

**PURCHASE ORDER TERMS AND CONDITIONS**

1. **Governing Provisions.** Sulzer Chemtech USA, Inc.'s d/b/a FRC Systems International's (hereinafter "Buyer") Purchase Order shall consist of (i) the terms and conditions set forth herein and (ii) all attachments, exhibits, specifications, drawings and other related documents which refer to, are attached to or are otherwise referenced in these Purchase Order Terms and Conditions ("Purchase Order"). Each shipment received by Buyer from Seller shall be deemed to be only upon the terms and conditions contained in this Purchase Order, except as they may be added to, modified, superseded, or otherwise altered in writing by Buyer, notwithstanding any terms and conditions that may be contained in any acknowledgment, invoice or other form of Seller and notwithstanding Buyer's act of accepting or paying for any shipment or any similar act of Buyer and Buyer hereby rejects any different or additional terms and conditions proposed by Seller. If this Purchase Order is sent to Seller in response to a quotation or an offer of Seller submitted to Buyer, the terms of this Purchase Order shall supersede and control all provisions in the quotation or offer of Seller. Seller's shipment of any of the goods or performance of any of the services covered by this Purchase Order, or Seller's receipt of any payment made pursuant to this Purchase Order, shall constitute Seller's acceptance of this Purchase Order as fully as if Seller had accepted in writing.
2. **Conforming Goods.** All goods shall conform strictly to the description, plans, specifications, and sample, if any, and no deviation or substitution will be permitted without the express written agreement of Buyer. Unless otherwise expressly agreed in writing by the Buyer, all Seller goods shall be new, of the latest design or model conforming to the Buyer's requirements, and of the best quality.
3. **Inspection and Expediting.** Buyer and Buyer's customer shall have the right to inspect and expedite the goods in process of manufacture, in storage or in transit. The Seller shall afford the Buyer representative free of cost, all necessary and commercially reasonable access to Seller's facilities for such purposes and for purposes of confirming that the Seller's goods are being furnished in accordance with this Purchase Order. Upon delivery, Buyer shall be granted a commercially reasonable opportunity to confirm compliance with all terms, conditions, specifications and drawings, if any.
4. **Delay and Force Majeure.** Seller acknowledges that compliance with the delivery schedule shall constitute a material requirement of this Purchase Order. Either party shall be excused from performance of the obligations hereunder when and to the extent that such performance is delayed or prevented by any circumstances reasonably beyond its control, including but not limited to, fire, explosion, acts of terrorism, any strike or labor dispute or any act or omission of any governmental authority or any group purporting to have authority (hereinafter, individually or collectively "Force Majeure"). To be so excused, the affected party must provide prompt notice and undertake reasonable efforts to mitigate the conditions giving rise to a claim of Force Majeure.
5. **Title.** Title to all goods covered by this Purchase Order and to all materials, work in progress, design data and other documentation, and all contract rights related to such goods, shall vest in Buyer immediately upon identification to this Purchase Order, subject to Buyer's obligation to pay the purchase price thereof and perform all its corresponding obligations hereunder. Irrespective of vesting of title, Seller shall bear the risk of loss, and shall insure or self-insure at full replacement value, all goods of Buyer in its care, custody or control until delivery of the goods in good condition in accordance with the shipping provisions. Seller warrants good title free of claims or encumbrances shall be vested in Buyer.
6. **Payments.** Unless otherwise agreed in writing, payment to Seller shall be due net ninety (90) days from Buyer's receipt of an acceptable invoice. Seller agrees to pay promptly when due, all bills for any labor, materials, equipment, or service connected with the goods supplied hereunder, and, if not promptly paid when due, Buyer may pay any such valid obligation of Seller and Seller shall immediately reimburse Buyer therefor.
7. **Compliance With Laws, Codes and Standards.** Seller agrees to observe and comply with all applicable codes, laws, rules and regulations of any governmental entity having jurisdiction over Seller in the performance of its work pursuant to this Purchase Order. To the extent applicable, Seller agrees that the services rendered in connection herewith shall meet applicable safety standards established and promulgated under the Federal Occupational Safety and Health Act (OSHA) and its regulations in effect as of the date hereof, and as of the date of performance of any work hereunder.
8. **Assignment.** This Purchase Order and money due under this Purchase Order may not be assigned without prior written consent of Buyer.
9. **Rejection.** There shall be no substitutes or shipment of more or less than the quality specified without prior written approval of Buyer. If goods received do not conform to those ordered, or if more or less than the quantity ordered are shipped, Buyer may reject such shipment in whole or in part and require Seller to pick up and remove such rejected goods at Seller's expense within ten days after notice.
10. **Cancellation.** This Purchase Order is subject to cancellation at the option of Buyer for Buyer's convenience. In the event that this Purchase Order is cancelled for the convenience of Buyer, Seller shall be paid: (1) the unit price of each item of the goods properly furnished and accepted prior to cancellation or completion of performance by Seller, plus, (2) the unit price for finished goods not yet delivered to Buyer, plus, (3) other direct cost incurred by Seller as a result of Buyer's cancellation for convenience such as termination charges under subcontracts. In no event shall the amount payable to Seller exceed the total Purchase Order price, less any payments previously made. In addition to the preceding, this Purchase Order may be terminated by Buyer "for cause" in the event of breach of the Purchase Order terms and conditions by Seller, or a Seller bankruptcy or insolvency, or failure or inability of Seller to perform. In the event of a "for cause" termination, Buyer agrees to pay Seller the unit price of each item of goods properly furnished and accepted prior to cancellation or completion of performance by Seller. In no event shall the amount payable exceed the Purchase Order price, less the cost to Buyer of completion or procurement of substitute conforming goods and less any payments previously made. Upon notice to Seller, Buyer reserves the right to offset any liability of Seller owed to Buyer whether such liability arises in connection with this Purchase Order or any other agreement between the parties. Such offset shall be without waiver or limitation of any other rights or remedies of Buyer.
11. **Changes.** Changes may be made by Buyer in the character or quantity of goods to be furnished hereunder, by change order in writing signed by the Buyer. The price shall be equitably adjusted, for any such change, at the unit prices set forth herein if the change is in quantity, or by agreement if the character of the goods or other terms are changed so as to increase or decrease the cost to Seller. If no agreement is reached as to amount of the price adjustment, the price shall be equitably adjusted to reflect the increased or decreased cost to Seller with reasonable allocation of overhead and profit. Seller shall submit to Buyer all satisfactory evidence from which adjustments based on cost can be determined.
12. **Warranty.** Seller warrants that the goods or services supplied will be free from defects in material, workmanship, and design, and will conform to specifications, drawings and to applicable industry codes and standards. Seller shall repair any defective goods or furnish replacement goods or parts thereof, or reperform services to Buyer's satisfaction, at Seller's expense. The warranties of the Seller, together with its service warranties and guarantees, if any, shall run to the Buyer and its customers.
13. **Shipping.** Goods shall be shipped by carriers and routes as instructed by Buyer. Seller agrees to pay for packing, loading, and draying, unless otherwise agreed in writing. Invoices and bills of lading showing full routing, car number and other customary data, etc., shall be dated and mailed at the time of shipment and separate invoice must be made for each destination, showing point of shipment and how shipped. Invoices bearing transportation charges must show weight and rate.
14. **Prices.** If price is omitted on this Purchase Order it is agreed that Seller's price will be the last quoted.
15. **Indemnity.** Seller agrees to defend, indemnify and hold harmless Buyer and the Owner and its employees, agents and subcontractors, against any loss, cost, damage or liability, including attorney's fees, arising from the negligence or other breach of duty by Seller and those for whom it is responsible in connection with the Purchase Order or the goods or services supplied hereunder.
16. **Subcontracts.** If the Seller shall cause any part of the work to be performed by a subcontractor, the provisions of this Purchase Order shall apply to such subcontractor and the Seller shall not, in any manner thereby, be discharged from its obligations and liability hereunder, but shall be liable hereunder for all acts and omissions of the subcontractor, or its officers, agents and employees as if they were employees of the Seller. No subcontractor shall be used until written approval is given by Buyer or its customer but no such approval shall affect the provision hereof with respect to Seller's responsibilities and obligations.
17. **Sales and Similar Taxes.** Unless otherwise agreed in writing, Buyer acknowledges that Seller's price does not include sales, use, excise, value added, or similar taxes or customs duties ("Taxes"). Seller shall clearly set forth in its invoice to Buyer any such Taxes not included in Seller's prices. Notwithstanding the preceding, Seller shall assume exclusive responsibility for, and shall pay before delinquency, all taxes, assessments and such other charges with respect to, or measured by wages, salaries, or other remuneration paid to persons employed by Seller in connection with the performance of the Purchase Order.
18. **Insurance.** During the performance of this Purchase Order, the Seller shall maintain insurance in effect for its own protection and protection of its subcontractors. In the event that Seller is scheduled to provide on-site services in connection with this Purchase Order, then Seller shall provide Buyer at the time of executing this Purchase Order a Certificate of Insurance indicating that the insurance has been secured and that Buyer has been named as an additional insured on such policies. Buyer shall be given 30 days written notice prior to cancellation or significant changes.
19. **Jurisdiction.** This Purchase Order shall be construed and enforced according to the laws of the State of Delaware, excluding its conflicts of law principles.
20. **Confidential Information.** Seller acknowledges and agrees that any information and/or materials that Seller or its personnel shall receive either directly from Buyer or indirectly from a Buyer employee, agent or subcontractor shall be kept in strictest confidence and agrees to limit access to such information to only those of its respective employees who reasonably require access to such information to perform the work contemplated by this Purchase Order. Except as may otherwise be set forth herein, any information disclosed in connection with this Purchase Order shall not be disclosed to any third parties without Buyer's express prior written consent.
21. **Intellectual Property Ownership.** Neither Seller, nor Buyer shall acquire any right, title, or interest in or to any pre-existing intellectual property (including without limitation patents, copyright and trade secrets) of the other Party in connection with this Purchase Order.
22. **Complete Agreement.** This Purchase Order is the complete agreement between the parties and no modification, amendment, rescission, waiver or other change will be binding on any party unless assented to in writing by such party's authorized representative. Any oral or written representation, warranty, course of dealing or trade usage not contained or referenced herein will not be binding on any party. Both parties agree that they have not relied on, nor were induced by any representation not contained in this Purchase Order.