manufacture of the Products or performance of the Services. Failure to adhere to MSS's terms may result in a shipping hold on future orders and/or a reduction in the credit MSS will extend. Notwithstanding anything herein to the contrary, title to all intellectual property rights associated with the Products and the Services shall remain with MSS or its suppliers and licensors.

WARRANTY: MSS warrants to Buyer, and Buyer only, new equipment manufactured by MSS and covered hereby, against defects in material and workmanship while in normal use and service for a period of **thirteen (13) months** from the date Buyer is notified by MSS that the Products are ready for shipment (the "Warranty Period"). MSS warrants to Buyer that it shall perform the Services using personnel of required skill, experience and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services. The foregoing limited warranty (the "Warranty") applies only to equipment that has been properly installed and maintained and subjected to normal use. It does not cover damages caused by abuse, misuse, unauthorized repair, accident, alteration, modification, electrical brownouts, power surges, loose wires, loose screws, nuts or bolts. Also excluded are ordinary service and maintenance items such as replacement belts, light bulbs, tires, wear liners, limit switch adjustments, hydraulic seals, and the like, required as the result of normal wear and tear. MSS makes no warranty with respect to any parts or equipment manufactured by others and sold by MSS. These items are subject to the warranties of the manufacturer, and Buyer agrees that any warranty claims on these items shall be made by the Buyer directly against the respective manufacturer. MSS shall not be made a party to such claims by Buyer. This Warranty supersedes any written or oral representations concerning the equipment sold to Buyer that may have been made by MSS's agents or employees, or contained in advertisements. If any model or sample was shown to Buyer, that model or sample was used merely to illustrate the general type and quality of the equipment and not to represent that the equipment would necessarily conform to such model or sample. Buyer's sole remedy for any defect of material or workmanship in the equipment sold by MSS is as provided by this Warranty. IN NO EVENT SHALL MSS BE LIABLE FOR ANY CLAIM FOR SPECIAL, INCIDENTAL, INDIRECT, FORESEEABLE OR CONSEQUENTIAL DAMAGES RESULTING FROM THE USE, LOSS OF USE, BREAK DOWN OR MALFUNCTION OF THE EQUIPMENT, INCLUDING LOST EARNINGS OR PROFITS. MSS shall not be obligated to provide any warranty coverage whatsoever for any defect not communicated to MSS in writing within the Warranty Period. Delivery of Products by MSS to a common carrier for shipment to Buyer shall constitute delivery of the Products to Buyer. Regardless of freight payment, all risk of loss or damage in transit shall pass to Buyer, and all claims for loss or damage during shipment must be made by Buyer directly to the carrier. Buyer shall notify MSS, or an authorized distributor of MSS in writing within 30 days of discovery, within the Warranty Period, of any alleged defect and permit MSS or its designated representatives to conduct such investigation, examination and tests as it deems appropriate. If requested by MSS, Buyer will return the alleged defective Product to MSS factory, freight prepaid for examination and testing. If MSS determines the Product is defective, MSS will either repair or replace, at the option of MSS, such Product with a like item of MSS's manufacture, F.O.B. MSS's factory. This Warranty excludes labor. The responsibility of MSS is limited to repairing

or replacing defective material manufactured by it, provided MSS examination discloses to its satisfaction that such material has not been altered or repaired (other than by MSS approved procedures), subjected to misuse or improper maintenance. Any repairs to, alterations of, or work done on alleged defective Products without MSS specific written authorization shall void MSS Warranty applicable thereto. With respect to any warranty claim on the Services, MSS shall, in its sole discretion, (i) repair or re-perform the applicable Services or (ii) credit or refund the price of such Services at the pro rata contract rate.

THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THERE ARE NO OTHER WARRANTIES, AGREEMENTS OR UNDERSTANDINGS WHICH EXTEND BEYOND THOSE SET FORTH IN THESE TERMS. NO OTHER WARRANTY, ORAL OR WRITTEN, IS AUTHORIZED OR HAS BEEN GIVEN BY MSS TO BUYER. THE REMEDIES SET FORTH UNDER THIS HEADING "WARRANTY" SHALL BE BUYER'S SOLE AND EXCLUSIVE REMEDY AND MSS'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTIES SET FORTH HEREIN.

RETURN OF PRODUCTS: In the event that Buyer believes a component manufactured by MSS is defective in materials or workmanship during the term of this Warranty, Buyer shall promptly notify MSS of the problem in writing. Upon receipt of such written notice, MSS will issue Buyer a Returned Goods Authorization (RGA) number that must accompany the parts returned to MSS for warranty consideration. This RGA number is valid for thirty (30) days. The Company's warranty parts invoices (mailed separately) automatically become due and payable upon a customer's failure to return the defective parts within thirty (30) days. Upon receipt of the defective parts, MSS will make an evaluation, or if necessary, forward the defective parts to the original manufacturer for warranty consideration. Buyer shall then be notified of the determination made. If the part is found to be defective in material or workmanship, the obligations of MSS are strictly and exclusively limited to the repair or replacement, at the option of MSS, of the defective part. MSS agrees to pay all shipping charges, at UPS ground rates, for delivery to Buyer of repaired or replacement parts provided the submitted parts have provided to be defective and covered by this warranty. Where expedited delivery of repaired or replacement parts are requested by Buyer, such additional shipping charges shall be paid by Buyer.

CANCELLATION: No order may be canceled by Buyer unless specifically consented to by MSS in writing. In the event of cancellation, Buyer shall pay: (a) contract price for all Products and Services that have been completed prior to receipt of notice of cancellation; (b) all costs incurred by MSS in connection with the uncompleted portion of the order plus a normal profit of the total contract price as partial liquidated damages; and (c) cancellation charges, if any, of MSS on account of its purchasing commitments made under the order. MSS shall have the right to cancel any order or to refuse to deliver or to delay shipment in the event Buyer fails to submit payments when due or perform any other obligations of Buyer, or becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

INDEMNITY: Buyer shall indemnify, defend and hold MSS harmless from and against any and all claims, actions, damages, demands, liabilities, costs and expenses, including attorneys' fees and expenses, relating to the Products or the Services brought by persons other than MSS employees or independent contractors (including, but not limited to, Buyer employees and independent contractors), except to the extent those are based on the gross negligence or willful misconduct of MSS. Buyer shall indemnify and hold harmless MSS against all liabilities and expenses (including attorneys' fees) arising out of the use of the Products by Buyer or a third party in any case where Buyer fails to make available adequate warnings and instructions concerning the proper and normal use of the Products. When special Products are made to Buyer's specifications, Buyer shall indemnify and hold MSS harmless from all demands or actions brought against MSS for patent infringements related to such special Products.

DESIGN/ PRODUCT IMPROVEMENT: MSS reserves the right to discontinue the manufacture, change or modify the design specifications and construction of any of its products without incurring any obligation to Buyer.

MANUALS: All operating manuals, instructions, brochures, warnings or the like concerning the Products supplied hereunder are supplied as an aid to Buyer. Buyer shall train all its employees and/or third-party users of the Products purchased by Buyer so that such employees and third parties will be properly informed of the contents of all written materials supplied by MSS and will use the Products properly and safely.

INTELLECTUAL PROPERTY: Buyer shall not remove, alter, obliterate or cancel MSS's trade names or trademarks appearing on any Product nor take any actions which are inconsistent with MSS's ownership of such names and trademarks. "Deliverables" means any hardware, firmware, software, source code, designs, drawings, specifications, documentation or other items, which may or may not contain Confidential Information of MSS or its affiliates, delivered by MSS to Buyer in connection with any Products or Services furnished under this Purchase Order. Seller retains title to all intellectual property in the Deliverables. Use of any software or firmware incorporated in the Deliverables may be subject to third-party license agreements. In the absence of a third-party license agreement, Buyer is granted a non-exclusive, non-transferable license to use the Deliverables solely for the purpose of operating a material recovery facility, with no rights to sublicense, disclose, disassemble, decompile, reverse engineer, or otherwise modify them. Except as specifically set forth herein, the license grant to Buyer does not convey to Buyer any intellectual property rights in the Deliverables.

IMPORT/EXPORT LICENSES: This Agreement is contingent upon MSS obtaining all export licenses and/or government approvals that may be required under applicable U.S. laws and regulations, including, but not limited to, the Export Administration Act, the Trading with the Enemy Act, the Export Administration Regulations and the Foreign Assets Control Regulations. Prior to the date of shipment of the Products, Buyer shall obtain at its sole cost all import licenses and/or other government approvals that may be required by the country of importation. Upon MSS's request, Buyer shall provide MSS with copies of such import licenses and/or government approvals to evidence Buyer's compliance with this provision. Buyer represents and warrants that it is not, nor will Buyer, directly or indirectly, transfer the Products to a person or entity listed as: (1) a Specially Designated National or Blocked Person by the U.S. Treasury Department; (2) a Denied Person by the U.S. Commerce Department; (3) a Denied Entity by the U.S. Commerce Department; or (4) a Debarred Party by the U.S. State Department. Buyer shall indemnify and hold MSS harmless from any claim, loss, damage, fines, penalties, liability or expense incurred with regard to Buyer's failure to comply with this provision.

COMPLIANCE WITH LAWS: Buyer shall comply with the United States Foreign Corrupt Practices Act of 1977, as amended, and all export laws and restrictions and regulations of the Department of Commerce, Department of Defense or of other United States or foreign agencies or authorities, and shall not export, or allow the export or re-export of any Product in violation of any such restrictions, laws or regulations.

APPLICABLE LAW; ARBITRATION: These Terms and any order by Buyer shall be interpreted and enforced in accordance with the laws of the state of California and any applicable laws of the United States. The United Nations Convention on the International Sale of Goods shall not govern the interpretation of or any dispute arising from this Agreement. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by binding arbitration in San Diego, California, before a single, neutral arbitrator in accordance with the rules then in effect of the American Arbitration Association, and judgment rendered upon the award, including such reasonable attorney's fees as may be awarded the prevailing party, may be entered in any court having jurisdiction thereof. No action or proceeding based on this Agreement or arising out of its performance shall be instituted by either party more than one year after the cause of action or claim has accrued; provided, however, that no such limitation shall apply to claims for payment under this Agreement by MSS against Buyer.

ATTORNEYS' FEES: In the event of any controversy, claim, or dispute between the parties hereto arising out of or relating to this Agreement, or the breach thereof, the prevailing party shall be entitled to recover from the other party reasonable expenses, attorneys' fees and costs. Attorneys' fees incurred in enforcing any judgment are recoverable as a separate item, and this provision for post-judgment attorneys' fees shall survive any judgment and shall not be deemed merged into the judgment.

CONFIDENTIALITY: All pricing, data, designs, drawings, processes, specializations, reports, firmware, software, source code, and other technical, financial or proprietary information submitted by MSS to Buyer and the features of all parts, equipment, tools, patterns and other items furnished or disclosed to Buyer by MSS in connection with the order (the "Confidential Data") are to be considered confidential, the sole property of MSS, shall not be used except in connection with MSS's provision of the Products and Services to Buyer in accordance with the order and shall not be published or disclosed to any third party without MSS's prior written authorization, unless the Confidential Data or

any relevant part thereof is or becomes generally available to Buyer on a non-confidential basis from a source (other than MSS) which is entitled to disclose the same. Upon completion, termination or cancellation of this order, or upon MSS's request, Buyer shall not, without receipt of MSS's prior written authorization, advertise or publish any matter relating to this order.

LIMITATION ON LIABILITY: MSS SHALL IN NO EVENT BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES ARISING OUT OF OR RELATED TO THE SALE OF THE MSS PRODUCTS, THE PERFORMANCE OF THE SERVICES, OR TO THIS AGREEMENT OR ANY BREACH THEREOF, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS OR REVENUE, WORK STOPPAGE OR INEFFICIENCIES, IMPAIRMENT OF PRODUCTS, LOSS BY REASON OF SHUTDOWN OR NON-OPERATION OR INCREASED EXPENSES OF OPERATION, WHETHER OR NOT SUCH LOSS OR DAMAGE IS BASED ON CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, AND WHETHER OR NOT MSS WAS ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. IN NO EVENT SHALL MSS'S TOTAL LIABILITY (WHETHER BASED ON AN ACTION OR CLAIM IN CONTRACT, TORT OR OTHERWISE) TO BUYER ARISING OUT OF OR RELATED TO THE SALES OF ANY MSS PRODUCTS OR SERVICES EXCEED THE PURCHASE PRICE OF SUCH PRODUCTS AND SERVICES.

MISCELLANEOUS: If any Agreement provision is found to be void or unenforceable, the remainder of this Agreement shall not be affected. No modification, amendment, rescission or waiver shall be binding on either party unless agreed in writing. Provisions of this Agreement which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Agreement. This Agreement is only for the benefit of the parties and their respective successors and permitted assigns, and no third party shall have a right to enforce any provision of this Agreement.