

# LOS RIOS COMMUNITY COLLEGE DISTRICT

PURCHASING: (916) 568-3071 ACCOUNTING: (916) 568-3065

FAX: (916) 568-3145

**PURCHASE ORDER NO**

**0001075618**

PLEASE SEE REVERSE SIDE FOR SPECIAL INSTRUCTIONS, TERMS AND CONDITIONS.

|  |  |   |
|--|--|---|
| <b>Date</b><br>03/25/2014                    | <b>Revision</b><br>1 - 03/31/2014      | <b>Page</b><br>1                        |
| <b>Payment Terms</b><br>NET 30               | <b>Freight Terms</b><br>Shipping Point | <b>Ship Via</b><br>Best Metho           |
| <b>Reference:</b><br>808048 HINTZEJ TF POONV |  | <b>Location / Dept</b><br>04CYPH112 SME |

**Vendor:** 0000019229  
MIELE  
9 INDEPENDENCE WAY  
PRINCETON NJ 08540

**Ship To:** FOLSOM LAKE COLLEGE  
RECEIVING  
10 COLLEGE PARKWAY  
FOLSOM CA 95630  
United States

**email:**

**Bill To:** 1919 Spanos Court  
Sacramento CA 95825-3981  
United States

Tax Exempt? N

| Line-Sch | Item/Description  | Quantity | UOM | PO Price | Extended Amt | Due Date   |
|----------|---|----------|-----|----------|--------------|------------|
| 1- 1     | UTILITY BASKET, STAINLESS STEEL - HALF INSERT. USED ON UPPER AND LOWER LEVELS<br>PART #03830510, MODEL# AK 12               | 4.00     | EA  | 210.00   | 840.00       | 04/01/2014 |
| 2- 1     | LID FOR INSERT AK 12. TWO REQUIRED FOR COMPLETE COVERAGE OF THE AK 12<br>PART #03981970, MODEL# A 14 1/4                    | 2.00     | EA  | 78.00    | 156.00       | 04/01/2014 |
| 3- 1     | HALF INSERT, STAINLESS STEEL WITH 26 SMALL SPRING CLIPS. USED ON UPPER AND LOWER LEVELS<br>PART # 03808320, MODEL # E 106/1 | 1.00     | EA  | 249.00   | 249.00       | 04/01/2014 |
| 4- 1     | SHIPPING  | 1.00     | EA  | 62.00    | 62.00        | 04/01/2014 |

PRICE PER QUOTE #Q00011943, DATED 2/19/14

|                         |          |
|-------------------------|----------|
| <b>Sub Total Amount</b> | 1,307.00 |
| <b>Sales Tax Amount</b> | 99.60    |
| <b>Total PO Amount</b>  | 1,406.60 |

| BU    | Acct | Fd | Org        | Prog  | Sub   | Proj | Amount   | BYear |
|-------|------|----|------------|-------|-------|------|----------|-------|
| GENFD | 4500 | 11 | FL.VI.AR03 | 19050 | 00000 | 041A | 168.48   | 2014  |
| GENFD | 6490 | 11 | FL.VI.AR03 | 19050 | 00000 | 041A | 1,238.12 | 2014  |

Verification of this purchase order can be made using the Los Rios Community College District web site listed below. If you have any questions, please contact the Purchasing Office at (916)568-3071.

<http://www.losrios.edu/purchasing/povalidation>

All shipments, invoices, and correspondence must be identified with our Purchase Order Number. Overshipments will not be accepted unless authorized by Buyer prior to shipment.

**Authorized Signature**

*[Signature]* 4/8/2014

Notice to vendor: You are responsible for delivering goods and delivery documents to the Receiving Department at the site. Failure to do so will delay payment processing. Vendor is responsible for obtaining verification of delivery by authorized Receiving Room personnel. Receipt of goods by other parties and failure to obtain authorized signatures may also delay payment. NOTE: PAYMENT TERMS NET 30 MATERIAL SAFETY DATA SHEETS (MSDS) must be provided with the delivery of product as required by law.

## LOS RIOS COMMUNITY COLLEGE DISTRICT

American River College • Cosumnes River College • Folsom Lake College • Sacramento City College

### PURCHASE ORDER TERMS AND CONDITIONS

1. **APPLICABLE LAW:** The contract resulting from this order shall be governed by the laws of the State of California
2. **COMPLETION OF ORDERS:** LRCCD reserves the right to withhold payment until order is completed.
3. **DISCOUNTS:** Please show cash payment discount offered on your invoice in connection with any discount offered, time will be computed from date of delivery of the supplies or equipment, or from date correct invoices are received in the office specified by LRCCD if the latter date is later than the date of delivery. Payment is deemed to be made for the purpose of earning discount, on the date payment is mailed or on behalf of LRCCD.
4. **INVOICES:** Invoices shall be prepared and submitted in duplicate unless otherwise specified. Invoices shall contain Purchase order number, date, description of items, sizes and quantities, unit prices, extended totals, place and date of delivery. Invoices or vouchers not on printed bill heads shall be signed by the CONTRACTOR or person furnishing the supplies or services. Every invoice shall be properly itemized. If LRCCD has not received billing for product or services within a one year period LRCCD will not be held responsible for satisfying the debt.
5. **CHANGES:** No change or modification in terms, quantities, or specifications may be made without express authorization in writing from the LRCCD Purchasing Office and signed by the parties hereto, and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto. If unit cost of any item exceeds the amount shown by 10% or \$250.00 whichever is less do not ship. Contact LRCCD Purchasing at the phone number provided.
6. **BILL OF LADING:** If Bill of Lading is applicable to this order, send originals to "Ship to" address and duplicate Bill of Lading with invoices to "Bill to" address. All correspondence, invoices, bills of lading, shipping memos, packages, etc., must show purchase order number. If factory shipment, advise factory to comply.
7. **TRANSPORTATION CHARGES:** Invoices for prepaid transportation charges must be supported by original receipted expense bills.
8. **FOB POINT AND FREIGHT CHARGES:** Unless otherwise specified on this order, all items shall be delivered FOB Destination. No charge for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, or for any other purpose will be paid by LRCCD unless expressly included and itemized in the order. Unless otherwise shown, on "FOB Shipping Point" transactions, CONTRACTOR shall arrange for lowest cost transportation, prepay and add freight to invoice and furnish supporting freight bills if the amount exceeds \$50.00. On "FOB Shipping Point" transactions, should any shipments under this purchase order be received by LRCCD in a damaged condition and any related freight loss and damage claims filed against the carrier or carriers be wholly or partially declined with the inference that damage was the result of the act of the shipper such as inadequate packaging or loading or some inherent defect in the equipment and/or material, CONTRACTOR on request of LRCCD shall at CONTRACTOR's own expense assist LRCCD in establishing carrier liability by supplying evidence that the equipment and/or materials was properly constructed, manufactured, packaged, and secured to withstand normal transportation conditions. Shipments that are California intrastate in nature and where freight is to be borne by LRCCD shall be tendered to carriers with written instructions that rate and charges may not exceed the lowest lawful rates on file with the California Public Utilities Commission.
9. **PATENT INDEMNITY:** The CONTRACTOR shall hold LRCCD, its officers, agents and employees harmless from alleged liability of any nature or kind, including costs and attorney fees and expenses, for infringement or use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in connection with the contract or purchase order.
10. **TAXES:** Certain articles sold to LRCCD are exempt from certain Federal excise taxes. LRCCD will reimburse the CONTRACTOR for, or pay directly, all California State and local sales and use taxes applicable to this purchase.
11. **EQUAL OPPORTUNITY EMPLOYER:** The acceptance of this purchase order by a supplier of goods and services is a certification that such supplier complies with all provisions of executive order 11246 and is an equal opportunity employer.
12. **GENERAL SAFETY ORDERS:** All materials, supplies and services sold to LRCCD shall conform to the general safety orders of the State of California. All materials, except as otherwise specified, must be new and of the best quality of their respective kinds.
13. **INDEMNIFICATION:** CONTRACTOR shall indemnify, defend and hold harmless LRCCD, its trustees, officers, agents, employees and volunteers, from any and all claims, demands, suits, causes of action, damages, penalties, breaches of this agreement, infringement of patent rights, costs, expenses, violations of employee occupational health and safety laws, attorney fees, losses or liability, property damage, personal injuries to or death of persons, arising out of, alleged to have arisen out of, or relating in any way to CONTRACTOR's work to be performed under this agreement, except if caused solely by the negligence of LRCCD.
14. **TERMINATION:** LRCCD may terminate this agreement and be relieved of the payment of any consideration to CONTRACTOR should CONTRACTOR fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination LRCCD may proceed with the work in any manner deemed proper by LRCCD. The cost to LRCCD shall be deducted from any sum due the CONTRACTOR under this agreement and the balance if any, shall be paid the CONTRACTOR upon demand.
15. **ASSIGNMENT:** Without the written consent of LRCCD, this agreement is not assignable by CONTRACTOR either in whole or in part.
16. **PUBLIC WORKS PROJECTS:** CONTRACTOR must comply with Public Contract Code.
17. **CA LABOR CODE:** Pursuant to Section 1700, and following, the CONTRACTOR shall pay not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations. Copies of such prevailing rate of per diem wages are on file at the Business Office of the Los Rios Community College District, 1919 Spanos Court, Sacramento, CA 95825. Those copies shall be made available to any interested party upon request. The CONTRACTOR shall forfeit, as penalty to the LRCCD, Fifty Dollars (\$50.00) for each calendar day or portion thereof, for each workman paid less than the stipulated prevailing rates for any work done under the contract by him/her or by any subcontractor under him, in violation of the provisions of such Labor Code.
18. **NOTICE:** Your employees may be exposed to hazardous substances during the course of their work while on LRCCD property. For additional information on the hazardous substances that your employees may be exposed to contact the LRCCD General Services Department at (916) 568-3048.
19. **INSURANCE:** CONTRACTOR shall, at all times, maintain in full force and effect the following insurance: Workers' Compensation, Commercial General Liability, Auto Liability, and Professional Liability if licensed professional. Policy limits for each shall be at least \$1,000,000 AND \$3,000,000 AGGREGATE for bodily injury, personal injury and property damage. Any combination of General Liability and Excess Coverage can be combined to meet the Aggregate. LRCCD shall be named as an additional insured on CONTRACTOR's policies. The CONTRACTOR shall provide a certificate of insurance and required endorsements to comply with this section at least 15 days prior to commencement of work under this contract. The certificate shall state that LRCCD will be given 30 days notice of any material change or cancellation in coverage.
20. **DISQUALIFIED EMPLOYEES:** CONTRACTOR shall ensure that persons who perform services on LRCCD property have not been convicted of any felony, or any controlled substance offense or any sex offense as those terms are defined by Education Code section 87008-87010. If LRCCD determines that any person employed by CONTRACTOR to work on LRCCD property is incompetent, unfaithful, intemperate, disorderly, abusive or is otherwise unsatisfactory, CONTRACTOR shall cause that employee to be removed from working on LRCCD property immediately, and that person shall not be employed again on LRCCD property.
21. **WORK AUTHORIZATION:** Prior to LRCCD's acceptance of this Agreement, CONTRACTORS who are not U.S. citizens must provide verification of (a) work authorization status from the appropriate U.S. Department of State; (b) a copy of their U.S. visa; (c) the number of days present in the U.S.; and (d) tax treaty status. LRCCD shall not make any payments to CONTRACTOR unless CONTRACTOR holds the appropriate U.S. visa. CONTRACTOR is responsible for ensuring they are in possession of the appropriate visa.
22. **WARRANTY:** CONTRACTOR expressly warrants that all materials, goods, equipment, services, and/or labor shall conform to the requirements set forth or incorporated into this order and any applicable industry standards or requirements, shall be merchantable and free from defects in workmanship, materials and/or design (including latent defects), and shall perform as specified. CONTRACTOR further warrants that all materials, goods, equipment, services, and/or labor will be fit and sufficient for the particular purposes intended by LRCCD. Unless agreed upon otherwise between LRCCD and CONTRACTOR, the warranty period shall be the longer of: (a) any express warranty included in this service agreement; (b) one year after the materials, goods, equipment, services, and/or labor are accepted by LRCCD; or (c) any warranty period provided under any applicable California law.

# Los Rios Community College District

## Requisition

FLC BUSINESS SERVICES

Page \_\_\_\_\_ of \_\_\_\_\_

|          |        |
|----------|--------|
| Req. No. | 808048 |
| P.O. NO. |        |

|                             |  |
|-----------------------------|--|
| Vendor Code<br><b>19229</b> | DATE <b>2-19-14</b>                                    |
| Approved by / Date          | VENDOR <b>Miele, Inc</b>                               |
| Reviewed by / Date          | ADDRESS <b>9 Independence Way</b>                      |
| Dispatched Method / Date    | CITY <b>Princeton</b> STATE <b>NJ</b> ZIP <b>08540</b> |
|                             | PHONE <b>925-957-9100</b> FAX <b>609-419-4241</b>      |

2014 FEB 21 P 1:11

|   |                                 |
|---|---------------------------------|
| DELIVERY INSTRUCTIONS                   |                                 |
| <b>04 CYPH 112</b>                      |                                 |
| Location Code                           |                                 |
| College/District Location<br><b>FLC</b> | Department<br><b>chemistry</b>  |
| Division<br><b>Instr. &amp; Techn.</b>  | Date Required<br><b>3-31-14</b> |

| ITEM  | DESCRIPTION<br>GIVE COMPLETE DESCRIPTION, INCLUDING CAT. NO. & SIZES<br><small>*Use additional paper if necessary and please reference requisition number.<br/>DO NOT USE A SECOND REQUISITION.</small> | ORDERED  |      | AMOUNT                 |                |
|---|---|----------|------|------------------------|----------------|
|   |   | QUANTITY | UNIT | UNIT PRICE             | TOTAL PRICE    |
| 1   | 03830510 Model AK12 s.s. utility basket half insert   | 4        | ea   | 210-                   | 840-           |
| 2   | 03808320 Model EK06/1 s.s. half insert w 26 clips   | 1        | ea   | 249-                   | 249-           |
| 3   | 03981970 Model A14 - 1/4 lid for Insert AK12  | 2        | ea   | 78-                    | 156-           |
| 4   |   |          |      |                        |                |
| 5   |   |          |      |                        |                |
| 6   |   |          |      |                        |                |
| 7   |   |          |      |                        |                |
| 8   |   |          |      |                        |                |
| 9   |   |          |      |                        |                |
| 10  |   |          |      |                        |                |
| 11  | Per attached Quote # Q0001943   |          |      |                        |                |
| 12  |   |          |      |                        |                |
| 13  |   |          |      | Live item 182 shipping | 62.00          |
| Purchases Charged to Categorical Programs, Grants or Special Projects |   |          |      | SalesTax               | 99.60          |
| This purchase is in compliance with the requirements of _____         |   |          |      |                        |                |
| Program Name _____  |   |          |      |                        |                |
| For grants/special projects _____                                     |   |          |      |                        |                |
| Program Director/Coordinator Signature _____                          |   |          |      |                        |                |
| Project/Grant Number _____  |   |          |      |                        |                |
| Program Goal/Objective Number/Explanation _____                       |   |          |      |                        |                |
|   |   |          |      | <b>Total</b>           | <b>1406.60</b> |

648  
649  
4500

I hereby certify the items/services listed above are to be obtained in accordance with District Regulation 8323, Section 4, Conflict of Interest, and all other applicable district, state, and federal policies, rules, regulations and laws.

|                                    |                      |
|------------------------------------|----------------------|
| REQUESTED BY: <b>Jeanne Hintze</b> | DATE: <b>2/19/14</b> |
| REQUESTED BY: <b>Jeanne Hintze</b> | DATE: <b>2/19/14</b> |
| AUTHORIZED: <b>Kathleen Kukler</b> | DATE: <b>3/7/14</b>  |
| APPROVED: <b>Kathleen Kukler</b>   | DATE: <b>3/7/14</b>  |

|   |              |             |                         |
|---|--------------|-------------|-------------------------|
| Program <b>GENFD</b> / Sub-Class <b>6490</b> / BY <b>11</b> / Proj/Grnt <b>FL.VI.AR03</b> |              |             |                         |
| Bus. Unit   | Account      | * Fund      | Org                     |
| <b>19050</b>  | <b>00000</b> | <b>2014</b> | <b>041A</b>             |
|   |              |             | Amount <b>\$1238.17</b> |
| Program <b>GENFD</b> / Sub-Class <b>4500</b> / BY <b>11</b> / Proj/Grnt <b>FL.VI.AR03</b> |              |             |                         |
| Bus. Unit   | Account      | * Fund      | Org                     |
| <b>19050</b>  | <b>00000</b> | <b>2014</b> | <b>041A</b>             |
|   |              |             | Amount <b>\$168.42</b>  |

\* Asset Location - For equipment purchases over \$200 (Accounts 6490, 6495 and computers) complete the area below indicating the final location where equipment will be housed.

Location Code **04CypH 112** Dept. **19050 Chem**

Building **Cypress Hall FL2** Room No. **112**

Instructions on Reverse



**Hintz**  
 Folsom Lake College  
 10 College Parkway FL2-119  
 Folsom, CA 95630  
**Phone:**  
**Email:** hintzej@flc.losrios.edu

**QUOTATION**

**Quote #:** Q00011943  
**Sales Representative:** Michael George  
**Company:** MG Lab Solutions  
**Phone:** (925) 957-9100  
**Quotation Date:** 02/19/2014  
**Valid Until:** 05/20/2014

| Qty | Part Number | Model   | Description   | Unit Price | Extended Price |
|-----|-------------|---------|---|------------|----------------|
| 4   | 03830510    | AK 12   | AK 12 Stainless Steel Utility Basket - Half Insert. Used on Upper and Lower Levels.             | \$210.00   | \$840.00       |
| 2   | 03981970    | A 14    | A 14 1/4 Lid for Insert AK 12. Two required for complete coverage of the AK 12.                 | \$78.00    | \$156.00       |
| 1   | 03808320    | E 106/1 | E 106/1 Stainless Steel Half Insert with 26 Small Spring Clips. Used on Upper and Lower Levels. | \$249.00   | \$249.00       |

|                 |            |
|-----------------|------------|
| Quote Amount    | \$1,245.00 |
| Shipping Total  | \$62.00    |
| Quote Sub-Total | \$1,307.00 |
| Sales Tax Total | \$99.60    |
| Quote Total     | \$1,406.60 |

4500 account \$  $\frac{4500}{156}$   
 shipping \$  $\frac{1748}{17623}$   
 tax

6490 acct \$  $\frac{6490}{1089}$  Total \$1245 ✓  
 \$5425 \$62 ✓  
 $\frac{8712}{123037} = \frac{9960}{140660}$  ✓



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02/19/2014

Hintz  
Folsom Lake College

10 College Parkway FL2-119  
Folsom, CA 95630  
Phone:

Thank you for considering Miele as your choice for glassware washing systems. I have attached a quotation for the Miele Critical Cleaning System for your review.

If you have any additional questions regarding the quote, please contact me. If you have questions regarding a specific application, please contact Miele Professional's technical Application Specialist: Lisa Choplo at 800-991-9380 X2426.

Best Regards,

Michael George  
MG Lab Solutions  
(925) 957-9100



## **Exhibit 1 – Miele Professional® Terms and Conditions**

### **Terms and Conditions of Sale, Delivery and Installation**

#### **I. Definitions**

Miele, Inc., a Delaware corporation, is the “Seller“ for all transactions referenced herein. Any person or entity purchasing or offering to purchase Products from Seller is herein referred to as the “Purchaser“. The products and services delivered or to be delivered by Seller to Purchaser, including spare parts and installation services, are herein referred to as the “Products.”

#### **II. Acceptance of Terms**

1. The terms and conditions of sale, delivery and installation herein set forth (the “Terms and Conditions“) shall constitute the sole and exclusive agreement between Seller and Purchaser with respect to any transaction between Seller and Purchaser.
2. Each order shall not be effective unless and until Seller shall have accepted it in writing.
3. Seller’s acceptance of Purchaser’s order shall not constitute an acceptance of any provision or term on any form or other document supplied by Purchaser which is different from or additional to any term hereof, unless specifically accepted in a writing signed by an authorized officer of Seller, and such different or additional provisions and terms are hereby expressly rejected.
4. Seller reserves the right to correct clerical and typographical errors herein or in any offer or order at any time.

#### **III. Prices and Payment Conditions**

1. All prices listed in any catalogues, advertisements, price lists or other materials furnished to Purchaser by Seller are subject to modification by Seller and are not binding unless so stated in writing by Seller.
2. Unless otherwise agreed in writing by Seller, freight, insurance, packaging and any such other costs incurred in respect of the Products, as well as any sales, use, value added or similar taxes that are assessed against the Products or in connection with the sale or use of the Products, are not included in the price.
3. If Purchaser wishes to claim exemption from sales tax, Purchaser shall forward a copy of a valid tax exemption certificate (and such other evidence as shall be required by Seller) with its purchase order. Sales and other taxes will be applied to orders received without a proper tax exemption certificate or other required documentation and information.
4. Unless Seller has so specified in writing, price quotes are subject to change at any time prior to shipment of the Product, which change shall be effective within sixty (60) days of its announcement by Seller. Seller reserves the right to change the price after shipment of the Product and before full payment is received to reflect changes in the cost of raw materials, import and export duties, insurance premiums, freight charges, currency exchange rates, governmental actions or other events or circumstances which affect Seller’s total cost of the Product. Prices will be quoted in U.S. Dollars.
5. Unless Seller otherwise stated in a writing signed by Seller, all prices are “prepay and add” **F.O.B. Seller's warehouse in Keasbey, NJ**, or such other location as Seller may identify from time to time.



6. The Purchaser shall remit the payment due in respect of any order without offset or reduction, (a) by wire transfer in immediately available funds (all banking and related charges being payable by Purchaser) to an account identified by Seller, or (b) if approved by Seller's accounting department, by check, no later than **30 days** from the invoice date. Depending upon Purchaser's creditworthiness as determined by Seller's accounting department in its sole and exclusive judgment, payment terms may be further adjusted, including without limitation by requiring an adequate down-payment, C.O.D. payment, the grant of security or other measures required by Seller. Upon Seller's request, Purchaser shall promptly provide accurate and complete evidence satisfactory to Seller of Purchaser's solvency and financial wherewithal.

7. In the event of Purchaser's bankruptcy, insolvency or failure to make one or more timely payments to Seller, Seller may suspend or terminate any pending orders and/or may refuse to accept any future orders and/or may require advance payment for future orders and/or adequate security for any future payment and/or cash on delivery and/or upon order.

8. Upon Purchaser's failure timely and fully to pay any invoice in accordance with its terms, Seller may declare all other pending invoices of Seller issued to Purchaser immediately due and payable.

9. The receipt and acceptance by Seller of any partial payment shall not constitute a waiver of any of Seller's rights set forth herein or provided by law.

#### **IV. Specifications & Products**

1. Purchaser shall review all specifications, drawings and descriptions regarding any Product prepared by Seller. Technical specifications and installation requirements may be made available upon request and/or may be viewed at [www.miele-pro.com](http://www.miele-pro.com). Purchaser acknowledges and agrees that Seller shall not be required to make any modifications to any Product ordered by Purchaser.

2. All specifications, drawings and descriptions set forth in catalogues, proposals, websites or other materials furnished to Purchaser by Seller are subject to modification by Seller and are not binding unless so stated in writing by Seller.

3. Seller reserves the right to modify, improve or discontinue Products, or to change specifications, at any time, without notice.

4. All large chamber machines or any machines that are used to clean or disinfect **Medical Devices** such as Surgical Instruments shall be installed by Miele or a Miele-authorized contractor. Non-medical, under counter machines may be installed by Purchaser or competent third party contractors. If the machines are not installed by a Miele Authorized installer, proper performance of the units cannot be guaranteed.

#### **V. Terms of Order & Delivery**

**1. A hard copy purchase order made out to Miele Inc. 9 Independence Way, Princeton, NJ 08540 via Fax or Email signed by a person authorized to place orders on behalf of Purchaser with Seller's FAX: order department at 609-419-4241; email: [proinfo@mieleusa.com](mailto:proinfo@mieleusa.com) Unsigned orders will not be processed.**

2. For in-stock Products, Seller will use commercially reasonable efforts to ship Products within approximately two (2) weeks after receipt of the relevant order. For out-of-stock or special order Products, Seller may not be able ship before ten (10) to twelve (12) weeks after receipt of the order. If time of delivery is critical, Purchaser shall ascertain from Miele the availability of the Product and the estimated time of shipment.

3. Purchaser acknowledges that Product should be ordered by Purchaser such that shipment could take place at least two (2) weeks prior to the anticipated installation date. Any delivery dates furnished by Seller to Purchaser are estimates only and do not bind Seller to ship or deliver the Products on the dates indicated unless specifically so stated by Seller in writing to be binding.



4. Purchaser acknowledges that its failure to submit relevant data and materials to Seller or to meet certain pre-shipping requirement (e.g., failure to obtain insurance coverage or to make an advance payment), in a timely fashion may lead to a late delivery, for which Seller shall not be subject to any liability.
5. If Purchaser defaults in its obligations in regard to any shipment (including any partial shipment), Seller may suspend any additional shipment (including any partial shipment), unless and until Purchaser cures such default to Seller's satisfaction.
6. Delivery and installation dates are subject to change at the request of Seller for any cause which interferes with Seller's or Seller's supplier's production, supply, importation or transportation of the Product. Delivery shall be for weekday curbside delivery during normal business hours using a carrier selected by Miele. Any special delivery and/or installation requirements shall be subject to additional charges payable by Seller.
7. If Seller fails to comply with any delivery and/or installation dates or otherwise fails to perform its obligations in accordance with any other agreed upon time limits, SELLER SHALL NOT INCUR ANY LIABILITY WHATSOEVER FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES (INCLUDING CLAIMS FOR LOSS OF PROFITS OR PURCHASER'S CUSTOMERS' CLAIMS ARISING OUT OF OR RELATING TO ANY CHANGE IN ANY DELIVERY DATE, ANY PARTIAL SHIPMENT OR UNTIMELY PERFORMANCE) WHICH MAY BE INCURRED BY PURCHASER OR ANY OTHER PERSON OR PARTY.
8. Title to any Product sold hereunder and the risk of damage to and loss of any Product shall pass from Seller to Purchaser upon placement of the Product into the possession of the carrier.
9. Should the delivery or installation of any Product be delayed for any reason for which Purchaser is responsible, Seller shall be entitled to store the Product at Purchaser's cost and risk and to take all other measures which in Seller's judgment are suitable to safeguard the Product and shall be entitled to invoice the Products as if delivered.
10. Purchaser shall be responsible for the cost and expense of packaging the Products for shipment and for the disposal of all packaging materials in compliance with applicable laws, rules and regulations.
11. Purchaser represents and warrants that it is not purchasing any Product for resale, rent, lease or assignment to any third person or company, other than in connection with any financing or refinancing of the purchase of the Product.

## **VI. Force Majeure**

1. If for any cause beyond Seller's control (e.g., war, riot, labor dispute, strike, energy shortage, storm or other natural disaster, accident or extraordinary governmental action) (each a "Force Majeure Event"), Seller shall be unable to manufacture or have manufactured, to deliver or have delivered, or to install or have installed any Product to Purchaser, then Seller shall be relieved of its obligations under any pending orders, and such inability to perform shall not create any liability on Seller's part.
2. Upon the occurrence of any Force Majeure Event, Seller shall notify Purchaser thereof.
3. Purchaser, upon written notice to Seller, may cancel any pending order for Products by written notice to Purchaser if, due to any Force Majeure Event, Seller shall have failed to deliver such Products within fourteen (14) days after any binding delivery date.

## **VII. Limited Warranty**

1. Seller warrants that the Products shall substantially conform to the design specifications established by Seller in regard to the Products and shall be free from defects in workmanship and materials, subject to the terms set forth herein.





2. If any failure to conform to the warranty is reported to Seller in writing within ten (10) business days after the date of (a) the delivery or, (b) if installed by Miele or installers retained by Miele, the commissioning of the Product to Purchaser and to the extent that any material non-conformance or defect cannot be detected by a reasonable and customary inspection, such report shall be made in no event later than on or before the tenth (10th) business day of its discovery by Purchaser or the first anniversary of the delivery of the Product to Purchaser, whichever is sooner. "Commissioning" means the date on which machine acceptance has taken place. Purchaser shall grant Seller and its representatives an opportunity to inspect the allegedly non-conforming or defective Product or installation. Seller, upon being satisfied of the existence of such defect or non-conformity, shall, at its sole and exclusive discretion, repair, replace or complete the installation of the Product or the part(s) subject to such defect or non-conformity. If Seller is unable to correct such defect or non-conformity by repairing or completing the installation of the Product or part or by delivering a replacement of the Product or the part, whether due to the nature of such defect or non-conformity, the use made by the Purchaser of the Product, or for any other reason, Seller shall return to Purchaser the purchase price thereof paid by Purchaser to Seller.
3. The warranty set forth in this Section VII shall apply not only to the Products but also to any replacement Products or parts.
4. This warranty does not cover damage or defects caused by or resulting from (i) any installation of large chamber equipment by contractors other than Miele-authorized contractors, (ii) any unauthorized alteration or modification to any Product or any part, (iii) any negligence, accident, abuse, misuse, improper, unsuitable or abnormal usage, repair or storage of the Product or any part, (iv) the use, operation or maintenance of the Product by any person not trained by or on behalf of Miele to use, operate or maintain such Product, (v) any failure to conform strictly to Seller's specifications and instructions in connection with the use, installation, maintenance, repair, safeguarding, storage or alteration of the Product or any part, (vi) any defect due to specifications supplied by Purchaser or one of its agents or contractors, (vii) any exposure of the Product to unreasonable temperatures or other environmental conditions, or (viii) the use past the specified Product life. Ordinary wear and tear as well as aging shall not be considered a defect in workmanship or materials. If not specified otherwise specified Product life is 15,000 cycles from the date of delivery of the Product.
5. The remedies set forth in this Section VII shall be Purchaser's sole and exclusive remedies, and the liability of Seller hereunder is expressly limited to, at Seller's discretion, the repair or replacement of nonconforming or defective Products, the completion of the installation (if Miele is contracted for the installation) or the repayment of the purchase price, subject to the terms set forth herein.
6. Purchaser represents and warrants that it is a "merchant" within the meaning of the Uniform Commercial Code and it acknowledges that the Products are intended for commercial use only and may not be used for personal or household.
7. Any claim by Purchaser shall be made in writing, shall describe all relevant facts in sufficient detail and shall be accompanied by all relevant documents.
8. SELLER SHALL NOT BE LIABLE TO PURCHASER OR ANY OTHER PERSON WITH RESPECT TO ANY PRODUCT DELIVERED HEREUNDER OR ANY INSTALLATION PROVIDED HEREUNDER FOR DAMAGES IN EXCESS OF THE PURCHASE PRICE RECEIVED BY SELLER FOR SUCH PRODUCT AND/OR INSTALLATION, OR FOR SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, WHETHER ARISING FROM DEFECTIVE WORKMANSHIP, MATERIALS OR DESIGN, BREACH OF WARRANTY, INDEMNIFICATION, CONTRIBUTION, DELAYS IN DELIVERY AND/OR INSTALLATION OR FROM ANY OTHER CAUSE WHATSOEVER, INCLUDING THE NEGLIGENCE OF SELLER, ANY ENTITIES CONTROLLING, CONTROLLED BY OR UNDER COMMON CONTROL WITH SELLER OR ANY SUPPLIER OR PARTNER OF SELLER. THIS WARRANTY SHALL BE IN LIEU OF ALL OTHER WARRANTIES, AND THE WARRANTIES OR MERCHANTABILITY OR FITNESS FOR PURPOSE OR OTHERWISE, EXPRESS OR IMPLIED, ARE EXCLUDED.



9. No Product or part shall be returned without Seller's prior written consent. The Products or parts which Seller consents to have returned shall be shipped by Purchaser at Purchaser's risk and expense, freight prepaid, to such location as Seller may designate.

10. Seller shall not be liable for any warranty obligations hereunder to any person or company other than the Purchaser.

11. Seller shall not be liable to Purchaser for any extended warranty or service with respect to any Product or part, unless it has been issued by Seller, subject to the terms set forth therein.

### **VIII. Dispute Resolution**

1. These Terms and Conditions, as amended from time to time, shall be governed by the laws of the State of New Jersey, without reference to its conflicts of law principles.

2. Any controversy or claim arising out, or relating to this or in connection with the purchase, sale or use of any Product or part or any installation ordered or purchased by Purchaser, or the negotiation or breach thereof, shall be settled by arbitration in Princeton, New Jersey in accordance with the Commercial Arbitration Rules, then obtaining, of the American Arbitration Association, if involving claims of (i) less than two hundred fifty thousand Dollars (\$250,000) before one (1) arbitrator and (ii) two hundred fifty thousand Dollars (\$250,000) or more, before three (3) arbitrators. If three arbitrators are to be appointed, each party shall select one arbitrator, and the two arbitrators appointed by the parties shall select the third arbitrator who shall be the chairman. Each arbitrator shall be an attorney with at least fifteen (15) years of experience in private commercial practice. The arbitrator(s) shall make detailed findings of fact and law in writing in support of his, her, or their decision. Any judgment upon the award rendered may be entered in any court of competent jurisdiction.

3. Notwithstanding any provision of Section VIII, Seller may commence any action in a court of competent jurisdiction to enforce any claim for monies owed in connection with Products delivered but unpaid. Purchaser hereby irrevocably (i) consents that any action, suit or other legal proceeding arising out of or relating to any transaction hereunder may be brought by Seller in any court located within the County of Mercer in the State of New Jersey, (ii) consents to the jurisdiction of such courts in any such suit, action or proceeding, (iii) waives any objection which it may have to the laying of venue of such suit, action or legal proceeding in any such court and any claim that any such suit, action or proceeding has been brought in an inconvenient forum, (iv) consents that service of process may be accomplished using any of the methods described in Section IX (Notices), (v) any judgment may be enforced in any other jurisdiction by suit on the judgment or in any other manner provided by law and (vi) nothing in this Article VIII shall affect the right of Seller to serve legal process in any other manner permitted by law or affect the right of Seller to bring any suit, action or proceeding against Purchaser or its property in any court of any jurisdiction.

4. In the event that Purchase fails to make any payment due to Seller, Purchaser shall be liable to Seller for any and all costs and expenses incurred by it in connection with the collection of such monies, including attorneys' fees and expenses.

5. The provisions of this Section VIII shall not be deemed to preclude any party hereto from seeking preliminary injunctive or other equitable relief to protect or enforce its rights hereunder, or to prohibit any court from making preliminary findings of fact in connection with granting or denying such preliminary injunctive or other equitable relief pending arbitration, or to preclude any party hereto from seeking permanent injunctive or other equitable relief after and in accordance with the decision of the arbitrator. Without limiting the generality of the foregoing, the parties mutually agree that a breach of Section IX shall cause irreparable harm and that damages alone would not be an adequate remedy and consequently Seller shall be entitled to obtain injunctive relief to enforce such provisions.



6. PURCHASER HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM (WHETHER BASED UPON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO ANY TRANSACTION HEREUNDER.

7. In connection with any controversy hereunder, each party shall be responsible for its attorneys' fees and disbursements and all court and related costs and expenses, except that if Seller shall be the prevailing party in any such controversy Seller shall be entitled to reimbursement of attorneys' fees and disbursements and all court and related costs and expenses from Purchaser.

#### **IX. Confidentiality & Intellectual Properties**

1. Purchaser agrees that all specifications, data and other technical information furnished by Seller to Purchaser constitute the property of Seller, are furnished solely for the purpose of Seller's performance hereunder, shall be held in strict confidence by Purchaser and may not be copied or made accessible to third parties without Seller's prior written consent.

2. Purchaser shall promptly return such specifications, data and other technical information and all copies thereof (in whatever format, including electronic, digital, hard copy or other medium) to Seller upon Seller's request or, if such delivery is impossible, destroy such information and certify such destruction to Seller in writing. Such request may be made at any time prior to or after delivery of any Product. The obligations of Purchaser hereinabove set forth shall survive cancellation or completion of any order.

3. Notwithstanding any provision of these Terms and Conditions, Purchaser shall continue to be bound by the provisions of any confidentiality, non-disclosure or similar agreement executed by or on behalf of Purchaser for the benefit of Seller.

4. Purchaser shall not directly or indirectly reverse engineer, decompile, disassemble, alter, duplicate, make copies, extract information from, create derivative works from, distribute or provide others with any know-how, trade secret or other non-public information used to design, manufacture, use or operate any Product, or any software, database, directory or protocol used or embedded therein or therefor.

#### **X. Notices**

Any notices given hereunder shall be in writing and shall be deemed given (a) if sent by express courier (e.g., UPS or Fedex) or (2) by certified mail, return receipt requested. All notices to Seller hereunder shall be given to: Miele, Inc.; 9 Independence Way, Princeton, New Jersey 08540; attention: Head of Professional Products. All notices to Purchaser may be given to such address as indicated in the relevant order acknowledgment or in correspondence provided by Purchaser. Seller's and Purchaser's address may be changed by like notice by the relevant party to the other party.

#### **XI. Miscellaneous**

1. The invalidity or unenforceability of any one or more of the terms and conditions of this form shall not affect the validity or enforceability of the remaining provisions hereof.

2. The failure or omission of Seller to insist upon strict performance of any term or condition hereof or to exercise any right hereunder shall not be deemed to be a modification of any term or condition hereof or a waiver or relinquishment of the future performance of any such term or condition, nor shall such failure or omission constitute a waiver of the right of Seller to insist upon future performance by Purchaser of any such term or condition.

3. This document may be amended from time to time by Seller upon notice to Purchaser, which shall be effective within ten (10) days from delivery to Purchaser.



4/10/14 11:56:05 PC

5991817

Miele, Inc. • 9 Independence Way • Princeton, New Jersey 08540

### PICK LIST

| ACCOUNT     | ORDER   | DATE     |
|-------------|---------|----------|
| P9165683071 | 5041349 | 04/04/14 |

## MIELE INC

SHIP TO:  
 FOLSON LAKE COLLEGE  
 10 COLLEGE PARKWAY  
 RECEIVING  
 po# 0001075618  
 FOLSON CA 95630

*PK*

LOS RIOS COMMUNITY COLLEGE  
 1919 SPANOS CT  
 ATTN: ACCTS PAYABLE

SACRAMENTO CA 95825-3981

SHIP VIA  
**UPS GROUND**

HANDLER  
KW

PO/REF NUMBER PICK LIST PAGE  
 0001075618 5991817 1  
 Linda Meroux /use

| Line | Wbs | Batch | Bin loc | Item     | Description         | Avail. | Quantity | Unit | Disp date | Dispatch. |
|------|-----|-------|---------|----------|---------------------|--------|----------|------|-----------|-----------|
| 1    | 150 |       |         | 03883510 | AK12/E SS MESH      | 4      | 4        | EACH | 04/10/14  | <u>4</u>  |
| 2    | 150 |       |         | 03981970 | A 14-06 LID 1/4     | 2      | 2        | EACH | 04/10/14  | <u>2</u>  |
| 3    | 150 |       |         | 03803320 | E 106/1 HALF INSERT | 1      | 1        | EACH | 04/10/14  | <u>1</u>  |

*RCVR: 0001064568*  
*Def*  
*April 21, 2014*

Return merchandise will not be accepted without a valid RA Number. Please contact your Miele Returns Department at 800-666-0486

Please write the RA number on the attached Return Label ----->

Remove the attached label and affix it to the top of the box

4/10/14 11:56 RETURN LABEL  
 Order #: 5041349 Pick List #: 5991817  
 From:  
 FOLSON LAKE COLLEGE  
 10 COLLEGE PARKWAY  
 RECEIVING  
 FOLSON CA 95630  
 TO:  
 Miele Inc.  
 Returns Building B  
 19 Crows Mill Road  
 Keasbey, NJ 08832  
 RA# \_\_\_\_\_ Box \_\_\_\_\_ of \_\_\_\_\_  
 Items without a valid RA number will be refused by Miele.