

TERMS AND CONDITIONS

1. **Confidentiality.** The information and data provided to Buyer in the attached Proposal and these Terms and Conditions, including any and all pricing, drawings, sketches, and/or instructions, are provided to Buyer for the sole purpose of Buyer's consideration of the Proposal and retaining Freije engineered solutions company ("Freije") to perform the work outlined the Proposal ("Work"). Such information is proprietary and is considered to be a trade secret of Freije. As such, Buyer agrees that by receiving the information Buyer further agrees to keep the information confidential and Buyer shall not, for any reason, reproduce, copy, or furnish to any third party, in whole or in part, any of the information without Freije's prior written consent.
2. **Pricing and Payment.** Freije offers to Buyer to perform the Work for the price outlined in the Proposal. Said offer remains good for fifteen (15) days and said Proposal shall automatically terminate upon expiration of the fifteenth (15th) day. By executing and accepting the Proposal, Buyer agrees to pay Freije the price outlined in the Proposal plus any and all applicable sales and/or excise taxes even if not outlined in the Proposal. Buyer shall pay all invoices issued by Freije net thirty (30) days. A one and half percent (1.5%) per month finance charge shall apply to all invoices not paid within that time frame. Freije reserves the right to cease performance of work in the event any invoice becomes sixty (60) days overdue.
3. **Use of Documents.** All plans, drawings, surveys, prints, software, programs, data, specifications, photographs (including aerial) and other related items and documents prepared or furnished by Freije pursuant to the Proposal and/or the furtherance of the Work outlined in the Proposal are instruments of service in respect to this project and Freije shall retain all ownership and property interests therein. By submitting this Proposal or any documentation associated therewith, Freije is not conveying permission, authorization, or license to distribute, share, copy, reproduce, or reprint any such documentation. Such documents are not intended or represented to be suitable for use by Buyer or others on extensions of this project, on any other project, or for the completion of this project should this agreement be terminated, nor may such documents be so reused without the express written consent of Freije. Further, Buyer and any other person or entity who may obtain such documentation must obtain written consent from Freije prior to any distribution, sharing, copying, or reproducing of any such document. Any reuse or modification of such documents without the consent of Freije will be a Buyer's sole risk and without liability to Freije and Buyer shall further indemnify and hold Freije harmless from all claims, damages, losses and expenses, including attorney's fees, arising out of or resulting therefrom.
4. **Limited Liability.** Freije shall have the first and primary right to remedy any errors, omissions, or defective workmanship. Freije shall not be liable for any incidental, consequential, indirect or special damages, or for any loss of profits or business interruptions caused or alleged to have been caused, by the performance or non-performance of the Work. Buyer agrees that the maximum liability of Freije is the amount of payments made to Freije by Buyer, less expenses paid by Freije to any subcontractors or third parties. Freije is further not liable for any errors resulting from faulty or incomplete information supplied by Buyer. Buyer agrees not to seek damages in excess of the contractually agreed upon limitations directly or indirectly through suits by or against other parties. Buyer further agrees that Buyer shall bring no claim against Freije or its subcontractors later than one year after completion of Work.
5. **Performance of Work.** Freije agrees to perform the Work on the timeline articulated in the Proposal subject to these terms and conditions. All Work will be provided during regular work hours and Buyer agrees to compensate Freije for any additional overtime necessary to complete the Work within Buyer's desired timeframe. Freije shall only be obligated to furnish equipment and services as described in the Proposal. Any adjustment or changes to the scope of Work after acceptance of the Proposal by Buyer shall only be effective if made in writing and agreed to, including the appropriate increase in total price owed by Buyer, by both Buyer and Freije. Freije shall not be responsible for any delay in performance of the Work caused by or resulting from strikes, accidents, fires, weather, acts of God, any other casualty, or supply issues for necessary materials. All equipment orders and shipments shall be F.O.B. with Buyer acquiring title and assuming all risk of loss upon loading of the same with carrier. In the event Buyer, for whatever reason, interrupts or causes a cessation in Freije's progress of performance, Buyer shall be liable to Freije for the cost of remobilization plus a reasonable profit. Freije's scope of Work specifically does not include any identification, detection, abatement, encapsulation, or removal of asbestos or similar hazardous substances. Should asbestos or similar hazardous substances be discovered during the Work, Buyer agrees to remedy said situation by employing and compensating appropriate abatement contractors.
6. **Warranty.** Freije agrees to assign to Buyer any and all material warranties provided by any material manufacturer for items used to complete the Work. Freije further warrants all materials, equipment, piping, accessories, and installation to be free of defects for a period of twelve (12) months from the date of Work completion. This warranty explicitly does not cover any issues, problems, or malfunctions caused by the interaction between existing structures, equipment, and/or materials and the installation of any item necessary to complete the Work if said problem arose due to the previously existing item.
7. **Indemnity.** To the extent permitted by law, Buyer does hereby agree to indemnify and hold Freije harmless, and in turn Freije does hereby agree to hold Buyer harmless from and against any and all losses, claims, expenses, damages, liabilities, and obligations of any kind and description, including reasonable attorney fees incurred by the non-offending party in investigating, defending, or settling such losses, damages, liabilities and obligations, arising out of negligence or misconduct of the offending party and matters directly related thereto. This indemnity provision shall survive the termination of this agreement and the completion of the Work.
8. **Material Escalation Clause.** Due to the extremely volatile price of steel, copper, and other commodity metals, Freije has NOT included or anticipated any escalation of costs or monies associated with this issue in the Proposal. Thus, Freije requires and Buyer agrees to enter into a separate, mutually agreeable material escalation agreement whereby Buyer agrees to reimburse Freije for all cost increases in materials on a true invoiced cost basis. This issue is due to extraordinary economic events far beyond the control of Freije. Freije does not intend to include additional fees, overheads, profits, or other charges to these material increases.
9. **Buyer's Required Provisions.** Buyer hereby agrees to provide, at no cost to Freije, on-site parking for all Freije employees necessary to perform the Work; access to the appropriate construction area; connection to and use of water, sewer services, electrical and any other necessary utility; all required dumpsters as determined by Freije; and appropriate restroom facilities for all Freije employees.
10. **Termination.** Once Buyer accepts the Proposal, and these terms and conditions, the agreement may be terminated by either party upon thirty (30) days written notice. In any event, Buyer shall be responsible for all outstanding balances, including accounts receivable and work in progress to the date of termination.
11. **Governing Law and Choice of Forum.** The laws of the State in which the Work is completed shall govern as to all questions arising out of this agreement and Proposal. The parties agree that the court with appropriate jurisdiction over the site of the Work shall be the proper venue and shall have jurisdiction over any suit brought under this agreement. The parties further agree that in the event a lawsuit is necessary to enforce any term of this agreement, the prevailing party shall be entitled to recoup all costs, including appropriate attorney's fees, from the non-prevailing party.
12. **Effective Version.** Buyer acknowledges that a copy of these Terms and Conditions can be found on Freije's website, www.fes-co.com, and that these Terms and Conditions change from time to time. Buyer hereby warrants that Buyer has reviewed the Terms and Conditions located on Freije's website prior to executing this contract and hereby agrees and acknowledges that any conflict between these Terms and Conditions and the Terms and Conditions located on the website as of the date of execution of this agreement shall be resolved in favor of the Terms and Conditions found on the website.

Terms and Conditions – Purchase Order

- 1) **OFFER AND ACCEPTANCE:** Macle, Inc., d/b/a FREIJE ENGINEERED SOLUTIONS COMPANY ("FREIJE") offers to purchase materials, equipment and services indicated in strict accordance with the terms and conditions stated herein. Execution of this purchase order or delivery of the requested materials, equipment or services by Seller shall be deemed an acceptance of the purchase order under the terms and conditions of this purchase order, which offer and acceptance shall constitute a legally enforceable contract between Seller and FREIJE. Seller acknowledges that a copy of these Terms and Conditions can be found on FREIJE's website, www.fes-co.com, and that these Terms and Conditions change from time to time. Seller hereby warrants that Seller has reviewed the Terms and Conditions located on FREIJE's website prior to executing this contract and hereby agrees and acknowledges that any conflict between these Terms and Conditions and the Terms and Conditions located on the website as of the date of execution of this agreement shall be resolved in favor of the Terms and Conditions found on the website. Any additional or differing terms and conditions contained on Seller's proposal or invoice (whether or not such terms materially alter this offer) are hereby rejected by FREIJE and shall not become part of the contract between Seller and FREIJE unless expressly consented to in writing by FREIJE. These terms and conditions and the matter set forth on the face of FREIJE's purchase order, constitute the entire agreement between FREIJE and Seller. No course of dealings or performance, or prior, concurrent or subsequent understandings, agreements of representations become part of this contract unless expressly agreed to in writing by an authorized representative of FREIJE.
- 2) **PARTIAL SHIPMENTS:** Partial Shipments or Backorders will not be accepted without prior WRITTEN approval by FREIJE. FREIJE reserves the right to reject any and all shipments if the order is not filled and delivered in full unless there is a prior WRITTEN agreement.
- 3) **TERMS:** Terms of Payment or discount periods are NET on both RECEIPT of properly documented INVOICE and receipt of material, equipment and services. FREIJE reserves the right to return to the Seller for correction any and all invoices containing error and/or not in agreement of this purchase order.
- 4) **INVOICING:** Invoices are required to have the purchase order number and must be mailed to FREIJE not later than the day following shipment, irrespective of whether shipment is in part or in whole. Delayed freight invoices will be rejected.
- 5) **DELIVERY SCHEDULE:** Time of delivery of this order is of the essence, and FREIJE reserves the right to cancel without cancellation charges or any other fee, all or any part of this order if not filled within the specified time on the purchase order. Exercise of such right of cancellation shall not be deemed a waiver of any other right reserved to FREIJE herein, or by law, for any delay or failure to deliver as specified. Additional Costs incurred by Seller to meet committed delivery date or times will not be paid by FREIJE.
- 6) **IDENTIFICATION:** FREIJE will not be responsible for any material unless each package, case, etc., is clearly identified on its outer covering as to: 1. Seller 2. Purchase Order Number 3. Material Count 4. Description, Model or Part #.
- 7) **REJECTED:** Any rejected material, equipment or services due to any terms of this agreement shall be returned to the Seller at Seller's Expense.
- 8) **RETURNED:** FREIJE reserves the right to return to Seller at any time at the invoice price all items which are regularly carried in Seller's Stock.
- 9) **PRICE:** The contract price appearing on this Purchase Order is final as to payment for the material, equipment or services covered by the specifically listed items. There shall be no change to that contract price unless agreed to per WRITTEN agreement prior to receipt of material, equipment or services. Seller shall not proceed with changes affecting contract price without authorization in WRITING from FREIJE. All prior representations, conversations, or preliminary negotiations shall be deemed to be merged in this order, and no changes will be considered approved unless this purchase order is modified by an authorized representative of FREIJE in WRITING. FREIJE will not accept any surcharges unless specifically spelled out on FREIJE's Purchase Order. These include imposition now or in the future of any sales taxes, Federal, State, Municipal or otherwise, unless specifically noted on Purchase Order.
- 10) **WARRANTY ON REPAIRS/REPLACEMENT:** All material, equipment and/or services shall be guaranteed by the Seller against defects, and Seller agrees to replace, repair and/or rework defects, latent or patent, not due to ordinary wear and tear, or not due to improper use or maintenance without charge to FREIJE. Warranty shall be in effect the greater of term written on Purchase Order, one year from beneficial use, one year from acceptance by owner or the warranty period as set forth in applicable plans and specifications.
- 11) **PROJECT CANCELLATION:** In the event that any third party for whom FREIJE is purchasing the materials, equipment, or services in this purchase order cancels or otherwise no longer requires the materials, equipment or services in this purchase order, cancellation of this offer, or termination of this contract in the event that Seller has accepted this offer, shall occur automatically, without cancellation charges by the Seller or any fee assessed to FREIJE. FREIJE shall notify Seller of said cancellation or termination as soon as possible. FREIJE shall not be responsible for any return costs or shipping costs related to the materials, equipment, or services.
- 12) **APPROVAL:** All material, equipment and/or services under this contract shall be subject to the approval of any owner, architect, engineer, local code officials or any other party designated by FREIJE at any time, and the Seller shall furnish the required performance data, submittal data and/or preprinted manuals, in quantity as required for such approval. In the event such approval is not obtained, the order is cancelled, with no liability on the part of FREIJE. In the event that this offer is placed with the understanding that Seller will get approval from certain designated parties, and said approval cannot be obtained, Seller shall be liable to reimburse FREIJE the difference in costs of the material, equipment and/or services that FREIJE is able to get approved.
- 13) **PERFORMANCE:** Seller shall guarantee the material, equipment and/or services covered under this purchase order to produce capacities and meet design specifications and function: 1) as called for in the plans, specifications, or addenda; and (2) as published by the manufacturer for the equipment involved; and (3) as proposed by the Seller. In the event the equipment does not meet the foregoing requirements, Seller shall immediately on notice replace same, or remedy any deficiency, without expense to the FREIJE; and further, Seller shall pay to FREIJE all consequential loss or damage resulting.
- 14) **COMPLIANCE:** Seller agrees to comply with any and all Federal, State, County and Municipal and/or other local regulations, laws, ordinances, codes and enactments of whatever kind, applicable at time of sales or which may become effective during the period of construction or fabrication, shipping and/or installation of the material, equipment or services comprised under this Purchase Order. Material, equipment and/or services that do not comply with pertinent local codes will not be purchased purposely. It is the responsibility of the Seller to provide material, equipment or services that comply with the Codes applicable on the specific project or reimburse FREIJE all costs related to becoming code compliant, including rework.
- 15) **SAFETY:** Seller represents and warrants to FREIJE that all material and/or equipment rented, leased or purchased under this purchase order meets all standard of the Occupational Safety and Health Act (latest edition) and Construction Safety Act (latest edition), and of most up to date applicable State and Local laws, regulations, standards or requirements pertaining to safety. Seller shall make available to FREIJE's personnel all pertinent Material Safety Data Sheets (MSDS) pursuant to OSHA's Hazard Communication Standard Regulations.
- 16) **LEGAL:** The Seller agrees to indemnify and save harmless FREIJE, its shareholders, officers, directors, predecessors, assigns, successors, heirs, executors, and employees from and against all claims, liability, loss, damage or expense, including attorneys' fees, by reason of any actual or alleged infringement of letters patent, or of any litigation based thereon covering any article purchased hereunder. Seller shall furnish all necessary lien waivers, affidavits and other documents, required to keep any third party's for whom these materials, equipment, or services benefit premises free from liens or claims for liens, arising out of the furnishing of the material, equipment or services herein, as payments are made from time to time under this purchase order.
- 17) **INSURANCE:** Prior to starting any work related to this purchase order, Seller shall obtain, and shall furnish satisfactory evidence to FREIJE and to other parties upon request that there is in full force and effect, insurance providing coverage equal to or greater than the insurance required to be provided by FREIJE pursuant to any contract or document towards which this purchase order relates. All such insurance, except the Workers' Compensation/Employer's Liability coverage, shall name FREIJE, any owner, and any person or company responsible on the work for hiring subcontractors and suppliers, or both ("General Contractor") as additional insured parties, and shall provide primary and noncontributory insurance coverage for all claims and losses against FREIJE, any owner, and any General Contractor, including, but not limited to, those claims that arise out of injuries to the employees of the Seller or injuries to third parties which occur during the performance of this Agreement, or as a result of the Seller's performance. Any coverage provided by FREIJE shall be excess coverage over and above Seller's primary policies and any umbrella or excess liability policies.
- 18) **DISPUTES AND CHOICE OF LAWS:** In the event of default or breach of any of the terms or conditions set forth herein, the Seller agrees to pay all costs resulting therefrom, including but not limited to, reasonable attorneys' fees expended by FREIJE as a result of the default or breach. This contract shall be deemed to have been entered into and shall be governed by the laws of the State of Indiana. The proper venue for any lawsuit or other action related to this purchase order shall be Hamilton County, Indiana.