

Scheuch USA, Inc. Standard Terms and Conditions

1. Acceptance: These Terms and Conditions of Sale form part of each Proposal submitted by Scheuch USA, Inc. (Scheuch) for the sale of equipment described herein (Equipment) and/or services to Buyer. ANY CONTRACT MADE BY AND BETWEEN THE PARTIES IS EXPRESSLY CONDITIONED ON BUYER'S ASSENT TO THESE TERMS AND CONDITIONS AND TO SCHEUCH'S REVIEW AND APPROVAL OF BUYER'S CREDIT. Unless otherwise stated herein. Buyer has thirty (30) days from the date of the Proposal to notify Scheuch in writing of Buyer's offer to enter into a contract on the basis of this proposal. Upon written notification by Scheuch from its office in Lenexa, Kansas that it has accepted such an offer by Buyer, this Proposal shall become a contract between Buyer and Scheuch.

2. Erection of Equipment: Any such erection services will be furnished in accordance with Scheuch's Terms and Conditions of Sale.

3. Warranty: Scheuch warrants that the Equipment and/or services described herein, but only in so far as it is of Scheuch's subcontractor's manufacture, will be free from defects in material and workmanship for a period of 12 months from date of delivery, or the date of delivery which is deemed accepted by the Buyer ("warranty period"). Notwithstanding, the warranty period is not renewed or extended through repair or replacement whatsoever. All Equipment manufactured by Scheuch equipment vendors carries only the warranty given by the manufacturer thereof which warranty Scheuch will make available to the extent permissible to Buyer without recourse to Scheuch. If, within the warranty period Scheuch receives written notice promptly within 24 hours after the discovery of any defect in the material or workmanship in the Equipment warranted by Scheuch herein, Scheuch shall correct each such defect, at Scheuch's option, either by (1) making available F.O.B. Scheuch's plant repair or replacement part(s); or (2) repairing any defective part(s).

Except otherwise expressly set forth herein, **SCHEUCH MAKES NO OTHER WARRANTIES, EMPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED.** Liability of Scheuch under this warranty is conditioned upon the Equipment being handled, erected, operated, and maintained in accordance with written instructions provided or approved in writing by Scheuch. Scheuch makes no warranties which extend to damage to the Equipment above rated capacities or in otherwise improper manner. Scheuch's sole responsibility for defects in material and workmanship in Equipment, and Buyer's exclusive remedy hereunder, shall be limited as above provided.

4. Taxes: In addition to the price specified herein, Buyer shall pay any present or future tax imposed by any governmental body on the sale, delivery, use of other handling of Equipment sold hereunder or in connection with this Proposal or any transaction contemplated hereby.

5. Security Interest: Scheuch reserves a security interest in Equipment delivered hereunder until it receives full payment thereof. If Buyer fails to make any payment when due, then in addition to all other remedies available to Scheuch either at law or otherwise, Scheuch may, at its option, terminate the contract or suspend the delivery of goods pending the cure of any such default by Buyer and receipt of cash for each such delivery to be made of other security reasonably satisfactory to Scheuch.

6. Force Majeure: Scheuch shall not be responsible for losses or damages to Buyer (or any third person) occasioned by delays in the performance or nonperformance of any of Scheuch's obligations or by loss of or damage to any of the Equipment specified in the Proposal when caused directly or indirectly by acts of God, substantial changes in general economic conditions, acts of government or military authority, epidemics/pandemics, casualty, riot, acts of Buyer, strikes or other labor difficulties, shortages or labor, supplies, and transportation facilities or any other cause beyond Scheuch's control or the control of its supplier or subcontractors.

7. Cancellation: Buyer may cancel any contract resulting from this Proposal only upon written notice to Scheuch and only upon such term as will identify and reimburse Scheuch for all loss or damage resulting therefrom, including without limitation, Scheuch's overhead, fifteen percent (15%) contract profits, costs, and expenses to which Scheuch has become committed for fulfillment of the contract prior to

cancellation with reasonable allowance for Scheuch to cease all work activities.

8. Laws and Regulations: Except as expressly set forth herein, Scheuch does not assume responsibility for compliance with federal, state, or local Laws and regulations. All laws and regulations expressly referenced herein shall refer only to those editions or versions thereof in effect on the date of the Proposal. In the event of revisions or changes thereto subsequent to the date of this proposal, Scheuch assumes no responsibility or liability for compliance therewith. Any modification to the Proposal may be treated as a Change Order under Article, if Buyer notifies Scheuch within ten (10) working days of modification to the Proposal.

9. Occupational Safety and Health Act: Scheuch warrants that the Equipment furnished hereunder shall, to the extent such Equipment is used in accordance with Scheuch instructions, comply with safety equipment requirements of the Occupational Safety and Health Act of 1970 regulations, as amended, (OSHA requirements) in effect on the date of Scheuch's Proposal. Scheuch shall not be responsible for failure to comply with OSHA requirements which result from the location, operation, use or maintenance of the Equipment or from alteration of the Equipment by persons other than Scheuch or from an option or accessory attached to the Equipment that was available to the Buyer but omitted at the Buyer's direction or from design or instructions furnished by the Buyer. Scheuch's responsibility for breach of this warranty is limited to modification or replacement of the Equipment cited as violating OSHA requirement. All OSHA requirements with respect to noise are specifically excluded from this warranty. The remedies and warranty provided herein are the entire and exclusive responsibility of Scheuch with respect to OSHA requirements. This OSHA warranty is subject to the conditions in the warranty applicable to the Equipment.

10. Change Orders: Buyers may make changes, within the general scope of work included in this Proposal, to the plans, equipment or specifications, by giving written notice in a Change Order. Within thirty (30) days from receipt of such Change Order, Scheuch shall submit the Buyer the changes required to the contract price and delivery schedule resulting from such a Change Order. Scheuch shall have no obligation to proceed with such Change Order until Scheuch and Buyer agree in writing to such changes in the contract price and delivery schedule. Changes to Standard Products air filtration orders after completion of any such product engineering shall be subject to additional engineering fees and will result in delays of shipment. Scheuch is not liable for any penalties or compensation, which may arise due to such delay.

11. Bonds: In addition to the price specified herein, Buyer shall pay the cost of any bonds which Buyer requires Scheuch to obtain. Buyer acknowledges that Scheuch has relied upon all specifications and other data supplied by Buyer (conditions) to Scheuch in the selection and design of the Equipment and the preparation of this Proposal. In the event the conditions differ from those represented by Buyer and relied upon by Scheuch, any warranties or performance guarantees contained herein affected by such conditions shall be null and void, unless otherwise mutually agreed upon in writing.

12. Buyer Supplied Data: Buyer acknowledges that Scheuch has relied upon all specifications and other data supplied by Buyer (conditions) to Scheuch in the selection and design of the equipment and the preparation of this Proposal. In the event the conditions differ from those represented by Buyer and relied upon by Scheuch, any warranties or performance guarantees contained herein affected by such conditions shall be null and void, unless otherwise mutually agreed upon in writing.

13. Subcontracts: Scheuch may subcontract any portion of the fabrication and erection work included in the proposal. **Storage:** If Buyer declines or is unable to take delivery at the time(s) specified in the Proposal, Scheuch will have the Equipment stored for Buyer at Buyer's risk and account. Buyer will pay storage, handling and re-handling charges and continue to make payment according to the payment terms contained herein.

14. Delivery/Freight Rates/Shipment: Delivery to carrier at point of shipment shall constitute delivery to Buyer who shall assume all risk for subsequent loss or damage. Any increases or decreases in freight charges between the effective date of Scheuch's Proposal and the date of final shipment will be for Buyer's account. Scheuch shall have the right to ship all of the goods at one time or in portions from time to time within the time of shipment. This contract shall be deemed separable as to the good sold. Buyer may not refuse to accept any lot or portion of goods hereunder on the grounds that there has been a failure to ship any other lot or that any goods in any other lot were nonconforming. Any such default by Scheuch will not substantially impair the value of this contract as a whole and will not constitute a breach of contract as a whole.

15. Propriety Material: All drawings, patterns, specifications and information included in the Proposal, and all information otherwise supplied by Scheuch relating to the design, erection, operation, and maintenance of the Equipment is the property and/or confidential material or information of Scheuch. Buyer shall not disclose such material or information to others or allow others to use such material or information except as required for Buyer to obtain service for Equipment.

16. Price: Due to the instability of costs, prices are subject to change without notice and shall not be binding on Scheuch. Steel pricing is based upon current market prices and shall be subject to an escalation surcharge based upon the BLS WPU101 (Iron and Steel) Material Price Adjustment Base Indices and shall be paid by the Buyer. In no event will the final price be less than the original contract. Prices quoted include standard packing according to Scheuch's specifications. Buyer shall pay for special packaging requested by Buyer, including packaging for exports, and shall be paid by Buyer as an additional charge.

17. Credit on Payment: Credit accounts will be opened only with firms or individuals approved by Scheuch's credit department. Unless otherwise provided, in any case where delivery is made on credit, Buyer shall have thirty (30) days from date of invoice in which to make payments for goods. Unless prohibited by law (in which case accounts past due shall bear interest at a rate of eight (8) percent annum), accounts past due shall bear interest at the then prime rate charged by U.S. Bank N.A. Scheuch reserves the right at any time upon notice to Buyer, to alter or suspend credit, or to change the credit terms provided herein, when it is the sole opinion of Scheuch that the financial condition of Buyer so warrants. In addition, Scheuch may at any time, with or without notice to Buyer, and at its option, suspend work and shipments under this contract if, in Scheuch's sole opinion, the financial condition of Buyer so warrants. In such cases, in addition to any other remedies herein or by law provided, Scheuch may require cash payment or satisfactory securities from Buyer before credit is restored or Scheuch continues performance. If Buyer fails to make payment or fails to furnish security satisfactory to Scheuch, then Scheuch shall also have the right to enforce payment of the full contract price of the work completed and in process. Upon default by Buyer for payment due, Buyer shall pay immediately to Scheuch the entire unpaid amounts for any and all shipments, made to Buyer irrespective of the terms of said shipments and whether said shipments are made pursuant to this contract of sale between Scheuch and Buyer, and Scheuch may withhold all subsequent shipments until the full account is settled. Acceptance of less than full payment shall not be a waiver of any of its rights hereunder.

18. Title: The risk of loss of the goods shall pass to the Buyer as soon as they are deposited with the carrier for shipment to Buyer, but the title of goods shall remain in Scheuch until the purchase price therefore has been paid.

19. Inspection and Acceptance: Scheuch shall have right to inspect, after prior notification, the Equipment supplied by it when in operation, and prior to operation when deemed necessary by Scheuch. Buyer shall have the right to inspect goods upon receipt and shall have the opportunity at that time to run sufficient tests to determine whether goods shipped conform to the specifications of this

contract. Buyer shall recompense Scheuch, at the contract price, for all goods used in testing. Buyer shall bear any expense incurred in the inspection of the goods used in testing whether or not the goods are nonconforming. Failure to inspect the goods or inform Scheuch in writing that the goods are nonconforming within ten (10) days of the receipt of the goods by the Buyer shall constitute a waiver of Buyer's rights of inspection and notification of nonconformity and shall be equivalent to an irrevocable acceptance of goods by the Buyer.

20. Waiver of Subrogation: Buyer further agrees to waive all rights of subrogation that would otherwise be available to its insurers, regardless of the theory of recovery, relating in any way to the design, testing, manufacture, sale, installation of any goods, any components, or related services.

21. Restocking Charges: Return goods must be authorized by a Scheuch employee and returned to a designated point of manufacture within the specified time. Return goods may be subject to restocking and freight charges.

22. Supervisory Personnel: Supervisory Personnel will be supplied, upon request by the Buyer, on a per diem basis in accordance with Scheuch's standard rates in effect at the time of the request.

23. Limitation on Liability: Scheuch's responsibility for any claims, damages, losses or liabilities arising out of or related to its performance of this proposal of the Equipment covered hereunder, including but not limited to any correction of Equipment defects under the Warranty or any applicable performance guarantees, shall not exceed the purchase price. **IN NO EVENT SHALL SCHEUCH BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES OF ANY CHARACTER, INCLUDING BUT NOT LIMITED TO, LOSS OF USE OF PRODUCTIVE FACILITIES OR EQUIPMENT, LOST PROFITS, PROPERTY DAMAGES, PERSONAL INJURIES OR LOST PRODUCTION WHETHER SUFFERED BY BUYER OR ANY THIRD PARTY, IRRESPECTIVE OF WHETHER CLAIMS OR ACTIONS FOR SUCH DAMAGES ARE BASED UPON CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE.**

24. Contract Interpretation: Any contract resulting from this Proposal shall be constructed and the legal relations of Scheuch and Buyer shall be determined in accordance with the laws of the State of Kansas. These terms and conditions herein and all communications, descriptions, drawings, specifications, and documents attached hereto and specifically incorporated herein, shall upon the formation of a binding contract in accordance with section (1) be deemed to constitute the sole and entire agreement and contract between the parties as to the subject matter hereof. No changes in or modifications of said agreement shall be binding upon the parties or either of them, unless they shall be in writing and signed by both parties.

25. Jurisdiction: Any legal proceeding brought by any party in conjunction with any of the terms or provisions of this transaction shall be brought exclusively in the courts of Johnson County, State of Kansas. It is agreed that no court of any other jurisdiction shall hear or rule upon any aspect of this transaction.

26. Acceptance of Contract: It is agreed between the parties that all of the conditions in our proposition upon our bid not in direct conflict with terms or conditions of the Buyer remain in full force and effect, notwithstanding clauses in the terms and conditions of Buyer. It is further agreed that no phraseology imposes any liability upon Scheuch that is covered by workman's compensation of Buyer. It is further agreed that Scheuch is not responsible for any negligence or improper acts that cause damage, which negligence or improper acts are those of Buyer's employees, officers, or other contractors.

27. WAIVER OF JURY TRIAL: EACH PARTY HEREBY IRREVOCABLY WAIVES ITS RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING ARISING OUT OF THIS AGREEMENT OR THE TRANSACTIONS RELATING TO ITS SUBJECT MATTER. THE WAIVER OF JURY TRIAL CLAUSE PROVIDED THAT THE PARTIES WAIVE THEIR SEVENTH AMENDMENT RIGHT TO A TRIAL BY JURY IF THERE ARE ANY DISPUTES ARISING OUT OF OR RELATING TO THE AGREEMENT OR THE TRANSACTION. ALL DISPUTES ARE STILL HANDLED BY THE COURT SYSTEM, WITH ALL DISCOVERY AND APPELLATE RIGHTS, BUT ANY TRIAL WILL BE DECIDED BY JUDGE, AND NOT A JURY.

28. Severability: In the event that any one or more of these terms or conditions are held invalid, illegal or unenforceable, such provisions shall be severed and the remaining terms and conditions shall remain

binding and effective.

29. Indemnification: Buyer shall indemnify Scheuch and hold Scheuch, its affiliates, and subcontractors harmless from all loss, cost and expense (including reasonable attorney's fees) incurred by Scheuch in the defense of any lawsuit, proceedings or claims that may be asserted against Scheuch based upon alleged defects in or failures of the Equipment where such defects or failures are the result, in whole or in part, of the actions of persons other than Scheuch.