

Champ Industries, Inc.
General Terms and Conditions

1. CONTRACT FORMATION AND MODIFICATION

- a. This Order is Champ Industries, Inc., a Missouri Corporation (hereinafter "CHAMP") offer to Seller. This Order, including any documents incorporated herein by express reference, is intended to be a complete integration and there are no prior or contemporaneous different or additional agreements pertaining to the subject matter of the Order.
- b. Acceptance by Seller is expressly limited to the terms of this offer. Seller's acceptance of CHAMP's offer must be by commencement of performance or by written acknowledgment of this Order, but where Seller's acceptance is by commencement of performance, CHAMP reserves the right to treat its offer as having lapsed before acceptance unless CHAMP is notified of Seller's acceptance within a reasonable time. Any different or additional terms of Seller's acknowledgment are hereby objected to and rejected by CHAMP regardless of the form of such acknowledgment. Upon Seller's acceptance, the Order shall be the complete and exclusive statement of the terms of the resulting contract.
- c. The Contract (which term is intended to include Purchase Order [PO]) shall not be modified by or interpreted by reference to any course of dealing or usage of trade and shall not be modified by any course of performance. No modification of the Contract shall be effective unless in writing signed by the party to be charged with the modification. No modification shall bind CHAMP unless signed by an authorized CHAMP Purchasing Representative.
- d. If, in connection with this Contract, Seller is represented (directly or indirectly) by any former CHAMP Procurement or Procurement decision-making employee, whose termination from CHAMP is less than three (3) years prior to the date of this Contract; then this Contract is voidable in the sole discretion of CHAMP.
- e. All documentation, notices, and oral communications concerning this Purchase Order/Contract shall use the English language. In the event that English communications are translated into another language for Seller's convenience, the meaning conveyed by the English version of the communication shall govern this Purchase Order/Contract and the Parties' performance there under.

2. INSPECTION, ACCEPTANCE AND REJECTION

- a. All goods (which term throughout this Contract includes, without limitation, processes, technical information, computer software, raw materials, components, intermediate assemblies, end products and, where applicable, services to be performed hereunder) shall be subject to inspection and test at all times and places, including the period of manufacture, by CHAMP, and also the Government if this is an order that is placed under a Government contract. Inspectors shall have access to all areas on the premises of the Seller or of Seller's subcontractors in which work on this Contract is being performed.
- b. Seller and Seller's subcontractors shall provide all reasonable facilities for the safety and convenience of inspectors at no additional cost. Seller shall furnish to inspectors all information and data as may be reasonably required to perform their inspection. All goods to be delivered hereunder shall be subject to final inspection, test and acceptance by CHAMP at destination, notwithstanding any payment or inspection at source. CHAMP shall accept or give notice of rejection of goods delivered hereunder within a reasonable time after receipt of such goods. Acceptance by CHAMP shall not waive any rights that CHAMP might otherwise have at law or by express reservation in this Contract with respect to any nonconformity.
- c. Any tender of goods which is nonconforming as to the quality or quantity or the delivery schedule shall constitute a breach of this Contract and CHAMP shall have the absolute right to reject such goods, in whole or in part, and notify Seller thereof. In the event of such a tender, CHAMP shall be entitled to all remedies as provided by law, and in addition thereto shall have the right to do any or all of the following:
 - (1) To hold such nonconforming goods for a reasonable period at Seller's risk and expense pending a determination to accept or reject any or all thereof;
 - (2) To return such nonconforming goods to Seller at CHAMP's election and at Seller's risk and expense for replacement or correction;
 - (3) To accept such nonconforming goods subject to an equitable price reduction;
 - (4) To replace or correct such nonconforming goods and charge to Seller the cost occasioned to CHAMP thereby; or
 - (5) To recover by offset or otherwise any and all expenses, costs, price reductions, and damages paid, incurred, or suffered by CHAMP as a result of such holding, return, replacement, correction, reductions, or rejections of nonconforming goods.

3. QUALITY CONTROL AND CONTRACTUAL COMPLIANCE

Seller shall provide and maintain a quality control system acceptable to CHAMP for the items purchased under this Contract, and Seller shall permit CHAMP to review procedures, practices, processes and related documents to determine such acceptability. It is CHAMP's policy to survey all sellers periodically to ascertain compliance with requirements which have been made part of this Contract. Seller agrees to provide access to its premises for, and to cooperate with, CHAMP in the conduct of those surveys.

4. WARRANTY

- a. Inspection and acceptance of any goods by CHAMP shall not be deemed to alter or affect the obligations of Seller or the rights of CHAMP under the warranties herein or as may be provided by law.
- b. Seller warrants that all goods furnished hereunder will conform to the requirements of this Contract (including all descriptions, specifications and drawings made a part of this Contract), will be merchantable, fit for their intended purposes, free from all defects in materials and workmanship and to the extent not manufactured pursuant to detailed designs furnished by CHAMP, free from defects in design. CHAMP's approval of designs or specifications furnished by Seller shall not relieve Seller of its obligations under this warranty.
- c. In addition to its other remedies, CHAMP may, at Seller's expense, require prompt correction or replacement of any goods failing to meet Seller's warranties herein. Goods corrected or replaced by Seller shall be subject to all of the provisions of this Contract in the manner and to the extent as goods originally furnished hereunder.
- d. All warranties, including special warranties specified elsewhere herein, shall inure to CHAMP, its successors, assigns, customers and users of its products.

5. DELIVERY

- a. Seller shall strictly adhere to the delivery and completion schedules specified in this Contract. If, at any time, Seller believes it may be unable to comply with the delivery or completion schedules, Seller shall immediately notify CHAMP's Purchasing Representative in writing of the probable

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- length of any anticipated delay and the reasons for it, and shall continue to notify CHAMP's Purchasing Representative of any material change in the situation. In the event of such notification or of an actual failure by Seller to comply with the delivery or completion schedules, CHAMP may, in addition to all other remedies, require Seller, at Seller's expense, to ship goods via airfreight or expedited routing to avoid or minimize delay.
- b. In the event of early delivery, CHAMP may store goods at Seller's expense, unless delivery in advance of the contractual commitment date is expressly authorized within this Contract.
 - c. The quantities specified for delivery on this Purchase Order/contract are the only quantities required by CHAMP. Therefore, if Seller delivers quantities in excess of those specified in this Purchase Order/contract, CHAMP shall not be required to make any payment for the excess goods and, at CHAMP's election, may keep or return the excess goods at Seller's risk and expense.

6. CHANGES

CHAMP may, at any time, exclusively in a writing signed by its authorized Purchasing Representative, and without notice to sureties, make changes with the general scope of this Contract which affect the

- a. Drawings, designs, or specifications of goods being specially manufactured for CHAMP;
- b. Method of shipment or packing
- c. Place of delivery; or
- d. Delivery schedules.

If any such change causes an increase or decrease in the cost of, or the time required for, performance of this Contract, an equitable adjustment shall be made in the contract price or delivery schedule or both, and the Contract shall be modified in writing accordingly. Any claim by Seller for adjustment under this Article must be asserted in writing to CHAMP's Purchasing Representative not later than thirty (30) days after the date of receipt by Seller of the written change authorization, or within such extension as CHAMP may grant in writing. CHAMP may, in its sole discretion, consider any such claim regardless of when asserted. Such claim shall be in the form of a complete change proposal fully supported by factual information. Pending any such adjustment, Seller will diligently proceed with the Contract as modified. Where the cost of property made excess or obsolete as a result of a change is included in Seller's claim for adjustment, CHAMP shall have the right to direct the manner of disposition of such property. CHAMP shall have the right to examine any of Seller's pertinent books and records for the purpose of verifying Seller's claim.

7. TERMINATION FOR DEFAULT

- a. CHAMP may terminate the whole or any part of this Contract in any of the following circumstances:
 - (1) If Seller fails to deliver the goods or to perform the services required by this Contract within the time specified herein, or any extension thereof granted by CHAMP in writing; or
 - (2) If Seller fails to perform any of the other provisions of this Contract or so fails to make progress as to endanger performance of this Contract in accordance with its terms, and in either of these two (2) circumstances does not cure such failure within a period of ten (10) days after receipt of notice from CHAMP specifying such failure; or
 - (3) In the event of suspension of Seller's business, insolvency, institution of bankruptcy, liquidation proceedings by or against Seller, appointment of a trustee or receiver for Seller's property or business, or any assignment, reorganization or arrangement by Seller for the benefit of creditors.
- b. CHAMP may require Seller to transfer title and deliver to CHAMP in the manner and to the extent directed by CHAMP (1) any completed goods, and (2) such partially completed goods and materials, parts, (hereinafter called "manufacturing materials") as Seller has produced or acquired for the performance of this Contract, including the assignment to CHAMP of Seller's subcontracts; and Seller shall protect and preserve property in possession of Seller in which CHAMP has an interest. Payment for completed goods delivered to and accepted by CHAMP shall be at the contract price. Payment for manufactured materials delivered to and accepted by CHAMP and for the protection and preservation of property shall be at a price determined in the same manner as provided in Article 8 hereof, except that Seller shall not be entitled to profit. CHAMP may withhold from Seller monies otherwise due Seller for completed goods and/or manufacturing materials in such amounts as CHAMP determines necessary to protect CHAMP against loss due to outstanding liens or claims against said goods.

8. CHAMP PROPERTY

Seller shall keep all property furnished by CHAMP and all property to which CHAMP acquires title by virtue of this Contract segregated and clearly marked and will maintain a complete inventory thereof. Seller assumes all risk of loss, destruction or damage to such property while in Seller's custody or control. Seller will immediately notify CHAMP's Purchasing Representative in writing of any such loss, destruction or damage. Except for property incorporated in delivered end products, Seller will, upon termination or completion of this Contract, deliver such property, as directed by CHAMP, in good condition subject to ordinary wear and tear and normal manufacturing losses.

9. NONDISCLOSURE; TECHNICAL DATA FOR CERTIFICATION, SIMULATION, TRAINING, OR INTERFACE

- a. The information contained in reports, drawings, documents, electronic data sets or other records which are furnished to Seller by CHAMP shall not be disclosed by Seller to others and shall not be used for purposes other than the performance of this Contract without CHAMP's written consent.
- b. The information furnished to CHAMP by Seller in reports, drawings, documents, or other records shall not be disclosed by CHAMP to others except as provided herein and shall not otherwise be used for purposes other than the performance of this Contract without Seller's written consent.
- c. Each party will recognize the other party's restrictive markings and impose such restrictions upon third parties, provided that such markings purporting to cover information already within a recipient's knowledge or which is obtainable from another source without restrictions or which for any reason is not protectable by law shall not be binding upon the recipient.
- d. Upon request, Seller shall provide CHAMP at no additional charge, such existing technical data pertaining to Seller's Product as CHAMP deems necessary for certification, training, simulation, or interface purposes. In support of those purposes only, CHAMP may furnish such Seller data to third parties, in which case CHAMP will impose Seller's restrictive markings (if any) in accordance with Subparagraph c, above. In the alternative and upon CHAMP's request, Seller shall provide such data directly to CHAMP-designated third parties also at no extra charge.

Comment [LN1]: NMC requests the following language be added "Only with the prior written authorization from Seller "

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- e. Nothing in this provision shall limit either party's right to enter into data exchange agreements with each other or third-party recipients of the data to ensure further protection of a party's proprietary interests in such technical data. Nothing in this provision shall limit Seller's right to compensation in the event that necessary data must be created to support the certification, training, simulation, or interface technical objective.
- f. Seller shall include this provision, exclusive of Paragraph b, in all of its lower-tier subcontracts issued in support of this Contract, and this provision shall have precedence over any other provisions herein relating to the transfer of Seller's technical data.

10. SUBCONTRACTING

Seller will not subcontract without CHAMP's prior written consent for the design, development or procurement of the whole or any substantial portion of any goods ordered hereunder. This limitation shall not apply to Seller's purchases of standard commercial supplies or raw material.

11. SUSPENSION OF WORK

CHAMP's Purchasing Representative may, by written order, suspend all or part of the work to be performed under this Contract for any period not to exceed ninety (90) days. Within such period, or any extension thereof to which the parties may agree, CHAMP shall either: (a) cancel such suspension, or (b) terminate the work covered by suspension. Seller shall resume work whenever a suspension is cancelled or expires. An equitable adjustment shall be made in the delivery schedule or contract price, or both, if: (a) the suspension results in a change in Seller's cost of performance or ability to meet the contract delivery schedule, and (b) Seller asserts a claim for adjustment within thirty (30) days after the end of the period of suspension.

12. NOTICES

- a. Whenever Seller has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this Contract, Seller shall immediately give notice thereof, and all relevant information with respect thereto, and shall continue to notify CHAMP of any material changes in the information required hereunder. Seller agrees to insert the substance of this Article in any subcontract hereunder wherein a labor dispute may delay the timely performance of this Contract.
- b. Any notice submitted by Seller, unless otherwise specified within this Contract, shall be in writing and directed to the CHAMP Purchasing Representative indicated on the face of the Purchase Order/Contract.

13. DISPUTES

- a. Pending the final resolution of any dispute involving this Contract, Seller agrees to proceed with performance of this Contract, including the delivery of goods, in accordance with CHAMP's instructions.
- b. Seller shall submit to CHAMP's authorized Purchasing Representative a written demand for CHAMP's final decision regarding the disposition of any dispute between the parties relating to this Contract, unless CHAMP, on its own initiative, has already rendered such a final decision. Any CHAMP final decision shall be expressly identified as such, shall be in writing, and shall be signed by CHAMP's authorized Purchasing Representative, except that CHAMP's failure to render a final decision within ninety (90) days after receipt of Seller's demand shall be deemed a final decision adverse to Seller's contentions.
- c. CHAMP's final decision shall be conclusive and binding regarding the dispute unless Seller commences an action to contest such decision within ninety (90) days following the date of the final decision or one (1) year following the accrual of the cause of action, whichever is later.
- d. Seller shall cooperate fully with CHAMP in seeking a resolution of any dispute involving this Contract under the disputes procedure applicable to the Government prime or higher-tier contract and if CHAMP elects to follow such procedures Seller shall not be entitled to demand a final decision under Paragraph b. above until such resolution. Seller shall be bound by the final outcome of the disputes procedure if: (1) CHAMP has afforded Seller an opportunity to participate in CHAMP's conduct of the dispute, or (2) CHAMP, having decided to discontinue its own processing of the dispute, has afforded Seller an opportunity to assume the processing of the dispute in CHAMP's name.
- e. CHAMP and Seller shall bear their own costs of processing the dispute.

14. WAIVER AND SEVERABILITY

Any action or inaction by CHAMP or the failure of CHAMP, on any occasion, to enforce any right or provision of this Contract shall not be construed to be a waiver by CHAMP of its rights hereunder, and shall not prevent CHAMP from enforcing such provision or right on any future occasion. A determination that any portion of this Contract is unenforceable or invalid shall not affect the enforceability or validity of any of the remaining portions of this Contract.

15. RIGHTS AND REMEDIES

The rights and remedies of CHAMP herein are cumulative, and are in addition to any other rights or remedies that CHAMP may have at law or in equity.

16. PRECEDENCE

In the event of any inconsistency between the articles, attachments, specifications or provisions which constitute this Contract, the following order of precedence shall apply: (a) special terms and conditions; (b) general terms and conditions contained here; (c) specifications; and (d) all other attachments incorporated herein by reference. CHAMP's specifications shall prevail over any subsidiary documents referenced therein. Seller shall not use any specification in lieu of those contained in this Contract without written consent of CHAMP's authorized Purchasing Representative.

17. INDEMNIFY AND HOLD HARMLESS

- a. Patent Trademark and Copyright Indemnity. Seller agrees to indemnify and hold harmless CHAMP, its customers and users of its products, against any expense, loss or liability for any actual or alleged infringement of any patent, trademark or copyright, arising from or related to the use, sale, manufacture or disposal of the goods furnished to CHAMP under this Contract. Upon receipt of timely notice of any claim or suit alleging such infringement, Seller agrees to defend CHAMP, its customers and users of its products, or any of them, at Seller's expense.
- b. Seller shall also indemnify, defend and hold harmless CHAMP from and against all losses, costs, fees and damages arising, directly or indirectly, from any actual or alleged failure by Seller to comply with any of the statutes, rules, regulations and orders herein.

18. PRICE WARRANTY

Seller warrants that the price of the goods to be furnished to CHAMP under this Contract do not exceed the price charged by Seller to any other customer purchasing the same goods in like or smaller quantities and under similar conditions of purchase.

19. MATERIALS FURNISHED AND PROPERTY RIGHTS

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- a. If CHAMP furnishes any material for fabrication hereunder, Seller agrees:
- {1} Not to substitute any other material in such fabrication without CHAMP's written consent;
 - {2} That title to such materials shall not be affected by incorporation in or attachment to any other property; and
 - {3} That all such material or replacement material furnished at CHAMP's expense shall be returned in the form of products (except that which became normal industrial waste) or unused material.
- (4) Seller shall inspect any such material furnished by CHAMP and shall have the right to reject nonconforming material upon inspection, but in the event of losses or attrition thereafter, Seller shall be responsible for replacing such material at its own expense. Inaccuracies, out of tolerance conditions or inadequacies in materials which are accepted by Seller shall not excuse performance in strict accordance with the applicable specifications; provided, however, that if such materials were furnished by CHAMP with such deficiencies, Seller shall be entitled to an equitable adjustment, if any, pursuant to the changes provision of this Contract.
- b. Seller agrees that it will use all designs, tools, patterns, drawings, specifications, other information and equipment, title to which is in CHAMP, only in the performance of this Contract and not otherwise, unless CHAMP's prior written consent has been obtained. The foregoing shall not be construed as limiting the right of Seller to use such items in the manufacture of end products for direct sale to the Government to the extent that the Government has the right under a contract with CHAMP, or otherwise, to authorize such use by Seller; provided that such use will not interfere with Seller's performance of this or other contracts from CHAMP relating to Government Contracts in effect at the time Seller enters into direct sale to the Government, that Seller furnishes prior written notice to CHAMP of such intended use, and, to the extent practicable, Seller prominently identifies each such end product as being manufactured by Seller for direct sale to the Government. Seller's performance in strict accordance with the specifications shall not be excused by reason of any inaccuracy in tools or fixtures furnished by CHAMP; provided, however, that if such tools or fixtures were furnished by CHAMP with such inaccuracies, Seller shall be entitled to an equitable adjustment, if any, pursuant to the changes provision of this Contract.

20. PACKING

All items are to be packed in suitable containers for protection in shipment and storage, and in accordance with applicable specifications. Each container of a multiple container shipment shall be identified

- a. To show the number of the container and the total number of containers in the shipment, and
- b. The number of the container in which the packing sheet has been enclosed. All shipments by Seller or its subcontractors must include packing sheets containing CHAMP's Contract number, quantity, part number/size, description of the items shipped, and appropriate evidence of inspection. Materials for different contracts shall be listed on separate packing sheets.

21. SHIPPING INSTRUCTIONS

Shipments must be made as specified on the face of the Contract, except as subsequently modified in writing by CHAMP or otherwise directed in writing by CHAMP's Traffic Department.

22. CLEARANCE OF MATERIALS INTENDED FOR PUBLIC RELEASE

Seller shall issue no news release (including photographs and files), public announcement, advertisement, denial, or confirmation concerning all or any part of the subject matter of this Contract or any phase of any program hereunder without the prior written approval of CHAMP.

23. SAFETY AND ACCIDENT PREVENTION

In performing work under this Contract, Seller shall

- a. Conform to the specific safety requirements contained in the Contract, and
- b. For those related activities not directly addressed by the Contract, conform to the applicable safety rules prescribed by the installation, and
- c. Take such additional precautions as CHAMP or the Contracting Officer under CHAMP's contract may reasonably require for safety and accident prevention.

Any violation of such rules and requirements unless promptly corrected as directed by the Purchasing Representative, shall be grounds for termination of this Contract in accordance with the default provisions hereof. CHAMP may, by written order, direct additional safety and accident standards as may be required under CHAMP's Contract and any adjustments from such direction will be in accordance with the provisions of this Contract entitled "Changes".

24. PRIME APPROVED SPECIAL PROCESSORS LIST (ASPL)

For Contracts with Special Processes requiring a Prime's approval on their Approved Special Processors List (ASPL), should the Seller's approval status be withdrawn by the Prime:

- a. Seller must stop all work effected by the specific Prime approval withdrawal immediately.
- b. Seller must notify CHAMP's Purchasing Representative within five (5) business days of the change in status with a detailed list of all effected Processes, Contract Numbers, and Part Numbers in writing to CHAMP's Purchasing Representative.

For Contracts with Special Processes requiring a Prime's approval on their Approved Special Processors List (ASPL), should the Seller's approval status be reinstated by the Prime:

- a. Seller must provide CHAMP's Purchasing Representative verifiable proof of Prime approval reinstatement.
- b. Seller must supply amended completion dates within five (5) business days of re-instatement with a detailed list of all effected Processes, Contract Numbers and Part Numbers in writing to CHAMP's Purchasing Representative.

25. RECORDS RETENTION

Records must be retained for a minimum of three (3) years after final delivery unless otherwise specified by Contract.

26. COUNTERFEIT PARTS/MATERIAL

The supplier shall have a counterfeit detection process that meets the intent of SAE standard A5553Detection, Suppliers shall have a counterfeit parts program plan to ensure it does not receive counterfeit parts into inventory or inadvertently sell them to other parties.

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All electrical, electronic, electro-mechanical and electro-optical component parts delivered shall be from the Original Component Manufacturer (OCM)/ Original Equipment Manufacturer (OEM) or franchised distributors or Authorized Aftermarket Manufacturer (AAM).

All non-electrical standard parts, like fasteners, nuts, washers, springs, o-rings, inserts, and pins, must have a certification from the Original Component Manufacturer (OCM)/ Original Equipment Manufacturer (OEM) or Authorized Aftermarket Manufacturer (AAM) or authorized distributor. Parts shall not be used or reclaimed and misrepresented as new.

Component part suppliers delivering directly to CHAMP shall provide certification with each lot/ shipment. The certificate shall include as a minimum: manufacturer name and address, manufacturer and/or buyer's part number and dash number, batch identification for the item(s) such as date codes, lot codes, heat lot, serializations, or other identifications, Signature or stamp with title of seller's authorized personnel signing the certificate.

Note: Distributors shall, in addition to the above, include their company's certification for each part number shipped.

Any report made pursuant to these terms and conditions shall be made to the President of Champ Industries, Inc., PO Box 588, Seymour, Missouri 65746.