

## **TEAM INDUSTRIES, INC., and Subsidiaries - Purchase Order Terms/Conditions**

***These purchase order terms and conditions (the "Terms") govern the sale and purchase of any products ("Products") in all instances that: (1) TEAM Industries, Inc., or any division, subsidiary, operation or plant of TEAM Industries, Inc. (collectively, "Buyer") issues a purchase order (each, a "Purchase Order") to a supplier within the U.S. and Canada; OR (2) Buyer issues a Purchase Order to a supplier that is located anywhere outside of the U.S. or Canada (in either case, any supplier is referred to hereinafter as "Seller").***

**1. Acceptance of Order:** The Purchase Order shall be deemed accepted by Seller upon the sooner of (1) Seller's written acknowledgment accepting the Purchase Order, (2) Seller commencing performance under the Purchase Order, or (3) Seller making any shipment of Product to Buyer. Notwithstanding the foregoing, Seller will be deemed to have so accepted the Purchase Order within 10 business days of Buyer's issuance of the Purchase Order unless Seller notifies Buyer to the contrary in writing signed by Seller's authorized representative. Buyer rejects any terms proposed in any proposal, sales note, acknowledgment, or other document(s) issued by Seller that adds to, varies from, or conflicts with these Terms. These Terms may only be amended by writing instrument signed by authorized representatives of each party.

**2. Entire Agreement; Amendments:** The parties agree that each Purchase Order and these Terms, together with any documents attached to any Purchase Order or incorporated therein by reference, contain the complete and final contract between Buyer and Seller with respect to each Purchase Order. No changes or modifications to these Terms, any Purchase Order, or any documents attached to any Purchase Order or incorporated therein by reference, shall be made except with Buyer's prior written consent.

**3. Production Specifications:** Seller shall manufacture all Products in strict conformance with the terms of the Purchase Order, including, any specifications provided by Buyer or its customers, and the Buyer's Supplier Policy Manual.

**4. Prices:** The prices for the Products (the "Prices") are set forth in the Purchase Order, and are inclusive of all applicable federal, state, local and provincial taxes, tariffs, or duties, other than sales tax, value added tax, or similar turnover taxes that Seller is required to collect from Buyer and pay over to an applicable taxing authority. Seller will separately identify on its invoices the amount of any such taxes. The Prices constitute the full and complete compensation for the Products, and includes compensation for all material, labor, fees, fringe benefits, insurance, profit, and overhead associated with the sale of the Products. Seller represents that the prices extended to Buyer on Products are no less favorable than those currently extended to any other customer of the Seller for the same or similar Product and quantities.

**5. Payment Terms and Invoicing:** Unless otherwise agreed to, payment shall be due no earlier than ninety (90) days after Buyer's receipt of Products or services. Any discount or payment period shall be calculated from the date each correct invoice is received from the Seller. Seller will promptly submit correct and complete invoices or other agreed billing communications with appropriate supporting documentation and other information reasonably required by Buyer, and Buyer may withhold payment until a correct and complete invoice or other required information is received and verified. Seller's submission of an invoice constitutes a certification that: (a) the quantities and amounts of delivered Products contained on such invoice are true and accurate and that such Products have been delivered in accordance with these Terms and the provisions of the Purchase Order, and (b) the invoice is submitted by a representative of Seller authorized to legally bind Seller. No invoices will be delivered to Buyer until after the Products and services that are the subject of such invoice have been provided to Buyer.

**6. Delivery, Title, and Risk of Loss:** All deliveries of Products must be made in accordance with the delivery schedule in the Purchase Order or as otherwise directed by Buyer. Time is of the essence in making all deliveries of Products to Buyer. Seller will deliver all Products in the quantities and at the time and place specified in the Purchase Order. All Products will be priced and delivered FCA Seller's facility (Incoterms 2010) with carrier to be designated by Buyer, unless otherwise agreed in writing by the parties. Title for the Products will pass to Buyer upon receipt of the Products by the carrier selected by Buyer. If the importation of the Products results in the assessment of a countervailing duty on Buyer as the importer, Seller will reimburse such countervailing duty to Buyer, provided such reimbursement is permitted under applicable Law.

**7. Changes:** Notwithstanding anything in these Terms or any Purchase Order to the contrary, Buyer reserves the right at any time to make written changes in any one or more of the following: (a) specifications, drawings and data incorporated in any Purchase Order; (b) methods of shipment or packing; (c) place of delivery; (d) time of delivery; (e) manner of delivery; and (f) quantities. If any such change causes an increase or decrease in the cost of, or the time required for, performance of the applicable Purchase Order, Seller shall be entitled to claim an equitable adjustment in the price or delivery schedule, or both; provided, however, that Seller waives any such claim unless asserted within twenty (20) days from the date of receipt by Seller of the change order. Notwithstanding the foregoing, all price increase claims by Seller must be justified with supporting documentation approved by Buyer in writing before Seller proceeds with such change. In no case will Buyer be bound to any price increases unless evidenced by a Purchase Order change notice or revision issued and signed by Buyer's authorized representative.

**8. Delays:** Seller shall immediately notify Buyer of any circumstance that may affect Seller's ability to make timely delivery of Product pursuant to any Purchase Order, which such notice shall not alleviate Seller's obligations under these Terms. Upon receipt of such notice, Buyer may, at its sole option, cancel, reschedule, or supplement such orders.

If Seller fails in any respect to deliver any Products in the quantities and at the times specified, or to render any services according to the specifications or by the times specified, then Seller shall be responsible for any related damages, including but not limited to any costs of non-delivery, delay, shortage, overage or line stoppage. Buyer, in addition to any other rights and remedies available under law or equity, may, in its sole discretion and without liability, take any or all of the following actions: (a) direct expedited routing or shipping of Products (the difference in cost between the expedited routing and the order routing costs to be paid by Seller); (b) procure all or some the Products from a different or variety of different sellers (the difference in cost between changing or procuring new or different sellers, and any such associated costs, shall be paid by Seller); or (c) terminate the applicable Purchase Order by notice effective immediately upon receipt by Seller as to stated Products not yet shipped or services not yet rendered and to purchase substitute Products or services elsewhere (the difference in cost of procuring such substitute Products or services to be paid by Seller). Seller shall be liable for excess transportation charges, delays or claims resulting from any deviation by Seller from Buyer's routing instructions.

**9. Excess Products:** Buyer will not be obligated to accept Products in excess of those specified in the applicable Purchase Order, and such Products will be held at Seller's risk. Buyer may return such Products at Seller's risk, and all transportation charges, both to and from the original destination, shall be paid by Seller.

**10. Quality, Inspection and Acceptance:** Seller shall supply Products in accordance with good manufacturing practice and in compliance with Buyer's specifications and quality assurance requirements in the Buyer's Supplier Policy Manual, which may be revised from time to time and is incorporated herein by reference. Inspection and test of the Products by Buyer may be made at Buyer's option at Seller's plant and/or the point of destination. Acceptance or rejection of the Products by Buyer

shall not relieve Seller from any of its obligations and warranties under these Terms or the applicable Purchase Order. In no event shall payment be deemed to constitute acceptance.

**11. Defective Products:** If any of the Products fail to meet the warranties contained in these Terms or the applicable Purchase Order, Seller shall promptly correct or replace those Products at Seller's expense upon notice from Buyer. Time is of the essence in Seller's replacement of defective Products and Seller shall be responsible for premium freight and other documented costs associated with the rejected Product. If Seller fails to promptly correct or replace defective Products, Buyer may cancel the applicable Purchase Order as to all such Products, and in addition, may cancel the then-remaining balance of such Purchase Order. After notice to Seller, Buyer may return all defective Products to Seller at Seller's risk, and all transportations charges, both to and from the original destination, shall be paid by Seller. Any payment for such Products shall be refunded by Seller. In no instance will Buyer be obligated to make payment for rejected or non-conforming Products. In the event it is agreed that the Buyer will perform sorting or rework of the defective Products, Seller shall be responsible for reimbursing the Buyer for the associated costs.

With respect to Buyer's payment for any Products not rejected by Buyer or conforming replacement Products provided by Seller, the date payment is due shall be computed from the later of the date when Buyer receives a correct invoice to account for rejected Products or the date Buyer receives conforming Products.

Acceptance of all or any part of the Product shall not be deemed to be a waiver of Buyer's right either to cancel or to return at Seller's risk and expense all or any portion of the Product because of failure to conform to the applicable Purchase Order, or by reason of defects, latent or patent, or other breach of warranty, or to make any claim for damages, including manufacturing costs, damage to materials, or articles caused by improper boxing, crating or packing, and loss of profits or other special damages incurred by Buyer; it being understood that such rights shall be in addition to any other remedies available under law or equity.

**12. Recalls:** In the event that Buyer determines that any defective Products furnished by Seller create or contribute to any voluntary or government-mandated recall, service campaign or similar program initiated by Buyer or its customers ("Recall"), Seller will be responsible for all costs and damages resulting from such Recall, including costs of notification, costs of repair and/or replacement, penalties, fines and buy backs, as well as shipping, labor and administrative costs, based upon Buyer's allocation of responsibility for the Recall. This Article will not limit Seller's responsibility under any other provision of the Purchase Order.

**13. Packing, Drayage and Containers:** No charges for packing, drayage or containers will be allowed unless specified on the face of the applicable Purchase Order. Seller shall prepare, at its expense, labels for the boxes and shipping containers containing such information, if any, as Buyer may specify. Seller shall be liable for damage to materials or articles arising from improper boxing, crating, or packing.

**14. Product Warranties:** Seller hereby warrants that all Products furnished to Buyer by Seller: (a) shall conform in all respects to all specifications, the applicable Purchase Order, and any documents attached to any Purchase Order or incorporated therein by reference; (b) shall be new and free from defects; (c) shall be of merchantable quality and fit for Buyer's purposes; (d) shall be delivered with good title, free and clear of any security interest, claim, demand, lien or any other encumbrance; (e), shall comply with all applicable laws of the countries in which the end products into which the Products are to be installed and are intended to be sold; and (f) shall not misappropriate any trade secret or infringe, violate, trespass or in any other manner contravene or constitute the unauthorized use of any patent, trademark, copyright or other intellectual property right. Seller hereby further warrants that all Products furnished shall conform to all representations, affirmations, promises, descriptions, samples or models forming the basis of the applicable Purchase Order. Seller agrees that these warranties shall survive acceptance and incorporation of the Products into end products manufactured by Buyer. Seller

further warrants that all services performed for or on behalf of Buyer shall: (a) conform in all respects to all specifications set forth in these Terms, the applicable Purchase Order, and any documents attached to any Purchase Order or incorporated therein by reference; (b) will be performed in a competent, workmanlike manner; and (c) shall be free from faults and defects. All of the foregoing warranties shall be in addition to any warranties of additional scope given by Seller to Buyer. None of the foregoing express warranties nor any other implied or express warranties shall be deemed disclaimed or excluded unless evidenced by a Purchase Order change notice or revision issued and signed by Buyer's authorized representative.

**15. Process Improvements and Seller Managed Inventory:** Seller will not make any change in the design, process, quality requirements, packaging and/or shipping of a Product without the prior written consent of Buyer. In the event Seller makes a Buyer-approved change in the design, process, quality requirements, packaging and/or shipping of a Product, the result of which reduces the delivered cost of the Product to Buyer, the savings (net of any reasonable costs incurred by Seller or Buyer to accommodate such change) will be shared equally between the parties.

In the event Buyer initiates a change in the design, process, quality requirements, packaging and/or shipping of a Product (including any changes to Buyer's quality or inspection standards), the result of which reduces the delivered cost of the Product to Buyer, the Price to Buyer will be reduced by the full amount of such savings (net of any reasonable costs incurred by Seller or Buyer to accommodate such change).

If requested by Buyer, Seller will develop and initiate, subject to Buyer's review and approval, a plan for establishing and maintaining a supplier-managed inventory program, including the use of just-in-time or similar production techniques where components and sub-assemblies are produced based upon notification of Buyer demand.

Seller covenants that it will not sell, assemble, or manufacture or contract to sell, assemble, or manufacture any products, including the Products, to other parties in quantities and/or on a production schedule that could impair or impede Seller's ability to meet its obligations to Buyer. Seller undertakes to maintain an inventory of raw materials, or to obtain raw materials from its suppliers, in such quantities as are necessary to meet its obligations to Buyer. If Seller (a) is unable to obtain sufficient quantities of raw materials to deliver the products it is obligated to deliver to all of its customers, including the Products, or (b) is prevented from fulfilling its obligations to deliver and sell Products under Purchase Order(s) with Buyer, Seller will give first priority in the allocation of available supplies of raw materials and its finished products to fulfilling its obligations to Buyer under the Purchase Order. Seller represents that it has not entered into, and covenants that it will not enter into, any contract or other arrangement with any customer that is inconsistent with the covenants set forth in this Article.

**16. Intellectual Property Ownership:** Unless otherwise provided in the applicable Purchase Order or agreed to in writing signed by both parties, each party remains the respective owner of its developments, inventions, conceptions, creations, works of authorship, improvements, and the like made, conceived, or created related to the Products that are the subject of the applicable Purchase Order, as well as patents thereon whether applied for or granted ("Intellectual Property"). Buyer and Seller will jointly own any Intellectual Property jointly developed ("Joint Invention") as a result of any Purchase Order. Neither party shall file, with any entity, a document to obtain rights in a Joint Invention that includes confidential information of the other party without first having obtained written authorization from such other party for the filing. Before filing a document to obtain rights in a Joint Invention, the parties shall determine who will pursue the protection of any Joint Invention, who will incur the costs of such pursuits and whether the decisions to pursue such Joint Invention are sole or joint decisions. Parties shall collaborate and take such action as the other party may reasonably request to protect or perfect the rights, title, and interest in such Joint Invention. Without the express written consent of Buyer, Seller will not sell or otherwise transfer Product subject to any Purchase Order unless Seller is the sole owner of the Intellectual Property related to said Product.

**17. Property of Buyer:** Unless otherwise provided in the applicable Purchase Order or agreed to in writing signed by both parties, property of every description including but not limited to all tooling, tools, equipment, and material paid for by Buyer in whole or part, furnished or made available to Seller by Buyer, and any replacement thereof shall be and remain the exclusive property of Buyer. Such property (other than material) shall not be modified without the written consent of Buyer. Such property shall be plainly marked or otherwise adequately identified by Seller as being owned by Buyer and shall be safely stored separately and apart from Seller's property when possible and practical. Buyer's property shall remain on Seller's premises and in Seller's control at all times unless authorized by Buyer in writing. Seller shall keep Buyer's property free from all liens and encumbrances. Seller shall not use such property except for performance of work under a Purchase Order or as authorized in writing by Buyer. Such property while in Seller's possession or control shall be listed in writing and kept in good condition, shall be held at Seller's risk, and shall be kept insured by Seller, at its expense, in an amount equal to the replacement cost with loss payable to Buyer. As and when directed by Buyer, Seller shall disclose the location of such property, prepare it for shipment and ship it to Buyer in as good of condition as originally received by Seller, reasonable wear and tear excepted.

**18. Special Tooling:** The term "special tooling" as used in this Article shall be deemed to include all jigs, dies, fixtures, molds, patterns, special cutting tools, special gauges, special test equipment, other special equipment and manufacturing aids, and drawings and any replacements of the foregoing, acquired or manufactured or used in the performance of a Purchase Order, which are of such a specialized nature that, without substantial modification or alteration, their use is limited to the production of the Product or parts thereof or performance of the services of the type required by the applicable Purchase Order. The term "special tooling" does not include (a) items of tooling or equipment heretofore acquired by Seller, or replacement thereof, whether or not altered or adopted for use in the performance of a Purchase Order, (b) consumable small tools, (c) general or special machine tools or similar capital items, or (d) tooling, title to which is in Buyer.

Seller agrees that special tooling shall be retained and not used or reworked except for performance of work under a Purchase Order or as authorized in writing by Buyer. While in Seller's possession or control, Seller warrants that it will keep the special tooling in good condition fully covered by insurance, and will replace it when lost, destroyed, or necessary for performance of work under a Purchase Order. Upon Buyer's request, Seller shall furnish Buyer a list of the Products, parts, or services for the manufacture or performance of which such special tooling is used or designed and a list indicating where each item of the special tooling is located. Upon cessation or termination of such work, Seller shall transfer title to and possession of the special tooling to Buyer for an amount equal to the unamortized cost thereof or dispose thereof as Buyer may direct in writing. In addition, Buyer shall have the right to take possession of, including the right of entry for such purpose, any special tooling, title to which Buyer acquires under these Terms or the applicable Purchase Order, without any additional liability whatsoever to Seller.

**19. Export Licenses, Security:** If Seller is shipping Products into the United States from locations outside the United States, Seller will obtain all export licenses and authorizations and pay all export taxes, duties, and fees associated with the manufacturing and provision of the Products and services, unless otherwise agreed in writing, in which case Seller will provide all information and records necessary to enable Buyer to obtain such export licenses or authorizations. Seller accepts responsibility for and will implement security measures to ensure the safe and secure transportation of Products throughout the supply chain and will adhere to all applicable security requirements.

**20. Confidentiality:** All information furnished or made available by Buyer to Seller or to Seller's employees or subcontractors shall be treated as confidential and shall not be disclosed by Seller, its employees, and subcontractors to any third party either in whole or in part, without Buyer's prior written consent. Seller shall enter into a confidentiality agreement with all subcontractors and third parties when sharing confidential information and shall provide Buyer with an executed copy of such agreement upon Buyer's request. Seller agrees not to assert any claim against Buyer with respect to any information

which Seller shall have disclosed or may hereafter disclose to Buyer in connection with the Products or services covered by any Purchase Order. Seller agrees that all designs, drawings, processes, compositions of material, specifications, software, mask works, or other technical information made or furnished by Seller in connection with the Products or services covered by any Purchase Order, including all rights thereto, shall be the sole and exclusive property of Buyer, free from any restriction, and Seller shall protect same against unauthorized disclosure to or use by any third party.

**21. Work Made for Hire.** Seller acknowledges that, unless otherwise agreed in writing, that all creative work, including without limitation, designs, drawings, specifications, techniques, models, and processes (the "Creative Works"), prepared or originated by Seller for Buyer, or during or within the scope of engagement with Buyer, such Creative Works shall be considered "work made for hire" as defined in the Copyright Act at 17 U.S.C. Section 101. Seller agrees that all Creative Works are the exclusive property of Buyer and hereby assigns to the Buyer all rights in the Creative Works including, without limitation, all patent, copyrights, trademark, and trade secret rights. Seller shall hereafter execute such assignments and other documents, and take such other action as reasonably requested by Buyer, without payment of additional consideration, as may be necessary or advisable to convey full ownership to the Buyer of all rights to Creative Works and to protect the Buyer's interest in the Creative Works.

**22. Intellectual Property Indemnification.** Seller agrees: (a) to defend, indemnify and hold harmless Buyer, its successors and customers against all claims, demands, losses, suits, damages, liability and expenses (including reasonable attorneys' fees) arising out of any suit, claim or action for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark, copyright, mask work or other proprietary right by reason of the manufacture, use or sale of the Products or services covered by any Purchase Order, including claims of infringement arising out of compliance with specifications furnished by Buyer, but excluding claims of infringement arising solely as a result of designs owned and supplied to Seller by Buyer, or for actual or alleged misuse or misappropriation of a trade secret resulting directly or indirectly from Seller's actions; (b) to waive any claim against Buyer under the Uniform Commercial Code as adopted by the State of Minnesota, including any hold harmless or similar claim, in any way related to a claim asserted against Seller or Buyer for patent, trademark, copyright or mask work right infringement or the like, including claims arising out of compliance with specifications furnished by Buyer; and (c) that Buyer shall have a worldwide, exclusive, royalty free, irrevocable license to use, sell and have sold, repair and have repaired, and reconstruct and have reconstructed the items covered by any Purchase Order. Seller assigns to Buyer all right, title, and interest in and to all trademarks, copyrights, and mask work rights in any material created for Buyer in connection with any Purchase Order. The obligations of this paragraph shall survive termination or completion of any Purchase Order. Seller shall notify Buyer in writing of any lawsuit or other claim against it or its affiliated corporations, on account of any intellectual property infringement.

**23. Indemnification:** To the fullest extent permitted by law, Seller shall indemnify and save the Buyer harmless from any and all claims against the Buyer as a result of injury or damage to an ultimate user or other person arising out of or in any way related to any nonconforming product or service sold by the Seller to the Buyer, whether the injury or damage is a result of negligent manufacturer or otherwise. Seller further agrees to indemnify and save Buyer harmless from any and all losses, liabilities, damages, claims, demands, suits, actions, proceedings, subrogation's and expenses, including court costs and reasonable attorneys' fees, arising out of or in any way related to any Purchase Order, the services performed or Products delivered under any Purchase Order, or willful misconduct or breach of the Terms hereunder, except for Products manufactured entirely to Buyer's specifications, which are claimed or made by any person, firm, association or corporation, including employees, workers, subcontractors or agents of Seller arising from any cause or for any reason whatsoever. Seller further agrees, upon receipt of notification, to promptly assume full responsibility for the defense of any and all such suits, actions, or proceedings which may be brought against Seller or against Buyer. In the event Buyer's machinery or equipment is used by Seller in the performance of any work that might be

required under any Purchase Order, such machinery or equipment shall be considered as being under the sole custody and control of Seller during the period of such use by Seller.

**24. Insurance:** Seller shall secure, maintain, and furnish Buyer with evidence of insurance showing that Seller has and will maintain adequate insurance coverage during the life of any Purchase Order and for a reasonable period thereafter at Buyer's option, including but not limited to comprehensive general liability insurance and products liability insurance. Such evidence of insurance must be updated as required to maintain coverage and must set forth the name of the insurer, policy number, expiration date, and limits of liability, must name Buyer as an additional insured, and must include all required endorsements, all to Buyer's reasonable satisfaction. Compliance by Seller with insurance requirements does not in any way affect or limit Seller's obligation to indemnify Buyer as set forth in these Terms or the applicable Purchase Order.

**25. Termination for Cause:** Buyer shall have the right to cancel for default all or any part of the undelivered portion of any Purchase Order if Seller: (a) fails to make reasonable progress towards completion of the Purchase Order at the times specified; (b) does not make deliveries as specified in the delivery schedule; (c) breaches any of the terms set forth in the Purchase Order or these Terms, including any express or implied warranties of Seller; (d) makes an arrangement, extension or assignment for the benefit of creditors; (e) dissolves or otherwise ceases to exist or liquidates all or substantially all of its assets; or (f) becomes insolvent or generally does not pay its debts as they become due. If this order is cancelled for default, Buyer may require Seller to transfer title and deliver to Buyer any (1) completed items, and (2) partially completed items and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights that Seller has specifically produced or acquired for the terminated portion of the applicable Purchase Order. Upon direction of Buyer, Seller shall also protect and preserve property in its possession in which Buyer has an interest. The rights and remedies of Buyer set forth in this Article are in addition to, and not in lieu of, any other remedies which Buyer may have in law or equity or pursuant to any terms set forth in these Terms or the applicable Purchase Order. If, after cancellation pursuant to this Article, it is determined by a court of competent jurisdiction, or otherwise, that the Seller was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued pursuant to Article 26 hereof.

**26. Termination for Convenience:** Buyer may terminate performance under any Purchase Order in whole or from time to time in part by written notice of termination, whereupon Seller will cease to perform on the date and to the extent specified in the notice and terminate all orders and subcontracts to the extent they relate to the terminated work. Seller will promptly advise Buyer of the quantities of applicable work and material on hand or purchased prior to termination and the most favorable disposition that Seller can make thereof. Seller will comply with Buyer's instructions regarding transfer and disposition of title to the possession of such work and material. Within 60 days after receipt of such notice of termination, Seller will submit all its claims resulting from such termination. Buyer will have the right to check such claims at any reasonable time or times by inspecting and auditing the records, facilities, work, or materials of Seller relating to the applicable Purchase Order. Buyer will pay Seller without duplication, the order price for finished work accepted by Buyer and the cost to Seller of work in process and raw material allocable to the terminated work, based on any audit Buyer may conduct and United States generally accepted accounting principles; less, however, (a) the cost of finished work, work in process or raw material fabricated or procured by Seller in excess of any Purchase Order or release (b) the agreed value of any items that can be used elsewhere or sold by Seller with Buyer's consent; and (c) the cost of any defective, damaged or destroyed work or material. Notwithstanding the above, payments made under this Article shall not exceed the aggregate price specified in the applicable Purchase Order less payments otherwise made or to be made, and adjustments shall be made reducing the payments thereunder for costs of work in process and raw material to reflect on a pro rata basis any indicated loss on the entire Purchase Order had it been completed. Payment made under this Article constitutes Buyer's only liability in the event this order is

terminated hereunder. Except as otherwise provided in the Purchase Order, the provisions of this Article will not apply to any cancellation by Buyer for default by Seller or for any other cause allowed by law or under this order. Except as otherwise provided in Article 25, the provisions of this Article will not apply to any cancellation by Buyer for default by Seller. In no event will Buyer, its affiliates or customers be liable to Seller or to any third party, whether in contract, tort (including negligence), warranty or otherwise, for any indirect, incidental, special, consequential, exemplary or punitive damages (including damages for loss of profits, business interruption, loss of programs or information, and the like, and even if advised of the possibility of such damages) arising out of or relating to any Purchase Order.

**27. Force Majeure:** Neither party shall be liable for damages resulting from delays or failures to perform under this Agreement due to causes which are not reasonably foreseeable and which are beyond its control, such as acts of God, war, fire, earthquake, explosion, governmental expropriation, governmental law, regulation, or such similar events that beyond the reasonable control of the impacted party; provided, however, that such delay is not due to the fault or negligence, in whole or part, of Seller, its vendors, contractors, suppliers and agents. Upon Seller having reason to believe that deliveries will not be made as scheduled, Seller must provide written notice, within three (3) days of determining such delay, to Buyer setting forth the cause of and the estimated duration of the anticipated delay. The impacted party shall resume the performance of its obligations under the applicable Purchase Order, or amendments thereto, as soon as reasonably practicable after the removal of such Force Majeure event. The following shall not constitute a Force Majeure event for Seller: (i) Seller's ability to sell Product at a more advantageous price, (ii) increases in Seller's costs; (iii) interruptions in Seller's supplies, including the inability of a supplier to supply Seller unless directly related to a Force Majeure event, (iv) economic downturn, or (iv) labor disputes or strike at Supplier's facilities.

**28. Compliance with Applicable Laws:** Seller agrees that, in the performance of any Purchase Order, Seller will comply with all applicable laws, statutes, rules, regulations or orders and shall, upon request, furnish Buyer a certificate to such effect in such form as Buyer may from time to time require.

**29. Buyer's Supplier Code of Conduct:** Seller hereby agrees to comply in all respects with Buyer's Supplier Code of Conduct, which is incorporated by reference in these Terms and is available at [www.team-ind.com](http://www.team-ind.com).

**30. Waiver:** The failure of Buyer to insist, in any one or more instances upon the performance of any of the terms, covenants or conditions of these Terms or any Purchase Order or to exercise any right under these Terms or any Purchase Order, shall not be construed as a waiver or relinquishment of the future performance of any such terms, covenants or conditions or the future exercise of such right, but the obligation of Seller with respect to such future performance shall continue in full force and effect.

**31. Assignment, Subcontracting:** Buyer may, without the consent of Seller assign any Purchase Order and its interest therein to any affiliated entity, or to any entity succeeding to Buyer's business, provided that the assignee shall be bound by the obligations of Buyer thereunder. Seller may not subcontract or assign, in whole or in part, the Purchase Order or any of Seller's obligations or rights thereunder without Buyer's prior written consent and any attempted assignment without such consent will be void and unenforceable. For purposes of the Purchase Order, affiliates of Seller are considered subcontractors. In the event that Buyer permits Seller to subcontract any of its obligations under the Purchase Order, Seller may not change subcontractors without Buyer's advance written approval and such change must be made in accordance with any applicable requirements of Buyer. Seller will remain primarily liable and obligated to Buyer for the timely and proper performance of all of its obligations under the Purchase Order, even if delegated to a Buyer-approved subcontractor, and for the proper and timely performance and actions of any person or entity to which it delegates or subcontracts any such obligation. Any subcontractor utilized by Seller in performing obligations under a Purchase Order shall be provided terms and conditions that are consistent with these Terms.



**32. Set Off, Ongoing Performance, Severability.** Buyer shall have the right to set off against any amounts payable by Buyer to Seller under any Purchase Order or any other agreements between Buyer and Seller any amounts which Seller owes to Buyer under any Purchase Order or otherwise. In the event of any disputes arising under any Purchase Order, Buyer and Seller shall proceed diligently with the performance required thereunder pending resolution of any such dispute. If any portion of these Terms or any Purchase Order is found to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of these Terms or such Purchase Order shall remain valid and enforceable.

**33. Governing Law:** These Terms shall be construed, and the obligations of the parties shall be determined in accordance with the laws of Minnesota, United States of America, without regard to its principles of conflict of laws, and expressly excluding the United Nations Convention on Contracts for the International Sale of Goods, 1980 as amended.

**34. Dispute Resolution – Domestic Seller:** If Seller's principal place of business is in the United States, any dispute, controversy, or claim arising out of or relating to these Terms or any Purchase Order must be brought in either the courts of State of Minnesota, Isanti County or, if subject matter jurisdiction exists, in the U.S. District Court for the District of Minnesota. Each party irrevocably submits to the jurisdiction of such courts.

**35. Dispute Resolution – International Seller:** If Seller's principal place of business is outside of the United States, any dispute, controversy, or claim arising out of or relating to these Terms or any Purchase Order shall be finally settled by arbitration before and in accordance with the Rules of Conciliation and Arbitration of the International Chamber of Commerce. The parties shall nominate by agreement, an arbitrator within thirty days from the date of which the claimant's request for arbitration has been communicated to the other party. The arbitrator shall not be the same nationality of any party to the suit. If the parties are unable to agree upon an arbitrator within the period provided for above, the Members of the Court of the International Chamber of Commerce shall, as expeditiously as possible, appoint the arbitrator at the request of either party. Arbitration shall be in the English language, and shall take place in Washington, D.C., United States of America. Arbitration awards shall be in U.S. Dollars. Any award rendered by the arbitrator shall be final. Judgment upon the award rendered may be entered in any court having jurisdiction, or application may be made to such court for a judicial acceptance of the award and an order of enforcement, as the case may be. The parties acknowledge that this order and any award rendered pursuant to it shall be governed by the U.N. Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

**36. Prevailing Language:** These Terms shall be governed, interpreted, and construed in the English language hereof, regardless of any translations that may be made into any other language.

**37. Right of Access:** Seller hereby grants Buyer, any of Buyer's customers, and any regulatory authority the right to access all applicable areas of Seller's facilities, at any level of the supply chain, that pertain to or are involved in any manner with the Products or services that are the subject of any Purchase Order. Seller expressly acknowledges and agrees that the foregoing right of access is a material inducement for Buyer to purchase Products or services from the Seller and that Buyer would not purchase any such Products or services from Seller if Seller would not grant such right.

**38. Advertising.** During and after the term, Seller will not advertise or otherwise disclose its relationship with Buyer or Buyer's customers without Buyer's prior written consent, except as may be required by law.

**Accepted and agreed to:**

**TEAM Industries**

**Supplier Name:** \_\_\_\_\_

By: \_\_\_\_\_ (print signature) By: \_\_\_\_\_ (print signature)

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_