

MHM NZ LTD

TERMS AND CONDITIONS OF PURCHASE

These “*Terms and Conditions of Purchase*” apply to the purchase order which incorporates these Terms and Conditions of Purchase by reference thereto (the “Order”, and together with these Terms and Conditions of Purchase, the “Contract”). As used herein: (i) “Buyer” means. MHM Automation, (ii) “Seller” means the party fulfilling the Order and (iii) “Items” means any goods and services purchased hereunder.

1. **ACCEPTANCE.** THIS ORDER IS LIMITED TO THE TERMS AND CONDITIONS SPECIFIED ON THE FACE OF THIS ORDER AND THIS DOCUMENT AND ANY ATTACHMENTS REFERENCED THEREIN. BUYER DOES NOT AGREE TO ANY PROPOSED ADDITION, ALTERATION, OR DELETION BY SELLER UNLESS AGREED TO IN WRITING SIGNED BY THE PARTIES. ANY OTHER STATEMENT OR WRITING OF SELLER SHALL NOT ALTER, ADD TO, OR OTHERWISE AFFECT THESE TERMS AND CONDITIONS. THIS ORDER IS SUBJECT TO THE TERMS OF ANY APPLICABLE WRITTEN AGREEMENT BETWEEN SELLER AND BUYER. IN THE EVENT OF ANY CONFLICT BETWEEN THE TERMS OF THIS ORDER AND THE TERMS OF ANY SUCH WRITTEN AGREEMENT, THE TERMS OF THE WRITTEN AGREEMENT BETWEEN SELLER AND BUYER SHALL GOVERN AND CONTROL.
2. **PRICE; PAYMENT TERMS.** The price for any Items purchased shall not be higher than that appearing on the face-page of the Order, or if no price appears thereon, then not higher than the last price quoted by Seller to Buyer. Unless otherwise stated on the face-page of the Order, Seller shall invoice Buyer for each Item on or after delivery of such Item to Buyer, and Buyer shall pay such invoice net ninety (90) days from the invoice date. Unless otherwise specified in the Order, the prices indicated on the Order include, and Seller shall pay, all packing, packaging, and shipping costs in connection with the sale or delivery of the products to Buyer.
3. **DELIVERY.** Delivery on the Order must be made in the quantities and on the dates specified by the Buyer. Partial shipments shall be allowed only if specifically indicated in the Order. Unless otherwise specified in the Order, delivery is Delivered Duty Paid (as defined in Incoterms 2020) at Buyer’s location or such other destination as may be specified in the Order, unless agreed to in writing. Seller acknowledges that Buyer’s production and marketing schedules are based in part upon the delivery/completion date(s) specified in the Order. Time and place of delivery are, therefore, of the essence with respect to Seller’s performance under the Order. Any provision in the Order or subsequent agreement by Buyer for installment deliveries of the items specified in the Order shall not be construed as a waiver of this requirement or as severing Seller’s obligations for full, on-time, delivery of all items specified in the Order. If Seller determines that it either cannot or may not complete delivery at the specified time and place or in the specified manner, Seller shall promptly notify Buyer and indicate the earliest possible date that it is confident that it can complete conforming delivery. Notwithstanding such notice, and notwithstanding that Seller’s failure to effect conforming delivery may be or is due to causes beyond Seller’s control, Seller’s failure to effect conforming delivery shall entitle Buyer, without any liability to Seller hereunder, to revoke any prior acceptance of a partial delivery by Seller, to return at Seller’s risk and expense all or any part of items delivered in partial satisfaction of the Order, to cancel the Order, to receive a refund of any amounts paid to Seller pursuant to the Order for any items returned to Seller, and to purchase substitute items or services elsewhere and charge Seller with any loss or additional costs incurred in connection with

such purchases. If in order to comply with Buyer's required delivery date it becomes necessary for Seller to ship the items by a more expensive mode of transportation than specified in the Order, any increased transportation cost resulting therefrom shall be paid for by Seller unless the necessity for such rerouting or expedited handling has been caused by Buyer. Over-shipments may be returned by Buyer at Seller's risk and expense or retained by Buyer at no increase in price. Unless specifically indicated in the Order, payment may be made after acceptance of the Items.

4. **PACKAGING AND SHIPMENT.** Seller shall be solely responsible to ensure that all items which are to be delivered to Buyer pursuant to this Order are packed, packaged, marked and otherwise prepared for shipment by Seller in suitable containers and in a manner consistent with sound commercial practices and industry standards for the mode of transportation which is to be utilized, and that appropriate security controls and other safeguards are taken to protect the Items from adulteration. Seller shall mark on each container all necessary and required handling, loading and shipping instructions, as well as all legally required marking and warnings, and shall be fully responsible for all shipping and regulatory requirements. Seller shall include an itemized packing list with each container or shipment. Seller shall provide to Buyer Bills of Lading for each shipment.

5. **RISK OF LOSS; TITLE.** Notwithstanding any terms relating to delivery and freight on the Order, risk of loss and title to the Items shall remain with Seller until the Items ordered are actually delivered to and accepted at Buyer's offices or other destination designated in writing by Buyer to Seller. Title to and risk of loss for nonconforming items shall remain with Seller.

6. **INSPECTION AND REJECTION.** Buyer reserves the right to inspect, test and, if found to be nonconforming, reject all or some lesser portion of any Items before, during and after manufacture or delivery. If any inspection or test is to be made on Seller's premises, Buyer shall provide Seller advance notice of such inspection or test and Seller shall provide reasonable facilities and assistance for the safety and convenience of Buyer's inspectors in such manner as not to unreasonably hinder or delay Seller's performance. All Items are delivered subject to Buyer's inspection, testing, approval and acceptance at the specified delivery location notwithstanding any prior inspection or testing at Seller's premises or any prior payment by Buyer for the Items. In addition to Buyer's other rights and remedies available at law or equity, Buyer may return to Seller any Items rejected hereunder at Seller's sole expense and may charge Seller all expenses of unpacking, examining, repacking and reshipping such Items. Nothing contained in the Order shall relieve in any way the Seller from the obligation of testing, inspection and quality control. If the Purchase Agreement indicates that a Good is to be manufactured, assembled, tested, handled or stored in compliance with a manufacturing, assembly, testing, handling or storage requirement or standard or following or using a manufacturing, assembly, testing, handling or storage method, practice, process, procedure or protocol and/or Supplier or any of its Affiliates indicates on its website, in product literature or otherwise that a Good will be manufactured, assembled, tested, handled or stored in compliance with a manufacturing, assembly, testing, handling or storage requirement or standard or following or using a manufacturing, assembly, testing, handling or storage method, practice, process, procedure or protocol, when delivered, such Good will have been manufactured, assembled, tested, handled and stored in accordance with such requirement, standard, method, practice, process, procedure or protocol
 - (i) **WARRANTIES.** In addition to any other express or implied warranties applicable to the Items to be provided hereunder, Seller warrants to Buyer and Buyer's customers that all Items delivered or provided hereunder will: (i) upon delivery and, thereafter, for the applicable standard warranty period (or, if no warranty period has been specified by Seller, for a period of one (1) year from the date of

actual delivery) conform to Buyer's specifications specified in the Order (which, in all cases, shall be controlling), and any samples, drawings, descriptions or specifications provided by Seller; (ii) be new, of good quality, material, and workmanship, merchantable, free of defect, and fit for the purposes for which they are intended and shall conform to the specifications set forth in the Order; and (iii) be free of liens and encumbrances. In addition, Seller warrants that any services included in the Items shall be performed in a professional manner and in accordance with applicable industry standards. Seller warrants that, in performing its obligations hereunder, it shall fully comply with all applicable applicable laws and regulations. Seller warrants that the Items shall not infringe the intellectual property rights of any third party. These warranties shall survive delivery, inspection, testing, and acceptance of, payment for, use or resale of the Items and shall be in addition to any other warranties, express or implied, available to Buyer, and shall be enforceable by Buyer, its successors, assigns or customers or any end user of any product manufactured by Buyer which is associated with the Items furnished hereunder. Neither inspection nor acceptance of the Items shall impair any of the foregoing warranties. Seller is able to transfer, and upon Buyer's acceptance thereof does transfer, to Buyer good and marketable title to the Items. At Buyer's option, when notified of any nonconformity by Buyer, Seller shall, at Seller's cost and expense, promptly repair or replace any Items or, if applicable, re-do any services which do not conform to the foregoing warranties. In the event Seller fails to promptly honor the foregoing warranties, Buyer, after reasonable notice to Seller and in addition to its other remedies at law or equity, may repair or replace such Items, or re-do such services, and charge Seller for any associated cost(s) and expenses incurred. Provided, however, if Buyer is either unable or opts not to repair or replace any such Item or reperform any such service, Seller shall promptly refund to buyer the full purchase price paid by Buyer for all such Items or services. Supplier will not provide to Buyer any Good that Supplier knows or has reason to suspect contains (or includes, makes use of or was made from any material, part or component that contains) any gold, tin, tantalum or tungsten (or derivative thereof) from any conflict mine in and around the Democratic Republic of the Congo, including mines in Angola, Burundi, Central African Republic, Congo Republic, Rwanda, Sudan, Tanzania, Uganda and Zambia ("**Conflict Mineral**")

7. INTELLECTUAL PROPERTY; NONINFRINGEMENT; CONFIDENTIALITY.

- (a) Seller acknowledges and agrees that all specifications, drawings, diagrams, schematics, sketches, models, samples, designs, technical information or data, written, oral, or otherwise, furnished by Buyer or on Buyer's behalf is and shall remain Buyer's sole and exclusive property, and shall be returned promptly to Buyer or its designee (together with all copies) upon the earlier of Buyer's request or the termination or completion of the Order. Seller acknowledges and agrees that all such intellectual or proprietary property, as well as the terms of the Order and the existence and content of the relationship between the Seller and Buyer, shall be treated as confidential and shall not be used or disclosed by Seller except as required in the course of performance hereunder or under other Orders of Buyer. Seller shall protect the confidentiality of all such information with the same degree of care it uses to protect its own confidential information, but in no event less than a reasonable standard of care. Unless otherwise agreed to in writing by Buyer, information and material furnished or disclosed by Seller to Buyer shall not be considered to be confidential or proprietary and shall be acquired by Buyer free of restrictions of any kind.
- (b) Seller acknowledges and agrees that any and all work product specifically developed, made or conceived by Seller, its agents or employees in connection with its performance under this Contract, including, but not limited to, all works of authorship, mask works, inventions, discoveries, technologies, methodologies, computer programs or files, software, data, concepts, designs, innovations and

improvements, drawings, schematics, specifications, source code, and models, is hereby assigned to Buyer and all right, title, and interest therein (including all copyrights, trademarks, trade names, patents, and other intellectual property rights) shall be Buyer's sole and exclusive property. Seller specifically acknowledges and agrees that any copyrightable work made, designed or developed in connection with the performance of this Order shall be a "work made for hire" within the meaning of Section 201 of the Copyright Law of 1976. To the extent all right, title, and interest does not immediately and automatically vest with Buyer, Seller hereby assigns to Buyer all such right, title, and interest to Buyer, and agrees to execute and deliver to Buyer all documents necessary or advisable to document such assignment. Seller hereby appoints any of Buyer's officers as its duly authorized attorney, and Seller agrees to cooperate to the extent it may reasonably request, for the purposes of executing, filing, prosecuting and protecting the foregoing.

(c) Seller represents and warrants that the items and services delivered or provided hereunder do not infringe any United States or foreign patent, trademark, trade secret or copyright, or any proprietary, intellectual property, contract or other right held by any third party.

(d) Seller shall include all provisions of this Section 8 for the benefit of Buyer, including this Section 8(d), in all of its subcontracts associated with this Order.

8. **TOOLING AND EQUIPMENT.** All tooling, tools, dies, molds, patterns, jigs, masks and other equipment, chemicals and materials furnished by Buyer to Seller or paid for by Buyer, directly or indirectly, and any replacements thereof, shall remain Buyer's property. Seller shall safely store such property separately from Seller's property, shall plainly identify such property as Buyer's property and shall not use such property in any other manner whatsoever, except in filling this or other Orders of Buyer. All such property shall be held at Seller's risk, shall be insured by Seller at its expense for an amount equal to its replacement cost and shall be returned promptly to Buyer upon the earlier of its request or the termination or completion of this Order.

9. **CHANGES.** Buyer may, at any time, by written notice to Seller, make changes in drawings, designs, specifications, method of packing shipment, quantity ordered, delivery location or delivery schedule and Seller shall either promptly comply therewith or promptly notify Buyer in writing why Seller cannot comply therewith. If any such change causes an increase or decrease in Seller's cost or time required for performance, Seller shall document such impact to Buyer in writing and an equitable adjustment shall be made to the price or delivery schedule, or both and the Order shall, upon agreement by Buyer in writing, be modified accordingly. Seller agrees to accept any such changes subject to this paragraph. Any claim by Seller for adjustment under this Section 10 shall be deemed waived unless made in writing within ten (10) calendar days after receipt of written notice by Buyer of the change. No change, modification or revision of the Order shall be binding upon Buyer unless such change is in writing and signed by a duly authorized representative of Buyer.

10. **COMPLIANCE WITH LAWS.** Seller shall comply with all applicable governmental laws, ordinances, codes, rules, regulations, programs, plans and orders, and voluntary regulations and standards relating to the Items, including, without limitation, all laws and regulations, in the performance of this Order.

11. At Buyer's request, Seller shall provide appropriate certificates of compliance. Seller shall also comply with all applicable wage and employment laws applicable to its operations engaged in production of the Items, and Seller shall comply with all applicable environmental, health and safety laws and rules in producing and shipping the Items, and Seller shall provide to Buyer the current and complete Safety Data Sheets (Materials Safety Data Sheets) and product information and specifications, as appropriate.

12. **CANCELLATION.**

- (a) In addition to its other rights and remedies at law or equity, Buyer may, at any time, by written notice to Seller, cancel the whole or any portion of the Order either for cause or solely for its convenience. In the event of any cancellation, Buyer may procure, upon such terms and in such manner as it may deem appropriate, items compatible to the Items covered by the Order. Seller shall immediately stop all work hereunder on that portion of the Order which is cancelled and, accordingly, shall immediately notify all of its affected suppliers or subcontractors that it is canceling all related orders and to cease all associated work. Upon cancellation for Buyer's convenience, Seller shall be paid a commercially reasonable termination charge consisting of a percentage of the Order price reflecting the percentage of the work performed by Seller prior to the notice of termination plus actual costs directly associated with Buyer's cancellation. Any termination charge shall be offset by the amount that may be recouped by Seller by sale of the cancelled Items to a third party. Seller shall not be paid for any work done after receipt of the notice of termination, or for any costs incurred by its suppliers or subcontractors which Seller could reasonably have avoided. In the event of any cancellation, Buyer may also require Seller to deliver to it in the manner and to the extent directed by Buyer, any completed or partially completed Items indicated on the Order subject to the payment by Buyer to Seller of an allocable portion of the price as may be agreed to by and between Buyer and Seller. Seller shall continue performance of the Order with respect to any portion of the Order which is not cancelled by Buyer. Except as expressly set forth in this Section 12, Buyer shall have no obligation or liability to Seller associated with its cancellation of all or a portion of the Order.
- (b) Without limitation, any breach which remains uncured more than thirty (30) calendar days following notification to Seller, including late deliveries, deliveries of items which are defective or which do not conform to the Order, insolvency by Seller, or failure to provide Buyer, upon request, of reasonable assurances of future performance shall each constitute good cause to cancel the Order.
- (c) All of Seller's obligations set forth in the Order shall survive the cancellation, termination or completion of the Order.

13. **FORCE MAJEURE.** Except for an obligation to pay any sum when due hereunder, neither Buyer nor Seller shall, under any circumstances, be liable for any delay in or default of any of its obligations hereunder when such delay or default is directly or indirectly caused by or in any manner arises out of any cause beyond its reasonable control and not due to its negligence including, without limitation, fire, flood, accident, pandemic, public health crisis, act of God, war, embargo, strike, fuel, material and supply shortages or transportation delays (collectively, "Force Majeure Events"). Each party agrees to notify the other as soon as possible of the occurrence of any Force Majeure Event. Upon the occurrence of a Force Majeure Event, the affected party's performance hereunder shall immediately be suspended and any affected delivery or ship dates shall be automatically extended for a period equal to the duration of the Force Majeure Event.

14. **INSURANCE.** In the event that Seller's obligations hereunder require or contemplate performance of services by Seller's employees, or persons under contract to Seller, to be done on Buyer's property, or property of Buyer's customers, Seller shall, at all times prior to full delivery hereunder, maintain with an insurance company or companies having an A.M. Best rating of A-VIII or higher, Comprehensive General Liability Insurance (including coverage for liability hereunder) in the minimum amount of \$1,000,000 combined single limit per occurrence or in an amount that is commercially reasonable insurance protection in light of the Items being purchased hereunder, whichever greater. In addition, Seller shall maintain all insurance coverages required by law, including Workmen's Compensation insurance. The insurance coverages specified herein are not intended and shall not be construed as limiting Seller's liability or Buyer's right to indemnity hereunder.
15. **INDEPENDENT CONTRACTOR.** Nothing herein is intended or shall be construed as creating or establishing the relationship of employer and employee, agency, partnership, or joint venture between Buyer and Seller nor any director, officer, agent or employee of Seller. Seller is being engaged as and shall perform all of its obligations hereunder as an independent contractor. Nothing herein is intended or shall be construed by any person as granting Seller the right, privilege or authority to make or execute an agreement on behalf of or otherwise bind or obligate Buyer in any way.
16. **WORK ON BUYER'S PREMISES.** If Seller's performance hereunder involves operations by Seller on Buyer's premises, Seller shall comply with all applicable federal, state, and local laws and regulations as well as Buyer's work and safety rules, and shall take all necessary precautions to prevent the occurrence of any injury to persons or property during such performance.
17. **LIMITATION ON DAMAGES.** Buyer's liability and Seller's recovery, for any injuries, losses, damages, expenses, costs, or other liabilities arising out of the any breach of this contract by Buyer, or Buyer's other acts or omissions (including its negligence) shall be limited to the lesser of: (i) the actual and direct costs incurred by Seller for its manufacture of the Items in question prior to such breach, or other acts or omissions, or (ii) the purchase price for the Order. IN NO EVENT SHALL BUYER BE LIABLE TO SELLER FOR PUNITIVE, SPECIAL, CONSEQUENTIAL, INDIRECT, OR INCIDENTAL DAMAGES.
18. **INDEMNIFICATION.**
 - (a) Seller shall indemnify, hold harmless and, upon Buyer's request, defend at Seller's sole cost and expense, Buyer against any claim, suit, action, proceeding, judgment, loss, damage, other liability, cost and expense (including attorneys' fees and defense costs) arising from, relating to, or alleging:
 - (i) any defect (including failure to comply with stated specifications) in the goods or services purchased hereunder; (ii) any injuries (including death) to any person or damages or loss to any person or any property, or any consequential or incidental damages resulting therefrom, caused or contributed to by any act, fault, or negligence of Seller or anyone acting on its behalf or by any fault or defect in any of the Items (including by reason of strict liability in tort); (iii) any infringement, misappropriation or other violation of the patent, trade secret, trademark, trade name, or other intellectual property right of any other person, firm, corporation, or other entity arising from the manufacture, sale, or use of any of the Items; (iv) any act or omission of Seller, its agents, employees or subcontractors; (v) any violation by Seller of any applicable laws, rules or regulations; and (vi) any breach of any of the terms and conditions of this Contract.

(b) In the event that Seller is required, as part of its fulfillment of the terms of the Order, to perform work or services on Buyer's premises or on the premises of Buyer's customers, Seller assumes sole responsibility and liability for losses, expenses, damage, demands and claims in connection with or arising out of any bodily injury (including death) or property damage, which may be alleged to have been sustained in connection with the performance of such work or services by Seller. Seller shall indemnify and hold Buyer harmless from and against any and all losses, damages, demands, claims or liabilities, actions, causes of action, suits, costs and expenses (including attorney's fees and defense costs) arising out of or resulting in any way from the performance of such work or services by Seller or its employees, agents or subcontractors.

(c) The indemnification rights provided herein shall be in addition to the warranty obligations of Seller and any other rights or remedies available to Buyer at law or equity.

19. **ENTIRE AGREEMENT.** Except in the event of a separate written agreement signed by both Buyer and Seller, this Order and these Terms and Conditions of Purchase is the complete and exclusive statement of the contract between Buyer and Seller with respect to Buyer's purchase of the Items covered herein. No waiver, consent, modification, amendment or change of the terms of the Order shall be binding unless in writing and signed by Buyer and Seller.

20. **ADDITIONAL OR INCONSISTENT TERMS.** Any term or condition set forth in any document or form provided to Buyer by Seller which is any way different from, inconsistent with or in addition to the terms and conditions set forth herein shall not become a part of the Order or be binding on Buyer. If Seller objects to any term or condition set forth herein, Seller must notify Buyer of its objection in writing at the address indicated on the reverse side of the Order not less than ten (10) calendar days prior to Seller's delivery. Buyer's failure to object to terms contained in any communication from Seller shall not constitute a waiver of such term or condition.

21. **GOVERNING LAW; JURISDICTION.** This Contract (including all Orders and these Terms and Conditions of Purchase), and any disputes arising out of or relating to this Contract, shall be governed by and construed in accordance with the laws of New Zealand.

22. **ARBITRATION/JURISDICTION.** Any dispute arising between Buyer and Seller based upon this agreement or the products purchased pursuant hereto will be resolved exclusively by arbitration in New Zealand, in accordance the Arbitration Act 1996 and the current Arbitration Protocol

23. **ASSIGNMENT/SUBCONTRACTING.** The Order and this Contract shall not be assigned by Seller without Buyer's prior written consent and any purported assignment hereof shall be null and void and shall not relieve Seller of its obligations hereunder. Seller shall not subcontract delegate performance of all or any part of the services to be performed hereunder without the prior, written consent of Buyer.

24. **SEVERABILITY.** In the event any of the provisions of this Contract in any way violates or contravenes applicable law, such provision(s) shall be deemed not to be a part of this Contract and the remainder of this Contract shall remain in full force and effect.

25. **NOTICES.** Any notice or communication required or permitted under the Order shall be in writing and shall be deemed received when personally delivered or three calendar days after being sent via first-class mail, postage prepaid, to a party at the address specified herein or at such other address as either party may from time to time designate to the other.