

## General Terms and Conditions of Purchase

### 1. Applicable Terms

- 1.1. All contracts, including purchase of products, materials or goods and providing any services (collectively, "Goods") entered into or rendered by Jacob Holm Industries (America), Inc. ("Purchaser") with any supplier ("Supplier") shall be governed solely by these General Terms and Conditions of Purchase ("Terms") and Purchaser's order confirmation (Purchaser's final written order, being the "Purchase Order"). The Purchase Order and these Terms being the "Contract". No term of any order confirmation or other document submitted by Supplier, other than Supplier's acceptance of these Terms, shall become part of the Contract between the parties or bind Purchaser. Purchaser's purchase of Goods from Supplier is expressly conditioned on Supplier's acceptance of these Terms, and Purchaser expressly objects to and rejects any and all different and additional terms in Supplier's order confirmation or its other documents that are different from or conflict with these Terms. No term of any order confirmation or its other documents issued by Supplier, other than Supplier's acceptance of these Terms, shall become part of the Contract between the parties or bind the Purchaser.
- 1.2. Any electronic communication between Purchaser and Supplier shall be effective as originals and shall be considered to be a "writing" between the parties. The electronic communication system used by Purchaser will serve as sole proof for the content and the time of delivery and receipt of such electronic communications.

### 2. Delivery; Delay of Delivery; Termination

- 2.1 Supplier expressly assumes all responsibility and risk of loss to any and all Goods while in transit and until Purchaser has accepted delivery. Supplier warrants that it shall procure and maintain insurance sufficient to cover any such loss, and that Purchaser will be listed as an intended beneficiary under such policy.
- 2.2 Supplier agrees to timely deliver the Goods described in this Purchase Order in strict compliance with the project scheduling. Should Supplier delay the project, or any portion thereof, in any way, Supplier shall be liable to Purchaser for any damages, expenses and losses incurred as a result of such delay, including any liquidated damages assessed against Purchaser and all consequential damages and costs for continued project supervision, job overhead, insurance project facilities and other ongoing costs.
- 2.3 Should Supplier fail to timely deliver any Goods provided for under the Purchase Order, Purchaser may declare Supplier to be in breach of, and may, at Purchaser's option terminate this Purchase Order and negotiate and execute a purchase contract with another vendor to supply the same or similar equipment and materials as provided for in the Purchase Order. In the event Purchaser executes such a purchase contract with another vendor, Supplier shall be liable to Purchaser for any and all additional costs incidental thereto.

### 3. Equipment, Materials, and Submittals

- 3.1 Supplier shall provide the Goods specified in the Purchase Order. Supplier shall provide such Goods in strict conformity with the plans, specifications and shop drawings. If anything in the Purchase Order is inconsistent with the plans, specifications or shop drawings, the Purchase Order shall govern.
- 3.2 To the extent applicable, Supplier shall submit shop drawings, submittal data, brochures and samples to Purchaser within ten (10) days of Purchaser's written request and in as many duplicate copies as Purchaser requires.
- 3.3 Supplier shall give all notices and comply with all laws, ordinances, rules, regulations and orders of any public authority bearing on, and shall secure and pay for all permits, fees and licenses necessary for its performance under the Purchase Order. Supplier shall comply with Federal, State and local tax laws, social

security acts, unemployment compensation acts, and workmen's compensation acts insofar as applicable to its performance under the Purchase Order.

#### 4. Price; Terms of Payment; Setoff

- 4.1 Purchaser shall pay Supplier the total sum as shown in this Purchase Order for the Goods. Such sum shall include any and all license or permit fees and state and federal taxes.
- 4.2 The parties expressly understand and agree that time is of the essence as to the Purchase Order, and that Purchaser's payment for the Goods is conditioned upon complete and timely performance by Supplier.
- 4.3 Any payments made under the Purchase Order shall not be construed as Purchaser's acceptance of Goods supplied hereunder. Purchaser reserves the right to reject any nonconforming Goods, or to require Supplier to comply with the plans, specifications and shop drawings, regardless of whether Purchaser has previously paid Supplier. Purchaser also reserves the right to issue a joint check to Supplier and any material supplier of Supplier who may raise any claims against Purchaser.
- 4.4 Purchaser expressly retains the right to offset monies owed Supplier under the Purchase Order from any monies due and owing under any other contracts between Purchaser and Supplier.

#### 5. Warranties; Patents

- 5.1 Supplier expressly warrants that the Goods provided for under this Purchase Order are new unless otherwise specified, strictly conform to the plans, specifications, shop drawings, samples or other description furnished or adopted by Purchaser, and will be fit and sufficient for the purpose intended, merchantable, of good material and workmanship and free from defect. Purchaser may deem all Goods not conforming to these requirements to be defective, and may return them to Supplier at Supplier's expense. These warranties shall be in addition to, but not limited by, any other warranty or remedy required or permitted by law, and shall run to Purchaser, its successors, assigns, customers, and the users of its products. Warranties will commence on the date Purchaser receives the Goods provided for under the Purchase Order and will continue for a period of fifteen (15) months or to the full extent of the manufacturer's warranties, whichever is longer.
- 5.2 Supplier further warrants that all equipment, materials, devices, processes or manufactured materials that Supplier will use or furnish in performance of the Purchase Order shall not infringe upon any valid patent, copyright or trademark. If necessary, Supplier shall secure authorization, pay all royalties and license fees for Supplier's or Purchaser's use of furnishings of any patented, copyrighted or trademarked equipment, materials, devices, processes or manufactured materials provided under the Purchase Order. Supplier further agrees to defend, indemnify, save harmless and exonerate Purchaser from all losses, damages or expense, including court costs and attorney fees, incurred as a result of any claim relating to Purchaser's or Supplier's use or furnishing of any patented, copyrighted or trademarked equipment, materials, devices, processes or manufactured materials provided under the Purchase Order.

#### 6. Indemnity; Insurance

- 6.1 In exchange for ten (\$10.00) dollars the receipt and sufficiency of which is acknowledged, Supplier hereby covenants to defend, indemnify, save harmless and exonerate Purchaser as to and from all liability, claims, lawsuits, arbitrations, other claims for damages, and injuries or other losses for property damage, personal injury or economic losses arising out of the equipment or materials provided by or to be provided by Vendor, its employees, agents and suppliers. Supplier further agrees to indemnify and reimburse Purchaser for Purchaser's legal expenses, including attorney fees, and for other attorney fees and costs assessed against Purchaser in any lawsuit, arbitration or other claims arising from any acts or omissions by Supplier, its employees, agents or suppliers related to the Purchase Order.

6.2 For the duration of its contractual obligations under the Purchase Order, Supplier will maintain a general and product liability insurance which covers the risks arising from liability and the exemption of Purchaser with a minimum insurance coverage of \$5,000,000 per occurrence.

## 7. Materialman Liens

Supplier shall extinguish all liens and claims against Purchaser's property, if any, upon payment of this Purchase Order sum. If, at any time, Purchaser shall become liable on any lien or other claim against Purchaser's property chargeable to Supplier, then Purchaser shall have the right to retain any payment or portion thereof, due or about to become due to Supplier, which is sufficient to indemnify Purchaser against such lien or claim, including costs, attorney fees and interest. Purchaser may require, as a condition precedent to payment that Supplier provides Purchaser with evidence that Supplier has paid its suppliers for all equipment and materials provided for under this Purchase Order and completed Release and Waiver forms.

## 8. Choice of Law and Venue; Condition Precedent to Filing Suit

8.1 The Contract and these Terms and any controversy relating to them or the Goods will be governed by the laws of the State of North Carolina, excluding its conflicts of law principles. The United Nations Convention on the International Sale of Goods is expressly excluded and will not apply. Any action or proceeding relating to the Contract or these Terms or their enforcement, or to the Goods, will be commenced and heard exclusively in the North Carolina state courts and the United States District Court for the Western District of North Carolina. Supplier and Purchaser hereby consent and submit to the jurisdiction and venue of those courts.

8.2 Supplier expressly agrees as an absolute condition precedent to filing any claim or filing any suit against Purchaser, or the filing of any lien against Purchaser's property, to supply Purchaser with written notice of any breach and provide Purchaser thirty (30) days in which to correct the breach.

## 9. Confidentiality

9.1 Supplier commits to treat all of Purchaser's commercial and technical information which comes to Supplier's knowledge during the course of the business relationship as business secrets and keep them confidential unless such information is or becomes public known without fault of the Supplier.

9.2 Drawings, calculations, samples and all other documentary material placed at Supplier's disposal remain property of the Purchaser. They may not be disclosed to third parties in any form without Purchaser's prior written consent.

## 10. Force Majeure

Neither Purchaser nor Vendor shall be liable to the other or be deemed to be in breach of a contract subject to these terms and conditions from any delay in performance or from any failure to perform any of its obligations in relation to a contract subject to these terms and conditions, if the delay or failure was beyond that party's reasonable control.

The nonperforming party shall be diligent in attempting to remove any such cause, and shall promptly notify the other party of extent and probable duration.

If Vendor's claim of force Majeure only partially affects Vendor's ability to perform under a contract subject to these terms and conditions, Purchaser expects Vendor to supply a reasonable pro-rata share of material/services.

11. Miscellaneous Provisions

11.1 No Contract may be amended, modified or supplemented except by written agreement executed by Purchaser and Supplier. The rights and remedies of Purchaser are cumulative and not alternative, and Purchaser shall have all rights and remedies available under applicable law in addition to those under these Terms. Neither any failure nor any delay by Purchaser in exercising any right, power or privilege under the Contract or these Terms will operate as a waiver of such right, power or privilege unless in a writing signed by Purchaser. Each Contract shall be binding on, and shall inure to the benefit of, the parties and their respective successors, heirs and permitted assigns. Supplier may not assign a Contract or its rights thereunder without the prior written consent of Purchaser.

11.2 The section headings contained in these Terms are for reference purposes only and shall not affect in any way their meaning or interpretation. Any use in these Terms of the word "including" or "include" shall not limit such term and shall mean "including without limitation". The provisions of the Contract and these Terms which by their terms survive performance shall survive for any reason. If any provision of the Contract or these Terms is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions remain applicable and shall not be affected thereby. To the extent allowed by law, the invalid provisions shall be replaced by valid wording that best reflects the purpose of the original provision. Any consent, approval, decision or other right of Purchaser in the Contract or these Terms may be exercisable by Purchaser in its sole and exclusive discretion.

Version: February 21, 2020

Please sign and date: VENDOR NAME: \_\_\_\_\_ DATE: \_\_\_\_\_