

Date: April 7, 2015  
Revised: October 10, 2018

# TCI, LLC

## Purchase Order Terms & Conditions

### 1. General

The following terms and conditions, together with such terms as are set forth in the Purchase Order Form ("Form"), with such specifications or other documents as are incorporated by reference in the Form, as amended in any subsequent authorized writing from Buyer, shall constitute the entire contract (the "Purchase Order") between TCI, LLC ("Buyer") and Supplier. This Purchase Order shall constitute the final, complete and exclusive statement of the agreement between Buyer and Supplier and may not be modified or rescinded except by a writing issued by the Buyer and the Purchase Order supersedes all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral, with respect to the subject matter of this Purchase Order. This Purchase Order prevails over any terms and conditions contained in any other documentation and expressly excludes any of Supplier's general terms and conditions of sale or any other document issued by Supplier in connection with the Purchase Order and terms or conditions including any such document that are different from, conflict with or add to the terms of the Purchase Order are hereby rejected by Buyer and shall be null and void. This Purchase Order expressly limits acceptance to its terms and conditions and notice of objection to any different or additional terms in any response to this Purchase Order is hereby given. To the extent this Purchase Order is construed as an acceptance of the Supplier's offer, this acceptance is expressly conditioned on the Supplier's assent of any additional or different terms contained in this Purchase Order. This Purchase Order shall be deemed to have been accepted by the Supplier upon receipt by the Buyer of any writing, including a writing transmitted by fax or other means of electronic transmission, indicating acceptance, or by any of the following: (i) shipment of the goods or any portion thereof, (ii) commencement of any work on site or (iii) performance of any services hereunder.

### 2. Electronic/Facsimile Transmission

If this Purchase Order is transmitted by fax or by other means of electronic transmission, such transmission shall have the legal significance of a duly executed original delivered to the Supplier.

### 3. Invoices/Payments

Invoices should be sent electronically to: [accounting@transcoil.com](mailto:accounting@transcoil.com). If unable to send electronically mail to: TCI, LLC W132N10611 Grant Dr., Germantown, WI 53022. Each invoice must include: Purchase Order #, TCI part number, quantity, description of material or service and price. Payments should be mailed to TCI, LLC, PO Box 88566, Milwaukee, WI 53288-0566.

Unless alternate terms are specified on the Purchase Order by the Buyer, the net amount shall be payable within 30 days after the later of delivery and acceptance of goods or other performance conforming to the terms of this Purchase Order and invoicing. The price of the goods or services to be provided by Supplier is stated in the Purchase Order. Except as otherwise specified in the Purchase Order, such stated price includes all applicable Federal, State and local taxes (including, without limitation, all sales, use and excise taxes) and all packaging, transportation costs, insurance, custom duties and fees. No charges of any kind (e.g., charges for packing, boxing, carting or other surcharges) will be allowed unless specifically set forth in the Purchase Order. No increase in the price is effective, whether due to increased material, labor or transportation costs or otherwise, without the prior written consent of Buyer.

### 4. Packing List

A packing list must accompany each shipment and include a minimum of the following: Purchase Order number, TCI part number, Manufacturer part number, quantity, description of material or service, Country of Origin and Harmonized Tariff Code.

### 5. Time

If delivery or completion dates cannot be met, Supplier shall inform Buyer immediately. Such notice shall not, however, constitute a change to the delivery or completion terms of this Purchase Order unless Buyer modifies this Purchase Order in writing. If any item is not received or if any element of the work is not completed by the date specified, the Buyer, at Buyer's option and without prior notice to Supplier, may either approve a revised date or may cancel this Purchase Order and may obtain such goods or work elsewhere and in either event the Supplier shall be liable to the Buyer for any resulting loss incurred by the Buyer. Supplier's sole remedy for a delay caused by Buyer shall be an extension in the time for Supplier's performance equal to the duration of Buyer's delay. Supplier shall not be liable for damages resulting from Supplier's failure to deliver or complete, or for delays in delivery or completion, caused solely by strikes not caused by or within the control of Supplier, lock-outs not caused by or within the control of Supplier, fires, war or acts of God. Timing of delivery and/or performance of the work is of the essence of this purchase order.

### 6. Improper Performance and Disputes

In addition to other remedies provided by law, Buyer reserves the right to reject any goods or to revoke any previous acceptance and to cancel all or any part of the Purchase Order if Supplier fails to deliver all or any part of the goods or perform any of the work in accordance with the terms and conditions of this Purchase Order. Acceptance of any part of the Purchase Order shall not bind the Buyer to accept any future shipments or work, nor deprive it of the right to return goods already accepted. At Buyer's option, if Buyer so elects in its sole discretion with regard to any particular dispute, any dispute arising in connection with this Purchase Order shall be resolved by arbitration in the state of Wisconsin.



W132 N10611 Grant Drive, Germantown, WI 53022  
P: 800-824-8282 | [transcoil.com](http://transcoil.com)

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## **7. Warranty**

Supplier expressly warrants that for a period of three (3) years after delivery to the Buyer (unless a shorter warranty period is specified on the face of the Purchase Order Form), all goods delivered under this Purchase Order shall be free from defects in material and workmanship and shall be of the quality, size, performance and dimensions set forth in the Purchase Order Form for work performed under this Purchase Order and shall be in conformity with all plans, specifications and other data incorporated as part of this Purchase Order. Notwithstanding any limitation of warranty, these express warranties shall not be waived by reason of acceptance or payment by the Buyer. These warranties are cumulative and in addition to any other warranty provided by law or equity. If Buyer gives Supplier notice of non-compliance with this Section, Supplier shall, at Buyer's option and at Supplier's cost and expense, either refund the Buyer's purchase price for the defective or non-conforming goods or promptly replace or repair the defective or non-conforming goods and shall, in either event, pay for all related expenses including, but not limited to, transportation charges for the return of the defective or non-conforming goods to Buyer from any recipient of the goods, transportation charges for the return of the defective or non-conforming goods to Supplier and the delivery of repaired or replacement goods to Buyer. All warranties shall be enforceable by Buyer, its customers and any other user of the goods.

## **8. Risk of Loss**

Unless the Purchase Order expressly states otherwise, all goods shall be shipped Incoterms 2010: the "Ship to" location designated in the Form. Risk of loss shall not pass to Buyer until goods called for in this Purchase Order actually have been received and accepted by the Buyer at the destination specified herein. Supplier assumes full responsibility for packing, crating, marking, transportation and liability for loss and/or damage even if Buyer has agreed to pay freight, express or other transportation charges.

## **9. Indemnity and Hold Harmless**

From and after the date of this Purchase Order, the Supplier agrees to indemnify, defend and hold harmless the Buyer from any and all loss, injury, death, damage, liability, action, judgment, award, penalty, fine, cost or expense (including reasonable attorneys' fees) incurred by Buyer (whether based on a third party claim or otherwise), arising out of or occurring directly or indirectly from (i) the use, possession or ownership of the goods or services provided by Supplier pursuant to this Purchase Order or Supplier's negligence, willful misconduct or breach of the Purchase Order, and (ii) any claim that the Buyer's use or possession of the goods or services provided by Supplier infringes or misappropriates the patent, copyright, trade secret or other intellectual property right of any third party.

## **10. Assignment/Subcontracting**

Supplier shall not have any right to assign, delegate or subcontract this Purchase Order or any obligations or benefits arising from this Purchase Order without prior written consent of the Buyer and, unless otherwise agreed upon by Buyer in writing, the rights of any assignee shall be subject to all set-offs, counterclaims, and other comparable rights arising hereunder. No assignment or delegation shall release Supplier of any obligations hereunder.

## **11. Insurance**

In connection with the Purchase Order, Supplier, at its own cost and expense, shall obtain and maintain in force, the following insurance coverage:

- a. If Supplier's employees will be conducting business or performing work on Buyer's premises, a policy of workers' compensation insurance, providing statutory benefits as required by law, covering all employees of Supplier who are in any way engaged in or connected with the Purchase Order; and employer's liability insurance in an amount of not less than Five Hundred Thousand Dollars (\$500,000). Policy must contain a Waiver of Subrogation in favor of Buyer. Supplier shall require its agents, sub-suppliers and subcontractors, who are in any way engaged in or connected with the Purchase Order to maintain the same insurance as required herein of Supplier.
- b. A policy of commercial general liability insurance affording protection in an amount of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate, with respect to bodily injury, death, or damage to property. Policy must include additional insured status for Buyer; and contain a Waiver of Subrogation in favor of Buyer.

## **12. Right to Enter**

The Supplier agrees that Buyer, and any of its customers or representatives, upon reasonable notice, may reserve the right to enter the Supplier's facility for purposes of verifying, inspecting and testing goods, materials and services associated in any way to the goods and services purchased hereunder (including without limitation raw materials, components, intermediate assemblies, work in process, tools and end products). This verification, inspection and test may occur at sites where the goods and service are created or performed, whether they are at the premises of Supplier, Supplier's suppliers or elsewhere.

## **13. Conflict Minerals**

The Buyer is committed to high ethical standards and social responsibility which includes supporting the Dodd-Frank Wall Street Reform and Consumer Protection Act as it relates to Conflict Minerals (Section 1502). One aspect of this act is designed to eliminate support of illegal and unethical actions in the Democratic Republic of Congo (DRC) region. The Buyer does not purchase tin, tungsten, tantalum and gold directly, however, they may exist in the products or materials that we purchase. It is the Buyer's goal to be "conflict free." As a result, the Buyer is committed to working with the Supplier to responsibly purchase the materials that are used in the Buyer's products. The Buyer expects the same supply chain transparency and practices from the Supplier. It is expected that the Supplier investigate the source and chain of custody of conflict minerals in the products that they supply to the Buyer, to disclose information on due diligence to the Buyer on request and to purchase minerals from responsible sources that do not contribute to human rights abuses in the DRC region. If needed, the Buyer will work with the Supplier to become conflict free.

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#### **14. RoHS II Requirements**

The Buyer is committed to supplying product that meets RoHS II requirements, per 2011/65/EU on the current date but preferably per EU 2015/863. Accordingly, it is expected that all materials supplied to the Buyer by the Supplier will meet RoHS II requirements. If the Supplier is unable to provide product that meets these requirements, the Supplier must notify the Buyer's Purchasing Department at the time of quotation or receipt of a Purchase Order explaining why the product does not meet the requirements of RoHS II.

#### **15. REACH Requirements**

The Buyer is committed to supplying product that meets REACH requirements, per the latest update of the Substances of Very High Concern (SVHCs), with appropriate documentation stating compliance. Accordingly, it is expected that all materials supplied to the Buyer by the Supplier will meet REACH requirements. If the Supplier is unable to provide product which meets these requirements, the Supplier must notify the Buyer's Purchasing Department at the time of quotation or receipt of a Purchase Order explaining why the product does not meet the requirements set forth by REACH.

#### **16. Non-Discrimination in Employment**

In connection with the performance of work under this Purchase Order, the Supplier agrees as follows:

- a. This Supplier shall abide by the requirements of all non-discrimination laws as applicable. These regulations prohibit discrimination against qualified individuals on the basis of disability and protected status, and require affirmative action to employ and advance in employment qualified individuals with disabilities and qualified protected status.
- b. In the event of the Supplier's non-compliance with the non-discrimination clauses of this Purchase Order or with any of the said rules, regulations, or orders, this Purchase Order may be cancelled, terminated or suspended in whole or in part and the Supplier may be declared ineligible for further contracts with the Buyer.

#### **17. Compliance with Laws and Regulations**

Supplier shall comply with all applicable laws, regulations and ordinances and has and shall maintain in effect all licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under the Purchase Order. Supplier shall comply with all export and import laws of all countries involved in the sale of goods under this Purchase Order.

#### **18. Governing Law**

The contract resulting herefrom shall be governed by the laws of the State of Wisconsin. Any legal suit, action or proceeding arising out of or relating to the Purchase Order shall be instituted in the federal courts of the United States of America located in the City of Milwaukee, Wisconsin or the courts of the State of Wisconsin located in the County of Washington, Wisconsin and Supplier irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding.

#### **19. Waiver**

No waiver by either party of any of the provisions of the Purchase Order shall be effective unless explicitly set forth in a writing and signed by the party so waiving. Except as otherwise set forth in the Purchase Order, no failure to exercise, or delay in exercising, any rights, remedies, power or privilege arising from the Purchase Order shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

#### **20. Termination**

Buyer, in its sole discretion and without cause, may terminate this Purchase Order, in whole or in part, at any time without incurring liability to Supplier for lost profits, or any other costs or damages; provided, however, that if termination is without cause, Buyer shall pay to Supplier (i) the agreed upon purchase price under this Purchase Order for all products ordered hereunder and completed by Supplier at the time of termination that cannot be sold by Supplier in the ordinary course of its business (subject to delivery of such completed products to Buyer), and (ii) Supplier's reasonable direct costs and expenses of labor and materials incurred in the production of work in process for products ordered hereunder at the time of termination of this Purchase Order, net of all salvage or scrap value, for that work in process which cannot be completed and sold by Supplier in the ordinary course of its business. Provisions of the Purchase Order which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Purchase Order including, but not limited to, the following provisions: warranties, indemnity and hold harmless, insurance, compliance with laws, confidentiality, governing law, submission to jurisdiction, and liability for defective or non-conforming goods or services.

#### **21. Confidentiality and Privacy Requirements**

The Supplier agrees to hold in confidence any concepts, reports, technical, market or financial information supplied by the Buyer during any interactions associated with this Purchase Order. Any information shared by the Buyer is the property of the buyer and cannot be reproduced or otherwise utilized without written consent of the Buyer.

#### **22. TCI Owned Materials**

All materials, tools, designs, dies, fixtures, drawings, specifications and other property, methods or processes owned or paid for or agreed to be paid for by Buyer, whether directly noted on the face of the Purchase Order or included by Supplier in the unit price of goods, shall be the property of Buyer and subject to removal at any time without cause or expense to Buyer. All such materials, etc., shall be identified and marked by Supplier as Buyer property, used only for Buyer orders, unless otherwise authorized by Buyer, treated as confidential material and covered by Supplier, at Suppliers expense, by adequate liability, damage and fire insurance for the replacement cost thereof. Supplier shall assume all risk of loss or damage of such property and maintain and repair as necessary.

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