

Zeus Terms and Conditions for Samples (“Agreement”)

This Agreement is by and between Zeus Industrial Products, Inc. on behalf of itself and its subsidiaries (collectively “Zeus”) and you (the other party requesting a sample(s) from Zeus) (you are referred to herein as “Requestor”). This Agreement is effective as of the date on which Requestor submits the request the samples(s), such as via Zeus’ website.

WHEREAS, Requestor is desirous of Zeus supplying certain sample(s), and Zeus is willing to provide such sample(s) requested by Requestor (“Samples”) under certain terms and conditions that reflect the economics of price for such Samples and corresponding risks allocated to each party in connection with such Samples, and Zeus thus conditions its supply of Samples on being under the terms and conditions of this Agreement.

NOW THEREFORE, in consideration of the mutual promises set forth herein, the parties hereto agree as follows:

1. Acceptance, and Delivery. Requestor may submit an order corresponding to a request for Samples via Zeus’ website (e.g., Zeus’ Virtual Sample Locker) or directly through a Zeus sales representative (“Order”). At any time, Zeus in its sole discretion may reject or cancel the Order. Zeus’ acceptance of the Order is conditioned on Requestor’s full acceptance of this Agreement.
2. Price. Samples provided by Zeus hereunder shall be gratuitous, provided that Requestor shall be responsible for the payment of any and all taxes or duties of any government or political subdivision, including a value added tax (VAT), state and local sales, use, and excise taxes, and duties, and costs and fees required to comply with this Agreement.
3. Modification/Cancellation. Zeus may cancel or modify the Order, in whole or in part, at any time.
4. Warranty. EXCEPT AS SPECIFICALLY REQUIRED BY LAW, ZEUS SPECIFICALLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS WITH RESPECT TO ANY SAMPLES.
5. Restrictions on Use of Samples. Requestor agrees to not use Samples for a commercial purpose. Requestor shall use Samples solely in connection with internal research and development activities for the purpose of evaluating the possibility of entering into a business or research relationship with Zeus. Requestor acknowledges that Samples may be prototypes of experimental nature, and Requestor thus agrees that SAMPLES SHALL NOT BE USED IN HUMANS or in a clinical setting. Samples are deemed Confidential Information received by Requestor hereunder, and thus Requestor may not provide Samples to any third party without prior written consent from Zeus, and that Samples and other Confidential Information shall remain under Requestor’s immediate control. Requestor will not modify nor analyze the Samples in any way, or otherwise attempt to determine the chemical composition, formula, structure, or properties of the Samples, without Zeus’ written permission.
6. Requestor agrees to use the Sample in a safe manner and in compliance with all applicable federal, state, and local laws and regulations, including National Institute of Health guidelines. Requestor acknowledges that it will take all necessary steps to comply with export regulations, including obtaining export licenses, if necessary.
7. Intellectual Property. Nothing contained in this Agreement shall be construed, either expressly or implicitly, to grant to one party any rights by license or otherwise in the confidential information it receives hereunder, or to any patent, copyright, trademark or other intellectual property right. Requestor promptly shall notify Zeus of any inventions concerning the Samples generated by Requestor in the performance of the evaluation of Samples that are conceived or reduced to practice by Requestor either solely or jointly with Zeus (“Inventions”). Requestor agrees to assign, and hereby assigns to Zeus, all rights, title and interest in and to Inventions. Ownership of all other inventions (i.e., inventions other than Inventions) shall follow inventorship, with inventorship determined in accordance with U.S. patent law. Requestor will, at Zeus’ expense, sign and deliver to Zeus any documents and take reasonable actions that are needed or desirable in order to confirm Zeus’ title in the Inventions.

8. Indemnification of Zeus. Customer will defend, indemnify and hold harmless Zeus and its affiliates, and officers, directors, employees, and agents thereof, from and against any and all Causes of Action (as defined below) incurred by Zeus in connection with any (a) third-party claim for any breach of this Agreement by Customer which relates to Customer's actions or omissions, (b) infringement of a third-party intellectual property right by the Customer's use of Samples, including any infringement by the Customer's devices or products (including medical devices) that use or are manufactured with Samples hereunder (hereinafter "Devices"), provided that in no event shall Customer be deemed to have caused or induced any such infringement if infringement arose or resulted directly from manufacturing of such Samples by or on behalf of Zeus, (c) liability arising from the use or testing of Samples or the Devices, (d) the use, applicable, or mis-use of Samples or Customer's Devices, (e) the manufacture or testing of Customer's Devices, provided, however, that such causes of action are in no way attributable to the negligence or willful misconduct of Zeus, and/or (f) non-compliance with any laws, regulations, or other governmental requirements applicable to the use or applications of the Samples or medical devices.
9. Confidentiality. Unless Zeus and Requestor have otherwise agreed to a confidentiality agreement pertaining to confidentiality and non-use of information disclosed by a party hereunder, the terms of Zeus' Standard Confidentiality Terms shall control and govern the confidentiality and non-use of the Parties with respect to Samples and information disclosed in connection with this Agreement. Zeus' Standard Confidentiality Terms can be obtained at www.zeusinc.com/standard-terms. Samples provided by Zeus are deemed Confidential Information. Requestor shall not disclose or provide any third party (i) Samples received hereunder, or (ii) information obtained by analysis of Samples, including physical or chemical characteristics
10. Liability. Except as otherwise expressly agreed in writing by the parties, Zeus shall not be liable to the other for any incidental, indirect, consequential, special, exemplary or punitive damages incurred by the other in connection with the contemplated transaction, including, but not limited to, a loss of sales, profits or goodwill, whether as a result of a breach of contract, breach of warranty or tort (including negligence or strict liability), indemnification, or otherwise. Notwithstanding anything to the contrary, to the maximum extent permitted by law, Zeus' liability for any and all liabilities, claims, causes of action, suits, losses, expenses, damages, settlement costs and reasonable attorneys' fees ("Causes of Action") shall be limited to twenty-five thousand dollars (\$25,000) in aggregate.
11. Force Majeure. Neither party shall be held responsible for any delay or failure in performance of any part of this Agreement resulting from any Act of God, fire, flood, explosion, war, strike, public health crisis (e.g., an endemic, pandemic, etc.), embargo, government requirement, civil or military authority, nature or the public enemy or any other causes not foreseeable or beyond the control of the party whose performance must be suspended or excused (such causes to include a lack of availability of raw material from Zeus' suppliers) (collectively "Force Majeure"), provided that such non-performing or delayed party gives the other party prompt written notice of the Force Majeure.
12. Use of Name. Except as provided below, one party shall not, and shall ensure that its affiliates shall not, use or register the name of the other party (e.g., "Zeus" in the case of Zeus being such other party) (alone or as part of another name) or any logos, seals, insignia or other words, names, symbols or devices that identify such other party or any unit, division or affiliate of such other party ("Other Party Names") for any purpose except with the prior written approval of, and in accordance with restrictions required by, such other party. This restriction shall not apply to any information required by law to be disclosed to any governmental entity.
13. No Waiver. The failure or delay of either party to enforce at any time any provision of this Agreement shall not constitute a waiver of such party's right thereafter to enforce each and every provision of this Agreement.
14. Term. The term of this Agreement shall commence on the date on which Requestor submits the Order.
15. Survival. The agreements, representations, warranties, covenants, duties and obligations set forth in these terms that by their terms or to the extent necessary for consistency with the intent and purpose of these terms extend beyond the completion of the transactions contemplated hereunder shall survive thereafter.
16. Entire Agreement. This Agreement constitutes the entire and only understanding between the parties with respect to the subject matter of this Agreement, and supersedes any prior or collateral agreement or understanding between them. Customer and Zeus agree that any other terms and conditions provided by Customer in connection

with an Order are hereby null and void, and that this Agreement shall control the parties' respective rights and obligations with respect to the purchase and supply of Samples under the Purchase Order. This Agreement may be amended or modified only by a written instrument that specifically references this Agreement, and that is signed by an authorized representative of each party. Without limiting the foregoing, no modification shall be affected by the acknowledgment or acceptance of purchase order forms stipulating different conditions.

17. Severability. In the event that a court of competent jurisdiction finds any term or clause in this Agreement to be invalid, unenforceable, or illegal, the same will not have an impact on other terms or clauses in the Agreement or the entire Agreement. However, such a term or clause may be revised to the extent required according to the opinion of the court to render the Agreement enforceable or valid, and the rights and responsibilities of the parties shall be interpreted and enforced accordingly, so as to preserve their agreement and intent to the fullest possible extent.
18. Miscellaneous. This Agreement may not be assigned or transferred by either party without the other party's prior express written consent. Without limiting the foregoing, Agreement shall be binding upon and shall inure to the benefit of the legal successors of the respective parties. The failure or delay of either party to enforce at any time any provision of this Agreement shall not constitute a waiver of such party's right thereafter to enforce each and every provision of this Agreement. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to any choice of law principle that would dictate the application of the law of another jurisdiction. The parties hereby consent to the sole jurisdiction of the state and federal courts sitting in South Carolina, without restricting any right of appeal.