



TMS INTERNATIONAL, LLC

TERMS AND CONDITIONS OF PURCHASE

1. CONTRACT. These terms and conditions, together with the terms set forth in the purchase order/sales order (collectively, the "Terms"), (a) constitute the entire contract between the seller named in the purchase order/sales order ("Seller") and TMS International, LLC ("Buyer") with respect to the transaction described in the purchase order/sales order ("purchase order"), regardless of whether Seller has acknowledged acceptance of the purchase order and / or these terms and conditions, and (b) expressly limit Seller's acceptance to the Terms. If the purchase order is construed as an acceptance or a confirmation acting as an acceptance, then Buyer's acceptance is **EXPRESSLY CONDITIONAL ON SELLER'S ASSENT TO ANY TERMS AND CONDITIONS CONTAINED HEREIN THAT ARE DIFFERENT FROM OR ADDITIONAL TO THOSE CONTAINED IN SELLER'S WRITING.** Further, if the purchase order is construed as the offer, acceptance thereof is **EXPRESSLY LIMITED TO THE TERMS AND CONDITIONS CONTAINED HEREIN AND BUYER HEREBY EXPRESSLY OBJECTS TO ANY ADDITIONAL OR INCONSISTENT TERMS OR CONDITIONS; NO SUCH ADDITIONAL OR INCONSISTENT TERMS OR CONDITIONS SHALL BE BINDING ON BUYER UNLESS AGREED TO IN WRITING BY BUYER.** Buyer's acceptance of Seller's sales confirmation or other writing, or commencement of performance (including payment for any products or services ("material")) shall not constitute acceptance of any of Seller's terms and conditions. **IN ANY EVENT, SELLER'S ASSENT TO THE TERMS SHALL BE CONCLUSIVELY PRESUMED FROM SELLER'S (A) RECEIPT OF THE PURCHASE ORDER WITHOUT WRITTEN OBJECTION SENT TO BUYER WITHIN TEN (10) DAYS AFTER RECEIPT OF SAME, (B) PROCUREMENT, PREPARATION AND / OR SHIPMENT OF ANY OF THE MATERIAL TO BE SOLD HEREUNDER AFTER RECEIPT OF THE PURCHASE ORDER, OR (C) ACCEPTANCE OF ALL OR ANY PART OF BUYER'S PAYMENT FOR THE MATERIAL ORDERED.** Any reference to the contract shall mean the application of the Terms to the specific purchase order.

2. PRICE AND CONDITIONS OF ACCEPTANCE; PAYMENT. If a shipping term is not otherwise specified in the purchase order, the price stated is F.O.B. delivered to the location specified by Buyer. Regardless of the point of delivery, all material shall be received subject to acceptance of the material by Buyer's ultimate consumer (the "consumer"), with the weights, specifications and grading of that consumer to govern, or if no ultimate consumer is known at the time of shipment, all material shall be received subject to acceptance by Buyer, with the weights, specifications and grading of Buyer to govern. All costs incurred to satisfy such consumer's (or Buyer's, if applicable) delivery requirements will be for Seller's account. Despite any shipping terms or arrangement, Seller shall have risk of loss for all material shipped until received and accepted by the consumer (or Buyer, if applicable), at which time title to and risk of loss with respect to the material shall pass from Seller to Buyer. Rejected material remains Seller's property at Seller's risk and subject to Seller's disposition. Seller must load clean transportation equipment. Any expense or shortage incurred because of foreign matter in the shipment or because equipment is loaded in excess of or less than carrier's loading rules will be paid by Seller. Payment terms are as set forth in the purchase order. If no payment terms are specified, the net amount shall be payable within 45 days after the later of (a) delivery to the location specified in the purchase order and acceptance of the material or other performance conforming with the Terms, and (b) Buyer's receipt of Seller's invoice. In all cases, Seller must submit the invoice to invoices@tmsinternational.com, including any receiving / weight tickets, if Seller is paying the freight, in order to receive payment. Unless otherwise stated in the purchase order, the price stated includes all duties, levies, freight charges, insurance charges, and any other charges whatsoever in connection with the sale or delivery of the material. Buyer may withhold from any payment any amount as to which a dispute exists under any purchase order or against any amount due Buyer under any transaction with Seller.

3. REPRESENTATIONS & WARRANTIES. In addition to all other warranties express or implied with respect to the sale of the material, Seller represents and warrants to Buyer and to consumers that (a) Seller has good and marketable title to the material, and the right to transfer such material free and clear of all liens, restrictions, and / or encumbrances, (b) the material will conform to the specifications and / or other descriptions set forth on the purchase order, and any samples provided or shown to Buyer, (c) the material and its sale and transportation hereunder will comply with all applicable federal, provincial, state or local laws, ordinances, rules and regulations, and (d) the material furnished by Seller hereunder does not contain closed drums or containers (including uncut steel rollers), or any hazardous materials, including, without limitation, the gasoline, petroleum products, explosives, radioactive materials, hazardous wastes, hazardous or toxic substances, polychlorinated biphenyls or related or similar materials, asbestos or any material containing asbestos, or any other substance or material that may be defined or listed as a hazardous or toxic substance or material, or otherwise regulated by any federal, provincial, state or local law, ordinance, rule or regulation including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §9601, et seq.), the Hazardous Material Transportation Act (49 U.S.C. §5101, et seq.), the Resource Conservation and Recovery Act (42 U.S.C. §6901, et seq.), the Federal Water Pollution Control Act (33 U.S.C. §1251, et seq.), the Federal Clean Air Act (42 U.S.C. §7401, et seq.), or the Toxic Substances Control Act (15 U.S.C. §2601, et seq.), in each case, as amended or supplemented from time to time, and any regulations adopted and guidance or publications promulgated pursuant thereto and analogous federal, state, provincial or local statutes. Seller acknowledges that Buyer is relying on Seller's representations and warranties made in these Terms in connection with its agreement to enter into this contract.

4. BUYER'S RIGHTS; FORCE MAJEURE. Time shall be of the essence in the performance of this contract. In the event of nonconformity, non-delivery, partial delivery or late delivery, Buyer may, at its option, (i) cancel this contract, or (ii) replace the material in the open market after due notice and within a reasonable period of time and, in either case, recover from Seller, at Buyer's option, (a) the Buyer's anticipated profit from the sale of the material to the consumer, or (b) the difference between the market price of the material at the time of replacement and the contract price (if Buyer elects to replace the material); provided, however, that Buyer's cancellation of the contract shall not be a necessary condition of any such recovery. The foregoing rights and remedies of Buyer are in addition to all of its other rights and remedies under this contract or at law. No extension of time granted by Buyer shall constitute a waiver of this provision. Buyer shall not be liable for any delay or failure of performance due to a request for delay by the consumer,

strikes, acts of God, or other causes beyond its control, provided that Buyer shall have given notice to Seller of any such cause for delay or anticipated delay promptly following the commencement thereof. If any delay in Seller's delivery impairs Buyer's ability to meet its delivery schedule to the consumer, Buyer may, at its option, and without liability to Seller, cancel this contract and any outstanding deliveries hereunder in whole or in part.

5. RELATED SERVICES. Seller shall obtain and maintain, and shall cause its employees, contractors, subcontractors, suppliers, and agents, or any other party acting on behalf of Seller (collectively "Seller Representatives") to obtain and maintain all necessary training, licenses and permits in connection with performance of any services related to the sale of the material to Buyer ("Related Services") including but not limited to delivery of the material. Seller shall be responsible for providing health and safety training to all of the Seller Representatives pursuant to the Federal Occupational Safety and Health Act of 1970, as amended ("OSHA"). Seller shall comply with all health and safety standards established by Buyer or any of Buyer's consumers and any applicable site-specific safety requirements. Seller shall provide all required notices to Seller Representatives as may be required by applicable law. Seller shall, and shall cause the Seller Representatives to, perform the Related Services in a good and workmanlike manner in accordance with the standards, practices and procedures as reasonably expected from an experienced provider of similar services in the industry. Seller acknowledges that Seller shall be responsible for any failure of any of the Seller Representatives to comply with the requirements of these Terms.

6. LOCAL CONDITIONS. Seller accepts and is familiar with or has taken steps to familiarize itself and the Seller Representatives with any local conditions at sites where the Related Services are to be performed.

7. SELLER'S INDEMNITY. Seller agrees to indemnify, defend and hold harmless Buyer, its affiliates and their respective officers, directors, employees, contractors and agents (collectively, the "Indemnified Parties") from and against any and all loss, liability, expenses, claims, demands, actions and causes of action including attorneys' fees and costs (collectively, "Losses") that arise from or in connection with the sale, transportation or use of the material furnished by Seller hereunder or from any breach or violation by Seller of these Terms. Seller's indemnification obligations shall also include and cover (without limitation) any Losses incurred by any of the Indemnified Parties, or any of their customers, as a result of the material furnished by Seller hereunder (i) being used by an ultimate consumer in the production of steel or any other metallic product, and (ii) causing such steel or other metallic product to be rejected or downgraded by such consumer due to unanticipated levels of copper, nickel, tin, molybdenum, chromium, lead, sulfur, or other elements. **TO THE FULLEST EXTENT PERMITTED BY LAW, SELLER'S OBLIGATION TO INDEMNIFY THE INDEMNIFIED PARTIES APPLIES REGARDLESS OF THE SOLE NEGLIGENCE OR PARTIAL NEGLIGENCE OF ONE OR MORE OF THE INDEMNIFIED PARTIES.**

8. COUNSEL FOR INDEMNIFIED PARTIES. Seller's defense of the Indemnified Parties shall be undertaken with counsel acceptable to the Indemnified Parties represented, provided that an Indemnified Party may hire its own counsel in defense of any claim covered by the indemnification obligations of Seller at the sole cost of Seller to the extent a conflict of interest exists as reasonably determined by the Indemnified Party.

9. WAIVER AND ADDITIONAL DEFENDANT JOINDER. Seller's indemnification obligations under these Terms shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by Seller pursuant to any applicable workers' compensation, disability or other employee benefit law, program or policy ("Employee Benefit Laws") and Seller's indemnity obligations above shall include all Losses arising from injuries or death of any employees or contractors of Seller or any Seller Representatives. Seller hereby expressly waives the immunity provisions in the Employee Benefit Laws that prohibit its contribution or indemnity obligations as required in these Terms or precludes its joinder as an additional defendant in any action by Seller or any Seller Representatives providing the Related Services.

10. RELEASE REQUIRED FOR SHIPMENT. Notwithstanding any delivery date specified in the purchase order, the Seller will not ship any goods under any purchase order until Seller has received a written shipment release from Buyer.

11. ADDITIONAL SHIPPING TERMS. (A) FOR SHIPMENTS BY RAIL: SELLER MUST FURNISH RAIL CAR NUMBERS TO BUYER UPON LOADING. ANY DEMURRAGE, SWITCHING CHARGES OR OTHER EXPENSE CAUSED BY THE FAILURE OF SELLER TO FURNISH SUCH INFORMATION UPON LOADING OR BY REASON OF CARS ARRIVING WITHOUT NOTICE IN ANY CIRCUMSTANCES SHALL BE PAID BY SELLER. (B) FOR SHIPMENTS BY BARGE OR VESSEL: SELLER MUST PROVIDE NOTICE TO BUYER OF APPLICABLE BARGE NUMBERS OR VESSEL NAME PRIOR TO DEPARTURE FROM LOAD PORT. ANY DEMURRAGE OR OTHER EXPENSE CAUSED BY SELLER'S FAILURE TO PROVIDE SUCH NOTICE IN ANY CIRCUMSTANCES SHALL BE PAID BY SELLER. (C) FOR ALL SHIPMENTS: ANY DEMURRAGE OR OTHER CHARGES DUE TO SELLER DELAYS SHALL BE CHARGED TO SELLER. Seller must certify on the bill of lading that shipment is for recycling purposes. Except as otherwise required to meet consumer's specific delivery requirements, Seller must ship evenly throughout the month. Any fuel surcharge will be for the account of Seller. All charges by the consumer for non-notification of cars, failure to provide or delayed barge or vessel notice, or incomplete shipping information and charges related to rejection will be for Seller's account.

12. SET OFF RIGHTS. Without prejudice to any other right or remedy it may have, Buyer reserves the right to set off at any time any amount owed to it by Seller against any amount payable by Buyer to Seller under this contract or any other contract between the parties.

13. DISCHARGE OF BUYER. If (a) Seller (i) becomes insolvent, (ii) has a business failure, dissolves or is dissolved, (iii) enters (voluntarily or involuntarily) any bankruptcy or receivership proceeding, (iv) assigns assets for the benefit of its creditors, or (v) fails to maintain its account with Buyer on a current basis, (b) at any time, Buyer reasonably believes that Seller may fail to perform any of its obligations under this contract for one of the foregoing reasons, or (c) Seller has failed to substantially or timely perform its obligations under any other contract with Buyer, then Buyer may immediately cancel this contract without liability to Seller.

14. TAXES. The parties agree that the Seller is responsible for the payment of any sales, use or other taxes, tariffs, or similar charges arising from the sale of material pursuant to this contract, and that any such taxes are included in the price set forth in the purchase order. Seller will reimburse Buyer if it pays any such taxes, tariffs or other charges directly to the relevant authorities, including any interest and / or penalties thereon.

15. AMENDMENT; NON-WAIVER. The Terms may not be modified, altered or waived, either orally, by usage of trade, course of performance or course of dealing. Any change to, deviation from, or waiver of the Terms shall only be made pursuant to a writing signed by the party to be bound.

16. SEVERABILITY; ASSIGNABILITY; CONFLICT. If any term or provision of this contract is declared invalid, illegal or unenforceable in any jurisdiction, (a) the affected provision will be modified to conform to applicable law, if possible, or omitted, and (b) such invalidity, illegality or unenforceability shall not affect any other term or provision of this contract or invalidate or render unenforceable such term or provision in any other jurisdiction. No assignment of this contract shall be made without prior written consent of Buyer. In the event of a conflict between the terms set forth in the purchase order and these terms and conditions, the terms set forth in the purchase order shall prevail.

17. JURISDICTION. All disputes arising directly or indirectly hereunder or in connection herewith shall be resolved in a court of competent jurisdiction sitting in Pennsylvania. Seller hereby (a) consents to the exclusive jurisdiction of the state and federal courts in Pennsylvania, (b) appoints the Secretary of the Commonwealth of Pennsylvania as its agent for service of process, (c) agrees to appear in any such proceeding upon notice thereof, and (d) waives the right to assert that any action in any such court is in an improper venue or should be transferred to a more convenient forum. The losing party in any lawsuit shall pay its own and the prevailing party's attorney's fees, costs and expenses. If the prevailing party won on some but not all of the claims and counterclaims, the court may award the prevailing party an appropriate percentage of the costs and attorneys' fees reasonably incurred by the prevailing party in connection with the litigation.

18. APPLICABLE LAW. All questions arising hereunder, in connection herewith, or in connection with a quotation or any other document submitted in connection therewith shall be interpreted and resolved in accordance with the laws of the Commonwealth of Pennsylvania (including without limitation the Uniform Commercial Code of the Commonwealth of Pennsylvania) without regard to its conflicts of law provisions and excluding the United Nations Convention on Contracts for the International Sale of Goods.

19. CHANGE ORDERS/CANCELLATION. Buyer reserves the right at any time prior to shipment to make changes in any one or more of the following: (a) quantity or specifications for material, (b) methods of shipment or packing, (c) place of delivery, and (d) times of delivery. In addition, Buyer may cancel an order for convenience at any time by providing Seller notice of cancellation at any time prior to date of scheduled shipment.

20. LIMITATION OF LIABILITY. IN NO EVENT WILL BUYER BE LIABLE TO SELLER FOR ANY SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES REGARDLESS OF THE LEGAL THEORY ON WHICH ANY LIABILITY CLAIM IS MADE. In no event will Buyer's liability to Seller exceed the amount due for the material under the applicable order for the material.

21. CONFIDENTIAL INFORMATION- Except as necessary to perform this contract, as required by law (upon prior written notice to Buyer), or with Buyer's prior written consent, Seller will, at all times, keep confidential all technical and business information furnished by Buyer (whether in writing, electronically, orally, or visually) or derived or developed by Seller for the purpose of performing this contract (collectively, "Confidential Information"). Seller agrees to take all reasonable steps to protect the confidentiality of Buyer's Confidential Information. Seller will not disclose such Confidential Information, use such Confidential Information for its own benefit or for the benefit of any other party, copy it, or permit copies to be made without the prior written consent of Buyer. Upon termination of this contract, and, at any time upon written request, Seller will return all copies of Buyer's Confidential Information to Buyer. Seller will not publish or advertise the existence or nature of this contract without Buyer's prior written consent. Seller acknowledges that a breach of this Section may cause irreparable harm and money damages would not be a sufficient remedy and that Buyer may seek injunctive relief in addition to other remedies available at law or equity. Seller's obligations under this Section shall survive termination or completion of a contract. Confidential Information shall not include: (a) any information which is in the public domain or enters the public domain, other than through breach of this Section by Seller, or (b) is received by Seller from a third party without any obligation of confidentiality provided that such third party had a right to disclose such information to Seller without any obligation of confidentiality.

22. INSURANCE. Seller shall maintain, at its own expense, and shall require the Seller Representatives to maintain in full force and effect a general liability policy of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Buyer may, at its sole discretion, require that Seller provide a certificate of insurance evidencing coverage as set forth herein naming Buyer as an additional insured, with a waiver of subrogation. Coverage must be primary and on-contributory; excess must follow form and must remain in effect for a period of two (2) years following the most recent delivery of products or services under any purchase order issued by Buyer to Seller.