1. ACCEPTANCE. If this purchase order is an offer, Seller's acceptance of this purchase order shall be on, and expressly limited to, these terms and conditions. If this purchase order is an acceptance of an offer, acceptance is expressly made conditional on Seller’s assent to these terms and conditions. Seller’s shipment of any materials and/or goods (collectively, “Goods”) covered hereunder shall constitute acceptance of and assent to these terms and conditions. Seller shall not ship any Goods covered hereby under reservation. None of Seller’s terms and conditions will be incorporated hereunder with respect to any delivery of Goods, any claim against BNSF hereunder or any other claim hereunder. BNSF's acceptance of this purchase order shall apply. In the event of a conflict between the terms and conditions contained in this order and a written contract, if any, executed by both the parties, the written contract shall control.

2. TERMINATION AT BNSF’S OPTION. This purchase order may be terminated by BNSF upon 30 days written notice.

3. SHIPPING AND ROUTING INSTRUCTIONS. All freight billing covering material shipped hereunder must be shipped by the most efficient route to arrive at destination within the time period specified. Shipper shall be responsible for all applicable taxes and customs brokerage fees for shipments originating outside of the United States and Canada.

4. WEIGHT LABELING REQUIREMENTS. All Goods shall be suitably packed and properly marked in accordance with applicable laws and regulations to ensure the safety of the Goods and for the lowest transportation costs and to meet carrier’s requirements. Shipments of Goods weighing 35 pounds and over shall be clearly marked.

5. DELIVERY. Shipment must be made so as to reach the destination by the date required on the face of the purchase order and not before or after invoice or, at BNSF’s discretion, be held until date of specified delivery before processing for payment. BNSF reserves the right to change delivery schedules and directs Seller to consider BNSF’s best interest, where it might provide a lower rate but not delay the shipment. Shipper is responsible for all applicable taxes and customs brokerage fees for shipments originating outside of the United States and Canada.

6. RISK OF LOSS. Risk of loss of Goods purchased hereunder shall be borne by Seller until the Goods are delivered at the F.O.B. point specified in this purchase order or, if no F.O.B. point is specifically herein specified, until the Goods are accepted by BNSF’s agent. Shipment must be made so as to reach destination by the date required on the face of this purchase order and not before or after invoice or, at BNSF’s discretion, be held until date of specified delivery before processing for payment. BNSF reserves the right to change delivery schedules and directs Seller to consider BNSF’s best interest, where it might provide a lower rate but not delay the shipment. Shipper is responsible for all applicable taxes and customs brokerage fees for shipments originating outside of the United States and Canada.

7. INVOICING AND CASH DISCOUNTS. All invoices must be submitted to BNSF electronically hereunder and such invoices are subject to BNSF’s acceptance of the purchase order exactly. For additional invoicing guidelines Seller may refer to BNSF’s website at www.bnsf.com. Invoicing and drainage charges are not permitted. Subcontractor invoices are not permitted. BNSF shall not receive any portion of any amount due under this purchase order as a result of placement or acceptance of invoices. BNSF reserves the right to cancel this purchase order for failure to comply with any one or more of the specifications and terms and conditions set forth in this purchase order. At BNSF’s discretion, BNSF may debit Seller for failure to comply with any one or more of the specifications and terms and conditions set forth in this purchase order. BNSF may debit Seller for transportation costs incurred.

8. PRICE OFFSET. Any price decrease announced by Seller for the same or similar goods or services shall automatically reduce the price of the Goods or services purchased hereunder by a corresponding amount. Each purchase order or contract between Seller and BNSF shall specifically include clauses pertaining to price offset and shall be in writing and signed by BNSF or its duly authorized agent. Usage of trade, course of dealing, and usage of words in the purchase order or any acceptance of any written agreement between BNSF and Seller, and by law or by contract. NO EVENT SHALL BNSF OR ITS AFFILIATES BE LIABLE FOR ANY AMOUNT EXCEEDING THE PURCHASE PRICE SPECIFIED IN THIS PURCHASE ORDER OR ANY AMOUNT OF ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION, ATTORNEYS’ FEES, ARISING FROM (A) ACTUAL OR ALLEGED INFRINGEMENT OF ANY PATENT, TRADE SECRET, TRADE NAME, OR OTHER PROPRIETARY RIGHT BY ANY OF THE GOODS OR SERVICES DELIVERED HEREUNDER OR THEIR USE; (B) CLAIMS OF INJURY OR DEATH TO PERSON OR DAMAGE TO PROPERTY CAUSED OR ALLEGED TO HAVE BEEN CAUSED BY DEFECTIVE GOODS OR SERVICES DELIVERED HEREUNDER AND APPLICABLE LAWS; OR ANY OF ITS AFFILIATES THAT ARISE OUT OF ANY PERSON CAUSED BY, OR ALLEGED TO HAVE BEEN CAUSED BY, DEFECTIVE GOODS FURNISHED HEREUNDER OR BY ANY ACT OR OMISSION, NEGLIGENCE OR OTHERWISE, OF ANY PERSON, OR BROKER, SUBCONTRACTOR OR ANY OTHER ENTITY OR ANY PERSON EMPLOYED BY SELLER, WORKMEN, SERVANTS, OR AGENTS; (C) LABOR AND MATERIAL LIENS ARISING OUT OF OR ON ACCOUNT OF THE GOODS PURCHASED HEREUNDER OR THEIR USE OR ANY OF THE GOODS, SERVICES, WORK, OR SERVICES, OR ANY OTHER CONSEQUENCE OF ANY DISCUSSION. gratuitement. Sous réserve de l’acceptation du vendeur, les termes de cette commande n’auront pas de valeur pour BNSF ou toute autre partie concernée.

9. ASSIGNMENT AND SUBCONTRACTING. Seller shall not delegate any duty or assign this purchase order in whole or in part or make any subcontract for furnishing Goods or services hereunder or assign any claim arising or sum payable hereunder without the prior written consent of BNSF. Any attempted delegation, subcontract or assignment shall be void.

10. WARRANTIES. Seller warrants that all Goods and services when delivered pursuant hereto are free from any claim of infringement of third party intellectual property claims, (b) will be merchantable and free from defects in workmanship or material, and (c) will comply with all applicable specifications, drawings or samples. Acceptance of the purchase order, Seller warrants that the Goods shall not materially fail to operate according to their specifications within the non-conformance period. Such Goods are hereby warranted to BNSF and any and all other product warranties and representations set forth with respect to such Goods and services and shall supersede any disclaimer of BNSF's notice attempting to limit such warranties. Seller and BNSF agree to utilize digital signatures for the execution of this purchase order. If any portion of the Goods purchased hereunder are incomplete or defective, such Goods shall have the right (a) to return such Goods to Seller, at Seller's risk, and Seller shall pay BNSF for all reasonable handling, and transportation charges in addition to any other costs payable by BNSF hereunder and apply them to the payment of any obligation of Seller to BNSF or any other part arising in any manner out of this purchase order.

11. REMEDIES. If any portion of the Goods purchased hereunder are incomplete or defective, BNSF shall be entitled to rescind the purchase order and return the Goods to Seller. Seller shall be responsible for all reasonable handling, and transportation charges in addition to any other costs payable by BNSF hereunder and apply them to the payment of any obligation of Seller to BNSF or any other part arising in any manner out of this purchase order. IN NO EVENT SHALL BNSF OR ITS AFFILIATES BE LIABLE FOR ANY AMOUNT EXCEEDING THE PURCHASE PRICE SPECIFIED IN THIS PURCHASE ORDER OR ANY AMOUNT OF ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION, ATTORNEYS’ FEES, ARISING FROM (A) ACTUAL OR ALLEGED INFRINGEMENT OF ANY PATENT, TRADE SECRET, TRADE NAME, OR OTHER PROPRIETARY RIGHT BY ANY OF THE GOODS OR SERVICES DELIVERED HEREUNDER OR THEIR USE; (B) CLAIMS OF INJURY OR DEATH TO PERSON OR DAMAGE TO PROPERTY CAUSED OR ALLEGED TO HAVE BEEN CAUSED BY DEFECTIVE GOODS OR SERVICES DELIVERED HEREUNDER AND APPLICABLE LAWS; OR ANY OF ITS AFFILIATES THAT ARISE OUT OF ANY PERSON CAUSED BY, OR ALLEGED TO HAVE BEEN CAUSED BY, DEFECTIVE GOODS FURNISHED HEREUNDER OR BY ANY ACT OR OMISSION, NEGLIGENCE OR OTHERWISE, OF ANY PERSON, OR BROKER, SUBCONTRACTOR OR ANY OTHER ENTITY OR ANY PERSON EMPLOYED BY SELLER, WORKMEN, SERVANTS, OR AGENTS; (C) LABOR AND MATERIAL LIENS ARISING OUT OF OR ON ACCOUNT OF THE GOODS PURCHASED HEREUNDER OR THEIR USE OR ANY OF THE GOODS, SERVICES, WORK, OR SERVICES, OR ANY OTHER CONSEQUENCE OF ANY DISCUSSION.