

**1. Entire Contract** - Shipments and services under this Purchase Order (this "Order") will be accepted only upon the exact terms, quantities, conditions and stipulations appearing on the face or the back hereof and/or attached hereto which represents the entire contract between the parties and which may not be amended, modified or rescinded, except by written agreement, signed by an authorized representative of Buyer, expressly referring to this Order. Buyer hereby objects to any conflicting or additional terms or conditions contained in Seller's documents. This Order constitutes an offer and not an acceptance of any offer from Seller. Seller shall be deemed, at Buyer's option, to have accepted this offer within three (3) days after receipt or upon the manufacture, fabrication or delivery of any of the goods ordered under this Order (the "Goods") or performance of any of the services described herein or upon Seller's execution of this Order, whichever occurs earliest. Notwithstanding the foregoing, Buyer shall not be obliged to make any payments to Seller unless Buyer has previously received a copy of this Order signed by Seller.

**2. Shipping Instructions** - All shipments under this Order are subject to the following: (a) Seller agrees to pack all Goods according to railroad and/or trucking specifications; (b) risk of loss and title to the Goods shall remain with the Seller until they arrive at destination or are accepted by Buyer; (c) all shipments are to arrive on the date indicated on the face of this Order with time being of the essence; (d) when the type of carrier is not specified, routing must be via lowest cost transportation; (e) all questions must be settled before shipment; (f) Seller shall not ship incomplete items without written permission of Buyer; (g) Seller shall not backorder less than minimum weight shipments; (h) when making partial shipments where size of order permits, Seller shall not ship less than the minimum specified by carrier; and (i) a packing list must accompany each shipment. On rail shipments, packing list must be in waterproof envelope on outside of each car.

**3. Invoices and Discount Date** - Invoices are to be dated as of the date of the last shipment hereunder or completion of the services. Invoices must be mailed in triplicate to @TCADDRESS Buyer's failure to receive invoices promptly will make it necessary for Buyer to extend payment date without loss of discount. Buyer reserves the right to compute the cash discount date of each invoice from the date on which Seller correctly completes Seller's portion of the transaction involved including the issuance and forwarding of correct invoice and to add to the discount period any additional time required by Buyer in consequence of Seller's failure properly to execute this Order.

**4. Extra or Additional Charges** - Buyer will not pay extra or additional charges of any kind unless authorized herein or subsequently agreed to by the Buyer in writing.

**5. Quality Control** - Seller shall establish and maintain a quality control system acceptable to Buyer. Seller shall permit Buyer to review procedures, practices, processes and related documents to determine such acceptability. Seller shall have a continuing obligation to promptly notify Buyer of any violation of or deviation from Seller's approved quality control system and to advise Buyer of the quantity and specific identity of any Goods delivered to Buyer during the period of any such violation or deviation.

**6. Seller's Notice of Discrepancies** - Seller shall notify Buyer in writing when discrepancies in Seller's process or Goods are discovered or suspected regarding Goods delivered or to be delivered under this Order.

**7. Inspection** - At no additional cost to Buyer, Goods and services shall be subject to inspection, surveillance and test at reasonable times and places, including Seller's subcontractors' locations. Buyer shall perform

inspections, surveillance and tests so as not to unduly delay the performance of its obligations hereunder. Seller shall maintain an inspection system acceptable to Buyer. If Buyer performs an inspection or test on the premises of Seller or its subcontractors, Seller shall furnish, and require its subcontractors to furnish, without additional charge, reasonable facilities and assistance for the safe and convenient performance of these duties.

**8. Acceptance and Rejection** - Buyer shall accept the Goods or give Seller notice of rejection or revocation of acceptance ("rejection" herein), notwithstanding any payment, prior test or inspection, or passage of title. No inspection, test, delay or failure to inspect or test or failure to discover any defect or other nonconformance shall relieve Seller of any obligations under this Order or impair any rights or remedies of Buyer. If Seller delivers nonconforming Goods, Buyer may at its option and at Seller's expense (a) return the Goods for credit or refund; (b) require Seller to promptly correct or replace the Goods; or (c) obtain replacement Goods from another source. Seller shall not redeliver corrected or rejected Goods without disclosing the former rejection or requirement for correction. Seller shall disclose any corrective action taken. Repair, replacement and other correction and redelivery shall be completed within the original delivery schedule or such later time as Buyer's Authorized Procurement Representative may reasonably direct. All costs and expenses and loss of value incurred as a result of or in connection with nonconformance and repair, replacement or other correction may be recovered from Seller by equitable price reduction or credit against any amounts that may be owed to Seller under this Order or otherwise. Goods in excess of this order may be returned without notice, freight collect.

**9. Warranty** - Notwithstanding anything in the specifications, drawings or other documents which are part of this Order to the contrary, Seller expressly warrants the Goods supplied to be new, merchantable, fit for the purposes for which intended, and to be free from all defects. Seller shall perform the services in a good and workmanlike manner in accordance with the highest industry standards in effect at the time of this Order. In the event any of the Goods or services are not as warranted herein, Buyer shall, after inspection and at its option, hold such Goods at Seller's expense for Seller's disposition or shall return them to Seller at Seller's expense or reject the services. Any Goods so rejected shall, at Buyer's option, and without limitation on any other remedies available to Buyer at law or in equity, either be replaced by Seller at no additional cost to Buyer, or Seller shall refund the purchase price applicable thereto and any services so rejected shall, at Buyer's option, and without limitation on any other remedies available to Buyer at law or in equity, either be reperformed by Seller at no additional cost to Buyer, or Seller shall refund the purchase price applicable thereto. If any monies due to Buyer are withheld by any purchaser from Buyer because of any breach of the warranties contained herein, Seller agrees to indemnify and hold Buyer harmless from all losses, costs, damages, liabilities and expenses (including attorney's fees) resulting from the withholding of such monies, including the reasonable cost of recovery of said sums. If Buyer shall be named a defendant in any legal actions or proceedings before any body in any jurisdiction involving the Goods or services, Seller agrees to defend, indemnify and hold Buyer harmless from all costs, damages, liabilities and expenses (including attorneys' fees) in connection with and in any way resulting from the claimed breach of warranty, and Buyer further is hereby granted the right to join Seller, its successors and assigns as a defendant in such actions or proceedings Seller further agrees to hold Buyer harmless from and to indemnify Buyer against any and all losses, costs, damages (including direct/indirect consequential and incidental damages), liabilities and expenses (including attorneys' fees) resulting from the breach by Seller of the terms and conditions hereof or any other acts or omissions of Seller. Notwithstanding any provision hereof to the contrary, Seller shall be liable for any and all damages, costs and expenses attributable to any breach by Seller or any wrongful or improper action or omission by Seller.

**10. Contingencies** - Buyer may cancel, without liability, any unshipped portion of this Order or incomplete portion of any services if Buyer finds it impractical to accept the Goods or services due to causes beyond its control including, without being limited to, fires, floods, labor troubles, strikes, breakdowns, acts of God, acts of any government or cancellation of the prime contract. If this Order is not filled in accordance with Buyer's delivery and/or installation schedule, the right is reserved to cancel all or any part of this Order, procure the Goods or services and/or installation elsewhere, and/or hold Seller responsible for any damages or expenses incurred by Buyer. All rights hereunder are cumulative.

**11. Cancellation** - Buyer may, at its option, cancel any unshipped Goods or incomplete portion of the services of this Order at any time, whether or not Seller is in default. Cancellation for default shall not be deemed to be in lieu of or a waiver by Buyer of any other right or remedy which Buyer may have. If Buyer exercises its right to cancel other than for default of Seller then: (a) if this Order covers standard stock Goods, Buyer's only obligation to Seller shall be to pay for merchandise shipped or work completed prior to the cancellation; or (b) if this Order covers Goods manufactured or fabricated to Buyer's specifications, or specifications prepared by Seller for Buyer, then upon receipt of notice of cancellation, Seller shall stop all performance hereunder except as otherwise directed by Buyer in such notice and Buyer's only obligation to Seller shall be to pay to Seller the costs incurred by Seller in connection with this Order prior to the date of cancellation as determined by sound accounting principles but subject to the limitation that the total cancellation payment, plus previous payments, shall not exceed the total price of this Order. Upon such payment title to any Goods or uncompleted Goods shall pass to Buyer.

**12. Waiver** - Buyer's payment of all or any part of the purchase price prior to Buyer's inspection and approval of the Goods, shall not constitute a waiver of any of Buyer's rights, hereunder.

**13. Patent or Trademark Infringement** - Seller guarantees that Buyer's purchase use or sale of the Goods in the form in which furnished to Buyer will not infringe any patent or trademark. Seller agrees to defend any claim, action or suit that may be brought against Buyer for patent or trademark infringement by reason of Buyer's purchase, use or sale of such Goods, and Seller also agrees to indemnify and hold Buyer harmless against all judgments, decrees, damages, attorney's fees, costs and expenses recovered against Buyer or sustained by the Buyer on account of any such actual or alleged infringement. **14. Taxes and Other Exactions** - Seller agrees to assume exclusive liability under all laws that impose taxes or exactions on the manufacture or sale of the Goods or on any component part thereof, or on any process of labor involved therein, or any services to be performed by Seller. Any taxes which Buyer by law is required to pay shall be separately stated on invoice. Prices shall not include any taxes for which Seller can obtain or Buyer can furnish exemption.

**15. Transportation and Packaging Charges** - Unless otherwise expressly agreed in writing, Buyer will not be liable for packaging or transportation charges. If transportation charges are prepaid by the Seller and are to be charged to the Buyer hereunder the amount thereof must be separately stated on the invoice for the Goods not billed separately and must be supported by receipted transportation bills.

**16. Assignment; Set Off** - Assignment of this Order, or any interest therein, or any payment due or to become due hereunder without the written consent of Buyer shall be void. Buyer may set off any and all sums for any reason owed to Buyer by Seller against any and all sums for any reason owed to Seller by Buyer.

**17. Compliance with Laws, Rules and Regulations** - In the performance of its obligations hereunder, Seller shall comply with all applicable laws, ordinances, rules and regulations, including all applicable export, import and sanctions laws, regulations, orders, and authorizations, as they may be amended from time to time, applicable to the export (including re-export) or import of goods, software, technology, or technical data (Items) or services, including, without limitation, the Export Administration Regulations (EAR), and regulations and orders administered by the Treasury Department's Office of Foreign Assets Control (collectively, Export/Import Laws). To the extent not exempt, Seller shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin or protected veteran status or disability. Seller agrees to defend, indemnify and hold Buyer harmless from any loss, damage, liability or expense (including attorneys' fees) resulting from Seller's breach hereof.