

- 1. Terms and Conditions Applicability.** The terms and conditions set forth herein shall apply to any and all orders made by the Customer for any or all of the products and/or services described in the Proposal. These terms and conditions comprise all of the terms and conditions of TECHSOLVE and the Customer respecting the subject matter of the Proposal, except to the extent that any terms or conditions shall have been changed or modified in the Proposal. Together, these terms and conditions and a signed Proposal constitute a binding Agreement between the TECHSOLVE and Customer. This Agreement constitutes the sole and entire agreement of the Parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter. TECHSOLVE hereby notifies Customer in advance that TECHSOLVE objects to any terms and conditions in Customer's purchase order or other document which are additional to or different than those set forth in this Agreement whether or not such additional or different terms would materially alter this contract. If a contract between Customer and TECHSOLVE is established through performance or other conduct of the parties, the terms and conditions of that contract will not be deemed to consist only of terms and conditions as to which the Parties' writings agree, but rather this Agreement will be a part of that contract and will prevail over the conflicting and/or different terms and conditions of any other document forming a part of the contract. All orders are subject to approval by TECHSOLVE. No waiver, change, modification or other or alteration of terms herein shall be binding unless in writing and signed by TECHSOLVE.
- 2. Price in Proposal.** The prices quoted in the Proposal are firm for the number of days set forth in the Proposal, except that such price or prices may be adjusted upward or downward without notice in the event of: (i) alterations in specifications, quantities, designs or delivery schedules; (ii) increases in the cost of fuel, power, material, supplies, or labor; and/or (iii) foreign or domestic legislation enacted by any level of government, including tax legislation, which increases the cost of producing, warehousing, or selling the goods purchased hereunder.
- 3. Taxes and Fees.** Any taxes or fees imposed by any federal, state, municipal or other governmental authority that may be applicable to the sale, use, delivery or transportation of the products or services that may be sold by reason of any contract arising out of this Proposal and any and all duties, tariffs, brokerage charges, shall be added to the price of the order and paid by the Customer, except where the Customer shall have provided a proper certification of exemption therefrom. The price for the products and/or services purchased is net of sales, use, excise or similar taxes, whether federal, state, or local.
- 4. Method of Shipment.** Unless otherwise set forth in the Proposal, all shipments made pursuant to any contract arising out of this Proposal shall be made F.O.B. Cincinnati, Ohio or the nearest stocking point. In the event that Customer shall specify a method of shipment other than that specified in this Proposal, TECHSOLVE agrees to ship by that method provided that the price shall be adjusted to reflect any increase or decrease in the price to the extent that the cost of shipment is or will be included therein, and provided further that such shipment method shall not modify the risk of loss as specified in this Proposal.
- 5. Rescheduling.** Customer may cancel and reschedule a scheduled TECHSOLVE activity by providing TECHSOLVE with notice of its need to cancel and reschedule a minimum of three business days prior to the date when the activity is scheduled to take place. In order to prevent reoccurring cancellations, should Customer cancel an activity with less than three business days prior notice, on the third reschedule Customer agrees to pay TECHSOLVE a "lost opportunity" fee equal to \$500.
- 6. Termination.** Orders made pursuant to this Proposal may not be canceled for any reason without the written consent of TECHSOLVE. Cancellation or suspension of orders, if consented to by TECHSOLVE, will be upon terms that indemnify TECHSOLVE for liabilities and expenses incurred and for commitments made by TECHSOLVE and which provide for profit on work-in-process and for the contract value of goods / services completed and products ready for shipment plus a cancellation fee equal to ten percent (10%) of the Proposal price. This provision shall not preclude TECHSOLVE from recovering all damages and costs of whatever nature permitted under the Uniform Commercial Code.
- 7. Delivery.** Any shipping dates or completion dates set forth in the Proposal or in an agreement that shall result from the Proposal are approximate and time shall not be considered of the essence. Failure to effect shipment or completion by such estimated delivery or completion date will not be considered sufficient cause of cancellation without prior agreement confirmed in writing by an authorized agent of TECHSOLVE.
- 8. Risk of Loss.** Notwithstanding title to or ownership of products, risk of loss shall pass to the Customer as soon as the products are identified to any contract that shall have arisen from the Proposal.
- 9. Non-solicitation.** During the course of the delivery of the services covered by this proposal and for a period of two years after the completion or termination of this work, Customer will not directly or indirectly solicit, employ or retain in any capacity, or directly or indirectly offer to employ or retain in any capacity, any personnel of TECHSOLVE who are working or have worked on the Customers' project(s).
- 10. Terms of Payment.** Unless otherwise specified in this Proposal, any products and/or services ordered pursuant to this Proposal shall be paid upon receipt of invoice. Unless otherwise noted in the Proposal, all contracts involving an amount greater than \$10,000 will be invoiced monthly based upon the time devoted to the engagement in the prior month. Customer shall reimburse TECHSOLVE for all reasonable expenses (including travel and other out-of-pocket expenses) incurred to provide the Services. If Customer defaults with respect to any payment described here and above, it shall pay

TECHSOLVE for all costs and expenses, including legal expenses and attorney's fees, incurred by TECHSOLVE in exercising any of its rights or remedies. The unpaid balance after thirty (30) days shall be subject to a late charge of 1.5% per month, or the highest rate permissible under Ohio law.

11. Security Interest. Until full payment of the purchase price for any products and/or services ordered pursuant to this Proposal, TECHSOLVE shall retain a security interest in such products and may, at its option and without further agreement or signature of the Customer, file evidence of such security interest pursuant to the Uniform Commercial Code.

12. Warranties. In accordance with the terms and subject to the conditions set forth in the Proposal and this Agreement, TECHSOLVE warrants that it will perform the services in a timely, workmanlike and professional manner in accordance with generally recognized industry standards for similar services. This warranty is given in lieu of any other representation or warranty, express or implied, including the implied warranties of merchantability and fitness for a particular purpose which are hereby expressly disclaimed and excluded by Seller.

13. Exclusive Remedy. The sole and exclusive remedies of the Customer for a breach of the foregoing warranty shall be, at the option of TECHSOLVE, the return of the products and repayment of the price or the repair, replacement or re-performance of nonconforming products or services. TECHSOLVE will not accept the return of any goods without its prior written consent. Customer shall give written notice to TECHSOLVE of any claim for breach of warranty within thirty (30) days after receipt of the goods or completion of the services. Any remedy of the Customer against TECHSOLVE shall be barred unless notice is given in accordance with the foregoing provisions.

14. Limitation on Liability. TECHSOLVE shall not be liable to Customer or to any third party for any loss of use, revenue or profit or for any incidental, indirect, consequential, exemplary, special or punitive damages, whether arising out of breach of contract, tort (including negligence), or otherwise regardless of whether such damage was foreseeable and whether or not TECHSOLVE has been advised of the possibility of such damages and notwithstanding the failure of any agreed or other remedy of its essential purpose. In no event shall TECHSOLVE'S aggregate liability arising out of or related to this agreement, whether arising out of or related to breach of contract, tort (including negligence) or otherwise exceed the aggregate amount paid to TECHSOLVE pursuant to this agreement.

15. Proprietary Rights. Any and all models, drawings, sketches, plans and other information supplied by one Party to the other shall remain the property of the Party who supplied such. The other Party may not use any such material or information except with respect to the products and/or services dealt within this Proposal. Any product or service sold under an agreement resulting from this Proposal shall not constitute a license to use any of the proprietary rights of TECHSOLVE.

16. Applicable Law. This Agreement and all related documents, including all exhibits attached hereto, and all matters arising out of or relating to this Agreement are governed by, and construed in accordance with, the laws of the State of Ohio without giving effect to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of Ohio.

17. Choice of Forum. Each Party irrevocably and unconditionally agrees that it will not commence any action, litigation or proceeding of any kind whatsoever against the other Party in any way arising from or relating to this Agreement, including all exhibits attached to this Agreement, and all contemplated transactions in any forum other than the US District Court for the Southern District of Ohio or, if such court does not have subject matter jurisdiction, the courts of the State of Ohio sitting in Hamilton County, Ohio, and any appellate court from any thereof. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of such courts and agrees to bring any such action, litigation or proceeding only in the US District court for the Southern District of Ohio, or if such court does not have subject matter jurisdiction, the courts of the State of Ohio sitting in Hamilton County, Ohio. Each Party agrees that a final judgment in any such action, litigation, or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

18. Interpretation. Any provision requiring the written consent or approval of TECHSOLVE hereunder shall require the written consent or approval of an executive officer of TECHSOLVE. No agent, salesman or other party is authorized to bind TECHSOLVE by an agreement, warranty, statement, promise or understanding not herein expressed.

19. Force Majeure. TECHSOLVE shall not be liable or responsible to Customer, nor be deemed to have defaulted or breached this Agreement for any loss, damage, delay, changes in shipment, schedules or failure to deliver, whether arising in tort, contract or warranty, in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of TECHSOLVE including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, embargoes, revolution, insurrection, epidemic, lock-outs, strikes or other labor disputes (whether or not relating to either Party's workforce), or restraints or delays affecting carriers, inability to obtain transportation facilities, or inability or delay in obtaining supplies of adequate or suitable materials, or telecommunication breakdown or power outage, provided that, if the event in question continues for a continuous period in excess of forty-five (45) days, Customer shall be entitled to give notice in writing to TECHSOLVE to terminate this Agreement. In such event, TECHSOLVE shall not be liable for any consequential, incidental or special damages to Customer. TECHSOLVE may, at its option and without liability, cancel all or any portion of this Agreement and/or extend any date upon which performance hereunder is due.