

**SCHUST ENGINEERING, INC.
TERMS AND CONDITIONS**

1. Acceptance

These Terms and Conditions of Sale form part of each Proposal submitted by Schust Engineering, Inc. and/or Schust Redevelopment, Inc. ("Schust" or "Seller") for the sale of equipment described herein ("Equipment") 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 SCHUST'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 Schust in writing of Buyer's offer to enter into a contract on the basis of the Proposal. Upon written notification by Schust from its office in Auburn, Indiana that it has accepted such an offer by Buyer, this Proposal shall become a contract between Buyer and Schust.

2. Erection of Equipment

Any such erection services will be furnished in accordance with Schust's Terms and Conditions of Sale.

3. Warranty

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

Except otherwise expressly set forth herein, **SELLER MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED.** Liability of Schust 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 Schust. Schust makes no warranties which extend to damage to the Equipment above rated capacities or in otherwise improper manner. Schust'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

Schust 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 Schust either at law or otherwise, Schust 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 payment for each such delivery to be made of other security reasonably satisfactory to Schust.

6. Force Majeure

Schust 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 Schust'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, casualty, riot, acts of Buyer, strikes or other labor difficulties, shortages of labor, supplies, and transportation facilities or any other cause beyond Schust's control or the control of its supplier or subcontractors.

7. Cancellation

Buyer may cancel any contract resulting from this Proposal only upon 10 days' written notice to Schust and only upon such term as will identify and reimburse Schust for all loss or damage resulting therefrom, including

without limitation, Schust's overhead, reasonable contract profits, costs, and expenses to which Schust has become committed for fulfillment of the contract prior to cancellation.

8. Laws and Regulations

Except as expressly set forth herein, Schust 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, Schust assumes no responsibility or liability for compliance therewith. Any modification to the Proposal may be treated as a Change Order under Article 10, if Buyer notifies Schust within 10 days of modification to the Proposal.

9. Occupational Safety and Health Act

Schust warrants that the Equipment furnished hereunder shall, to the extent such Equipment is used in accordance with Schust 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 Schust's Proposal. Schust 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 Schust 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. Schust'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 Schust 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, included in this Proposal by giving written notice in a Change Order. Within thirty (30) days from receipt of such Change Order, Schust shall submit the Buyer the changes required to the contract price and delivery schedule resulting from such a Change Order. Schust shall have no obligation to proceed with such Change Order until Schust 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. Schust 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 Schust to obtain. Buyer acknowledges that Schust has relied upon all specifications and other data supplied by Buyer (conditions) to Schust 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 Schust, 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 Schust has relied upon all specifications and other data supplied by Buyer (conditions) to Schust 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 Schust, 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

Schust may subcontract any portion of the fabrication and erection work included in the Proposal.

14. Storage

If Buyer declines or is unable to take delivery at the time(s) specified in the Proposal, Schust will have the Equipment stored for Buyer at Buyer's risk and account. Buyer will pay storage, handling and re-handling charges at Schust's cost plus a 15% markup to Schust, and Buyer will continue to

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make payment according to the remaining payment terms contained herein.

15. 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 Schust's Proposal and the date of final shipment will be for Buyer's account. Schust 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 Schust will not substantially impair the value of this contract as a whole and will not constitute a breach of contract as a whole.

16. Proprietary Material

All drawings, patterns, specifications and information included in the Proposal, and all information otherwise supplied by Schust relating to the design, erection, operation, and maintenance of the Equipment is the property and/or confidential material or information of Schust. 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.

17. Price

Due to the instability of costs, prices are subject to change without notice and shall not be binding on Schust. 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. The prices for other raw materials are also subject to change based on increases in market value. In no event will the final price be less than the original contract. Prices quoted include standard packing according to Schust'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.

Credit accounts will be opened only with firms or individuals approved by Schust'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 the lesser of 1.5% per month or the maximum permissible rate), accounts past due shall bear interest at the then prime rate charged by U.S. Bank N.A. Schust 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 Schust that the financial condition of Buyer so warrants. In addition, Schust may at any time, with or without notice to Buyer, and at its option, suspend work and shipments under this contract if, in Schust's sole opinion, the financial condition of Buyer so warrants. In such cases, in addition to any other remedies herein or by law provided, Schust may require cash payment or satisfactory security from Buyer before credit is restored or Schust continues performance. If Buyer fails to make payment or fails to furnish security satisfactory to Schust, then Schust 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 Schust the entire unpaid amounts for all work in progress and 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 Schust and Buyer, and Schust 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. The title shall pass when the price is fully paid.

19. Inspection and Acceptance

The Seller shall have right to inspect, after prior notification, the Equipment supplied by it when in operation, and prior to operation when deemed necessary by the Seller. 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 reimburse Schust, 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 Schust 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 or installation of any goods, any components, or related services.

21. Restocking Charges

Return goods must be authorized in writing by a Schust officer 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 the Seller's standard rates in effect at the time of the request.

23. Limitation on Liability

Schust'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 SCHUST 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 Schust and Buyer shall be determined in accordance with the laws of the State of Indiana. 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 Allen County Circuit Court, State of Indiana. 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 the Proposal which are 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 Seller that is covered by workman's compensation of Buyer. It is further agreed that Seller 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 RIGHTS 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 PROVIDES THAT THE PARTIES WAIVE THEIR SEVENTH AMENDMENT RIGHT TO A TRIAL BY JURY IF THERE IS ANY DISPUTE ARISING OUT OF OR RELATING TO THE AGREEMENT OR THE TRANSACTION. ALL DISPUTES ARE STILL HANDLED BY THE

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**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 Seller and hold Seller, its affiliates, and subcontractors harmless from all loss, cost and expense (including reasonable attorney's fees) incurred by Seller in the defense of any lawsuit, proceedings or claims that may be asserted against Seller 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 Seller.