



**PURCHASE ORDER TERMS AND CONDITIONS:  
XPO Enterprise Services, LLC**

The following terms and conditions ("Terms") are made a part of the purchase order ("Order") to which they are attached regarding the purchase of certain goods by **XPO Enterprise Services, LLC** or its affiliate as indicated on the Order ("XPO") from the Supplier named in the Order ("Supplier"). These Terms are incorporated by reference into the Order, whether written and electronic, as if expressly stated in the Order. If the parties previously entered into a written agreement for the same purchase of goods and/or services, then the terms and conditions of that agreement will apply.

- 1. Acceptance of Order.** Placement of this Order constitutes an offer to purchase the products and services described herein ("Goods") at the purchase price set out herein. Supplier's acceptance of this Order forms a contract which is expressly limited to the instructions, Terms stated herein. By acceptance of this Order, Supplier agrees to sell to XPO the Goods ordered. Supplier's commencement of performance under this Order constitutes Supplier's unconditional acceptance of this Order. XPO hereby objects to and rejects all terms and conditions contained in any Supplier quotation, acknowledgment, confirmation, invoice, counter-offer or other form that are additional to or different from those stated herein. By accepting this Order, Supplier agrees that all such additional or different terms and conditions are ineffective.
- 2. Price and Payment.** The purchase price paid by XPO for the Goods will be that contained in Supplier's price list or quotation last furnished to XPO on or before the date of this Order, or Supplier's quoted price on the date of shipment, whichever is lower. In the event shipment of Goods is made in installments not contemplated by the Order, payment will not become due until and unless the last shipment of Goods is received by XPO.
- 3. Order Instructions.** Supplier agrees to comply with all instructions on the Order.
- 4. Extra Charges.** No charges of any kind will be paid by XPO unless expressly agreed to by XPO in writing. The purchase price is inclusive of net weight of material, unless otherwise agreed by XPO in writing. Unless otherwise specified on the Order, all transportation and shipping charges are to be paid by Supplier.
- 5. Delivery.** Time is of the essence in performance of Supplier's obligations under this Order. Goods will be tendered by delivery to XPO at the date, time, and place indicated, and via the carrier specified in the Order. If not specified, the Order must be promptly filled, and delivery made, by the most expeditious form of land transportation to XPO's shipping address indicated on the Order. If Supplier's deliveries fail to meet the delivery schedule specified on the Order, in addition to its other rights and remedies, XPO may require Supplier to deliver the products in any manner necessary to expedite delivery. Supplier will pay the difference between standard freight and any premium rates required. Supplier must notify XPO as soon as Supplier is aware it will not meet a scheduled delivery date. Invoices for Goods received in advance of delivery dates specified will not be deemed received or payable until the date specified for delivery on the Order, unless XPO has expressly agreed in writing to such advance shipment. In the event Supplier fails to deliver all of the Goods within the time specified due to causes beyond Supplier's control, XPO may, at its option; (1) decline to accept Goods and may terminate the Order, or (2) may demand its allocable fair share of Supplier's Goods available for delivery, and terminate the balance of the Order, or (3) may approve a revised delivery schedule. Acceptance of any part of an order will not bind XPO to accept further shipments, nor deprive it of the right to return Goods already accepted. XPO will not be liable for any failure to take delivery of the Goods where such performance is rendered commercially impracticable due to fire, flood, labor disputes, war, act of God, governmental regulation or other circumstances beyond XPO's control. Unless expressly otherwise provided on the Order, delivery of all Goods will be made at one time in a single lot. If the Order calls for delivery of Goods in installments, each installment is dependent on every other installment, and delivery of nonconforming Goods or a default by Supplier of any nature under one installment will substantially impair the value of the whole Order and, at XPO's option, constitute a total breach of the Order. Unless otherwise agreed in writing by XPO, Supplier will not make material commitments or production arrangements in excess of the amount or in advance of the time necessary to meet XPO's delivery schedule. It is Supplier's responsibility to comply with this schedule, but not to anticipate XPO's requirements. Goods shipped to XPO in advance of schedule may be returned to Supplier at Supplier's expense.
- 6. Packing and Shipment.** Deliveries will be made as specified, without charge for boxing, crating, carting or storage. Supplier must pack products to ensure against damage from weather or transportation and in accordance with the requirements of common carriers. XPO's order number, line-item number and the price, quantity, Supplier part number and XPO part number of the Goods, as listed on the Order, must be plainly marked on all invoices, packages, bills of lading, shipping orders and packing lists. Packing lists must accompany each box or package shipment.
- 7. Identification - Risk of Loss.** Identification of the Goods will occur as soon as the Order is received by Supplier. Risk of loss of and clear title to the Goods will pass to XPO at the time that conforming Goods are received and accepted by XPO.
- 8. Inspection.** Within a reasonable time after delivery of the Goods in accordance with Section 5 (Delivery), XPO will have the right to inspect the Goods to determine their conformity with the Specifications. "Specifications" means final specifications, drawings, plans, instructions, samples or other descriptions, whether express or implied, furnished by XPO or by Supplier. Receipt of Goods prior to inspection will not constitute acceptance. If all or any part of the Goods are found to be non-conforming, XPO may reject such non-conforming Goods, whereupon such rejected Goods promptly will be removed by Supplier at Supplier's cost, and the purchase price with respect to such rejected Goods either will be refunded by Supplier if already paid, or will be reduced if still owing. In either case, if XPO directs in writing, Supplier will promptly replace such non-conforming Goods with Goods conforming to the Specifications. All direct and incidental costs of rejecting and removing such non-conforming Goods will be borne by Supplier.
- 9. Warranties Respecting Goods.** Supplier expressly warrants that all Goods covered by this Order will : (a) conform to any and all Specifications, (b) be fit and sufficient for the purpose(s) for which they were manufactured and sold, and if Supplier knows or has reason to know of any other particular purpose for which XPO intends to use such Goods, the Goods will be fit for such particular purpose, (c) be new and merchantable, and (d) be of good material and workmanship and free from defects, whether



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latent or patent. The foregoing warranty will survive XPO's inspection, acceptance, use and subsequent dispossession or sale of the Goods. Supplier hereby extends to XPO any and all warranties received from Supplier's suppliers and agrees to enforce such warranties on XPO's behalf. All Supplier's warranties will run to XPO, its successors, assigns, customers and users of products sold by XPO. Supplier agrees to promptly correct all defects in any Goods not conforming to the foregoing warranties, or replace such Goods, without expense to XPO, when notified by XPO. In the event of Supplier's failure to correct or replace such foregoing warranties and remedies will be in addition to any warranties and remedies of additional scope herein or otherwise provided by Supplier to XPO, or otherwise provided by law, including, but not limited to, any and all warranties provided in the Uniform Commercial Code. Supplier will compensate, indemnify and hold XPO harmless from and against any and all damages, including incidental and consequential damages, claims, liabilities, and expenses (including court costs and attorneys' fees) arising out of or related to or resulting in any way from a breach of any warranty, whether express or implied, or from any act or omission of Supplier, its officers, agents, employees or subcontractors.

10. **Security.** XPO will not be obligated to give and Supplier may not reserve any security interest in the Goods covered by this Order to secure any portion of the purchase price not paid at the time of delivery.
11. **Destruction of Goods.** If any Goods are destroyed prior to the time risk of loss passes to XPO, XPO may, at its option, cancel the Order or require delivery of substitute goods of equal quantity and quality, in which event delivery will be made as soon as commercially practicable. If loss of Goods is partial, XPO will have the right to require delivery of that portion of the Goods not destroyed which conform to the Order.
12. **XPO Property.**
  - (a) **Intellectual Property.** XPO owns all right, title and interest in all property conceived or all forms of such materials and information, including without limitation specifications, data, documents, drawings, files, input and output materials, media, ideas, inventions, derivatives of pre-existing copyrighted works, software in any format, documentation, and any related material. Any tangible expression of property which qualifies as a "work made for hire" under the Copyright Act, 17 U.S.C. §101, is expressly agreed by Supplier to be a "work made for hire" with the copyright in the work owned by XPO. Supplier will label all property with a notice indicating evidence of XPO's ownership.
  - (b) **XPO Materials.** Supplier assumes all risk of loss of all material furnished by XPO to Supplier for use in performance of this Order.
13. **Changes.** XPO has the right to make changes in the Order without additional charge unless expressly authorized in writing by XPO. If such charges affect delivery or the amount to be paid by XPO, Supplier will notify XPO immediately and negotiate an adjustment.
14. **Set-Off.** XPO may set-off any amount owing at any time from Supplier to XPO or any of its affiliated companies against any amount payable at any time by XPO or any of its affiliated companies to Supplier.
15. **Confidentiality and Compliance with Laws.**
  - (a) **Confidentiality.** "Confidential Information" means non-public information marked "confidential" or "proprietary" or information that otherwise should be understood by a reasonable person to be confidential in nature, provided by a party or on its behalf. The Order, including but not limited to the pricing and payment terms, are considered Confidential Information. Supplier will protect the Confidential Information of XPO using reasonable measures. Supplier may use or disclose the Confidential Information of XPO only: (1) to perform under the Order; (2) as requested or directed by XPO; or (3) as required by applicable law, statute, rule, regulation, or professional standard. Except as set forth in this section, Supplier will not disclose the Confidential Information of XPO to third parties without XPO's prior consent.
  - (b) **Data Privacy and Security.** Supplier may use XPO's data and information only for the purpose of providing Goods, and Supplier must maintain the confidentiality of such data and information. Supplier must maintain, store and transfer all personal and sensitive data in a secure manner, in compliance with all applicable laws and regulations.
  - (c) Supplier certifies that it has reviewed XPO's Code of Business Conduct and Ethics ("Code") available on XPO's website <https://ethics.xpo.com/> and further agrees and warrants that it will comply with all terms of the Code or will comply with and enforce its own comparable standards and policies.
  - (d) Supplier must comply with all applicable State, Federal and local laws, rules and regulations.
  - (e) As applicable, XPO and Supplier must abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.
16. **Indemnification.** To the fullest extent permitted by law, Supplier will indemnify and hold harmless XPO and its respective directors, officers, employees and agents (collectively "Indemnitees") from and against all claims, liabilities, damages, losses, costs (including without limitation, reasonable legal fees) and expenses (collectively "Claims"), arising from or relating to the undertaking of Supplier hereunder, or any defect(s) in the Goods supplied, provided such Claims are caused in whole or in part by any negligent act, omission, recklessness or willful misconduct of Supplier or anyone for whose acts Supplier may be liable, or provided Supplier may be held responsible for same under products liability law or under other applicable legal or equitable



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principles. Supplier further agrees to assume the defense of any suit brought against Indemnitees and to protect Indemnitees from all Claims arising out of claims for infringement of any patent, invention, design, trademark or copyright in connection with the Goods.

17. **On-site Work - Insurance.** If Supplier's work under the Order involves operations by Supplier on the premises of XPO or one of its customers, Supplier must take all necessary precautions to prevent the occurrence of any injury to person or property during the progress of such work and except to the extent that any such injury is due solely and directly to XPO's or its customer's negligence, as the case may be, will indemnify XPO against all loss which may result in any way from any act or omission of the Supplier, its agents, employees, or subcontractors. Supplier agrees to maintain such liability, property damage, employee liability, Worker's Compensation insurance, and any other insurance required by law, that will protect XPO from said risks and from any Claims.
18. **Cancellation.** XPO may, without penalty, charge or liability, cancel this Order or any part hereof at any time prior to acceptance of the Goods, to be cancelled by service upon Supplier of a written notice, except however, XPO will be responsible for deliveries previously made or for Goods covered by the Order then completed and subsequently delivered in accordance with the terms of this Order. XPO may, in addition to any other available right of remedy, cancel this Order or any part hereof at any time without penalty, charge or liability if any of the following events occur: (a) Supplier fails to make delivery in accordance with the schedule specified herein, (b) Supplier ceases to conduct its operation in the normal course of business (including inability to meet its obligations as they mature), in the event of any proceeding by or against Supplier in bankruptcy or insolvency or for appointment of a receiver or trustee or an assignment for the benefit of creditors, or (c) Supplier otherwise fails to comply with any provision of this Order and such failure is not remedied within ten (10) days after XPO's notice to Supplier.
19. **Quantities.** It is the Supplier's responsibility to furnish the proper quantity called for in this order. No variation in the quantities specified on the Order will be accepted as compliance with this order, except by prior express written agreement by XPO. XPO reserves the right to return excess shipments at Supplier's expense.
20. **No-Publicity.** Supplier agrees not to use the logo of or identify XPO in any advertising, sales material, press release, public disclosure, publicity, or in any other way without XPO's prior written consent.
21. **Remedies.** In the event of breach by Supplier, in addition to the remedies provided in these Terms, XPO retains all other rights and remedies available under applicable law. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THE ORDER, IN NO EVENT WILL SUPPLIER BE ENTITLED TO ANY PAYMENT ON ACCOUNT OF LOST PROFITS OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH ANY TERMINATION OF THE ORDER, OR OTHERWISE IN CONNECTION WITH THE ORDER.
22. **Interpretation - Parol Evidence.** This writing contains the entire agreement between the parties. There are no oral understandings, representations or agreements relative to this Order which are not fully expressed herein, except as provided in Section 9 (Warranties Respecting Goods). No course of prior dealings between the parties and no usage of the trade will be relevant to supplement or explain any term used in this writing. Acceptance or acquiescence in the course of performance rendered pursuant to this Order will not be relevant to determine the meaning of this writing even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity for objection. This Order will be construed and governed by the laws of the State of Delaware.
23. **Waiver.** No claim or right arising out of a breach of the Order by Supplier can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by XPO.
24. **Assignment - Delegation.** No right or interest in the Order will be assigned by Supplier without written permission of XPO, and no delegation of any obligation owed, nor performance of any obligation by Supplier will be made without the written permission of XPO. Any attempted assignment or delegation will be wholly void and totally ineffective for all purposes unless made in conformity with these Terms.
25. **Alteration of Terms.** Irrespective of whether this writing may be characterized as an offer or an acceptance of Supplier's prior offer, none of the Terms contained in this Order may be added to, modified, superseded or otherwise altered, except by a written instrument signed by an authorized representative of XPO and delivered by XPO to Supplier and each shipment received by XPO from Supplier will be deemed to be only upon the Terms contained in this Order, except as they may be so added to, modified, superseded or otherwise altered. Any terms and conditions that may be contained in any acknowledgment, invoice, or other form of communication of Supplier which are inconsistent with these Terms are hereby expressly rejected. To the extent that this writing might be treated as an acceptance of a Supplier's prior offer, such acceptance is expressly made conditional on assent by Supplier to these Terms and shipment of the Goods by Supplier will constitute such assent.