

Opus-Eight LLC. - TERMS AND CONDITIONS

1. **DEFINITIONS:** "BUYER" means Opus-Eight LLC., "SELLER" means the supplier or party shown on the face of this order. "ORDER" means this instrument and all referenced or attached materials, documents or exhibits. "PRODUCTS" means the goods or services of the seller shown on the face of this order.
2. **ORDER:** This order is Buyer's offer to Seller.
3. **ACCEPTANCE:** Seller will be deemed to have accepted this order when seller signs and acknowledges this order, begins commencement of any work or service under this order, or informs Buyer of commencement.
4. **AGREEMENT:** Buyer and Seller agree that they are contracting solely on the basis of this order.
5. **CHANGES/MODIFICATIONS:** Buyer may, at any time prior to production by Seller, issue a written change order. If any such change causes an increase or decrease in the cost or time required for Seller's performance hereunder, an equitable adjustment shall be made in the purchase price and/or delivery schedules and will be modified in writing accordingly. No change is to be made by Seller without written authorization by Buyer's purchasing representative.
6. **PACKING AND SHIPPING:** Seller agrees (a) to prepare, pack, mark, and ship products in accordance with Buyer's packaging requirements, and to route shipments in accordance with instructions from Buyer, if any, and comply with carrier's classifications, tariffs, and packaging instructions; (b) to pay all charges for preparations, packing crating, storage, cartage, handling, and shipping unless otherwise stated in this order; (c) to provide packing slips with each shipment with Buyer's purchase order number, as well as all certifications that are required.
7. **DELIVERY:** Seller will make deliveries strictly in accordance with the specified quantities and schedules herein or in releases issued hereunder.
8. **LATE DELIVERIES:** If Seller's acts or omissions result in Seller's failure to meet Buyer's delivery requirements, Buyer may (A) require a more expeditious method of delivery at Seller's expense; (B) Buyer shall have right to adjust Seller's invoice accordingly; or (C) Buyer may cancel order without any further obligation.
9. **INVOICE AND PAYMENT:** Seller shall send a separate invoice for each shipment or service. No invoice shall be issued prior to shipment of products or performance of service. Payment due dates, including discount periods, will be calculated from the date of acceptance of products or correct and complete invoices are received, whichever is later. The prices for the products or services will not be subject to change without the prior written consent of Buyer.
10. **QUALITY:** Seller will maintain an inspection and quality system acceptable to Buyer. Seller will maintain adequate authenticated inspection reports, test reports, and certifications relating to the products produced or provided pursuant to this order.
11. **INSPECTION AND ACCEPTANCE:** Buyer may inspect all products ordered hereunder at all times and places during the period of manufacture, and before shipment. Seller will permit Buyer and/or its designees access to Seller's facilities at all reasonable times and will provide all tools, facilities, and assistance reasonably necessary for such inspection and/or confirmation to Buyer. All products are subject to final inspection and acceptance at destination in accordance with Buyer's procedures.
12. **NON-CONFORMING PRODUCTS:** (A) Buyer may reject products or services which do not meet the specifications for the products set forth in this order. Any products rejected by Buyer will be at Seller's risk and expense. Seller will reimburse Buyer for any packaging, handling, inspection, and transportation costs Buyer incurs with respect to rejected products.
(B) Buyer may revoke its acceptance of products at any time, whether or not substantial modifications to the products has been made, if a defect in the products which could not have been discovered during Buyer's normal inspection procedures, or which is not normally found until the product is used substantially impairs the value of the products to Buyer.
13. **PRODUCTS WARRANTIES:** (A) Seller expressly warrants that all products or services covered by this order will conform to the specifications, drawings, plans, representations, samples, descriptions, or other data furnished to or by Buyer, and will be of merchantable quality and free from defects.
(B) All warranties hereunder will survive Buyer's acceptance, use and/or payment and will run to Buyer and its customer and subsequent owner.
(C) Buyer's review or approval of any samples, drawings, specifications, "first articles", or other data developed by Seller in connection with this order will not limit Seller's responsibility under the warranties contained herein or alter the cost, rate of output, or delivery requirements of this order.
14. **FORCE MAJEURE:** If, due to forces beyond Buyer's control, Buyer determines to alter Buyer's delivery schedule, the

provisions of this paragraph will control. Seller will hold any such products affected by the altered delivery schedule at the **direction of Buyer and will deliver them when the cause affecting the delay has been removed. Buyer will be responsible only for Seller's direct additional costs incurred in holding the products.**

15. **TERMINATION FOR CAUSE:** Buyer may immediately terminate this order or any part hereof for cause in the event of default by Seller.
16. **PROPRIETARY INFORMATION-CONFIDENTIALITY:** Seller will consider all information as furnished by Buyer hereunder, including but not limited to drawings, designs, process specifications, reports, data, technical information, features of parts, **equipment, tools, gauges, and patterns to be confidential and shall safeguard and keep secure and will not disclose any such information to any other person, or use such information itself for any other purpose other than performing this order, unless Seller obtains Buyer's written permission.**
17. **PRODUCT INDEMNIFICATION:** Seller will indemnify, defend, and hold harmless Buyer, its officers, employees, agents, successors, assigns, customers, and users of its products from and against any and all losses, expenses, damages, claims, suits, and liabilities (including recall, repair, and replacement expenses, and other incidental and consequential damages including but not limited to court costs and attorney's fees) arising as a result of actual or alleged breach of any warranties or other terms contained herein or arising under any strict tort or negligence claims premised on either an actual or alleged defect in the products or services.
18. **INFRINGEMENT INDEMNIFICATION:** Seller will indemnify, defend, and hold harmless Buyer, its officers, employees, agents, successors, assigns, customers, and users of its products from and against any and all losses, expenses, damages, **claims, suits and liabilities (including incidental and consequential damages, court costs, and attorney's fees) arising as a result of any claim that the manufacture, use, sale, or resale of any products infringes any United States or foreign patent, protected industrial design, copyright, trademark or other intellectual property right.**
19. **INDEMNIFICATION:** If Seller's employees, agents, or subcontractors enter upon premises occupied by or under the control of Buyer or any of its customers or suppliers in the course of the performance of this order, Seller will indemnify, **defend, and hold Buyer, its officers, employees, agents, and customers harmless from and against any and all losses, expenses, damages, claims, suits, or any liability whatsoever (including incidental and consequential damages, court costs, and attorney's fees) arising out of any act or omission of Seller, its agents, employees, or subcontractors.**
20. **BUYER'S PROPERTY:** (A) Buyer will retain title to any and all property Buyer furnishes to Seller, or for which Buyer pays Seller, including but not limited to dies, jigs, molds, tools, materials, gauges, supplies, fixtures, patterns, or any other items. Seller will not alter or use such property for any purpose other than that specified by Buyer without the prior written consent of Buyer. Seller will keep adequate records of such property, which records will be made available to Buyer **upon request, and will store, protect, preserve, repair, and maintain such property in accordance with sound industrial practice, all at Seller's expense. Buyer shall have the right to enter Seller's premises at all reasonable times to inspect such property and Seller's records and Buyer may remove such property from Seller's premises at any time.**
(8) If Buyer's property becomes lost or damaged while in Seller's possession, Seller will indemnify Buyer of replace Such property at Seller's expense in accordance with Buyer's request.
21. **TOOLING:** Unless otherwise specified, all tooling, gauges, fixtures, molds, etc. and/or all other articles required for the performance of this order will be furnished by Seller.
22. **COMPLIANCE WITH LAWS:** Seller warrants that it shall comply with all applicable Federal, State, and Local laws and regulations in the performance of this order, and will hold Buyer harmless from any liability resulting from Seller's failure to so comply.
23. **DELEGATION/ASSIGNMENT/SUBCONTRACTING:** No part of this order may be delegated, assigned, or subcontracted without the prior written approval of Buyer.
24. **SET OFF:** All claims for money due or to become due from Buyer will be subject to deduction or set off by Buyer for any counterclaim arising from this or any other transaction with Seller.
25. **EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION:** Seller will comply with all Federal, State, and Local non-discrimination regulations, requirements, and laws specifically including but not limited to the regulations set forth in 41 C.F.R., Parts 60-250, 60-741, and 61-250.
26. **INGREDIENTS DISCLOSURE AND SPECIAL WARNINGS AND INSTRUCTIONS:** Seller shall furnish to Buyer in such form and detail as Buyer may direct: (a) a list of all ingredients in the products purchased hereunder; (b) the amount of one or **more ingredients; and (c) information concerning any changes in or additions to such ingredients. Prior to and with the shipment of the products purchased hereunder, Seller agrees to furnish Buyer sufficient warning and notice in writing (including appropriate labels on products, containers, and packing) of any**

hazardous material which is an ingredient or a part of the products, together with such special handling instructions as may be necessary to advise Buyer, carriers, and their respective employees of how to exercise care and precaution which will best prevent bodily injury or property damage in the handling, transportation, processing, use, or disposal of the products, containers, and packing shipped to Buyer.

27. **DUTY DRAWBACK RIGHTS:** This order includes all related customs duty and import drawback rights, if any, (including rights developed by substitution and rights which may be acquired from Seller's suppliers) which Seller can transfer to **Buyer. Seller agrees to inform Buyer of the existence of any such rights, and upon request, to supply such documents as may be required to obtain such drawbacks.**
28. **GOVERNING LAW:** This order will be governed by the laws of the State shown in Buyer's address on the face of this order. The parties hereby stipulate irrevocably that they hereby submit to the personal jurisdiction of the courts of the **above referenced State.**