

## GENERAL CLARIFICATIONS & LIMITATIONS & EXCEPTIONS –

November 18, 2019

### 1. Work to be Provided by AIROFLEX (“Seller”):

-See the Seller’s Proposal for specific details describing the scope of their work (see also these Clarifications & Limitations and the Seller’s Terms and Conditions). If the Purchaser issues a Purchase Order, as opposed to signing the Seller’s Proposal, the Seller’s Proposal, these Clarifications/Limitations/Exceptions and the Seller’s Terms and Conditions shall become a part thereof. In case of any conflict, the Seller’s Proposal, these Clarifications/Limitations/Exceptions and the Seller’s Terms and Conditions shall take precedence and control.

### 2. Work/Items to be provided by Purchaser (“Purchaser”), unless specifically noted in the Seller’s Proposal or as a part of a fully executed Purchase Order:

- Site survey.
- Site preparation.
- Soil testing.
- Concrete.
- Foundations.
- VFD’s.
- Any Embedment’s not contained in the Seller’s Proposal.
- Anchor bolts.
- Grout.
- Unloading at the site (labor and equipment).
- Security and field storage requirements.
- Field touch-up painting (before or after installation).
- Any and all electrical requirements, including, but not limited (i) installation, (ii) materials (both control and power wiring), (iii) engineering, (iv) power, (v) lighting, and (vi) grounding.
- Utilities work/supply.
- MCC/Control room.
- MCC Engineering.
- MCC/starters.
- Equipment grounding.
- Local disconnects.
- Fire protection.
- Dust suppression.
- Air piping and supply.
- Water piping and supply.
- Hard piping for hydraulics.
- Lighting.
- Switches, outlets, etc.
- Sump pumps.
- Lubricants/hydraulic fluids.
- Mobile equipment.
- Engineering for items other than the Truck Dumper, Service Legs, Hopper, Chutes and other equipment/parts provided by the Seller per their Proposal.
- Sales/Local Taxes (Domestic or International) and any related Duties, unless provided in Seller’s Proposal.
- Any Export documentation or compliance with INCOTERMS 2010.
- Any and all income taxes imposed by a foreign country upon this transaction.
- Any governmental approvals that may be required (U.S or foreign).
- Any and all Permits (except shipping and required registrations and licensures in the State of Iowa).
- Any Performance and/or Payment Bonds.
- Any Liquidated Damages.
- All other equipment/services not specifically described by this Proposal.

### 3. This Proposal and any information/drawings is deemed by the Seller to be confidential/proprietary, (copyrighted, trademarked, trade secrets and patent) and is the sole property of the Seller. This information is supplied to the Purchaser solely for the purpose of evaluating Seller’s Proposal and may not be copied, used, disclosed or distributed without prior written consent of the Seller. Seller does not transfer any ownership or other use rights to the Purchaser, except as may be otherwise provided herein after the seller’s proposal is signed or as may be contained in a fully executed Purchase Order.

### 4. Field verification of dimensions and site conditions have not been included as part of this Proposal and the Purchaser should make every effort to assure itself that this work is completed.

### 5. All required loads generated by the equipment, as are necessary for foundation and/or structural design, will be provided by Seller. All other foundation/structural design information, loads and/or work is to be provided solely by the Purchaser.

### 6. All design and data furnished with this Proposal is deemed preliminary and subject to finalization by the Seller once the Proposal/Purchase Order is signed by both parties.

### 7. The Equipment Data Sheet provided by the Seller, as a part of its Proposal, describes the basic information relating to the equipment system that is quoted. The Purchaser should carefully review the information to make sure that it meets the Purchaser’s needs and that they understand the system being provided by the Seller in its entirety. Please note that certain information provided in the Data Sheet is subject to change due to operating/field

conditions or other factors beyond the Seller's control (i.e. – cycle time). Should the Purchaser require any clarification or additional information they are directed to request the same before the Proposal/Purchase Order is signed.

8. The Seller has designed the truck dumper system to function in a certain manner and within certain ranges. Should the Purchaser elect to operate the system outside these parameters or at less than its designed capacity, they do so at their own risk. The Seller will not be responsible for any damages or claims arising from the Purchaser's actions in this regard.
9. The Seller has made provision for embedment's necessary to mount the truck dumper and related equipment to the foundation or other structures provided by the Purchaser. Should the Purchaser not use the Seller's embedment's or misuse/modify these embedments, the Seller shall not be responsible for any damages or claims arising from the Purchaser's actions occurring during construction of the foundation, installation of the truck dumper system or as may be made thereafter by the Purchaser.
10. This Proposal does not include erection, installation, servicing, and training or other onsite supervision of either the Purchaser or an Installation Contractor (see Section 7 herein for Seller recommendations). The Purchaser shall be solely responsible for these items and is cautioned to install and maintain the equipment per the instructions contained in the Operating and Maintenance Manuals ("O&M Manuals). Any unauthorized operations, alterations or modifications shall be at the Purchaser's sole liability. Additionally, training is an integral component to proper installation and maintenance of the systems. Purchaser shall make sure that its personnel and all persons using the equipment are properly trained. Failure to abide by these instructions could cause damage to the equipment, persons and other property.
11. Start-up and/or training assistance is available upon request and then subject to clarification as to number of persons required (1 or 2), total hours per day, total days required and holiday/overtime hourly rate impacts. Travel expenses are also to be reimbursed by Purchaser at cost, plus 15
12. In order to meet the project schedule, the Purchaser shall timely provide all necessary information, including, but not limited to drawings, records, documentation, reviews and specifications concerning this work, to allow design, equipment engineering, fabrication and shipment to proceed in a timely fashion both for this project and to promote efficient coordination of the Seller's personnel and resources for other projects scheduled at the same time.
13. Two (2) sets of Operating and Maintenance Manuals (O&M Manuals) are included in the purchase price. Additional sets may be acquired at an additional price established by the Seller. Final As-Built PDF drawings will be made available by Seller as a part of the O&M Manuals. Shop fabrication details/drawings will not be provided by the Seller, unless other arrangements are made with the Seller.
14. All Seller information and drawings are confidential/proprietary and may only be used by the Purchaser to operate and maintain the Seller's equipment that is the subject of Seller's scope of work in this Proposal. This limitation includes the use of the information for construction at the same facility (whether new or additions to existing equipment) and/or at any other locations. This information may not be used, reverse engineered or transferred to any other party without the express written consent of Seller. Notwithstanding, specific information will not be deemed to be contained within the general exceptions to the disclosure of confidential information merely because it is embraced by more general information to which one (1) or more of these exceptions may apply. Any improvements or advances made to the Seller's equipment during the course of this project shall remain the sole and exclusive property of the Seller.
15. Once the project engineering has been finalized the Seller will provide a list of recommended spare parts. Unless otherwise directed, the Seller will include this information as part of the Operating and Maintenance Manuals. Note that Spare Parts are not included in the Proposal Price, unless specifically added thereto prior to the execution of the Purchase Order/Proposal as a line item. Spare Parts are subject to price changes without notice.
16. Within accepted design parameters and in an effort to assure a quality product, the Seller will endeavor to achieve standardization of components to help avoid the need for multiple spare parts. Failure to maximize standardization shall not result in any liability to the Purchaser.
17. All required assembly bolts and hardware (not including any foundation bolts or other methods of attachment thereto) which are included in the Proposal Price and will be boxed and identified for field use.
18. All items not completely assembled prior to shipment will be match-marked or tagged for ease in final assembly in the field.
19. Shop Assembly is limited to Seller's standard limited shipping protection, assembly practices and shipping limitations between factory and jobsite. Additional arrangements may be made prior to the execution of the Proposal/Purchase Order as a separate line item. If the Purchaser has any special needs these should be conveyed to the Seller in advance of the execution of the Proposal or a Purchase Order.
20. All exposed shafting will be coated with a rust inhibitive compound. This effort will not guarantee that the exposed shafting will be rust free upon delivery to the site or after extended storage.
21. In the event that stainless steel materials are used. The Seller does not provide for special surface preparation of any stainless steel parts, pieces or materials after fabrication and shop assembly.
22. All components and manufactured items will be furnished with either the Seller's or the Seller's Manufacturer's standard paint system. Paint specifications and data sheets can be provided upon the written request of the Purchaser. Any change to these specifications must be added to the Proposal/Purchase Order prior to its execution as a separate line item.
23. The Purchaser shall be responsible for the care, custody and control of the equipment once it is loaded for shipment at the Seller's facility. This includes insuring the equipment, weather protection, storage and security from vandalism and theft. All shipments shall be FCA Incoterms 2010, unless otherwise noted otherwise in the Seller's Proposal.
24. After the equipment is loaded at the Seller's facility and until it is installed and operational, the Purchaser shall be required to maintain the equipment both per the Seller's and/or Seller's Manufacturer's recommendations.
25. Mounting or pre-wiring of any electrical components and all other electrical work is not included in Seller's scope of work or price, unless it is completed or provided prior to shipment. All other mounting, pre-wiring and electrical work shall be provided by the Purchaser at their sole expense. Notwithstanding, the Seller will provide an electrical schematic for the equipment for use by the Purchaser during installation.
26. Seller's pricing does not include special testing or other related inspections beyond the following: (i) normal rotation, alignment and clearance testing of the various equipment pieces and/or sub-assemblies (performed only during shop assembly), (ii) hydraulic cylinder testing per Seller's Test Procedure Sheet, (iii) testing of the hydraulic power unit per Seller's Test Report form (iv) visual weld inspection of shop welds that Seller determines should be subjected to inspection, and (v) testing and inspection as stated in the Seller's Quality Assurance Manual (for fabrication only). Any additional inspection or testing requirements shall be addressed by the parties at the time the Proposal/Purchase Order is executed and then the additional scope and costs added as separate line item.

27. A final delivery date will be established at the time a Purchase Order is issued to Seller and shall be so specified in the Purchase Order. This date may be subject to adjustment due as is otherwise provided herein.
28. If requested by the Purchaser, Seller will hold the purchased equipment at our facility for up to four (4) weeks, after the scheduled shipping date, at no additional cost to the Purchaser. After the passage of this four (4) week period, a storage fee will be invoiced to the Purchaser for yard management and storage of the equipment. The invoice will be calculated as a monthly fee at 0.3% of the equipment selling price. After the passage of the four (4) week period, the Seller is not responsible for any vandalism or weather related damage or deterioration while the equipment is stored, unless such responsibility is accepted in writing by the Seller and the additional cost described herein is added to the Purchase Price.
29. Should the Purchaser require specific and identifiable insurance coverage for any equipment that is in the Seller's possession they shall advise the Seller of this requirement and of the equipment value for these purposes prior to the execution of the Proposal/Purchase Order as a separate line item.
30. Should the Purchaser desire to have the Seller store the equipment beyond the scheduled delivery date (Section 25 herein), the Purchaser acknowledges and agrees that they are still liable to make payment to the Seller as if the equipment had been shipped as originally scheduled.
31. The Seller has made efforts to assure that the Seller's equipment complies with OSHA requirements. Since OSHA conformance is subject to various interpretations by different inspectors and because the condition of the Purchaser's existing equipment and other site conditions are unknown to the Seller, Seller will not accept charges and/or penalties for non-compliance or for any guards, signage or other items that may be required and that are not specifically described in its Proposal. Any special needs or considerations of the Purchaser should be provided to the Seller before a Purchase Order is executed so that the parties have a fair and full understanding of these requirements and so they can be added as a separate line item to define the Seller's scope of work. Notwithstanding the foregoing, the Seller recommends that the Purchaser have the system inspected for OSHA compliance after it is installed and before it is operated to assure compliance with local site rules and OSHA interpretations that may exist in the area.
32. The Seller's equipment has not been designed to meet any sound limitations, requirements or other conditions. If there are any special sound limitations, requirements or conditions, required by the Purchaser or others, the Seller shall be made aware of these before the Proposal/Purchase Order is signed and they shall be added thereto as a separate line item. The specific additional work that is to be performed by the Seller will then be described and the cost thereof added to the Purchase Order. The Seller advises the Purchaser that sound limitations can be affected by the addition of incidental components and proper maintenance and installation. Notwithstanding any obligation the Seller may have herein relating to sound limitations, requirement or conditions; the Purchaser shall remain solely liable and responsible for this work and whether the system meets these overall system requirements.
33. Only the quality assurance that is outlined in the Seller's Proposal and as is provided the Seller's Quality Assurance Manual (for fabrication only) shall be provided by the Seller as a part of their scope of work herein. Purchaser may obtain a copy of the Quality Assurance Manual (fabrication only) by making a written request to the Seller. Should the Purchaser require additional testing or inspection the scope thereof and the additional cost thereof shall be added to the Proposal/Purchase Order as a separate line item.
34. This Seller's Proposal does not include or make a specific Performance Guarantee(s). Any Performance Guarantee required by the Purchaser must be identified and agreed upon by the parties at the time the Proposal/Purchase Order is issued to Seller. The specifics and cost of these additional guarantees will be incorporated therein as a separate line item.
35. Seller's Warranty is outlined in the attached terms and Conditions and is the only warranty provided by the Seller.
36. To the extent that these Limitations, Clarifications and Exceptions require work to be added to the Proposal/Purchase Order as a "separate line item" and the parties fail to do so, the work shall not be considered to be part of the Seller's obligations and/or responsibilities.
37. Should the Purchaser be located outside of the continental United States or should the equipment leave the United States, the Seller limits its responsibility for compliance with the applicable laws or codes impacting the foreign transaction to providing the equipment FCA Intercoms 2010 at its shop and as may otherwise be limited herein. At a minimum, this means that the laws of a foreign country shall not govern this transaction and that the laws of the State of State in which the Seller signs its Proposal or the Purchase Order shall govern and control notwithstanding the existence and applicability of any other choice of law provisions. For purposes of the Proposal/Purchase Order, the agreement includes exclusive venue and jurisdiction in the same venue. No investigation of whether the transaction violates any treaty or other International Agreement has been performed by the Seller. The Purchaser hereby accepts these limitations and conditions and agrees to perform and accept responsibility for all other International requirements imposed by any government or governmental agency as a result of this transaction, including the associated costs thereof. If the Purchaser is a foreign governmental entity, they agree to waive, in writing, any "sovereign immunity" protections they may be afforded pursuant the laws of their country or in the United States as a part of the terms of the Proposal/Purchase Order.
38. Seller's Terms and Conditions are attached hereto and from the basis of the pricing contained within this Proposal. Should additional terms and conditions be required or requested by the Purchaser, the terms and conditions must be both reviewed and approved by the parties prior to a Purchase Order being issued to Seller or the proposal executed. No such additions shall be allowed after the Proposal/Purchase Order is executed without a Change Oder being executed by the parties.

## SELLER'S TERMS AND CONDITIONS

The Purchaser's Purchase Order and/or the Seller's Proposal are subject to the following Terms and Conditions despite any different or additional Terms and Conditions which may be contained in the Purchaser's Purchase Order. If any of the Seller's Clarifications, Limitations or Terms and Conditions are deemed to be unacceptable by the Purchaser, the Purchaser shall immediately notify the Seller and all issues resolved prior to the execution of the Proposal/Purchase Order.

**MODIFICATION** - All previous communications between the parties hereto, or the subject hereof, either verbal or written, are hereby abrogated and withdrawn, unless attached to and made a part of this instrument, and the final acceptance of this Proposal or a Purchase Order, with the specifications and drawings referred to herein, constitutes the whole agreement between the parties hereto. No modifications, changes or waivers of any of the terms, agreements and conditions of the agreement shall be binding upon Purchaser or Seller, unless signed by Purchaser and by an executive of Seller on its behalf.

**EXECUTION & CHANGES MADE PRIOR TO EXECUTION** - Prior to the execution of this Proposal or a Purchase Order by both parties, the Seller reserves the right to withdraw, or change the terms of this Proposal at anytime. A valid and binding contract shall arise hereunder only when this Proposal or Purchase Order shall have been officially signed by Purchaser, and accepted and signed by an authorized executive of Seller on its behalf or by such executive's written acceptance of Purchaser's Purchase Order covering the equipment herein specified, and such acceptance shall be with the mutual understanding that all terms and conditions of this Proposal are a part thereof with the same effect as though signed by both parties named herein and shall prevail over any inconsistent provisions of said Purchase Order.

**LIMITATION OF LIABILITY & DAMAGES** - Notwithstanding any other term or condition, the Seller's aggregate liability herein shall not exceed the Proposal Price, as may be adjusted by Change Order, for all uninsured claims. All insured claims are subject to the terms, coverage's and limits the Seller has in place at the time the services are sold to the Purchaser. **SELLER SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL DAMAGES RESULTING FROM THE USE OF THIS PRODUCT OR CAUSED BY ANY DEFECT, FAILURE OR MALFUNCTION OF ANY PRODUCT WHETHER A CLAIM FOR SUCH DAMAGE IS BASED UPON WARRANTY, CONTRACT, NEGLIGENCE OR OTHERWISE.**

**TAXES** - All sales, use or other taxes on the products purchase that may be imposed upon this transaction by the federal government or any state government, or any subdivision thereof shall be paid by the Purchaser. If the project is tax exempt, the Purchaser shall provide the Tax Exemption Certificate to Seller at the time the Proposal or Purchase Order is signed by the parties.

**PAYMENT** - Payments shall be made by the Purchaser to the Seller pursuant to the terms/schedule contained in the Seller's Proposal. A late payment charge of one and one-half percent (1½ %) per month will be added to any invoiced amounts unpaid when due. If said late payment charge is prohibited by law the charge shall then be at the highest lawful contract rate. Purchaser shall reimburse Seller, upon demand, for any costs of collection incurred by Seller, including reasonable attorneys' fees. If during the period of the contract the financial condition of Purchaser does not justify the terms of payment specified, Seller may demand full or partial payment in advance before proceeding with further work or deliveries. If shipment is delayed beyond the scheduled ship date by Purchaser, payment shall be due in full when Seller was originally scheduled to make the shipment(s). If Purchaser defaults in any payment when due, then the whole contract price shall immediately become due and payable upon demand, or Seller, at its option without prejudice to other lawful remedies, may defer delivery or cancel this contract, and in such case shall not be liable for non-performance of this contract.

**CHANGES** - Any change in material and/or labor will be documented by a written Change Orders. Said Change Order shall be at a price agreed upon by the Parties and then signed by both Parties before the additional work is commenced. The Seller reserves the sole right and discretion not to accept a Change Order or change request made by the Purchaser.

**INSURANCE** - Seller has provided its Proposal and quoted the work based upon its current insurance coverage's, limits and policy terms. Seller will furnish its current certificate of insurance to the Purchaser upon written request. The Certificate may name the Purchaser as additional insured. If a waiver of subrogation is requested, it will be provided to the Purchaser for the Seller's

General Liability Policy only and then subject to the terms as the insurers may require. Seller agrees to provide the Purchaser with thirty (30) days notice of cancellation of any policy provided.

The Purchaser shall provide all necessary insurance to protect and cover the work itself during shipment, the term of project construction and at the project's completion. Seller shall not be obligated to pay any premium or deductibles without prior written acceptance and approval by Seller. Such additional requirements may result in an adjustment to the Contract price via a Change Order or to Seller's Proposal.

**INDEMNIFICATION** - Seller will defend, indemnify, and/or save harmless the Purchaser from the payment of any damages caused by accidents, injuries or hurt that may occur in connection with this work so long as such damages are caused by acts or omissions of Seller, its subcontractors, or its suppliers. The Seller shall not be liable for the acts or omissions of any others, including the Purchaser or for the defense of such claims.

Notwithstanding the foregoing, in any third-party actions involving Seller's employees, its subcontractor's employees or its supplier's employees, Seller agrees that it will defend and indemnify the Purchaser for any negligence acts or omissions up and to an amount equal to the amount that has paid or tendered, or will pay or tender, in workers compensation benefits. Seller, its subcontractors or suppliers specifically seeks to enforce their rights under Kotecki v. Cyclops Welding Corp. or under any other statute, law or ordinance, or common law theory that limits an employer's common law liability to the amount of worker's compensation benefits it has paid or tendered to its employee. Further, the Seller shall not be liable for any damages or claims that may exist or may be brought due provision of services and/or the shipment of any equipment/goods outside of the continental United States

In no event shall the Seller be liable to the Purchaser or any others for the failure of the Purchaser or others to abide by the Operating Instructions and/or Maintenance Manuals or for abuse neglect etc. of the equipment/goods

Purchaser agrees that they shall provide the same indemnification obligations to Seller as the Seller has provided to them herein for the duties and obligations they may have under the Proposal/Purchase Order.

**DESIGN AND ENGINEERING SERVICES** - Only the engineering services that are outlined and defined in the Seller's Proposal shall be the responsibility of the Seller. Generally, these services include the equipment design (excluding foundation), electrical schematic and the hydraulic system. These services do not include the interface of the Seller's equipment with other existing systems/work at the site and/or new systems installed contemporaneously with the Seller's equipment. Notwithstanding the foregoing, the Seller shall have no obligation to furnish these services until the Purchaser has furnished the Seller with the information and instructions it is obligated to provide and as is reasonably necessary for the execution of the Seller's services.

Seller agrees to prepare and then submit to the Purchaser, for approval the Purchaser's approval, all equipment general arrangement drawings (not including and of the Seller's shop drawings), unless Purchaser waives such approval in advance. When the Purchaser's approval is required, it shall consist of review and notation of any concerns, comments or questions in a timely fashion. Failure by the Purchaser to comment or reject drawings within ten (10) days of the Seller's submission or as may be necessary to maintain the project schedule shall be deemed to constitute "Approval by the Purchaser". Drawings and specifications furnished by Seller are and shall remain the sole property of the Seller, regardless of whether or not the work for which they are made is completed, improved or used for any other project.

**PRODUCT DESIGN CHANGES** - Seller reserves the right to make, at any time, such changes in its design, arrangement, specifications or equipment as shall in its judgment constitutes an improvement over former practice. These shall be at the Seller's cost, unless otherwise agreed by the parties or otherwise requested by the Purchaser. Such changes do not include changes requested or made by the Purchaser. Such changes are subject to the execution of a Change Order by the parties.

**LIMITED WARRANTY** - Seller warrants its equipment against defects in materials and workmanship for a period of twelve (12) months after Start-up or eighteen (18) months from the date of shipping, whichever occurs first. Warranty does not include any field labor or equipment for the removal/replacement of defective parts. This warranty is for the "repair and/or replacement of parts only". Notwithstanding, all equipment, parts, and accessories furnished and sold by Seller, but manufactured by others, will be warranted only as allowed by the specific Manufacturer, Supplier or Vendor and not as is provided by the Seller herein.

Without limiting the foregoing, any warranty found applicable to the Seller, shall be the exclusive remedy available to Purchaser and shall be specifically limited to the replacement free of charge, F.O.B. factory of parts failing through defective workmanship or materials and does not apply to any machinery, equipment and accessories which have been subjected to misuse, neglect or accident, or have been altered or tampered with or if corrective work has been done thereon without written consent of Seller. In addition, the warranty does not apply to machinery, equipment and accessories which have been improperly lubricated, has deteriorated due to abrasive material and/or has not been stored properly or per recommendations.

The Purchaser shall notify the Seller, in writing of any part or piece that they believe is defective. This includes providing relevant information to assist the Seller in determining the root cause of the defect (photos, maintenance documents etc.). The Seller shall have a period of twenty (20) days from the date they receive the Purchaser's notice to review the claim, deny the claim, provide a repaired or replaced the part/piece or submit a plan ("plan period") to repair or replace the part for any items that will take more than twenty (20) days to actually repair/replace. After the passage of the twenty (20) days or the plan period the Purchaser may take steps to complete the work on their own and charge the Seller for the reasonable cost thereof. Such damages shall not include liquidated damages, consequential or incidental damages or other similar damages and shall be expressly limited to the reasonable cost to complete the work

**THIS WARRANTY AGREEMENT IS EXPRESSLY IN LIEU OF ANY AND ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WHETHER ARISING FROM STATUTE, COMMON LAW, CUSTOM OR OTHERWISE. THE REMEDY SET FORTH IN THIS DISCLAIMER AND WARRANTY AGREEMENT SHALL BE THE EXCLUSIVE REMEDIES AVAILABLE TO ANY PERSON. NO PERSON HAS ANY AUTHORITY TO BIND THE COMPANY TO ANY REPRESENTATION OR WARRANTY OTHER THAN THIS DISCLAIMER AND WARRANTY AGREEMENT.**

**DEFAULT** - In the event that the Purchaser believes that the Seller is in default of a "material provision" of the Proposal/Purchase Order, the Purchaser shall provide the Seller with a written "notice of default". The Seller shall be given a period of twenty (20) days to cure the default or to provide a plan, including a "plan period" to correct/cure the default in the event that the default cannot be corrected within the twenty (20) day period. After the passage of the twenty (20) days or the plan period the Purchaser may take steps to complete the work on their own and charge the Seller for the reasonable cost thereof. Such damages shall not include liquidated damages, consequential or incidental damages or other similar damages and shall be expressly limited to the reasonable cost to complete the work

**CANCELLATION-TERMINATION BY PURCHASER** - It is understood and expressly agreed that in the event of cancellation/termination for any reason (except the Seller's default) or refusal by the Purchaser to accept the products herein contemplated, Seller shall be entitled to demand receipt from the Purchaser as liquidation charges and not as a penalty, not less than ten percent (10 %) of the purchase price, plus the cost of all material and work furnished or done or purchased by Seller up to the time of cancellation or the Purchaser's refusal to accept the products, plus costs for time spent by the Seller in cancelling the order and/or any cancellation charges incurred by Seller to its Manufacturers, Suppliers or Vendors.

**PURCHASER RETURNED PRODUCTS** - Products may not be returned, except by prior written permission of an authorized official of Seller. All returned products will be subject to handling and restocking charge and any transportation costs.

**SELLER'S LIMITED SAFETY DEVICES** - Seller shall not be required to furnish or be responsible for any safety devices, except those which may be provided for in the equipment design. Purchaser agrees to abide by Section 29 of the Seller's Limitations-Clarification-Exceptions included herewith.

**DELIVERY** - Seller will make reasonable efforts to meet the scheduled shipping dates. Notwithstanding, Seller shall have no liability for consequential, incidental, or other damages due to failures, for any reasons, to meet scheduled shipping dates for reasons beyond the Seller's control. The Seller's failure to meet such scheduled shipping dates shall not be sufficient cause for cancellation, without the liquidation charges.

**TITLE** - Unless expressly provided otherwise in this Proposal or Purchase Order, title to products shall pass from the Seller to the Purchaser only upon the receipt of payment by the Seller.

**RISK OF LOSS** - Risk of Loss shall pass to the Purchaser F.O.B. point of shipment, even in cases wherein freight may be prepaid or allowed to destination by Seller. The Purchaser is instructed to immediately inspect all products when they are delivered to the site. Risk of Loss claims will not be considered by the Seller, unless made in writing to Seller within ten (10) days after receipt of the products accompanied by reference to our bill of lading and factory order numbers. Failure by the Purchaser to make a claim in this ten day (10) period shall be deemed a waiver of the right to make a claim at a later date. Any claims for damages or shortages occurring during transportation must be filed by Purchaser against the carriers, as all equipment is shipped at the Purchaser's risk, unless otherwise provided by the Seller.

**PURCHASER CLAIMS** - No claims for product shortages or other damages will be considered by Seller, unless made in writing by the Purchaser within ten (10) days after receipt of shipment, the date the damages were actually discovered or the date the damages should have been discovered by the Purchaser using reasonable care, whichever occurs first.

**SELLER'S RIGHT TO INSPECT GOODS IN THE PURCHASER'S POSSESSION** - Seller shall have the right, but without any obligation on its part, to enter the Purchaser's premises for the sole purpose of inspection of described equipment while it is in the Purchaser's possession. Such an inspection will be at the Seller's cost, unless the parties agree otherwise. Seller shall give Purchaser sufficient advance notice of its intent to inspect so as not to interfere with or disrupt production.

**DISPUTE RESOLUTION** - In the event a dispute arises between the parties the following dispute resolution procedure shall be exclusively used by the parties: (i) project managers shall attempt to resolve the matter within a time frame of twenty (20) days; (ii) after the passage of twenty (20) days senior officers of the Seller and the Purchaser shall meet at a mutually agreed upon location (the location should be an equal distance for both to travel and must be within the continental United States) within the next ten (10) days; (iii) if the senior officers of the parties cannot resolve the matter within this time frame, the parties agree to proceed to Binding Arbitration per the American Arbitration Associations Rules and Procedures at the location in which the Proposal/Purchase Order is signed by the Seller..

**PLACE OF CONTRACT - LAW - VENUE** - This Proposal, or the resulting Purchase Order, shall be interpreted under the laws and exclusive venue shall reside in the state where the Proposal/Purchase Order is accepted and signed by an authorized executive of the Seller despite any laws to the contrary. Any product shipped to the Purchaser in any other state shall be considered as a shipment made in interstate commerce.