

Aerzen USA Corp. Terms and Conditions of Purchase of Goods and Services

Aerzen USA Corp. ("Aerzen") agrees to purchase equipment from the seller ("Seller") under the purchase order (the "Purchase Order") to which these Terms and Conditions are attached on the following terms and conditions. Any alteration of these terms and conditions shall have no force or effect unless agreed to in writing by an officer of Aerzen or such other authorized signatory of Aerzen as designated in writing by Aerzen. The Purchase Order and these Terms and conditions are sometimes referred to as the "Agreement".

1. GENERAL PROVISIONS

1.1 Entire Agreement: The Agreement constitutes the entire agreement between Aerzen and Seller with respect to the sale of Goods pursuant to the Purchase Order, and supersedes all prior agreements, understandings, and communications, whether written or oral, relating to the subject matter hereof. A failure by either Aerzen or Seller to enforce any rights under these Terms and Conditions shall not be deemed to constitute a waiver of those or any other rights under these Terms and Conditions. No condition stated by Seller shall be binding upon Aerzen if in conflict with, inconsistent with, or in addition to these Terms and Conditions, unless expressly accepted in a writing signed by Aerzen. If there is any conflict or differences in any terms or conditions presented by Seller and these Terms and Conditions, these Terms and Conditions shall govern.

1.2 Severability: If any provision of the Agreement is found to be invalid, illegal, unenforceable, or in violation of any law or regulation, such invalidity, illegality, unenforceability, or violation shall not affect any other term or provision of the Agreement, and the remaining provisions shall continue in full force and effect.

1.3 Assignment: Seller may not assign or transfer its rights or obligations under the Agreement without the prior written consent of Aerzen.

1.4 Notices: All notices required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given when delivered personally, sent by registered or certified mail, or sent by recognized courier service to the addresses specified in the Purchase Order. Notices shall be effective upon receipt, or upon attempted delivery if delivery is refused or if delivery is impossible because of failure of the recipient to provide reasonable means for accomplishing delivery.

1.5 Confidentiality: "Confidential Information" means any non-public information disclosed by Aerzen to Seller that is marked as confidential or that should reasonably be understood to be confidential given the nature of the information and the circumstances of disclosure. Seller agrees that Seller will keep all Confidential Information confidential. Confidential Information shall remain the exclusive property of Aerzen. Seller shall not reproduce or disclose any Confidential Information without prior written consent of Aerzen.

1.6 Governing Law and Jurisdiction: The Agreement and the sale of equipment, materials, and other products ("Goods") pursuant thereto, and the respective rights and obligations of Aerzen and Seller with regard thereto shall be governed by and construed according to the laws of the Commonwealth of Pennsylvania, without regard to the principles of conflicts of law thereof.

1.7 Dispute Resolution: In the event of any dispute arising out of or relating to the Agreement and the sale of Goods pursuant thereto, Aerzen and Seller shall first attempt to resolve the dispute through good faith negotiations. If the dispute cannot be resolved through negotiation within 30 days, either Aerzen or Seller may request that the dispute be submitted to non-binding mediation facilitated by a neutral third-party mediator agreed upon by both parties. If mediation is unsuccessful or not pursued, any unresolved disputes shall be finally settled by arbitration conducted in Coatesville, Pennsylvania, in accordance with the Commercial Arbitration Rules of the American Arbitration Association by one (1) arbitrator appointed in accordance with said rules. The language of the arbitration shall be English. If mediation or arbitration is not successful, the parties may pursue any and all legal or equitable remedies available to them. Any disputes arising under or in connection with the Agreement and the sale of Goods pursuant thereto, if not resolved pursuant to the foregoing, shall be subject to the exclusive jurisdiction of the courts located in Chester County, Pennsylvania.

1.8 Force Majeure: Aerzen shall not be liable in any way for any default or delay with respect to the purchase of Goods due to contingencies beyond its control, including, but not limited to, war, restraints affecting shipping, delivery of materials, or credit as a result of war or war restrictions, non-arrival, delay or failure to procure materials as a result of war or war restrictions, rationing of fuel, strike, lockout, fire, bombing, terrorism, accident, flood, drought, pandemic, cyber-attack, and any other contingency affecting Aerzen, its suppliers, or subcontractors. Aerzen may cancel the Purchase Order or delay delivery or acceptance of Goods upon the occurrence of causes beyond Aerzen's control, whereupon Seller shall hold such Goods at the direction of Aerzen and shall deliver such Goods to Aerzen when the cause affecting the delay has been removed, as indicated by Aerzen's notice to Seller thereof. Upon such delay, Aerzen shall be responsible only for Seller's direct additional costs in holding the Goods or delaying performance of the Purchase Order, at Aerzen's request.

1.9 Waiver of Subrogation: Each of Aerzen and Seller hereby waives any and all rights of recovery, claim, action, or cause of action against the other party, its officers, directors, employees, agents, successors, and assigns, for any loss, damage, or liability covered by insurance maintained by such party, to the extent that such loss, damage, or liability is covered by such insurance, regardless of the cause of such loss, damage, or liability, including but not limited to negligence of the other party, its officers, directors, employees, agents, successors, and assigns. Each of Aerzen and Seller agrees to obtain from its insurance carrier a provision that the insurance carrier waives its right of subrogation against the other party in connection with any loss, damage, or liability covered by such insurance. This mutual waiver of subrogation shall be effective regardless of whether the party seeking

recovery has actually received proceeds under any insurance policy for the loss, damage, or liability suffered. Each of Aerzen and Seller agrees to include this mutual waiver of subrogation provision in all applicable insurance policies and to take all necessary steps to ensure that its insurance carrier is bound by the terms of this waiver. This waiver shall survive the termination or expiration of the Agreement and shall be binding upon and inure to the benefit of Aerzen and Seller, and their respective successors and assigns.

1.10 General Limitation of Liability: In no event shall Aerzen be liable to Seller, Seller's customers, or any third party for special, indirect, incidental, consequential, or punitive damages, or expenses incurred, whether arising from breach of contract, warranty, negligence, strict liability in tort, or other theories of law or equity. Such damages and expenses include, but are not limited to, liquidated damages, loss of profits or revenue, loss of use, cost of capital, cost of substitutes, downtime, service interruption, or any other type of economic loss. This limitation of liability shall apply regardless of the cause of action and regardless of whether such damages or expenses were foreseeable or arise directly or indirectly from the performance or non-performance of obligations under the Agreement or the purchase of Goods thereunder. By agreeing to this limitation of liability, Seller acknowledges and accepts the allocation of risk set forth in this Section 1.10, and this provision shall survive the termination or expiration of the Agreement.

1.11 Cyber Security: Seller warrants to Aerzen: (a) Seller has established and adheres to cyber security standards and processes during all equipment and product development and testing procedures, (b). Without limiting any other rights Aerzen and Seller may have under the Agreement, If any of Seller's software and related electronic documentation contains any computer code that would cause a product vulnerability, unauthorized access, loss of functions, malware intrusion, or any other compromise to confidentiality, integrity, or availability, and such virus or other contaminant is brought into Aerzen's computer environment by or through Seller, Seller shall reimburse Aerzen for all labor and material costs (whether internal or third party) incurred by Aerzen to identify, contain, and correct the effects thereof.

2. PURCHASE OF GOODS & SERVICES

2.1 Orders: All Purchase Orders are subject to acceptance and approval by Aerzen's credit department and are not binding until and unless so approved and accepted. Written acknowledgement or commencement of performance of a Purchase Order shall constitute acceptance and will thereby be a binding contract which cannot be modified or cancelled by Seller without written consent of Aerzen.

2.2 Prices and Payments: Payments are due 60 days after the last to occur of (a) Aerzen's receipt of the Goods or completion of Services and (b) Aerzen's receipt of an invoice for the Goods & Services. Unless otherwise noted in the quotation and agreed to by Aerzen, delivery terms are DDP the delivery point set forth on the Purchase Order, or such other location as specified by Aerzen. Seller warrants to Aerzen that the prices for the Goods & Services sold to Aerzen pursuant to the Purchase Order are not less favorable than those currently extended to any other customer for the same or similar articles in similar quantities. If Seller reduces its price for any such article prior to delivery of all of the Goods to Aerzen or completion of the Services, Seller agrees to reduce the price of the Goods delivered and the Services provided to Aerzen pursuant to the Purchase Order correspondingly. The price stated in the Purchase Order includes all charges for packaging, boxing, crating, special handling, and freight. No modification or adjustment of the price stated in the Purchase Order may be made without the signed written agreement of Aerzen. If the price of any Goods & Services is not stated on the Purchase Order, the price for such Goods & Services shall be the lower of: the price last quoted or paid for such Goods & Services, or the prevailing market price for such Goods & Services. Aerzen shall have the right to withhold any money payable at any time pursuant to the Agreement and apply the amount thereof to the payment of Aerzen's obligations to Seller pursuant to the Agreement. Buyer reserves the right to refuse C.O.D shipments.

2.3 Taxes: Unless otherwise indicated on the Purchase Order, Aerzen agrees to pay all applicable state sales and use taxes. Notwithstanding the above, Seller shall not collect, and Aerzen shall not pay, any tax or duty for which Aerzen furnishes to Seller a properly completed exemption certificate or a direct payment permit certificate or for which Seller may claim an available exemption from such tax or duty, such as an exemption for export. Aerzen shall be responsible for any tax or duty, interest, and penalty if such exemption certificate or direct payment permit certificate is disallowed by the proper taxing authority. If a refund opportunity arises with respect to any tax or duty paid by Aerzen as a result of the sale of the Goods & Services pursuant to the Purchase Order, Aerzen and Seller shall reasonably work together to pursue such refund. If Seller receives a refund, or a credit for any tax or duty paid by Aerzen with respect to the Purchase Order, then Seller agrees to promptly refund to Aerzen the full amount of such refund or credit.

2.4 Identification; Packing Lists: All invoices, packing lists, packages, shipping notices, instruction manuals, and other written documents with respect to the Purchase Order shall contain the applicable order number. Packing lists shall be enclosed in each and every box or package shipped pursuant to the Purchase Order, indicating the contents of each such box or package.

2.5 Shipment: If delivery of Goods & Services is not made on or before the delivery date indicated on the Purchase Order, Buyer may, in addition to its other rights, cancel the Purchase Order, without any liability whatsoever. If, in order to comply with the delivery date indicated on the Purchase Order, it becomes necessary for Seller to ship by a more expensive way than specified in the Purchase Order, any increased transportation costs resulting therefrom shall be paid for by Seller, unless the necessity for such rerouting or expedited handling has been caused by Aerzen.

2.6 Changes: Aerzen shall have the right, at any time, to make changes in drawings, designs, specifications, materials, packaging, time and place of delivery or service, and method of transportation. Seller shall notify Aerzen immediately if changes to the Purchase Order affect delivery or the cost

of the Goods & Services and/or the time required for performance. If any such changes cause an increase or decrease in the cost, or the time required for performance, an equitable adjustment shall be made and the Purchase Order shall be modified, in writing, accordingly. Seller agrees to accept any such changes requested by Aerzen subject to this Section 2.6. Seller is not permitted to substitute Goods & Services or any part thereof for those specified in the Purchase Order unless authorized in writing by Aerzen.

2.7 Delivery and Risk of Loss:

a. Title and Risk of Loss: All Goods will be delivered to Aerzen, Coatesville, Pennsylvania, or such other location designated by Aerzen in writing. All Goods shall become the property of Aerzen upon payment or upon delivery, whichever occurs later. The risk of loss or damage prior to completion of delivery shall be upon Seller, and any such loss or damage to the Goods shall not release Seller from any obligation under the Agreement.

b. Delivery: Time is of the essence with respect to all delivery dates indicated on the Purchase Order. Seller is responsible for proper and adequate transport, packing, and crating of all Goods in accordance with the best commercial standards and practice of packing for transportation. All Goods shall be packed to prevent damage by transport, vibration, moisture, humidity, dust, temperature, corrosion (external and internal), and other hazards prevalent during loading, road transportation, unloading, and final delivery to Aerzen.

c. Acceptance of Goods & Services: Payment for the Goods & Services pursuant to the Agreement shall not constitute acceptance of the Goods & Services. Aerzen shall have the right to inspect the Goods & Services and to reject any or all of the Goods & Services which are, in Aerzen's judgment, damaged, defective, or nonconforming. Aerzen may return to Seller any and all Goods rejected by Aerzen and any Goods supplied in excess of quantities called for in the Purchase Order, at Seller's expense and, in addition to Aerzen's other rights, Seller shall pay to Aerzen all expenses of unpacking, examining, repacking, and reshipping such returned Goods. If Aerzen receives Goods & Services whose defects or nonconformities are not apparent on examination, Aerzen reserves the right to require replacement, as well as payment of damages, upon Aerzen's discovery of any such defects or nonconformities. Nothing contained in the Agreement shall in any way relieve Seller from the obligation of testing, inspection, and quality control.

d. Partial Shipment: Partial shipment of an order will not be made without Aerzen's knowledge or consent. If a complete shipment cannot be made by the delivery date set forth on the Purchase Order, Aerzen will promptly notify Aerzen thereof and ask Aerzen whether the entire shipment shall be held or partial shipment made. If partial shipment, with Aerzen's approval, is made, excess freight charges, if any, will be billed to Seller.

2.8 Cancellation, Postponement or Change Orders:

a. For Cause. Aerzen may terminate a Purchase Order, without penalty, by giving notice thereof to Seller: (a) in the event of a breach by Seller of any of the provisions or warranties of the Agreement; (b) if Seller does not deliver to Aerzen all of the Goods & Services on or before the delivery date indicated on the Purchase Order; (c) if the Goods & Services are defective, incomplete, or otherwise do not conform to the Purchase Order; (d) if Seller fails to provide Aerzen with reasonable assurances of future performance; or (e) if Seller becomes insolvent, enters bankruptcy, receivership, or other like proceeding (voluntarily or involuntarily), or makes an assignment for the benefit of creditors. Seller shall be liable for damages suffered by Aerzen resulting from Seller's breach of the Agreement.

b. For Convenience of Aerzen. Aerzen may terminate the Purchase Order or any part of the Purchase Order for Aerzen's sole convenience. In the event of such termination, Seller shall immediately stop all work under the Purchase Order and shall immediately cause any of its suppliers or subcontractors to cease such work. Aerzen shall pay to Seller a reasonable termination charge, consisting of a percentage of the Purchase Order price reflecting the percentage of the work performed prior to the notice of termination, plus actual direct costs resulting from termination. Seller shall not be paid for any work done after receipt of the notice of termination, nor for any costs incurred by Seller's suppliers or subcontractors which Seller could reasonably have avoided.

2.9 Warranty: Seller warrants to Aerzen: (a) that all Goods & Services shall conform to the specifications set forth on the Purchase Order and to appropriate standards, will be new, and will be free from defects in design, materials, and workmanship for 24 months from the date of Aerzen's acceptance thereof, or such lesser period, if any, as expressly stated on the Purchase Order (the "Warranty Period"); (b) that all Goods will conform to any statements made on the containers, labels, or advertisements for such Goods; (c) that all Goods will be adequately contained, packaged, marked, and labeled; (d) that all Goods will be merchantable, free of all liens, claims, and encumbrances whatsoever, and will be safe and appropriate for the purpose for which Goods of that kind are normally used; (e) that the Goods will conform in all respects to samples; (e) that all Goods are and will be free from any claims for copyright, trademark, licensing agreement, or patent infringement; (f) that any Services performed under this Agreement shall be conducted with due care, skill, and in a workmanlike manner, consistent with industry standards and practices; and (g) that any Services performed shall comply with all applicable laws, regulations, and safety standards relevant to the provision of such Services.. If Seller knows or has reason to know the particular purpose for which Aerzen intends to use the Goods, Seller warrants to Aerzen that the Goods will be fit for such particular purpose. Any inspection, test, acceptance, or use of the Goods & Services shall not affect Seller's obligation under these warranties, and such warranties shall survive any such inspection, test, acceptance, and use. Seller's warranties shall run to Aerzen and Aerzen's successors, assigns, and customers, and users of products sold by Aerzen. Seller agrees to replace or correct defects of any Goods & Services not conforming to the foregoing warranties, without expense to Aerzen, promptly after Aerzen has notified Seller of any such nonconformity. If Seller fails to promptly replace or correct defects in nonconforming Goods & Services, Aerzen, after reasonable notice to Seller, may make such corrections or replace such Goods & Services and charge Seller for the cost incurred by Aerzen in doing so, and Seller shall then pay to Aerzen the amount so charged. All damages proximately caused by the breach of the foregoing warranties, such as removal and reinstallation costs, inspection costs, and all shipping costs of repaired or replaced Goods & Services will be at Seller's expense. The original warranty period for Goods & Services which are repaired or replaced under these warranties are further warranted for a period of time equal to the Warranty Period from the date of such repaired or replaced Goods & Services are delivered to Aerzen. If Seller fails to respond to Aerzen's notice of defect within 10 business days of such notice, Aerzen shall have the discretionary right to have the defective Goods & Services corrected by other means, and Seller shall reimburse Aerzen for the cost of such correction.

2.10 Indemnity: Seller shall defend, indemnify, and hold harmless Aerzen from and against all damages, claims, losses, liabilities, and expenses (including, without limitation, reasonable attorneys' fees) arising out of or resulting in any way from any defect in the Goods & Services, any claimed infringement of any copyright, trademark, patent, or licensing agreement with respect to any of the Goods & Services, Seller's breach of the Agreement, or from any act or omission of Seller or Seller's agents, employees, representatives, or contractors. This indemnification shall be in addition to the warranty obligations of Seller and shall survive the termination or expiration of the Agreement.

2.11 Insurance: Seller shall maintain, at its own cost, insurance covering its obligations under this Purchase Order. Upon request, Seller shall provide a Certificate of Insurance evidencing such coverage. All such insurance policies shall name Purchaser as an Additional Insured, with such coverage being primary and non-contributory to any insurance maintained by Purchaser. Purchaser reserves the right to review and approve the types and amounts of coverage based on the nature and scope of the goods and services provided. Seller shall also maintain Worker's Compensation insurance with limits established by statute in the state where the work will be performed under this Purchase Order. All Seller's employees, including sole proprietors, members, or partners, shall be covered under such policies regardless of legal requirements. Seller shall ensure that these insurance requirements flow down to its subcontractors and delivery entities at all tiers, without relieving Seller of its own obligations to comply with this provision.

2.12 Import And Export Control Requirements: Seller represents and warrants to Aerzen that Seller is familiar with, and will comply in all respects with United States import laws, regulations, and administrative requirements applicable to Seller's sale of the Goods to Aerzen, including, without limitation, the International Traffic in Arms Regulations ("ITAR"); the United States Foreign Corrupt Practices Act ("FCPA"); the Organization for Economic Co-operation and Development ("OECD") Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; the Export Administration Regulations ("EAR"); the Foreign Trade Regulations ("FTR"); and the laws, regulations, and orders issued or administered by the U.S. Department of the Treasury, Office of Foreign Assets Control ("OFAC"), and Internal Revenue Service ("IRS") in relation to export control, antiboycott, or trade sanctions matters. Seller will comply with any reasonable requests made by Aerzen for information that enables Aerzen to comply with third-party payments, including, without limitation, the Foreign Account Tax Compliance Act ("FATCA"). Seller shall be responsible for obtaining any required United States government authorizations, including, without limitation, export licenses or exemption authorizations applicable to the sale of Goods pursuant to the Agreement. Upon request, Seller shall promptly furnish evidence satisfactory to Aerzen of compliance with any of the laws, regulations, and administrative requirements referenced above. Seller shall provide Aerzen the Export Control Classification Number ("ECCN"), including any applicable subparagraph number from the EAR, or the United States Munitions List ("USML") Category from the ITAR, applicable to any United States origin product, software, or technology, or the direct product thereof, to be provided by Seller in support of the purchase of the Goods by Seller. Seller shall promptly notify Aerzen in writing of any future changes in the ECCN or USML Category applicable to the same, including any jurisdictional changes between the EAR and ITAR.

2.13 Commercial Items: If the Purchase Order is for commercial items, as defined in Federal Acquisition Regulations ("FAR") Clause 2.101, the following FAR clauses apply to the Purchase Order and, therefore, are incorporated herein by reference: (Note: The FAR provisions listed below shall apply to Seller's contractors and vendors and it is the responsibility of Seller to include these provisions in its lower-tier purchase orders or subcontractors required by Seller to fulfill the terms of the Purchase Order.) 52.219-8, Utilization of Small Business Concerns (Oct 2018) (15 U.S.C.637(d)(2) and (3)), if the subcontract offers further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds the applicable threshold specified in FAR 19.702(a) on the date of subcontract award, the subcontractor must include 52.219-8 in lower-tier subcontracts that offer subcontracting opportunities. 52.222-26, Equal Opportunity (Sept 2016) (Executive Order 11246). 52.222-35, Equal Opportunity for Veterans (Jun 2020) (38 U.S.C. 4212(a)). 52.222-36, Equal Opportunity for Workers with Disabilities (Jun 2020) (29 U.S.C. 793). 52.247-64, Preference for Privately Owned U.S. Flag Commercial Vessels (Nov 2021) (46 U.S.C. 55305 and 10U.S.C.2631). Federal Government Flow-Down Clauses: If indicated on the Purchase Order, the FAR and, if applicable, FAR supplement, clauses set forth in the attachment titled "Government Flow-Down Clauses" are applicable to the Purchase Order. In addition, if the Purchase Order is issued under a prime contract or involves government flow-down requirements, all applicable flow-down clauses from the prime contract, including but not limited to FAR and FAR supplement clauses, shall apply to the Seller. The Seller shall comply with all such flow-down requirements and ensure that any applicable clauses are included in its lower-tier subcontracts as required.