



# AMERICAN PIPING PRODUCTS

## TERMS & CONDITIONS FOR PURCHASE OF PRODUCT BY AMERICAN PIPING PRODUCTS, INC.

1. **Entire Agreement Acceptance:** This Purchase Order, including these Conditions (collectively "Order") supersedes all other agreements, oral or written, and all other communications between the parties suggesting additional or different terms, and represents the final and complete understanding of the parties. This Order expressly limits acceptance to these terms, and any proposal for the addition of different terms or any attempt by Seller to vary in any degree any of the terms hereof is hereby deemed material and objected to and rejected. No terms of any document or forms submitted by Seller shall be effective to alter or add to the terms and conditions contained in this Order. Unless otherwise stated herein, Seller's acknowledgment of this Order or commencement of any work or performance of any services hereunder shall constitute acceptance by Seller of this Order and all of its terms and conditions.

2. **Favored Nations:** If, during its performance hereunder, Seller sells to any other customer goods of the type and quantity purchased hereunder on more favorable terms or conditions, including price, Seller shall advise Buyer and Buyer shall have the right, at its option, to have such more favorable terms or conditions applied to this transaction.

3. **Delivery:** Time is of the essence with respect to this Order. If the delivery of goods ("Goods") or providing of services ("Services") purchased hereunder ("Services") is not completed within seven days of the specified time, Buyer may in addition to any other rights or remedies it may have, terminate this Order, without liability, as to Goods not yet shipped or Services not provided and purchase substitute items or services and charge Seller for any extra costs. If, in order to comply with delivery date specified on the front hereof, Seller must ship by a more expensive way than specified herein, Seller shall pay any increased costs. If type of carrier is not specified, route by lowest cost transportation.

4. **Warranties:** Seller warrants that the Goods or Services purchased hereunder will be (a) in full conformity with the specifications, drawings, descriptions and/or samples furnished or specified by Buyer, (b) free from defects in material, workmanship and design, and (c) of good merchantable quality and fit and sufficient for the purposes intended. All warranties shall survive any inspection, delivery, acceptance, or payment. NO ATTEMPT BY SELLER TO DISCLAIM, EXCLUDE, LIMIT, OR MODIFY ANY WARRANTIES OR SELLER'S LIABILITY FOR DIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES SHALL BE OF ANY FORCE OR EFFECT. With respect to Goods or Services, which are resold or otherwise transferred to a third party by Buyer, Buyer's customers shall have the full benefit of all warranties from Seller and its suppliers, whether hereunder or otherwise, and Seller agrees to any assignments of such warranties to such customers by Buyer.

5. **Inspection:** All Goods are subject to inspection by an authorized representative of Buyer at all times and places, including during production. No Goods shall be considered accepted prior to inspection by Buyer at Buyer's place of business. Buyer reserves the right to reject or to revoke acceptance of Goods which fail to meet any requirement of this Order, notwithstanding any payment or any prior inspection or test.

6. **Indemnification:** Seller agrees to indemnify, hold harmless and defend Buyer, its parent, subsidiaries, and affiliate companies, its officers, directors, agents, and employees, successors and assigns, against all lawsuits, damages, losses, expenses, claims, liabilities, judgments, fines, settlements or penalties, including all attorney's fees and litigation costs, for: i) claims arising from, relating to, or in connection with, the alleged or actual infringement of patents, copyrights, or trademarks, the alleged or actual misappropriation of trade secrets, and unfair competition; ii) claims for personal injury, property damage, or other damage, arising out of, relating to, or in connection with, the use, possession, consumption, manufacture, fabrication, or sale, of the goods sold by Seller to Buyer, and iii) arising from, relating to, or in connection with, Seller's failure to comply with all the terms of this Purchase Order or other agreement between Buyer and Seller. Seller further agrees to indemnify, hold harmless and defend Buyer, its parent, subsidiaries and affiliate companies, against all lawsuits, damages, losses, expenses, claims, liabilities, judgments, fines, settlements, or penalties, including all attorney's fees and litigation costs, arising from relating to, or in connection with, Seller's breach of any of the warranties expressed herein and any warranties implied by law.

**7. Intellectual Property:** Seller warrants that the manufacture, sale and use of the Goods will not infringe any patent, copyright, trademark, or trade secret. Seller shall indemnify, defend and hold harmless Buyer and its customers from and against all loss, cost, damage, expense, claim, action or cause of action (including attorney's fees) resulting from such or in any way arising out of such infringement or alleged infringement. If all or any portion of the Goods are held to constitute an infringement of a patent and/or their use is enjoined for any reason, Seller shall promptly, and at its own expense, either procure for Buyer the right to continue using such Goods royalty-free or replace such Goods to Buyer's satisfaction with non-infringing goods of equal quality and performance.

**8. Insurance:** (a) Seller shall maintain in force, and shall continue to maintain in force, insurance (in amounts and coverage satisfactory to Buyer) sufficient to cover any and all product liability claims and product warranty claims which may be brought with respect to the Goods or Services, whether by Buyer or any third party, and all indemnification obligations set forth herein.

**9. Changes:** Buyer shall have the right at any time to make changes in drawings, specifications, materials, packaging, time and place of delivery, and method of transportation. If any such changes cause an increase or decrease in the cost or the time required for the performance, an equitable adjustment shall be made therein, and this Order shall be modified in writing accordingly. Seller agrees to accept any such changes subject to this section.

**10. Set-Off:** Buyer has the right to set off against any amounts due Seller hereunder any amounts owed to Buyer by Seller arising from any other transaction.

**11. Force Majeure:** Buyer shall not be liable for failure to take delivery of the Goods or to allow performance of the Services if such failure or inability is due to causes beyond Buyer's reasonable control.

**12. Termination for Cause:** (a) Buyer may terminate this Order without liability, in whole or in part, at any time, if (i) Seller fails to deliver the Goods or to perform the Services covered hereby at the time specified on the front hereof or any extension thereof authorized by Buyer in writing, (ii) a petition initiating a proceeding under any applicable law relating to bankruptcy, insolvency, or reorganization is filed by or against Seller, (iii) Seller executes an assignment for benefit of creditors, (iv) a receiver is appointed; for Seller or any substantial part of its assets, or (v) Buyer shall have any reasonable ground for insecurity with respect to Seller's ability to perform and Seller is unable to provide Buyer with adequate assurance of its ability to perform within ten days after written request therefor by Buyer.

**13. Waiver:** Failure of Buyer at any time to require Seller's performance of any obligation under this Order shall not affect Buyer's right to require performance of that obligation. Any waiver by Buyer of any breach of any provision hereof must be in writing and shall not be construed as a waiver of any continuing or succeeding breach of such provision, a waiver or modification of this provision itself, or a waiver or modification of any right under this Order.

**14. Applicable Law and Venue:** This Purchase Order, the purchase of product by Buyer from Seller and all other aspects of the relationship between Seller and Buyer, shall be construed and governed according to the laws of the State of Missouri. Seller agrees that any litigation relating to this order, or which otherwise arises directly or indirectly out of or in connection with the purchase of product by Buyer from Seller, or out of or in connection with any transaction of any nature between Buyer and Seller, shall only be commenced in the State of Missouri; either in state court or, if jurisdiction exists, in the federal district court in Missouri. Seller hereby consents to personal jurisdiction in the State of Missouri.

**15. Mill Test Reports:** If required by the Order, Certification and/or mill test reports shall be forwarded immediately with shipment and delivery shall not be completed unless certification and/or reports have been received.

**16. Compliance with Applicable Laws:** Seller shall comply with all applicable laws, rules, regulations, ordinances and codes, including the procurement of permits and licenses when required, in the performance of this Purchase Order (collectively Laws). Without limiting the generality of the foregoing, Seller expressly acknowledges that it is familiar with and agrees to comply with the following: (i) all applicable U.S. export control, sanctions, and embargo laws and regulations, including, but not limited to, the Arms Export Control Act, the International Traffic in Arms Regulations, the Export Administration Regulations (EAR), and regulations promulgated by the U.S. Department of the Treasury Office of Foreign Assets Control; (ii) the anti-boycott provisions contained in Part 760 of the EAR, to the extent applicable; (iii) the Foreign Corrupt Practices Act of 1977 (P.L. 95-213), as amended; (iv) OECD Convention on Combatting Bribery of Foreign Public Officials in International Business Transactions which entered into force on February 15, 1999; and (v) all applicable local, state, and country laws regarding human rights and conflict minerals.

**17. Compliance with Anti-Trafficking and Foreign Supply Laws:** In addition to compliance with specific laws identified in this Section, Seller acknowledges that if it obtains materials from or is operating outside the United States the terms contained in the Foreign Supply Addendum attached hereto shall apply in addition to those contained within this agreement. Furthermore, Seller specifically acknowledges and confirms that it: (a) does not use or condone the use of slave labor or human trafficking; (b) denounces any degrading treatment of individuals or unsafe working conditions; and (c) supports the products provided under this Agreement being free from conflict minerals.