



## Terms & Conditions

1. The following provisions set forth the Terms and Conditions by which MIDWEST ACCESS SOLUTIONS, LLC, an Illinois company with its principal office located at 813 Richards St, Illinois, 60433, together with its affiliated companies, ("Seller"), shall, as the case may be, sell to a buyer ("Buyer") or lease/rent to a lessee ("Lessee") and by which such Buyer/Lessee shall be bound upon any purchase/lease/rental of goods from Seller.
2. These Terms and Conditions, in addition to any terms and conditions set forth in any invoice, proposal, lease agreement, rental agreement and/or order confirmation prepared by Seller, constitute the sole and complete agreement between Seller and Buyer/Lessee covering the sale/lease/rental of goods by Seller to Buyer/Lessee and shall apply as if made and agreed to each and every time Seller and Buyer/Lessee enter into a transaction by which Buyer purchases or Lessee leases/rents goods from Seller. Acceptance of, or acquiescence in, a course of performance rendered under this or any prior agreement shall not be relevant or admissible to interpret or determine the meaning of this agreement even though the accepting or acquiescing party has knowledge of the nature of the performance and an opportunity to make objection. No representations, warranties, understandings or agreements have been made or relied upon in the making of this agreement other than those specifically set forth herein. The terms hereof can only be modified by a writing signed by Seller and Buyer/Lessee or their duly authorized agents. Seller shall not be bound by any additional provisions (including, without limitation, provisions at variance herewith) that may appear in Buyer's purchase order and/or Lessee's lease/rental order, terms and conditions or acknowledgment or in any other communication from Buyer/Lessee to Seller, unless such provisions are expressly agreed to in writing signed by Seller. Neither Seller's acceptance of payment for goods nor any other action or inaction on the part of Seller shall constitute acceptance of any counter-proposal, purchase order, lease order, rental order, terms and conditions, acknowledgment or other communication from Buyer/Lessee to Seller not otherwise accepted in writing by Seller.
3. Seller's shipment or delivery of goods or the making of goods available to Buyer/Lessee, or dispatch of an invoice for the sale of goods to Buyer or lease/rental of goods to Lessee, or actions or commitments taken to facilitate execution and/or completion of the shipment/delivery of goods or dispatch of an invoice, whichever occurs first, constitutes acceptance of Buyer's/Lessee's order, which order becomes non-cancellable upon such shipment, delivery or invoice, unless (i) Seller, at its sole discretion, shall consent or otherwise provide in writing and (ii) Buyer/Lessee shall pay a minimum charge of 15% of the purchase/lease/rental price of the cancelled portion plus the full cost of any special order or non-standard goods manufactured, purchased, rented or leased, or for which commitments have been made, specifically for that portion of the order which has been cancelled, plus any sales expense incurred by Seller, plus all storage, transportation and carrier charges incurred incident to the cancellation.
4. All payments on invoices are to be made in United States currency (unless another currency is agreed to in writing by Seller in advance of shipment/delivery), upon the terms and conditions set forth in such invoices. Unless otherwise stated on a Seller invoice or other separate agreement signed by Seller, Seller's standard payment terms are "Net 30 Days." Seller reserves the right to restrict or alter the terms of payment or to require payment prior to time of shipment/delivery if in Seller's opinion Buyer's/Lessee's financial condition or other circumstances do not warrant shipment on the terms originally specified in Buyer's/Lessee's order or Seller's order confirmation. If Buyer/Lessee defaults on payment under the terms agreed with Seller or otherwise, Seller shall have the right to seek payment in full by whatever means necessary or appropriate. Buyer/Lessee agrees to pay reasonable costs of collection, including, without limitation, agency fees and attorneys' fees.
5. Unless specified by Seller to the contrary in writing, all goods sold by Seller to Buyer shall be delivered F.O.B. Seller's shipping point where the transfer of custody of such goods from Seller to Buyer shall occur ("Point of Delivery"). Title and risk of loss shall pass to Buyer at the Point of Delivery irrespective of whether Seller has sold the goods "freight prepaid" and notwithstanding any right of Buyer to cancel or return goods. In the event Seller is forced to delay delivery of goods to the initial carrier due to any action or request of Buyer, risk of loss or damage shall have passed upon the date Seller would have otherwise delivered the goods to the Point of Delivery; Buyer agrees to pay all reasonable storage and insurance charges

specified by Seller. In the event goods are returned pursuant to paragraph 7, risk of loss or damage shall remain upon Buyer until the goods are delivered to Seller's original Point of Delivery and accepted by Seller. Buyer agrees to indemnify and hold harmless Seller from any loss of or damage to the goods or consequence thereof sustained while the risk of such loss or damage remains with Buyer.

Unless specified by Seller to the contrary in writing, all goods leased/rented to Lessee by Seller shall be delivered F.O.B. Seller's shipping point where the transfer of possession of such goods from Seller to Lessee shall occur ("Point of Delivery"). Risk of loss and damage (including damage caused by goods to other property) shall pass to Lessee at the Point of Delivery irrespective of whether Seller has leased/rented the goods "freight prepaid" and notwithstanding any right of Lessee to cancel or return goods. In the event Seller is forced to delay delivery of goods to the initial carrier due to any action or request of Lessee, risk of loss or damage shall have passed upon the date Seller would have otherwise delivered the goods to the Point of Delivery; Lessee agrees to pay all reasonable storage and insurance charges specified by Seller. In the event goods are returned pursuant to paragraph 7, risk of loss or damage shall remain upon Lessee until the goods are delivered to Seller's original Point of Delivery and accepted by Seller. Lessee agrees to indemnify and hold harmless Seller from any loss of or damage to the goods or consequence thereof sustained while the risk of such loss or damage remains with Buyer.

6. Delivery and shipment dates are estimated dates only. Seller shall not be liable, directly or indirectly, for delays in performance or non-performance due to delays of carriers or delays caused by labor difficulties, shortages, strikes, stoppages, fires, accidents, failure or delay in obtaining materials or manufacturing facilities, acts of any government affecting Seller in any way, bad weather, causes beyond Seller's control, acts of God, flood, lightning, war, military operation, terrorist attack or any other force majeure event or contingency that was not foreseen at the time when Buyer/Lessee placed its order for goods with Seller. Seller shall not be liable for any damages or penalties whatsoever, whether direct, indirect, special, consequential, contingent, exemplary, punitive or otherwise, resulting from Seller's failure to perform or delay in performing as a result of the foregoing. If Seller is unable for any reason to fill Buyer's/Lessee's entire order for goods, then Seller may allocate its supply among any or all of Seller's customers on such basis as Seller deems convenient and practical, without liability for any failure of performance which may result from such determination. Seller may decline to deliver goods or stop goods in transit whenever for any reason doubt as to Buyer's/Lessee's financial responsibility develops or under the circumstances specified in paragraph 4 hereof.

7. Buyer/Lessee waives all claims (including, without limitation, claims for shortages, defects or damages), regardless of the nature of said claim, unless it notifies Seller in writing within two (2) business days after its receipt of any delivered goods, or should there be then-concealed shortages, defects or damages, within ten (10) business days after its receipt of such goods. Should there be shortages, defects or damages observable at the time of delivery, Buyer/Lessee must note such shortages, defects or damages on freight bills signed upon such delivery and also obtain the signature of the carrier on the freight bills at such time. If Buyer/Lessee shall fail to so notify Seller within the above referenced applicable period, then such goods shall conclusively be deemed to conform to their respective specifications and to have been irrevocably accepted by Buyer/Lessee. In the event that the condition, weight or quantity of any goods indicated on the certified scale or on the carrier's freight bills signed by the carrier upon loading of any goods by Seller at the Point of Delivery differs from that indicated on the certified scale tickets or on the carrier's freight bills signed by the carrier upon physical delivery to Buyer/Lessee, Buyer/Lessee shall file such claims for damages with the carrier as may be appropriate.

**BUYER'S/LESSEE'S FAILURE TO COMMENCE ANY CAUSE OF ACTION RELATED TO ANY GOODS SOLD TO BUYER OR LEASED/RENTED TO LESSEE OR OTHERWISE ARISING UNDER THESE TERMS AND CONDITIONS OR UNDERLYING WRITTEN AGREEMENTS, IF ANY, BETWEEN THE PARTIES WITHIN ONE (1) YEAR AFTER THE DATE OF PHYSICAL DELIVERY OF SUCH GOODS SHALL CONSTITUTE A WAIVER BY BUYER/LESSEE OF ANY OTHERWISE APPLICABLE STATUTE OF LIMITATIONS AND FOREVER BAR ALL RIGHTS TO COMMENCE ANY CAUSE OF ACTION WITH RESPECT THERETO.**

Defective or damaged goods may not be returned without the express written consent of Seller. Goods so returned will be, at Seller's option, replaced or credited, but Seller shall not be liable for any loss, damage or expense directly or indirectly arising from the handling or use of goods returned by Buyer/Lessee. Seller reserves the right to deduct from any credit due Buyer/Lessee for returned goods any extraordinary costs or expenses incurred by Seller in the handling, use, storage or transporting of goods returned by Buyer/Lessee. The provisions of this paragraph shall be the exclusive and sole remedy of Buyer/Lessee with respect to defective or damaged goods, and Buyer/Lessee shall have no further rights other than what is specified herein.

Conforming goods may not be returned for credit except with Seller's prior written agreement, and then only in strict compliance with Seller's instructions. Any returned goods may be subject to a restocking fee to be determined by Seller.

Under no circumstances will Seller accept for return any special order or non-standard goods or any goods that are in a non-saleable condition.

Blanket (standing) Orders may be accepted by Seller on behalf of Buyer/Lessee under which goods will be shipped, from time to time, pursuant to an agreed upon schedule. Once a Blanket Order has been accepted, however, Buyer/Lessee will not be permitted to cancel or change such Blanket Order without Seller's prior written agreement. Subject to paragraph 4, all Blanket Orders will be invoiced according to the shipping schedule in place at the time of the Blanket Order. Upon request, Seller may furnish such technical advice as it has available in reference to the use of goods by Buyer/Lessee, it being expressly understood, however, that all such technical advice is given gratis and Seller assumes no obligation or liability for the advice given or results obtained, all such advice being given to and accepted by Buyer/Lessee at Buyer's/Lessee's risk.

8. Buyer/Lessee acknowledges that the goods sold to Buyer or leased/rented to Lessee may contain organic material that may pose an environmental hazard under various laws and regulations. Buyer/Lessee agrees to familiarize itself (without reliance on Seller) with any hazard of such goods and their applications and the containers in which the goods are shipped. Buyer/Lessee agrees to inform and train its employees and customers as to such hazards. Buyer/Lessee shall handle, store, dispose and transport all goods in an environmentally responsible manner and in compliance with all applicable laws and regulations. Buyer/Lessee shall notify Seller promptly of any claims relating to the handling, storing, disposition, transport or use of goods.

9. GOODS SOLD TO BUYER ARE PURCHASED BY BUYER "AS IS" AND "WITH ALL FAULTS." GOODS LEASED/RENTED TO LESSEE ARE LEASED/RENTED "AS IS" AND "WITH ALL FAULTS."

LESSEE AGREES THAT ALL GOODS LEASED/RENTED TO LESSEE/BUYER BY SELLER REMAIN THE PROPERTY OF SELLER. LESSEE IS RESPONSIBLE FOR AND ASSUMES ALL LIABILITY FOR ANY AND ALL DAMAGE, LOSS AND/OR DESTRUCTION OF GOODS AND/OR RELATED ACCESSORIES PROVIDED BY SELLER WHILE SUCH GOODS ARE IN THE LESSEE'S (OR ITS SUBCONTRACTORS'/AGENTS') POSSESSION, CUSTODY OR CONTROL EXCEPT FOR DAMAGES CAUSE BY ORDINARY WEAR AND TEAR. LESSEE AGREES THAT PRIOR TO THE USE OF ANY LEASED/RENTED GOODS TO FURNISH TO SELLER UPON REQUEST A CERTIFICATE OF INSURANCE EVIDENCING COVERAGE FOR LESSEE FOR "ALL RISK" PHYSICAL DAMAGE AND SUCH INSURANCE SHALL BE ENDORSED, WITHOUT LIMITATION, CONDITION OR EXCLUSION TO INCLUDE SELLER AS A LOSS PAYEE.

SELLER NEITHER GIVES NOR MAKES (AND EXPRESSLY DISCLAIMS) ANY WARRANTY, EXPRESS OR IMPLIED, WRITTEN OR ORAL OR ALLEGEDLY ARISING FROM ANY TRADE USAGE OR ANY COURSE OF DEALING, AS TO THE DESCRIPTION, QUALITY, MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, PRODUCTIVENESS, OR ANY OTHER MATTER, OF ANY GOODS WHICH SELLER SHALL SUPPLY. BUYER/LESSEE ACKNOWLEDGES THAT IT IS NOT RELYING ON SELLER'S SKILL OR JUDGMENT TO SELECT OR FURNISH GOODS SUITABLE FOR ANY PARTICULAR PURPOSE. SELLER SHALL BE IN NO WAY RESPONSIBLE FOR THE PROPER USE, STORAGE, TRANSPORTATION, HANDLING, DISPOSAL AND SERVICE OF THE GOODS. BUYER/LESSEE ASSUMES ALL RISKS PERTAINING TO THE USE AND THE RESULTS OBTAINED THEREFROM OF ALL GOODS WHICH SELLER MAY SUPPLY. SELLER'S TOTAL LIABILITY ARISING FROM ANY SALE/LEASE/RENTAL OF GOODS TO BUYER/LESSEE FOR ANY CLAIMS OF ANY NATURE, WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), INDEMNITY, CONTRIBUTION, STRICT LIABILITY OR OTHERWISE, SHALL NOT EXCEED THE PURCHASE/LEASE/RENTAL PRICE OF THE PORTION OF THE GOODS IN RESPECT OF WHICH SUCH CLAIMS ARE MADE. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY LOST PROFITS OR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, CONTINGENT, EXEMPLARY OR PUNITIVE DAMAGES INCURRED BY BUYER/LESSEE, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

10. BUYER/LESSEE AGREES TO INDEMNIFY, DEFEND AND HOLD SELLER AND ITS AFFILIATES, AGENTS, REPRESENTATIVES, OFFICERS, DIRECTORS, EMPLOYEES AND INSURED HARMLESS FROM AND AGAINST ANY AND ALL BREACHES OF AND DEFAULTS UNDER THESE TERMS AND CONDITIONS BY BUYER/LESSEE AND ANY AND ALL LOSS, DAMAGE, INJURY, LIABILITY AND CLAIMS THEREOF FOR INJURY OR DEATH TO ANY PERSON (INCLUDING, WITHOUT LIMITATION, BUYER'S/LESSEE'S EMPLOYEES, CUSTOMERS, REPRESENTATIVES AND AGENTS) OR FOR LOSS OF OR DAMAGE TO PROPERTY ARISING OUT OF, CONNECTED WITH OR RELATING IN ANY WAY TO BUYER'S/LESSEE'S PERFORMANCE OR ACTIONS FOLLOWING SALE/LEASE/RENTAL OF THE GOODS FURNISHED BY SELLER TO BUYER/LESSEE (WHETHER IN THEIR ORIGINAL FORM AS SHIPPED BY SELLER OR AS A PRODUCT MADE FROM OR INCORPORATING SUCH GOODS), TOGETHER WITH ALL RELATED EXPENSES AND COSTS (INCLUDING, WITHOUT LIMITATION,

COSTS AND FEES OF LEGAL COUNSEL AND ALL OTHER COSTS OF DEFENDING ANY ACTION) (COLLECTIVELY, "CLAIMS"). THE FOREGOING SHALL APPLY WHETHER OR NOT SELLER WAS OR IS CLAIMED TO BE PASSIVELY, CONCURRENTLY OR ACTIVELY NEGLIGENT, AND REGARDLESS OF WHETHER LIABILITY WITHOUT FAULT IS IMPOSED OR SOUGHT TO BE IMPOSED ON SELLER, AND SHALL SURVIVE THE TERMINATION OR EXPIRATION OF THESE TERMS AND CONDITIONS AND THE COMPLETION OR CANCELLATION OF THE APPLICABLE TRANSACTION BETWEEN BUYER/LESSEE AND SELLER.

11. This agreement and any agreements related to the sale, lease or rental of goods shall be governed by and construed in accordance with the laws of the State of Illinois without regard to its principles of conflicts of law. With respect to any disputes pertaining to these terms and conditions or the goods sold/leased/rented by Seller to Buyer/Lessee, the parties consent to the jurisdiction of the federal and state courts whose venue includes Will County, Illinois.

12. Seller's failure to strictly enforce any term or condition contained herein shall not constitute a waiver of Seller's right to strictly enforce such terms or conditions at any time in the future. The invalidity or unenforceability of any provision hereof shall not affect or impair any other provisions hereof.