

TPC Wire & Cable Corp.

STANDARD TERMS & CONDITIONS OF SALE

1. PLEASE READ THIS AGREEMENT CAREFULLY. IT CONTAINS THE ONLY TERMS AND CONDITIONS OF SALE THAT APPLY TO THE PURCHASE OF PRODUCTS FROM TPC WIRE & CABLE CORP. ("COMPANY"). THESE TERMS PREVAIL OVER ANY TERMS SET FORTH IN CUSTOMER'S PURCHASE ORDER OR SIMILAR COMMUNICATION REGARDLESS WHETHER OR WHEN CUSTOMER HAS SUBMITTED ANY SUCH PURCHASE ORDER OR SIMILAR COMMUNICATION, AND ANY SUCH TERMS ARE OBJECTED TO AND SHALL NOT BE BINDING ON THE COMPANY. BY PLACING AN ORDER FOR PRODUCTS FROM THE COMPANY, OR BY ACCEPTING DELIVERY OF THE PRODUCTS DESCRIBED ON THE APPLICABLE PACKING SLIP, BILL OF LADING AND/OR INVOICE RECEIVED WITH THE PRODUCTS, CUSTOMER AGREES TO BE BOUND BY AND ACCEPT THESE TERMS AND CONDITIONS OF SALE. These Terms and Conditions and each accompanying confirmation of sale and/or invoice from the Company comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms and Conditions may only be amended or modified in a writing, which specifically states that it amends these Terms and Conditions and is signed by an authorized representative of each party. Notwithstanding anything herein to the contrary, if a written contract signed by an authorized representative of each party is in existence covering the sale of the goods or services covered hereby, the terms and conditions of said contract shall prevail to the extent they are inconsistent with these Terms and Conditions of Sale.

2. AVAILABILITY AND PRICING: Catalog product listings, specifications, availability, and pricing are subject to change without notice. Orders are not binding upon the Company until accepted by an authorized representative of the Company. The Company reserves the right to refuse service, terminate accounts or cancel orders in its sole discretion. The Company may also change or modify these Terms and Conditions of Sale from time to time without notice. For scheduled deliveries over 60 calendar days, the Company reserves the right to charge the Customer the price of the products at shipment if higher. The Company's quoted prices do not reflect the cost of accommodating Customer's purchases via credit card or any third party procurement services, software or e-commerce providers and the Company may accordingly pass through the additional charges incurred as a result of Customer's use of such purchasing methods. Prices shown do not include any Federal, State or local taxes or any present or future sales, use, excise, value-added or similar taxes. Where applicable, such taxes shall be billed as a separate item and paid by Customer. Orders are accepted with the understanding that such taxes will be added, as required by law. The Company charges local sales tax unless Customer has a valid sales tax exemption certificate on file with the Company. Orders under \$100.00 U.S. Dollars and \$150.00 Canadian Dollars will be subject to a \$25.00 U.S. Dollars and \$50.00 Canadian Dollars service charge respectively.

3. PAYMENT TERMS: Standard terms for Customers that are registered businesses and meet the Company's credit criteria are Net 30 days from invoice date unless otherwise agreed by the Company in writing. All payments are due within 30 days of the invoice date, without any deductions or setoffs. Customers shall not withhold payment of any amounts due and payable by reason of any deduction or set-off of any claim or dispute with Company, whether relating to Company's breach, bankruptcy or otherwise. The Company shall have the right of set-off and deduction for any sums owed. If Customer fails to pay within payment terms, the Company may defer shipments until such payment is made and may, at its option, cancel all or any part of unshipped orders. A late payment charge of 2% per month shall be charged on all past due accounts and Customer shall pay the Company all costs incurred by it in collecting any past due account from Customer, including all court costs and attorney's fees, provided, however, if the foregoing charges exceed that rate which may be lawfully charged under applicable law, then such charges shall be calculated so as not to exceed the lawful rate. The Company reserves the right to add a \$35.00 service charge on all returned checks. Credits granted by the Company must be used within one year. Credits not taken within one year are subject to cancellation, and the Company shall have no further liability. Any remedies described in these Terms and Conditions shall not be exclusive, and shall be in addition to any other remedies available at law or in equity.

4. OPEN ACCOUNTS/CUSTOMER'S FINANCIAL CONDITION: A Customer that desires to open an account must furnish such information as requested by the Company. The Company reserves the right in its absolute discretion to grant, refuse or discontinue any extensions of credit, or reduce or suspend any credit limit at any time. Company also reserves the right to cancel any order, require payment in advance, or require the Customer to provide adequate assurance of performance, without any liability by the Company, in the event of the Customer's insolvency, filing of a petition in bankruptcy, the appointment of a receiver or trustee for Customer, or the execution by Customer of an assignment for the benefit of creditors.

5. CREDIT CARDS: We accept credit and procurement cards from American Express®, MasterCard®, VISA® and Government Purchase Cards. A surcharge may be assessed for Customers who routinely pay past due invoices by credit card.

6. RETURNS: Permission for return of products must first be secured from TPC in writing before return of any product. Products returned without an RMA form will not be accepted. All RMA authorizations are conditional and are not final until the product is received and inspect by the TPC. Returns may be subject to a minimum restocking charge of 10%. Special made-to-order products and custom cuts to stock products, as identified on the order acknowledgement, are non-cancellable/non-returnable. All claims for shortages must be made within 72 hours of receipt.

7. INTERNATIONAL ORDERS: Export orders requiring special handling, packaging, freight costs, and documentation are subject to additional charges; please contact your Company Sales Representative for further details. Customer acknowledges that some products may not be available for shipment outside the U.S.

8. EXPORT CONTROLS: Products purchased or received under these Terms and Conditions of Sale are subject to export control laws, restrictions, regulations and orders of the United States. Customer agrees to comply with all applicable export laws, restrictions and regulations of the United States or foreign agencies or authorities, and shall not export, or transfer for the purpose of re-export, any product to any prohibited or embargoed country

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or to any denied, blocked, or designated person or entity as mentioned in any such United States or foreign law or regulation. Customer represents and warrants that it is not on the Denied Persons, Specially Designated Nationals or Debarred Persons List and is not otherwise prohibited by law from purchasing the products or services hereunder. Customer shall be responsible to obtain any license to export, re-export or import as may be required.

9. DELIVERY & DAMAGES: All U.S. domestic shipments are FOB Shipping Point in accordance with Incoterms 2000 and in all cases title shall pass upon delivery to the carrier at point of shipment and thereafter all risk of loss or damage shall be upon Customer (without regard to which party pays for the shipping costs). If Company is notified by Customer of a loss or damage during shipment, the Company will gladly lend its assistance to Customer in securing an adjustment from the carrier. Company and carrier handling charges apply and are not included in the price of products. In-stock catalog products are normally shipped within 24 hours after Company's receipt of order from the Company's warehouse. Next Day Air Service is available upon Customer request, otherwise Company shall choose the method of shipment. Delivery dates provided in advance are estimates only and shall not represent fixed or guaranteed delivery dates. Export shipments are on the basis of FOB Company Warehouse in accordance with Incoterms 2000, with the Company charging separately for all costs, including brokerage fees, duties, taxes, insurance, and freight to bring the products to the named place of destination.

10. TOLERANCE ON SHIPPING LENGTHS AND QUANTITY: All TPC products will have shipping tolerances as detailed below, unless otherwise agreed upon prior to receipt of an order:

- Authorized Stock Products -0 + 10%
- Made-to-Order Products -10 + 10%

This acknowledgement constitutes the entire agreement between TPC and the Buyer and supersedes any previous agreements.

11. WARRANTY & LIMITATION OF LIABILITY: There are no express or implied warranties for value added services, services bundled with the products, or other services provided by the Company. COPIES OF THE MANUFACTURERS' WARRANTIES ARE AVAILABLE PRIOR TO THE PURCHASE OF PRODUCTS BY CONTACTING THE COMPANY. THE COMPANY MAKES NO OTHER WARRANTIES WHATSOEVER, WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE, AND ANY AND ALL OTHER WARRANTIES, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED. CUSTOMER IS RESPONSIBLE FOR INSTALLATION AND USE IN ACCORDANCE WITH MANUFACTURERS' INSTRUCTIONS AND THE COMPANY SHALL NOT BE RESPONSIBLE FOR CUSTOMER'S IMPROPER SELECTION OF A PRODUCT FOR A PARTICULAR APPLICATION OR OTHERWISE. NO WARRANTY WILL APPLY IF ITS PRODUCTS ARE IN ANY WAY ALTERED OR MODIFIED AFTER DELIVERY BY THE COMPANY OR DEFECT OR FAILURE ARISES BECAUSE CUSTOMER FAILED TO FOLLOW COMPANY'S INSTRUCTIONS AS TO THE STORAGE, INSTALLATION, COMMISSIONING, USE OR MAINTENANCE OF THE GOODS. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN OR IN ANY OTHER AGREEMENT AMONG THE PARTIES, (A) THE COMPANY'S LIABILITY ON ANY CLAIM ARISING OUT OF THIS AGREEMENT OR FROM THE PERFORMANCE OR BREACH OF THIS AGREEMENT OR CONNECTED IN ANY MANNER WITH THE SUPPLYING OF ANY PRODUCTS OR SERVICES HEREUNDER, OR THE SALE, RESALE, OPERATION OR USE ALLOCABLE TO SUCH PRODUCTS OR PART THEREOF INVOLVED IN THE CLAIM, WHETHER BASED ON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE AND FOR PROPERTY DAMAGE AND DEATH) OR OTHER GROUNDS, SHALL NOT IN ANY EVENT EXCEED THE PRICE ALLOCABLE TO SUCH PRODUCTS OR PART THEREOF INVOLVED IN THE CLAIM, REGARDLESS OF CAUSE OR FAULT., AND (B) IN NO EVENT SHALL THE COMPANY BE RESPONSIBLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, INDIRECT PUNITIVE OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, REVENUES, SALES, DATA, BUSINESS, GOODWILL OR USE, OR DIMINUTION IN VALUE, EVEN IF THE COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE OR IF SUCH LOSS OR DAMAGE COULD HAVE BEEN REASONABLY FORESEEN BY COMPANY, IN EACH CASE, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. THE PARTIES AGREE THAT WITHOUT THIS LIMITATION OF LIABILITY THE COMPANY WOULD NOT HAVE AGREED TO THE PRICE OR TERMS AND CONDITIONS OF THIS AGREEMENT. THE LIMITATION OF LIABILITY SET FORTH HEREIN APPLIES BOTH TO PRODUCTS AND SERVICES PURCHASED OR OTHERWISE PROVIDED HEREUNDER. Any cause of action against the Company must be instituted within 1 year from the date of purchase or provision of the products or services. If the Company provides Customer with advice, training, applications support, or other assistance which concern any products supplied hereunder, or any equipment, system or the like in which the product may be installed, the Company's giving of such advice or assistance will not subject the Company to any liability, whether based on contract, warranty, tort (including negligence) or other grounds. PRODUCTS MANUFACTURED BY A THIRD PARTY MAY CONSTITUTE, CONTAIN, BE CONTAINED IN, INCORPORATED INTO, ATTACHED TO OR PACKAGED TOGETHER WITH, THE GOODS SOLD PURSUANT TO THESE TERMS AND CONDITIONS, AND SUCH THIRD PARTY PRODUCTS ARE NOT COVERED BY THE COMPANY'S MANUFACTURER'S WARRANTIES OR ANY EXPRESS OR IMPLIED WARRANTY BY THE COMPANY.

12. CATALOG DESCRIPTIONS: All specifications, drawings, illustrations, descriptions and particulars of weights, dimensions or capacity and other details including, without limitation, statements regarding compliance with legislation or regulation (together "Descriptions") wherever they appear (including, without limitation, in this catalog, on web sites, on dispatch notes, invoices or packaging) are intended to give a general idea of the products, but will not form part of this Agreement. The Company accepts no liability in contract or tort, or under statute, regulation or otherwise for any error in or omission from such Descriptions whether caused by the Company's negligence or otherwise. The Company may make changes to the products as part of a program of improvement or to comply with legislation. The information contained on our website supersedes the information contained in any printed catalog or other publication.

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13. INTELLECTUAL PROPERTY RIGHTS: The products offered for sale by the Company may be subject to patent, trademark, copyright, design and other rights of third parties. The Company shall in no event whatsoever be responsible or liable in the event of any claim of infringement of any such rights. The Company's entire catalog(s) and website(s), including without limitation, the content of the catalog(s) and website(s) is copyrighted as a collective work under United States of America laws and applicable international copyright laws and the Company, its parent company or its affiliates own the full copyright in its catalog(s) and website(s), including without limitation in the selection, coordination, arrangement and enhancement of the content contained therein. Except as stated below, none of the materials in the Company's catalog(s) or on its website(s) may be reproduced, distributed, republished, downloaded, copied in any form or by any means, displayed, posted, transmitted, modified, translated, added to, updated, compiled, or abridged without the prior written permission of the Company. Customer may download, store, print and copy selected portions of the content in the Company's catalog(s) and website(s) provided Customer: (1) only uses the content downloaded, stored, or printed for furthering Customer's business with the Company; (2) does not publish or post any part of the content from the catalog(s) or website(s) in any other catalog or on any other Internet site; (3) does not publish or broadcast any part of the content from the catalog(s) or website(s) in or on any other media; and (4) does not modify or alter the content from the catalog(s) or website(s) in any way or delete or modify any copyright or trademark notice. All non-public, confidential or proprietary information of Company, including, but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by Company to Customer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential," in connection with the sale of goods or services under these Terms and Conditions is confidential, solely for the use of performing such sale and may not be disclosed or copied unless authorized in advance by Company in writing.

14. FORCE MAJEURE: The Company shall not be liable for loss or damage caused by any delay or failure to perform resulting in whole or in part from Acts of God, severe weather conditions, labor disruptions, governmental decrees or controls, insurrections, war, risks, shortages, inability to procure or ship product or obtain permits and licenses, insolvency or other inability to perform by the manufacturer, delay in transportation, any other commercial impracticability and/or any other circumstances beyond the control of the Company.

15. GOVERNING LAW: This Agreement and any sales hereunder shall be governed by the laws of the State of Ohio without regard to conflicts of laws rules and venue shall be exclusively in the federal and state courts of Cuyahoga County, State of Ohio, United States of America. The parties expressly exclude the application of the 1980 United Nations Convention of Contracts for the International Sales of Goods, if otherwise applicable.

16. SEVERABILITY: If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable, such provision(s) shall be enforced to the fullest extent permitted by applicable law, and the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

17. WAIVER: The Company's failure to insist on performance of any term or condition contained in this Agreement, or failure to exercise any of the Company's rights hereunder, shall not constitute a waiver of any of the Company's rights or remedies under this Agreement.

18. NO THIRD PARTY BENEFIT: The provisions set forth in these Terms and Conditions of Sale are for the sole benefit of the parties hereto, and confer no rights, benefits or claims upon any person or entity not a party hereto.