

HELMER PURCHASE ORDER TERMS AND CONDITIONS

1. ACCEPTANCE OF PURCHASE ORDER TERMS AND CONDITIONS

- Agreement by Seller to furnish the materials, and “Goods/Products” or “Services,” including the Goods resulting from Services hereby ordered, or Seller’s commencement of such performance, or acceptance of any payment, shall constitute Seller’s unqualified acceptance of the Purchase Order subject to these terms and conditions.
- Any terms or conditions proposed by Seller inconsistent with or in addition to the terms and conditions herein contained shall be void and of no effect unless specifically agreed to by Buyer in writing.
- Modifications hereof or additions hereto, to be effective, must be made in writing and be signed by Buyer’s purchasing representative.
- These terms and conditions, together with any referenced exhibits, attachments or other documents, constitute the entire Agreement between the Parties with respect to the subject matter of the Purchase Order, and supersede any prior or contemporaneous written or oral agreements pertain thereto.

2. PRICES, PAYMENTS, AND TAXES

- The price(s) for the Goods or Services shall be the price(s) as shown on the Purchase Order. The Seller warrants that the agreed price is not less favorable than that currently extended to any other of the Seller’s customers for the same or like Goods in equal or lesser quantities.
- Unless otherwise agreed in writing by the Buyer, all invoices are paid 2% within thirty (30) days net sixty (60) days from the date of Buyer’s receipt of the Goods or completion of any required Services or on the date Buyer receives Seller’s invoice, whichever is later.
 - All invoices must contain the following information: Purchase Order number, item number, Helmer’s Part Number, description of Goods or Services, sizes, quantities, unit prices and extended prices.
 - Payment by Buyer shall be deemed to have been made as of the date of Buyer’s mailing of payment or electronic funds transfer.
 - Payment of invoices shall not constitute acceptance of Goods or Services and shall be subject to adjustment for shortages, defects and other failures of Seller to meet the requirements of this order.
- Unless exempt therefrom or specified in the Purchase Order, the prices stated in the Purchase Order include and Seller shall be liable for and shall pay all applicable federal, state, and local taxes, duties, tariffs, and similar fees imposed by any government.

3. ON-TIME DELIVERY

- On-time Product delivery is of the essence of this Agreement. Seller’s failure to deliver in accordance with the delivery schedule(s) under this Purchase Order, unless otherwise excused by the Buyer in writing, shall be considered a material breach of the Purchase Order. Buyer’s acceptance of late deliveries shall not constitute waiver of this provision.
- On-time delivery is calculated based on three days early and zero days late to the actual delivery date the Product is received at Buyer’s factory dock in comparison to the Purchase Order specified delivery date or the delivery date specified in the Purchase Order release. Seller will provide Buyer preferential scheduling to ensure that Product delivery is uninterrupted, without regard to volume purchased.
- Seller shall notify Buyer in writing immediately of any actual or potential delay to the performance of this Purchase Order. Such notice shall include a proposed revised schedule but such notice and proposal or Buyer’s receipt and/or acceptance thereof shall not constitute a waiver of Buyer’s rights and remedies thereunder.
- If Seller’s delivery is not on-time, and without limiting any other remedies available to Buyer, Seller may be charged for Buyer’s reasonable costs incurred as the result of Seller’s late delivery of Product or performances of Services. Such cost may include the actual cost of incurred for rework, line downtime, overtime, expedited shipping charges for Product from Seller to Buyer, procurement from a third party, and penalties for late delivery imposed on Buyer by its customers.

4. INSPECTION, ACCEPTANCE, REJECTION/REWORK

- Goods and Services are subject to Buyer’s inspection and approval within a reasonable time after delivery, and any prior payment shall not constitute acceptance thereof.
- Buyer, without prejudice to any other rights or remedies, shall have the right to reject any or all of said Goods or Services which are in Buyer’s judgment defective or nonconforming to the Purchase Order. Buyer shall have the right, at Seller’s risk (notwithstanding the terms of delivery) and expense, to return the same to Seller or dispose of the same

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according to Seller's instructions. Buyer may at its option, require Seller to grant a full refund or credit to Buyer in lieu of replacement of the defective Goods. In any event, no Goods returned as defective shall be replaced or repaired as replacement without the written consent of Buyer.

- If Goods are rejected for quality non-conformance, Buyer will notify Seller of the non-conformance and may elect to use the Goods as-is based on equitable reduction in price as determined by the Buyer, or to re-work the Goods within the Buyer's site at the Seller's expense. If Buyer elects not to use the Goods as-is or not to re-work the Goods at the site, Buyer may grant to Seller the option to:
 - a. Have the Goods returned or shipped to a third party for re-work at Seller's expense
 - b. Send Seller personnel to Buyer's site to re-work the Goods at Seller's expense; or
 - c. Request that Buyer dispose of or scrap the Goods at Seller's expense and Buyer's convenience.
- If Buyer elects not to use or rework rejected Goods, the Seller shall ship, upon receipt of Buyer's written direction, conforming replacement Goods to Buyer at Seller's expense using expedited freight within 24 hours of receiving notification from Buyer.
- Without limiting any other remedies available to Buyer, Seller will be charged Buyer's reasonable actual costs incurred as the result of the delivery of defective Goods. Such cost may include the actual cost incurred for rework, line downtime, overtime, expedited shipping charges for Goods from Seller to Buyer, procurement from a third party, and penalties for late delivery imposed on Buyer by its customers.
- Neither Buyer's inspection nor any Buyer failure to inspect shall relieve Seller of any responsibility to perform according to the terms of this Agreement.

5. PACKAGING AND SHIPPING

- Unless otherwise specified, delivery shall be FOB origin and, unless otherwise agreed in writing, title to Goods and risk of loss shall transfer to Buyer at the point of shipment.
- Seller shall preserve, package, handle and pack Product so as to protect Goods from loss or damage, in conformance with good commercial practice, Buyer's specifications, or other applicable requirements. No charges will be allowed for packing, crating, local cartage, and/or any other Services unless so specified in the Purchase Order.
- Seller shall comply with Buyer's written shipping instructions. All items shipped on the same day from and to a single location must be consolidated on one bill of lading unless otherwise directed by Buyer.
- Purchase Order number(s) must appear on all correspondence, shipping labels, and shipping documents, including all packing lists, bills of lading, and air bills.
- A complete packing list shall be enclosed with all shipments.

6. QUALITY CONTROL SYSTEM

- Supplier shall maintain a quality control system in compliance to at least one industry recognized Quality Standard and in compliance with any other specific quality requirements identified in the Purchase Order. Failure to maintain compliance to these Quality Standards shall be considered a material breach of this Agreement.
- Records of all Seller quality control inspections and tests shall be kept complete and available for inspection by Buyer for a minimum period of five (5) years following Buyer's receipt of Goods.
- Buyer or its agents may perform a quality audit of Supplier's quality system from time to time upon reasonable notice and Supplier shall cooperate in such inspection and testing of Goods under the Purchase Order and any supportive test equipment and tooling.

7. WARRANTY

- Seller warrants to Buyer and its affiliates, its successors, assigns, customers, and users of the Goods sold by Buyer that for a period of three years from the date of delivery to Buyer's customer all Goods provided hereunder shall be (i) merchantable; (ii) new; (iii) free from defects in material and workmanship; (iv) free from defects in design and fit for the purpose intended; (v) in compliance with all applicable specifications, drawings, and performance requirements; and (vi) free from liens and encumbrances on title. Delivery, inspection, test, acceptance or use of, or payment for the Goods furnished hereunder shall not affect Seller's obligation under this warranty, and such warranties, and all other warranties, express or implied, shall survive delivery, inspection, test acceptance, payment, and use.
- If defects are identified before shipment to Buyer's customer, and provided Buyer elects to provide Seller with the opportunity to make the repair or provide the replacement, Seller agrees to correct defects in, or replace any Goods not conforming to the foregoing warranty promptly, but in no event, will repair or replacement and delivery be

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completed more than ten (10) days from notice of such nonconformity by Buyer. A written notice specifying that such Goods are corrections or replacements shall accompany deliveries of corrected or replaced Goods.

- If defects are identified after shipment to Buyer's customer, Goods may be scrapped, retained, or held for Seller's disposition, at the discretion of Buyer's customer. Seller shall promptly reimburse Buyer for any expenses or damages incurred by Buyer regardless of the nature of such expenses or damages as a result of or relating to Seller's failure to comply with 7.1 (i)–(vi) above, including but not limited to repair, replacement, rework, removal and reinstallation costs, production delays, payment withholds, field service costs and shipping.

8. CHANGES

- Buyer shall have the right at any time prior to the delivery date of the Goods or Services to make changes in time and place of delivery, nature and duration of Services, and method of transportation.
- If any such changes cause an increase or decrease in the cost or the time required for Seller's performance, an equitable adjustment shall be negotiated by the Parties and the Purchase Order shall be modified in writing accordingly.

9. ROHS COMPLIANCE

Buyer shall have the right to request RoHS information regarding all Goods provided by the Seller. Seller must provide information for Buyer's records within a 72 hour period after request.

10. TERMINATION FOR CONVENIENCE

Buyer may, by written notice, terminate the Purchase Order for Buyer's convenience and without cause, in whole or in part, at any time, and such termination shall not constitute default. In the event of partial termination, Seller is not excused from performance of the non-terminated balance of the delivery of Goods or performance of services under the Purchase Order

11. TERMINATION FOR DEFAULT

Buyer may, by notice in writing, terminate the Purchase order in whole or in part at any time for Seller's (i) breach of any one or more of the Purchase Order terms, (ii) failure to deliver Goods or Service within the time specified by the Purchase Oder or any written extension, (ii) failure to make reasonable progress toward future performance. In the event Buyer terminates for default all or any part of this purchase order, Seller shall be liable for Buyer's re-procurement costs, and Seller will not be excused from performance of the non-terminated balance of work under the Purchase Order

12. DISPUTES

Any dispute or claim that may arise out of or in connection with this Agreement that after good faith negotiations cannot be resolved to both Parties' satisfaction may be resolved by submitting the claim to a court of competent jurisdiction in the state of Indiana.

13. GOVERNING LAW

- This Agreement will be governed and construed in accordance with the laws of the State of Indiana.
- Pending resolution or settlement of any dispute arising under the Purchase Order, Seller will proceed diligently as directed by Buyer with the performance of the Purchase Order.