

1. GENERAL; ACCEPTANCE: Seller agrees to perform the services ("Services") and/or provide the goods ("Goods") described in this purchase order/request for quote ("Order") in accordance with these terms and conditions. Upon acceptance of this Order, shipment of Goods or commencement of Services, Seller shall be bound by the provisions of this Order, including all provisions set forth on the face of this Order.

All purchases made by MTS Systems Corporation ("Buyer" or "MTS") under this agreement will be made pursuant to Purchase Orders issued against these terms and conditions. ALL SUCH PURCHASE ORDERS WILL BE GOVERNED EXCLUSIVELY BY THESE TERMS AND CONDITIONS. Any additional or inconsistent terms or conditions contained in any acknowledgment, invoice or other communication of Seller are hereby rejected.

2. DELIVERY; PACKING AND SHIPMENT: Delivery of Goods shall be FOB Destination unless otherwise expressly agreed upon and shall be made pursuant to the schedule, via the carrier and to the MTS facility specified on the face of this Order, without charge for boxing, crating, carting or storage unless otherwise specified. If no delivery schedule is specified herein, Seller shall affect delivery by the most expeditious form of land transportation. If no method of shipment is specified in this Order, Seller shall use the least expensive carrier. TIME IS OF THE ESSENCE WITH RESPECT TO DELIVERY. Seller will immediately notify Buyer if it suspects or becomes aware of an inability to timely deliver ordered Goods. Upon such notice, Buyer may, at its option, i) decline to accept the Goods and terminate the Order; ii) demand its allocable fair share of Seller's available Goods and terminate the balance of the Order; or iii) require delivery by the fastest method to meet the delivery dates at the sole expense of Seller. Seller shall package all Goods in suitable containers to permit safe transportation and handling, insure against damage from weather or transportation and secure the lowest transportation costs. Such containers must be appropriately labeled, contain packing sheets listing each item and its associated purchase order line item number. Buyer's Order number must appear on all containers, packing sheets, delivery tickets and bills of lading.

3. RISK OF LOSS; DESTRUCTION OF GOODS. Seller assumes all risk of loss with respect to Goods covered by this Order until receipt of Goods by Buyer at the designated destination. If Goods covered by this Order are destroyed prior to Buyer's receipt thereof, Buyer may (a) cancel this Order or (b) require delivery by Seller as soon as commercially practicable of substitute Goods of equal quantity and quality.

4. INSPECTION: Buyer may at reasonable times inspect the Goods and Services deliverables covered by this Order at Seller's (or Seller's subcontractor's) facilities. Buyer's inspection of Goods before or after delivery shall not constitute acceptance. No inspection or test made prior to final acceptance shall relieve Seller from responsibility for defects or other failure to meet the requirements of Buyer's Order.

Goods covered by this Order will be subject to final inspection and approval by Buyer within a reasonable time after delivery to Buyer, notwithstanding payment by Buyer prior to delivery. Buyer may reject or revoke acceptance of any Goods which are defective in material or workmanship or which do not conform to Buyer's specifications. Buyer may elect to: (a) return rejected Goods for the full invoice price plus applicable transportation charges; (b) retain rejected Goods for repair by Seller or, at Buyer's election, for repair by Buyer with such assistance from Seller as Buyer may reasonably require; or (c) return rejected Goods to Seller for repair or replacement within such time as Buyer may reasonably require. All costs and expenses, loss of value and any other damages incurred by Buyer in connection with the repair or replacement of non-conforming Goods or Services may be recovered from Seller by an equitable price reduction or credit against any amounts otherwise owed by Buyer to Seller.

5. WARRANTY: Seller warrants that all Goods and Services covered by this Order will conform to applicable specifications, drawings, samples and/or other descriptions given and will be merchantable and fit for the particular purpose for which they have been purchased and free from defects in workmanship and material for a period of eighteen (18) months from shipment or for the period provided in Seller's standard warranty covering the Goods, whichever is longer. Supplier will use commercially reasonable efforts to obtain and flow through to Buyer third party warranties for any Goods not manufactured by Seller. In addition, all Goods covered by this Order shall be subject to all warranties provided by applicable law. Seller warrants that it has and will provide Buyer with title to all Goods covered by this Order, free and clear of all claims, liens or encumbrances. All Goods provided to Buyer hereunder will be new. The warranties contained in this Section are in addition to and are not to be construed as restricting or limiting any warranties or remedies of Buyer, express or implied, which are provided by this Order or law. Any attempt by Seller to limit, disclaim or restrict any such warranties or remedies of

Buyer, in any manner whatsoever shall be null, void, and ineffective. Inspection, test, acceptance, or Buyer's incorporation of the Good shall not affect the Seller's obligation under this warranty, and shall survive such inspection, test, acceptance, and use. Upon notice from Buyer that Good(s) supplied hereunder failed within the warranty timeframe, in addition to any rights or remedies Buyer may have under this Order or law, Seller shall reimburse Buyer for all direct costs incurred by Buyer as result of such failure including all repair and replacement costs and Seller shall replace such defective Goods at no cost to Buyer or refund the purchase price of the Good, at Buyer's discretion. Warranty failures shall be returned to Seller at Seller's expense and at Buyer's discretion. All repairs and/or replacements shall be with new products only. For Services provided, Seller warrants that (a) Seller and the individuals provided by it hereunder possess the experience and ability to perform the Services with a high standard of quality; (b) Services will be performed in a workmanlike and professional manner and in conformance with all applicable laws, regulations and professional standards; (c) Seller has the right to enter into and fully perform this Agreement and no Services, material, equipment or work product supplied by Customer will infringe the rights of any third party, including, but not limited to, patent, trade secret, trademark or copyright; (d) Seller is not prohibited by any agreement from entering into this Agreement nor providing the Services contemplated hereby; and (e) Seller has verified the credentials of the individuals provided by it hereunder and that they are suited to perform the Services.

6. INVOICING: Seller's invoices for Goods or Services covered by this Order shall be mailed to Buyer (Attention: Accounts Payable Department) promptly upon shipment. Line item detail, descriptions of Goods or Services and reference numbers on Seller's invoices must correspond to their counterparts on the face side of this Order. Buyer's standard payment terms are Net 50 days from date of invoice unless otherwise agreed.

Buyer shall pay Seller (a) the amount agreed upon and specified in Order/Agreement or (b) Seller's quoted price on date of shipment (for Goods) or date of commencement of performance (for Services), whichever is lower. Applicable taxes and other charges such as shipping costs, value added taxes, duties, customs, tariffs, imposts and government imposed surcharges must be stated separately on Seller's invoices.

Buyer shall have the right at all times to set off any amount owing from Seller to Buyer or any of its affiliated companies against any amount payable at any time by Buyer.

7. PAYMENT: Pricing for Blanket Purchase Orders or Long Term Buy Arrangements are subject to the following conditions: (a) Prices for Goods are in U.S. dollars and are not subject to increase for the duration of the supply agreement. No charges or price increases of any kind shall be allowed unless specifically agreed to by Buyer in writing. (b) Seller warrants that it is selling at the lowest or most favorable prices that it offers to other buyers for Goods or Services. (c) If during the term of the Agreement, Buyer receives a bona fide offer from another supplier to supply any Goods or Services at a price below that in effect for those purchased under the Agreement and Buyer presents reasonable evidence to Seller then Seller will meet the price for the Goods or Services for the duration of Agreement or if Seller fails to meet such price, then Buyer, shall have the right to purchase from the other supplier, as well as the right, but not the obligation, to terminate the Agreement without liability. Except as otherwise expressly provided, Seller shall bear all of Seller's own expenses incurred in providing Goods and/or Services.

8. CHANGE ORDERS: Buyer may at any time by change order modify this Order in any of the following respects: drawings, designs, specifications, shipping, packing, place of inspections, place of delivery, place of acceptance, adjustments in quantities, adjustments in delivery schedules or the amount of Buyer-furnished material. Seller shall promptly notify Buyer of any change in the cost or expected completion/delivery dates of Goods or Services covered hereby as a result of Buyer's change order, and Seller shall provide final pricing (with supporting information) to Buyer no later than 30 days from the date of Seller's receipt of Buyer's change order.

9. SELLER CHANGES. Seller shall not make any changes in the specifications, physical composition of, or processes used to manufacture the Goods hereunder without Buyer's prior written consent.

10. INDEMNIFICATION: Seller agrees to indemnify, hold

harmless, and at Buyer's request, defend Buyer, its officers, directors, customers, agents and employees (each, an "Indemnified Party") against all claims, liabilities, damages, losses and expenses, including attorneys' fees and expenses, incurred by an Indemnified Party on account of the acts or omissions of Seller or its employees, agents or subcontractors in any way connected with the Goods or Services provided under this Order, including, without limitation, (a) any claim based on the death or bodily injury to any person, destruction or damage to property, or contamination of the environment and any associated clean up costs; (b) any claim based on the negligence, omissions or willful misconduct of Seller or Seller's employees, agents or subcontractors; and (c) any claim by a third party against any Indemnified Party alleging that the Goods or Services, the results of such Services or any other processes provided under this Order, infringe a patent, copyright, trademark, trade secret or other proprietary right of a third party, whether such are provided alone or in combination with other Goods or Services. Seller shall not settle any such claim without Buyer's prior approval. Seller agrees to pay or reimburse all costs that may be incurred by an Indemnified Party in enforcing this indemnity, including attorneys' fees and expenses.

If Buyer's or Buyer's distributors' or customers' use of Goods or Services covered by this Order shall be enjoined or otherwise prevented by legal action, Seller shall, at its sole expense, (a) substitute fully equivalent non-infringing Goods or Services; (b) modify the Goods or Services so that they no longer infringe but remain fully equivalent in functionality; (c) obtain for Buyer and its distributors or customers the right to continue using the Goods or Services; or (d) refund all amounts paid for the infringing Goods or Services.

11. CONFIDENTIALITY: Seller agrees to maintain Buyer Confidential Information (as herein defined) in confidence during and following termination or expiration of this Order. Seller will not copy, alter or otherwise use Buyer Confidential Information for its own benefit or disclose such Buyer Confidential Information to others. "Buyer Confidential Information" is all of Buyer's information disclosed to Seller, whether written or oral, in any form, relating to the research, development, products, methods of manufacture, trade secrets, business plans, customers, vendors, finances, personnel data, Work Product (as herein defined) and other material or information relating to Buyer's current or anticipated business. At Buyer's request or on termination of this Order, Seller shall return all Buyer Confidential Information which includes Work Product to Buyer.

Seller agrees to limit distribution of Buyer Confidential Information only to Seller's employees, agents or subcontractors who have a need to know, and to take steps to ensure that such distribution is so limited, including the execution by Seller's employees, agents or subcontractors of confidentiality/nondisclosure agreements containing provisions substantially similar to those set forth herein.

Seller shall not, without Buyer's prior consent, use Buyer's name or trademarks in any advertising, promotion or communication to the public or advertise, publish or announce Buyer's purchase of Goods or Services pursuant to this Order.

12. INTELLECTUAL PROPERTY RIGHTS; WORK PRODUCT: Seller agrees that where Seller undertakes activity of research, development and/or design nature using information provided by Buyer, Buyer shall exclusively own all rights, title and interest in any resulting work product including, without limitation, all know-how, trade secrets and intellectual property. Seller shall take all necessary steps to ensure that Buyer obtains full legal title in and to such rights. Seller will ensure that Seller's employees, agents and subcontractors appropriately waive any and all claims to, and assign to Buyer, all rights or interests in, any Work Product created in connection with this Order. Seller grants the right to Buyer to produce copies, reproductions or derivative works of material provided under this agreement for purposes of this agreement.

13. INSURANCE. Supplier shall provide and maintain for Services rendered throughout the term of this Agreement inclusive of any warranty obligations the following insurance:

- (a) Workers Compensation: Statutory in accordance with the state in which the services are being performed.
- (b) Employers Liability in the amount of \$ 1,000,000 each occurrence.
- (c) Commercial General Liability with limits of \$ 3,000,000 each occurrence, \$ 5,000,000 aggregate, for bodily injury and property damage combined. Policy will include the following coverage features (1) blanket contractual liability, (2) Products, (3) completed operations, and (4) independent Sellers coverage
- (d) Automobile Liability with limits of \$ 2,000,000 each occurrence for

bodily injury and property damage combined if automobile usage is required to perform Services hereunder. Coverage will include "owned", "hired" and "non owned" auto's.

(e) Umbrella or Excess Liability with limits of \$ 5,000,000 each occurrence and aggregate for bodily injury and property damage. Policy must be "follow form" to all primary policies listed above with the exception of Workers Compensation.

(f) Professional Liability Insurance. To the extent that Seller is providing design services, Seller will obtain adequate levels of Professional Liability insurance to cover risk of loss reasonably related to the scope and extent of the Services provided. At minimum the coverage will be: \$2,000,000 combined single limit each accident. The Seller shall provide MTS evidence of coverage with a professional liability policy that includes professional liability coverage retroactive to the date that Seller first rendered Services in connection with the Project and with a discovery period continuing for a period of at least three years after final completion of all Services performed pursuant hereto.

(g) Crime Insurance/Employee Dishonesty of sufficient levels if Seller or its employees will have access to MTS' data transmission networks, finances or the interior of its or its customers' premises.

(h) All insurance required above will be written with insurers rated A or better by the latest "Bests" Guide.

(i) All policies with the exception of Workers Compensation will identify Buyer as an additional insured. Suppliers insurance will be primary and non contributory to that maintained by Buyer.

14. TERMINATION FOR CAUSE: Should Seller (i) become unable to pay its debts as they mature, or become in any way the subject of a bankruptcy petition, (ii) have a change in ownership or management such that a competitor of Buyer gains an ownership or controlling interest in Seller, and/or (iii) materially default in the performance of any provision of the supply agreement, Buyer may in its discretion terminate this Order or any other Purchase Order for "cause" by giving Seller thirty days prior written notice thereof. If Seller, within the thirty-day notice period, corrects the cause giving rise to the notice to the satisfaction of Buyer, Buyer may void the termination. In the event Buyer terminates an order pursuant to this Section, Buyer shall have all rights and remedies available under law and equity and will have no further obligation to Seller.

Seller will, at its expense, promptly deliver to Buyer all Buyer Confidential Information, Work Product or other tools and property owned by Buyer and in Seller's possession.

15. TERMINATION FOR CONVENIENCE. Buyer may at any time by notice to Seller, terminate all or part of this Order, effective as of the date specified in such notice. Upon receipt of Buyer's notice of termination, Seller shall stop work and take such other action as may be specified by Buyer in such notice, to facilitate termination of the Order or applicable part.

Upon termination, Buyer shall not incur any further cost or liability to Seller except for Goods already delivered and/or actual costs less any commercial value incurred to the date of termination. Seller may not, later than six (6) months after Seller's receipt of Buyer's termination notice, submit to Buyer a claim for reimbursement of costs incurred by Seller by reason of Buyer's termination for convenience. Seller shall have the duty to mitigate damages.

16. INJUNCTIVE RELIEF: Because damages for violation of this Agreement may be difficult to ascertain and because violation of this Agreement may result in irreparable injury to MTS for which money damages may not adequately compensate MTS, Seller hereby consents to the entry of an order against Seller to prevent any breach of this Agreement or any continuing breach of this Agreement by Seller as well as any other relief available to it at law or equity.

17. FORCE MAJEURE. Neither Seller nor Buyer shall be liable for any delay or failure to perform any of its obligations under this Order if and to the extent such delay or failure is due to circumstances beyond the reasonable control of such party, including but not limited to, fires, floods, explosions, accidents, acts of God, declared and undeclared wars or riots, strikes or lockouts, shortages of materials or transportation facilities, inability to obtain export or import licenses, acts of government or any provision or requirement of any law, regulation, order or rule.

18. LABOR DISPUTES: Seller shall give Buyer prompt notice of

every labor dispute or issue which may affect Seller's ability to deliver Goods or Services pursuant to the terms of this Order. Buyer shall not have any obligation to reimburse Seller for losses or additional costs incurred by Seller as a result of labor disputes.

19. LIMITATION OF REMEDY; LIMITATION OF LIABILITY: Seller's sole remedy on account of Buyer's breach of this Order shall be the right to damages in the amount equal to the difference between the market price of the subject Goods or Services at the time of breach and the purchase price specified in this Order. **IN NO EVENT SHALL BUYER BE LIABLE TO SELLER OR ANY THIRD PARTY FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR INCURRED IN CONNECTION WITH THIS ORDER, WHETHER OR NOT BUYER WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.**

20. INDEPENDENT SELLER: Seller is an independent Seller for all purposes, without express or implied authority to bind Buyer by contract or otherwise. Contractor will secure, at Contractor's sole cost, worker's compensation insurance, disability benefits insurance, and any other insurance required by law. MTS will not provide, nor will it be responsible to pay for, employee benefits to Contractor or employees of Contractor. Contractor will pay all required taxes, whether federal, state or local in nature, including, but not limited to, income taxes, FICA, payroll or self employment taxes, unemployment compensation taxes, and any other fees, charges, licenses, or other payments required by law on any compensation paid by MTS to Contractor pursuant to this Agreement. Contractor hereby waives any right to bring a claim or action against MTS or any of its affiliates as to entitlement to any employee benefits with respect to periods of performance hereunder.

21. COMPLIANCE WITH LAW: Seller shall comply with all applicable laws, regulations, rules or orders in connection with its performance hereunder. At Buyer's request, Seller shall issue certificates certifying compliance with any laws or regulations as may be applicable to the Goods or Services covered by this Order in each case in form and substance satisfactory to Buyer.

22. SUBCONTRACTING: Seller shall not, without Buyer's prior consent, subcontract more than 25% of the value of this Order (excepting raw material).

23. EXPORT/IMPORT CONTROLS: Seller will not use, export, re-export or otherwise release any technology or technical data provided to Seller by Buyer or any of Buyer's subsidiaries or affiliates under this Order, except in compliance with all applicable U.S. export laws and regulations.

Seller agrees that unless otherwise expressly agreed upon, Buyer will not be a party to the foreign importation of the Goods, that the transaction(s) represented by this Order will be consummated subsequent to importation, and that Seller will neither cause nor permit Buyer's name to be shown as "importer of record" on any customs declaration and that Seller will comply with all applicable laws, rules and regulations governing foreign purchases and importation.

24. LIENS AND CLAIMS: Seller shall fully indemnify MTS and the property owner against all liens and/or claims of any laborers, materialmen, and subcontractors of Seller against MTS or the property on or for which the Services are performed and shall furnish to Seller, upon request, affidavits of status of accounts and releases of liens.

25. BUYER'S PROPERTY: All tools, gauges, dies, fixtures, patterns, raw materials and inventory furnished by Buyer, or which Buyer specifically authorizes Seller to acquire, develop or design for work on this Order, shall be the exclusive property of Buyer. Property shall be listed and maintained in suitable condition to do the work by and at the expense of the Seller, and will be returned to Buyer within 72 hours after request. Delivery of the Property shall be, F.O.B. Seller's plant. Property is maintained at Seller's risk. All costs for Property are included in this the Price of this Order.

26. OBSOLESCENCE: Seller agrees to notify Buyer within a reasonable time and in such time as to preserve Buyer's interest of suspected or known product obsolescence affecting the Goods hereunder. Seller will use best efforts to i) track commercial availability of parts related to Goods; ii) obtain last time buys in sufficient quantities to satisfy Buyer's demands; and iii) find suitable alternatives for the known or suspected parts for a period of five (5) years or for the length of the Contract, whichever is longer.

27. CODE OF CONDUCT: Seller acknowledges receipt of a copy of MTS' Code of Business Conduct (hereinafter "Code") located at http://www.mts.com/stellent/groups/public/documents/corporatedocuments/dev_002391.pdf and will perform the Services consistent with such Code. Seller will avoid any conflicts of interest as defined in the Code and promptly advise MTS of any circumstances of which Seller becomes aware which may give rise to such a conflict. Seller will provide any worker assigned to MTS with a copy

of the Code and to advise the worker of his or her obligations to comply with the Code.

28. QUALITY IMPROVEMENT: Supplier agrees to participate in Buyer's quality initiatives relating to Seller performance, as reasonably requested by Buyer, and to devote sufficient resources thereto.

29. NON-COMPETITION: During the term of this Agreement, and following the termination or expiration of this Agreement, Seller will not render Services or provide Goods incorporating MTS designs or specifications, directly or indirectly, to any MTS Competitor or Customer.

30. AUDIT CLAUSE FOR COST PLUS OR CATALOG ORDERS: MTS may audit orders placed to ensure contract pricing is applied consistently to all orders. If an audit is conducted, MTS will perform a statistical sampling of all orders ("Sample") placed through Seller. The percent of error from actual price paid to contracted price for the Sample will be applied to the total purchase value for all orders placed during the Agreement time period. The party found to have benefited from the error will pay the difference to the other party within 30 days of audit conclusion. Seller will be provided details of the evaluation. Seller agrees to fully cooperate with MTS during an audit and to provide MTS with all relevant documents necessary to perform such audit.

31. OBLIGATIONS FOR SPECIAL ORDERING METHODS: The products purchased under the Schedule Agreement may change throughout the life of the contract as conditions change. It is agreed and understood that the quantities forecasted are only estimates and do not imply a firm commitment on behalf of Buyer.

Blanket/Framework Orders are based on estimated dollar values of Buyer spending (Estimated Amounts). Buyer has no obligation to purchase or satisfy the Estimated Amounts. Seller must notify Buyer in writing of potential or actual exceeding of the Estimated Amount in order to obtain appropriate authorization and approval of the increase in Estimated Amount. Buyer has no obligation to pay for Goods or Services to the extent the costs exceed the Estimated Amounts.

32. SEVERABILITY: If any provision of this Order is declared invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

33. ASSIGNMENT; NO WAIVER: Seller may not assign this Order or any of its rights or obligations hereunder without Buyer's prior consent and any assignment without such consent shall be null and void. A waiver of any default hereunder or of any term or condition of this Order shall not be deemed to be a waiver of any other default or any other term or condition.

34. NOTICES: All notices and other communications relating to this Order, including consents, shall be in writing and shall be addressed to Seller or Buyer at the addresses set forth on the face side of this Order and shall be considered given when (a) delivered personally, (b) sent by confirmed facsimile or email, (c) sent by commercial overnight courier with written verification receipt, or (d) three

(3) days after having been sent, postage prepaid, by first class or certified mail.

35. SURVIVAL OF OBLIGATIONS: Any obligations and duties which by their nature extend beyond the expiration or termination of this Order shall survive the expiration or termination of this Order.

36. GOVERNING LAW: This Order shall be governed by and construed in accordance with the laws of Minnesota, excluding its conflict of law rules. The District Court of Hennepin County, Minnesota or the United States District Court for the District of Minnesota shall have exclusive jurisdiction and venue over all controversies arising out of or relating to this Order. Seller and Buyer agree that the UN Convention on Contracts for the International Sale of Goods shall not apply to the terms and conditions of this Order.

37. ENTIRE AGREEMENT; AMENDMENT: This Order is the complete and final statement of the terms of the contract between the parties and supersedes all other prior or contemporaneous negotiations and agreements, whether oral or written, relating to the subject matter hereof. This Order may not be amended except in writing signed by both parties.