

 <b>REM</b> <i>Surface Engineering</i>	<b>Work Instruction</b>  <b>Terms and Conditions of Sale</b> <b>Contract Services</b>	<b>Page 1 of 1</b>  <b>Revision 3</b>
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**1. General:** ISFS® Services ("ISFS") on parts provided by Buyer (the "Processed Parts") covered by this Invoice are provided subject to the terms and conditions contained herein. Acceptance of or payment for the ISFS by Buyer shall constitute acceptance by the Buyer of the terms and conditions hereof. The terms and conditions set forth herein shall constitute the contract between the parties, and any additional or contrary provisions contained in Buyer's purchase order or any other document including, but not limited to, shipping documents, shall not be part of this contract. All orders for ISFS are subject to written acceptance by Seller at its offices from which the ISFS are provided to Buyer, either Brenham, Texas, or Southington, Connecticut, USA.

**2. Price and Terms of Payment:** ISFS on Processed Parts is made at the price in effect at the time of shipment. All payments shall be made in U.S. dollars. Standard payment terms are net 10 days from the date of this invoice, unless otherwise set forth on this invoice. On accounts not paid within the terms set forth on this invoice, interest will be collected at the rate of 1.5% per month on the unpaid balance, beginning on the date on which payment is due, but not to exceed the maximum amount permitted by law. If Buyer shall fail to pay any amount when due, Seller may, at its option, without prejudice to other lawful remedies, suspend further services, shipments and deliveries of Processed Parts under this agreement, and no forbearance, course of dealings or prior payments shall effect this right of Seller. If at any time Buyer's financial responsibility becomes impaired or in Seller's opinion inadequate to meet the obligations hereunder, the Seller may change or withdraw the terms of credit and if withdrawn require cash or satisfactory security before providing further ISFS or making shipment of Processed Parts under this contract. Buyer shall pay reasonable expenses incurred by Seller for collection from Buyer of money due and unpaid, including reasonable attorneys' fees. In that this invoice evidences a commercial transaction, as defined in Connecticut General Statutes 52-278(a), Buyer does hereby waive notice and hearing under Section 52-278(a) through (g), inclusive, of the Connecticut General Statutes or any similar statute relating to any writ for prejudgment remedy prepared by Seller.

**3. Freight:** Terms are F.O.B. place of shipment, unless otherwise agreed to by Seller in writing. Seller assumes no responsibility or liability for loss of, damage to, or consequences from loss or damage to Processed Parts after delivery to the carrier, who shall be deemed to be Buyer's agent, and the shipment, shall therefore be at Buyer's risk. Shipments are made by the least expensive method unless otherwise expressly specified and are routed at Seller's discretion. All shipping costs are borne by Buyer.

**4. Packaging:** Processed Parts will be returned to Buyer in the packaging in which they were received when appropriate. Special packaging requirements must be agreed to by Buyer and Seller prior to the ISFS. All special packaging requirements will be at the Buyer's expense.

**5. Processing Turnaround and Delivery:** Estimated turnaround time to perform the ISFS described herein is 15 business days per lot, excluding date of receipt and date of shipment. Every effort will be made to keep turnaround time down to a minimum. Expedited Processing Fee: Buyer may request expedited processing at an additional cost, the price to be calculated as follows: If requested, 6-14 business days at 125% of the quoted ISFS price; 3-5 business days at 150% of the quoted ISFS price; 2 business days at 175% of the quoted ISFS price and 1 business day at 200% of the quoted ISFS price. Negotiated weekend or holiday processing at \$1,500.00 per day in addition to the expedited price, as stated above, plus the quoted ISFS price. *Disclaimer: Expedited and weekend/holiday processing is offered at REM's discretion based upon availability. If the deadline is not met the next lowest value of expedited charge would apply.*

Estimates of delivery are made by Seller in good faith but not guaranteed. Every effort will be made to provide ISFS within the time promised but under no circumstances will the Seller assume the responsibility for any damages growing out of or owing to any delays whatever. Unless otherwise expressly agreed in writing, Seller shall have the right to provide ISFS and make delivery of the Processed Parts in installments, and each installment may be separately invoiced and shall be paid as billed without regard to subsequent shipments. Delay in delivery of any installment or failure to deliver any installment shall not relieve Buyer of its obligation to accept remaining installments, except where otherwise expressly agreed to in writing. Buyer's failure to pay for any installment as and when due shall excuse Seller from further ISFS and delivery and all other duties arising out of this contract. In the event of any default by Buyer, Seller may decline to make further deliveries of Processed Parts, or provide further ISFS, without in any way affecting its rights under this order. If Seller elects to continue to provide ISFS and to make deliveries, despite any default by Buyer, Seller's action shall not constitute a waiver of any default by Buyer or in any way affect Seller's legal remedies for such default. Seller shall not be held responsible for any delay or failure to perform its obligations hereunder in whole or in part due directly or indirectly, without limitation, to war, epidemics, flood, acts of God, accidents, shortage of transportation, blockades, embargoes, federal, state, municipal or any other governmental action or regulation, strikes or other labor troubles, fire, damage or destruction in whole or in part of merchandise or processing plant, lack of or inability to obtain materials, labor, fuel or supplies, restraining orders or injunctions of any court or judge or any other causes, contingencies or circumstances within or without the United States not subject to its control which prevent or substantially hinder the processing, shipment or delivery of the Processed Parts, any of which shall, without liability, excuse Seller from further performance of this agreement or, at its election, extend the time of performance by the time or times measured by any such cause or causes of delay. In any event, if any ISFS shall be delayed three or more months because of any of the aforesaid causes, either party shall have the right, by written notice to the other, to cancel the remainder of the ISFS to be provided by Seller, and the balance, if any, of this contract, and, in such event, neither party shall be liable to the other for any losses or damages arising out of such cancellation. Seller shall return all unfinished Parts to Buyer at Buyer's cost and expense.

**6. Additions to Price:** In addition to the prices quoted, all applicable county, state or federal taxes or other taxes or duties shall be paid and borne by Buyer, and Buyer shall reimburse the Seller in the event that the Seller is required to pay the same by any taxing authority. Where Buyer requires tests or inspection not regularly provided by Seller, Seller will charge Buyer for the actual costs for such tests or inspections unless otherwise specified.

**7. Acceptance:** All Processed Parts are inspected before shipment. Buyer shall inspect the Processed Parts immediately upon receipt and shall give written notice to Seller of the precise nature of any claim that the Parts processed hereunder are non-conforming to the contractual requirements. Such written notice shall be given within ten (10) days of receipt. Seller shall thereupon be afforded a prompt and reasonable opportunity to inspect the Processed Parts at a location specified by Seller. If Buyer shall fail to give such notice or provide such opportunity to inspect, the Processed Parts shall be deemed to conform to the terms of the contract and Buyer shall be bound to accept and pay for the Processed Parts in accordance with the terms of the contract and shall be barred from bringing any claims against Seller with respect to such shipment. Buyer expressly waives any rights Buyer may have to revoke or refuse acceptance if the aforesaid ten (10) day notice provision is not complied with. Before returning any Parts for rework, Buyer must receive written authorization from the Seller to return the Parts. If Parts are returned without such written authorization, they will be refused delivery at Seller's receiving dock. If Buyer's claim is sustained and both Buyer and Seller agree that the Processed Parts do not conform to the terms of this contract, Buyer's exclusive remedy for claims against Seller shall be to return the nonconforming Parts to Seller collect by the cheapest means of shipment within 30 days after receiving authorization from Seller, whereupon Seller shall rework the same at its sole cost and expense. The aforesaid obligation of Seller to rework or reprocess defective Parts or at the election of the Buyer to be paid the amount of the invoice associated with the processing of the non-conforming parts shall be the limit of Seller's liability and Buyer's exclusive remedies for defective Parts or workmanship hereunder, and under no circumstances shall the liability of Seller for breach of any provisions herein exceed such amounts. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES ARISING OUT OF SELLER'S BREACH OF ANY PROVISIONS HEREOF, INCLUDING BUT NOT LIMITED TO ANY LOSS OF PROFITS OR PRODUCTION BY BUYER.

**8. Limitations of Liability:** THE LIMIT OF LIABILITY OF SELLER IS EXPRESSLY LIMITED TO THE AMOUNT OF THE INVOICE ASSOCIATED WITH THE PROCESSING OF THE SPECIFIC PART(S) IN QUESTION. THE BUYER, BY CONTRACTING FOR PART(S) PROCESSING, AGREES TO ACCEPT THE LIMITS OF LIABILITY AS EXPRESSED IN THIS STATEMENT TO THE EXCLUSION OF ANY AND ALL PROVISIONS AS TO LIABILITY ON THE BUYER'S OWN INVOICES, PURCHASE ORDERS OR OTHER DOCUMENTS. SELLER MAKES NO EXPRESSED OR IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY, AS TO THE PERFORMANCE CAPABILITIES OF THE PART(S) AS PROCESSED, OR THE PROCESS.

BUYER ASSUMES ALL RISKS AND AGREES TO INDEMNIFY AND HOLD THE SELLER HARMLESS AGAINST ALL CLAIMS AND LIABILITY (INCLUDING LIABILITY BASED ON A CLAIM THAT SELLER IS NEGIGENT) ARISING: (1) OUT OF ANY PROPERTY MADE IN WHOLE OR IN PART FROM THE PARTS PROCESSED UNDER THE TERMS OF THIS CONTRACT; AND (2) AS A RESULT OF USE OF THE PARTS PROCESSED UNDER THE TERMS OF THIS CONTRACT.

**9. Consequential Damages:** IN NO EVENT SHALL SELLER BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES RESULTING FROM DELAY IN OR FAILURE OR INADEQUACY OF PERFORMANCE.

**10. Confidential Information:** Buyer will keep confidential and will not use or reproduce any information received from Seller in connection with the quotation, and/or in conjunction with the Processing of the Purchaser's Part(s) except with the written consent of Seller. Purchaser will not copy or otherwise reproduce any written or printed material or drawings furnished to Purchaser by Seller in connection with the Product(s) and/or Processes of this proposal.

**11. Restrictions Imposed by United States Export Control Laws:** Buyer agrees that it will comply fully with the export control laws and regulations of the government of the USA with respect to the disposition of the Parts processed hereunder and the commercial and technical data and information and other publications supplied by the Seller. Without limiting the foregoing, the Buyer will not export, re-export, sell or transfer, directly or indirectly any processed Parts, or technical information or data related thereto (i) to any country, person or entity to which the U.S. Government or any agency thereof prohibits such export, re-export, sale or transfer, or (ii) to any country for which the U.S. Government or any agency thereof requires an export license or other governmental approval, without first obtaining such license or approval.

**12. Cancellation, Modification and Termination:** Orders placed cannot be cancelled or delivered held up except with Seller's written consent and upon terms which will indemnify Seller against all loss. This contract shall not be modified or terminated, and no modification, termination or waiver of the standard terms and conditions set forth herein shall be valid unless expressly agreed to in writing. No waiver of any default hereunder shall be deemed a waiver of the obligation of future compliance, and any provision waived shall remain in full force and effect.

**13. Arbitration:** If any dispute or disagreement arises between the Seller and the Buyer with reference to the interpretation of any of the terms or conditions of the sale or of any matter arising out of or from the contract between the Buyer and Seller relating to the goods covered under such contract, except with respect to the nonpayment of the invoice price by Buyer, at the election of the Seller, the matter shall be referred to the American Arbitration Association in Hartford, Connecticut, USA, for arbitration in accordance with its rules, and the decision of said association shall be final and binding upon both parties, and judgment upon any award thereon may be entered in any court having jurisdiction thereof. The arbitrators shall not have the authority to award exemplary, punitive or consequential damages to any party. The expense of such arbitration shall be shared equally by Seller and Buyer.

**14.** This contract shall be governed by and according to the laws of the State of Connecticut. In the case of sales outside of the United States, the parties explicitly exclude the applicability of the United Nations Convention on Contracts for the International Sale of Parts (CISG).

**15. Notice:** Any written notice or other communication to be given under this agreement to Seller shall be sent in English by facsimile transmission or e-mail and by mail, postage prepaid, to the sales office which services Buyer's account at one of the following addresses:

REM Chemicals, Incorporated  
2107 Longwood Drive  
Brenham, TX 77833 USA  
Fax: (979) 277-0309  
e-mail: [sales@remchem.com](mailto:sales@remchem.com)

REM Chemicals, Incorporated  
8912 Mississippi Street  
Merrillville, IN 46410  
e-mail: [sales@remchem.com](mailto:sales@remchem.com)

REM Chemicals, Incorporated  
325 West Queen Street  
Southington, CT 06489 USA  
Fax: (860) 621-8822  
e-mail: [sales@remchem.com](mailto:sales@remchem.com)