

Zeus Industrial Products, Inc.

Terms and Conditions

1. **ENTIRE AGREEMENT.** Purchaser expressly limits acceptance of this Purchase Order to the terms and conditions set forth herein and any additional or different terms or conditions which may be stated in Seller's acceptance, acknowledgment or confirmation of this Purchase Order do not become a part of this Purchase Order between Purchaser or Seller unless Purchaser expressly agrees in writing thereto. This Purchase Order reflects the entire agreement of the parties. It may not be modified or terminated orally and no claim to a modification, rescission or waiver shall be binding on Purchaser unless signed in writing by Purchaser.

2. **CANCELLATION.** (a) Purchaser specifically reserves the right to cancel this Purchase Order at any time prior to Seller's acceptance, unless otherwise expressly set forth herein. (b) In the event Seller shall be adjudged bankrupt, make a general assignment for the benefit of its creditors or if a receiver shall be appointed on account of Seller's insolvency, or in the event Seller is in default of any provision or requirement of this Purchase Order, Purchaser may, by written notice to Seller, without prejudice to any other rights or remedies which Purchaser may have, cancel further performance by Seller under this Purchase Order. In the event of such cancellation, Purchaser may complete the performance of this Purchase Order by such means as Purchaser selects, and Seller shall be responsible for any additional costs incurred by Purchaser in so doing. Seller shall deliver or assign to Purchaser any work in progress as Purchaser may request. Any amounts due Seller for goods and services completed by Seller in full compliance with the terms of this Purchase Order prior to such cancellation shall be subject to setoff of Purchaser's additional costs of completing the Purchase Order and other damages incurred by Purchaser as a result of Seller's default. (c) Purchaser may terminate all or any part of this Purchase Order for Purchaser's convenience by written notice to Seller. Upon such termination for convenience, Purchaser and Seller shall negotiate reasonable termination charges which will be identified by Seller within 30 days of termination. Seller agrees that any termination charges shall be limited to the cost of materials and labor incurred prior to knowledge of such termination. Seller further agrees to take all steps reasonably possible to mitigate such charges. Seller shall, if so directed by Purchaser, deliver to Purchaser all materials which Purchaser shall have paid for.

3. **CHANGES.** Purchaser may, at any time, by a written modification, make changes within the general scope of this Purchase Order, including, but not limited to (a) applicable drawings, designs or specifications, (b) method of shipment or packing, (c) inspection standards, or (d) time or place of delivery. For each change an equitable adjustment shall be negotiated in the price and/or the delivery schedule and the Purchase Order shall be modified accordingly, provided that Seller shall notify the Purchaser of any such claim in writing within thirty (30) days of receipt of the change order. Nothing herein shall excuse the Seller from proceeding with the Purchase Order as changed, prior to negotiation of the equitable adjustment.

4. **CONTINUATION OF PERFORMANCE.** Notwithstanding the existence of a dispute between Purchaser and the Seller, Seller shall proceed with the work as directed by the Purchaser.

5. **DELIVERY.** Time shall be of the essence with respect to delivery of material or rendering of services and delivery shall be made by the date(s) specified in this Purchase Order. All packing, crating, storage, handling and hauling to F.O.B. point shall be furnished by Seller. Seller shall arrange delivery to F.O.B. point in a suitable manner designed to prevent damage or loss and to permit identification of each package by reference to this Purchase Order. Seller shall, from time to time, on demand of Purchaser, give adequate evidence to Purchaser to substantiate the planned performance and progress of this Purchase Order and various parts thereof. If routing or method of transportation including shipments made on sight draft, other than that specified on the face of this Purchase Order, is used, additional transportation costs resulting therefrom shall be for Seller's account, unless otherwise authorized by Purchaser in writing.

6. **INVOICING.** Seller shall promptly render an invoice and bill of lading

with freight rate inserted. Seller shall render separate invoices in duplicate for each Purchase Order number. Purchaser shall approve no invoice unless its Purchase Order number appears thereon.

7. **PRICING.** The price is as shown on the Purchase Order.

8. **INSPECTION.** Seller shall be responsible for the performance of all activities affecting quality and schedule including those of its suppliers. Purchaser reserves the right to review Seller's quality assurance and quality control procedures. The goods provided by Seller under this Purchase Order are subject to inspection, expediting and witnessing of Seller testing by Purchaser's representative and/or Purchaser's customer and/or regulatory body agencies specified by Purchaser, who shall be granted access to the Seller's plant(s) or Seller's supplier's plant(s) engaged in the manufacturing or processing of this Purchase Order. Seller shall provide reasonable facilities and assistance for the safety and convenience of the inspectors in performing their duties. Inspections and tests shall be performed in such a manner as not to unduly delay the work. Purchaser, its customer and regulatory body agencies shall not be liable for any reduction in value of samples of production goods used in connection with such inspection or tests. Such inspection will be without prejudice to Purchaser's right of later rejection upon final inspection by Purchaser. Seller and/or Seller's supplier will notify Purchaser at least five (5) calendar days in advance of the date inspection or test can be made.

9. **RESERVATION OF RIGHTS.** The making or failure to make any inspection of, or payment for, the goods or services covered by this Purchase Order shall in no way impair Purchaser's right to reject nonconforming or defective goods or services, nor be deemed to constitute acceptance by Purchaser of the goods or services, or affect in any way Seller's obligations under this Purchase Order notwithstanding Purchaser's opportunity to inspect the goods or services, Purchaser's knowledge of the non-conformity or defect, its substantiality or the ease of its discovery, nor Purchaser's failure to earlier reject the goods or services.

10. **REJECTION.** Purchaser reserves the right at Seller's risk and expense to reject and return to Seller or hold for Seller all or such portion of any shipment which may be defective or fail to comply with the specifications of this order, without invalidating the remainder of the Purchase Order.

11. **RIGHTS TO DATA.** Seller agrees that all designs, data, drawings, field notes, specifications, computer programs in whatever form, and any other documents developed by Seller for Purchaser pursuant to this Purchase Order shall be the exclusive property of Purchaser. Seller agrees that all such documents are works made for hire, or if they do not so qualify, Seller agrees to assign the rights in all such documents to Purchaser.

12. **CONFIDENTIALITY.** Purchaser hereby notifies Seller that any specifications, drawings, quantities, and other information furnished to Seller by Purchaser in connection with this Purchase Order shall be treated as confidential. Seller agrees to make no commercial or other use of said information (except in connection with this Purchase Order) and to make no disclosure thereof to anyone either before or after completion of this Purchase Order except to those employees requiring such information in connection with this Purchase Order, without having obtained the prior written consent of the Purchaser. Seller further warrants that these employees have or will execute confidentiality agreements containing obligations at least as stringent as those contained herein.

13. **WARRANTY.** Seller warrants that:

- (i) All goods delivered under this Purchase Order are free from defects in design, workmanship and material;
- (ii) All such goods are fit for their ordinary, intended purposes, as well as any special purposes specified herein;
- (iii) All such goods and their components are new and unused and free and clear of any liens and encumbrances;
- (iv) No counterfeit or suspected counterfeit items/parts are to be contained with the delivered goods.
- (iv) All services provided under this Purchase Order are performed in a skilled, workmanlike manner.

14. **PATENT INFRINGEMENT.** Seller shall at its sole expense indemnify, hold harmless and defend Purchaser, its parent, subsidiaries, affiliates and Purchaser's customer from and against, any suit or proceeding brought against Purchaser, its parent, subsidiaries, affiliates and/or Purchaser's customer based on a claim that the manufacture, use or sale of any goods or services, or any part thereof, supplied under this Purchase Order constitutes infringement of any patent, copyright, trademark, or proprietary information right of others, and Seller shall pay all damages and costs awarded therein against Purchaser, its parent, subsidiaries, affiliates and/or Purchaser's customer. Seller shall be notified promptly in writing of the suit or proceeding and shall be given adequate authority, information and assistance (at Seller's expense) for the defense of same, subject to the right of Purchaser, its parent, subsidiaries, affiliates and/or Purchaser's customer to participate at their expense and to be fully advised by Seller in advance of all actions taken. In case in such suit said goods or any part thereof is held to constitute infringement or the sale or use of said goods or parts is enjoined, regardless of whether such determination constitutes a final judgment, Seller shall, at its expense, either procure for Purchaser and Purchaser's customer the right to sell and use said goods or part, or replace same with substantially equal but noninfringing goods; or if approved by Purchaser, remove said goods and refund the purchase price and the transportation and installation costs thereof.

15. **INDEMNITY.** In addition to the indemnities set forth in ARTICLE 14 and elsewhere herein, Seller hereby agrees to assume the risk of and to release, defend, indemnify, and save harmless Purchaser, its parent, subsidiaries, and affiliates, and their employees, agents or representatives (hereinafter called "Indemnitees") from and against all loss, damage, liability, cost and expense (including, without limitation, attorneys' fees) arising out of or any injury (including death) to any person or damage to any property and property rights, including customer's property rights, resulting from or in any way connected with the performance of this Purchase Order or the goods and/or services furnished hereunder, except to the extent such loss, damage, liability, cost or expense is caused by an Indemnitee.

16. **COMPLIANCE WITH LAWS AND POLICIES.** Seller represents that it has complied with all federal, state, municipal laws, regulations, executive orders, priorities, ordinances and restrictions now or hereinafter in force applicable to the services supplied and/or to the manufacture, sale and pricing of the goods delivered hereunder including, but not limited to, (a) the Fair Labor Standards Act of 1938, as amended, including Section 12(a); (b) Title VII of the Civil Rights Act of 1964, as amended; (c) the Age Discrimination in Employment Act of 1967; (d) Section 503 of the Rehabilitation Act of 1967; (e) Executive Order 11246; (f) the Vietnam Era Veteran's Readjustment Assistance Act of 1974; (g) the Occupational Safety and Health Act of 1970; (h) the Wall Street Reform and Consumer Protection Law; (i) California Transparency in Supply Chains Act of 2010, RoHS2 Directive 2011/65/EU; (j) Substances of very high concern (REACH) and (k) California's Proposition 65. Seller certifies that no facility which has been the subject of a conviction under the applicable portion or the Air Act [42 U.S.C. 7.113(c)(1)] or Water Act [33 U.S.C. 1319(c)] and is listed by the Environmental Protection Agency as a violating facility will be used in the performance of this Agreement. Seller shall not discriminate against any employee or applicant for employment for reasons of race, religion, color, sex, age or national origin, handicap or veteran's status. Seller will promptly provide evidence of compliance upon reasonable request by Purchaser.

In the event that Seller shall in the performance of this Purchase Order
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require access to any Purchaser facility then, in addition to compliance with all of these Purchase Order terms and conditions, Seller shall fully comply with all of Purchaser's corporate policies including, but not limited to, the Drug Free Workplace Policy, the Smoking & Tobacco & Snuff Usage Policy and the Weapons Policy. Copies of these policies shall be provided to Seller upon request. Failure to comply with these policies shall be cause for immediate cancellation of this Purchase Order.

17. **ASSIGNMENT.** Neither this Purchase Order nor any portion hereof shall be assigned or delegated by Seller without the prior written consent of the Purchaser. The Purchaser reserves the right to assign this Purchase Order to its parent, subsidiary or affiliate. This Purchase Order shall inure to the benefit of, and shall be binding upon the successors and permitted assigns of the respective parties.

18. **LIENS.** All material delivered, equipment furnished and labor performed under this Purchase Order will be free of all liens, claims, charges and encumbrances, legal or equitable, and upon request, the Seller will furnish the Purchaser with formal releases. If any such lien, claim, charge or encumbrance is not immediately discharged, the Purchaser may discharge the same or cause the same to be discharged at the expense of the Seller.

19. **TAXES.** Seller shall be responsible for and pay all taxes, including, but not limited to, sales, use, license, income or business and occupation, and any other fees, duties or assessments incurred or assessed as a result of this Purchase Order.

20. **NONWAIVER.** Purchaser's failure to insist on performance of any term, condition, or instruction, or failure to exercise any right or privilege or its waiver of any breach, shall not thereafter waive any such term, condition, instruction, right or privilege.

21. **SET-OFF.** Purchaser shall be entitled at all times to set-off any amount owing at any time from the Seller to the Purchaser, its parent, subsidiaries or any of its affiliated companies.

22. **FORCE MAJEURE.** No delay in or failure of performance by a party hereto shall, except in relation to obligations to make payments under this Purchase Order, constitute default hereunder or give rise to any claim for damages against said party by the other party if and to the extent such delay or failure is caused by any cause beyond the reasonable control of the party claiming Force Majeure, arising without any fault of neglect of said party and which could not have been reasonably avoided, provided, however, the party claiming Force Majeure must notify the other party in writing within fifteen (15) days of its occurrence.

23. **HAZARDOUS MATERIALS.** Seller shall notify Purchaser in writing upon receipt of Purchase Order if goods to be furnished hereunder are subject to laws or regulations relating to hazardous or toxic substances; or when disposed of, to regulations governing hazardous wastes, or to any other environmental or safety and health regulations. Seller shall furnish all appropriate shipping certification and instructions for shipping, safety, handling, exposure, and disposal in a form sufficiently clear for use by Purchaser's nontechnical personnel and sufficiently specific to identify all action which the user must take concerning the material.

24. **INSURANCE.** As a prerequisite to commencing work, you are required to provide us with satisfactory evidence that you carry the following coverages (via an ACORD 25). These requirements pertain to you as the Seller PLUS any and all subcontractors or sub-suppliers you will utilize in the course of work performed on behalf of the Purchaser:

A. **GENERAL LIABILITY INSURANCE** naming Zeus Industrial Products, Inc. as additional insured on a primary/non-contributory basis with respect to the work to be performed under this Purchase Order. Each additional insured endorsement must include coverage for "products and completed operations" claims. The required additional insured endorsement is ISO endorsement #CG 20 10 (11 85) or its equivalent. Other requirements of the General Liability Insurance include:

- Broad Form Contractual Liability insuring the indemnifications in any work contract must be included.
- Coverage must be afforded on an "Occurrence" form.
- Waiver of Subrogation endorsement in favor of Zeus Industrial Products, Inc..

- Endorsement amending aggregate limits to apply on a per – project basis
- Minimum required limits are:
 Bodily Injury & Property Damage per occurrence limit \$1,000,000
 Personal and Advertising Liability (any one person or organization) \$1,000,000
- Medical Payment \$5,000
- General Aggregate other than products \$2,000,000
- General Aggregate – operations and products and completed operations in the amount of for one (1) year or the duration of the warranty period whichever is longer \$2,000,000

B. COMMERCIAL AUTOMOBILE LIABILITY insuring all owned, non-owned and hired vehicles with limits of not less than \$1,000,000 for each accident. Other requirements of the Automobile Liability Insurance include:

- Additional Insured Endorsement naming Zeus Industrial Products, Inc. as additional insured on a primary/non-contributory basis with respect to the above-referenced work.
- Waiver of Subrogation endorsement in favor of Zeus Industrial Products, Inc.

C. STATUTORY WORKER’S COMPENSATION AND EMPLOYERS’ LIABILITY with Coverage B Limits not less than:

Bodily injury by accident	\$500,000 each accident
Bodily injury by disease	\$500,000 each employee
Bodily injury by disease	\$500,000 policy limit

Other requirements of the Workers’ Compensation and Employer’s Liability Insurance include:

- Waiver of Subrogation endorsement in favor of Zeus Industrial Products, Inc..

D. UMBRELLA LIABILITY (if requested) listing per occurrence and aggregate limits of a minimum of \$1,000,000.

E. The fact that Seller has obtained the insurance required in this Purchase Order shall in no matter lessen or affect the Seller’s obligations or liability set forth in this Purchase Order.

Additional insured, waiver of subrogation endorsements and per-project aggregate must follow-form what is provided in the primary policies as noted above.

All insurance carriers must be rated “A” or better by A.M. Best and deemed satisfactory by Purchaser. In addition, all certificates of insurance must be current and evidence all of the requirements noted above. The certificate must state that the referenced policies will not be cancelled or non-renewed without 30 days written notice to the certificate holder and additional insureds.

25. GOVERNING LAW. Any questions concerning the contract or the formation of a contract as between Purchaser and Seller arising from this order shall be governed by and construed in accordance with the laws of the State of South Carolina. In the event the goods are to be provided to a non-US affiliate of Purchaser, then the applicable law shall be that of the country Purchaser affiliate. This Contract excludes the application of the 1980 United Nations Convention on Contracts for the International Sale of Goods.