

- 1. DEFINITIONS.** "Purchase Order" or "Order" includes this Addendum of Norfolk Southern Purchase Order Terms and Conditions, the enclosed purchase order and the Norfolk Southern Vendor Freight Routing Instructions. "Buyer" means the corporate subsidiary or affiliate of Norfolk Southern Corporation shown on the face of the enclosed purchase order and may include, without limitation, a subsidiary or affiliate of any corporation owned directly or indirectly, wholly or partially by Norfolk Southern Corporation. If no subsidiary or affiliate is named on the face hereof, "Buyer" shall mean Norfolk Southern Corporation ("Norfolk Southern") acting either for itself or as agent as described in Section 22. "Seller" means the party so named on the face of the enclosed purchase order. "Contract" means the legal relationship created by this Order and Seller's related words and acts. "Product" or "Products" means the goods described on the purchase order.
- 2. GOVERNING LAW AND AGREEMENT.** This Order shall be governed by the laws of the Commonwealth of Virginia, without regard to otherwise applicable principles of conflict of laws. This Order incorporates all rights which would be granted a buyer under the provisions of the Virginia Uniform Commercial Code in the absence of an express agreement altering or relinquishing such rights. This Order expressly limits acceptance terms to such provisions. Buyer's acceptance of Products or sales acknowledgment or confirmation forms shall not constitute agreement to alter or relinquish any such rights under the Uniform Commercial Code, regardless of whether any agreement to relinquish such rights is permissible. By its acceptance of this Purchase Order and/or by shipping the goods and/or providing the services described herein, Seller agrees to all other terms, conditions and special instructions contained in this Purchase Order and agrees that any different or additional provisions, terms, conditions or special instructions which may be contained in Seller's acceptance, proposal, quotation, acknowledgment, invoice or other form of Seller shall not be a part of the Contract unless specifically agreed to in writing signed by an authorized representative of Buyer notwithstanding Buyer's act of accepting or paying for any shipment or similar act of Buyer.
- 3. RECOUPMENT AND SETOFF.** Buyer and Seller acknowledge and agree that Buyer's monetary obligations to Seller under the Purchase Order shall at all times be net of all transportation service charges, refund credits, return costs, defense obligations, indemnity and contribution obligations and other monetary obligations owing by Seller to Buyer (collectively, "Seller's Monetary Obligations") under any vendor agreement, purchase order, sales order, transportation contract or otherwise (each an "Other Agreement") and any payment, installment payment or advance made by Buyer to Seller in respect of any Other Agreement while any Seller's Monetary Obligations are outstanding shall be deemed to be an overpayment to Seller to the extent of such outstanding Seller's Monetary Obligations and shall be subject to recoupment and/or setoff by Buyer. Without limiting the foregoing, Buyer shall have the right, at all times, to deduct any Seller's Monetary Obligations from any amounts owed to Seller by Buyer, and to pay only the net sum due, if any. Any Seller's Monetary Obligation that remains outstanding after any exercise by Buyer of its recoupment and/or setoff rights shall be paid by Seller promptly upon demand by Buyer.
- 4. NORFOLK SOUTHERN PURCHASE CONTRACT.** If this Purchase Order covers any item which is the subject of a contract between Seller, on the one hand, and Norfolk Southern or Buyer, on the other, all terms and conditions of such contract will survive and in the case of any inconsistency, the terms and conditions of that contract shall supersede any inconsistent terms and conditions of this Order. Buyer and Norfolk Southern shall be jointly and severally liable for all of the obligations of Norfolk Southern under such contract with respect to any item included in this Purchase Order.
- 5. PRICE; IRS REPORTING FORMS.** (a) Price(s) in this Order are not subject to escalation, unless (i) Seller's quotation or acknowledgment form states otherwise, (ii) Seller gives Buyer written notice of a proposed price escalation thirty (30) days prior to the shipment date, and (iii) Buyer expressly agrees in writing to the amount of the final price escalation. Unless Buyer agrees to the amount specified in the proposed escalation, the parties intend and agree that Seller will deliver the Product at the price set forth on the purchase order. Buyer will advise Seller of its acceptance or rejection of the proposed price increase within ten (10) days of receipt of Seller's request. Should the market price decline prior to the time of shipment, the price hereunder shall be reduced accordingly. Buyer will be given the same prices under the same conditions as offered by Seller to any other buyer. It is further agreed that in verifying any price increases based on Seller's increased costs, Seller will provide Buyer access to whatever books, records, invoices, labor agreements, etc., may be reasonably requested to confirm the increased costs. Such access will be at any reasonable time and place and shall include any reasonably requested space and personal assistance in Seller's office. (b) Notwithstanding anything to the contrary contained elsewhere in this Purchase Order, as a condition precedent to any amounts owed by Buyer under this Purchase Order to Seller becoming due, Seller must first provide Buyer with a current, properly completed, executed, and dated IRS Form W-8 or IRS Form W-9, as applicable, or such successor form as may be prescribed by the U.S. Internal Revenue Service, that eliminates any withholding tax obligation on Railway. If at any time prior to completion of this Purchase Order such IRS Form W-8 or IRS Form W-9 shall expire or otherwise become invalid, Buyer shall have no obligation to make any further payment for any amounts due under this Purchase Order until such time as Seller provides Buyer with a current, properly completed, executed, and dated IRS Form W-8 or IRS Form W-9, as applicable, or such successor form as may be prescribed by the U.S. Internal Revenue Service, that eliminates any withholding tax obligation on Railway.
- 6. ASSIGNMENT.** Seller shall not, without the prior written agreement of Buyer, assign any of its rights or obligations hereunder, except that Seller may assign, without Buyer's consent, only Seller's right to receive the payment of money due hereunder. Seller expressly agrees, however, that (i) any assignments of rights without Buyer's consent other than the right to receive money due hereunder shall be void, (ii) the rights of assignee, whether granted with or without Buyer's consent, shall be subject to all rights, setoffs and defenses that Buyer may have against Seller, and (iii) in the event of any future negotiation arising from or in any way in connection with the subject of this Order, and regardless of whether such negotiation concerns a dispute or controversy, Buyer shall be under no duty to deal with any person other than Seller.
- 7. DELIVERY DATES.** Delivery date(s) shown as the "Date Needed" on this Order (the "Delivery Date(s)") **is (are) firm and**, except as may be expressly stated on the purchase order and are not subject to any contingencies involving Seller's operations or suppliers or otherwise. Unless expressly stated on this Order or otherwise stated to you in writing by an authorized representative of Buyer, time is of the essence to this Contract, and Buyer shall have the right to cancel this Order or any part thereof for either delay or attempted early delivery. Seller shall notify Buyer immediately if Seller obtains knowledge of any facts from which it could reasonably conclude that the Product will not be delivered by the Delivery Date(s).
- 8. RISK OF LOSS IN TRANSIT.** Seller shall bear all risks of loss in transit.
- 9. BILLING.** (a) Seller shall forward an invoice directly to Buyer's Accounts Payable, 1200 Peachtree Street NE, Atlanta, Georgia 30309-0032. Buyer shall not be under any obligation to pay an invoice or bill of lading which does not contain an order number or is not accompanied by a letter giving the authority for shipment. Unless specifically agreed to in writing, Buyer shall not be responsible for any additional charges of any kind including, without limitation, charges for boxing, packaging, cartage, or other such extras. (b) On all invoices, Seller shall bill separately for all applicable Federal manufacturers' and retailers' excise taxes, but shall not bill for state, county, or municipal sales or use taxes unless the purchase is designated "Taxable" on the face of the Purchase Order. If the purchase is designated "Exempt", Buyer will furnish Seller, upon request, with appropriate exemption certificate or direct pay permit authorizing purchase without payment of such sales or use taxes.
- 10. INSPECTION AND RETURN.** Buyer shall have all rights of inspection, rejection, and return provided by the Virginia Uniform Commercial Code. The parties intend that Buyer shall not be required to pay for any Product until Buyer has inspected and accepted it and that the right of inspection be a necessary precondition for the existence of this Contract. Without regard to risk of loss, title to the Product shall not vest in Buyer until the Product has been both inspected and accepted. In the event of a proper rejection, Seller acknowledges that Buyer's incidental damages shall include, without limitation, transportation charges both ways on rejected Product. Seller shall bear risk of loss of any rejected Product held by Buyer more than fifteen (15) days pending Seller's disposition orders.
- 11. INDEMNITY.** (a) Seller shall indemnify and hold harmless Buyer, all corporate affiliates and subsidiaries of Norfolk Southern, and all officers, employees and agents of all such companies (collectively, the "Indemnified Parties") from and against any and all liability, demands, claims, losses, costs and expenses (including, but not limited to, litigation costs, investigation costs, reasonable attorney's fees, environmental clean-up costs and, in the case of subparagraph (iii) below, royalty payments), fines and penalties arising from or in connection with (i) any alleged loss of life or personal injury to any officer, employee, subcontractor or agent of Seller or loss or damage to the property of Seller, its officers, employees, subcontractors or agents arising from, incident to or occurring in connection with the performance of this Purchase Order or the presence of Seller, its officers, employees, subcontractors or agents upon or about the property or premises of Buyer unless such loss of life, personal injury or property loss or damage was caused solely by the negligence of Buyer; provided, however, that if, under the law applicable to enforcement of this Contract, an agreement to indemnify against the indemnified party's own negligence is invalid, then in that event Seller's obligation to indemnify the Indemnified Parties under this Section shall be reduced in proportion to the negligence of Buyer, if any, that proximately contributed to such loss of life, personal injury or property loss or damage; (ii) except with respect to persons and property covered by

subsection (a)(i) above, any alleged loss of life or personal injury to any person or the loss of or damage to any property (x) arising from, incident to or in connection with the negligent acts or omissions or willful misconduct of Seller, its officers, employees, subcontractors or agents, except to the extent that the personal injury or death or property loss or damage was caused by the negligence or willful misconduct of Buyer or (y) to the extent caused by a defect in any Product purchased hereunder; (iii) any alleged infringement of intellectual property rights arising from Buyer's use of the Product; and (iv) any alleged violation of any law, statute, code, ordinance or regulation of the United States or of any state, county or municipal government (including, without limitation, those relating to air, water, noise, solid waste and other forms of environmental protection, contamination or pollution or to discrimination on any basis) that results in whole or in part, directly or indirectly, from the activities of Seller or its officers, employees, agents or subcontractors related in any way to this Contract or from any other act or omission of Seller, its officers, employees, agents, or subcontractors contributing to such violation, regardless of whether such activities, acts or omissions are intentional or negligent, and regardless of any specification by Buyer without actual knowledge that it might violate any such law, statute, code, ordinance or regulation.

**12. PLANS, SPECIFICATIONS, AND TOOLS.** Upon request, Seller shall furnish Buyer with plans, specifications, blueprints or other such drawings for approval prior to manufacture and shipment of Product. Seller shall include Buyer's Purchase Order number on such documents or on the letter transmitting them. Any specifications, drawings, models, or technical information, or other information that Buyer furnishes to Seller in connection with this Purchase Order shall be treated confidentially by Seller, shall be used for no purpose other than filling this Purchase Order, shall not be copied or reproduced nor given in any form to any other person, and in the case of such information in tangible form, shall be returned to Buyer upon request. Unless otherwise provided on the face hereof, Seller shall supply at no cost to Buyer all tools, dies, patterns, models, gauges, jigs, fixtures and other equipment necessary to fill this Order (collectively, the "Manufacturing Equipment"). If Buyer pays for or furnishes any such Manufacturing Equipment, such Manufacturing Equipment shall be the property of Buyer, may be removed at any time by Buyer, shall be used only in filling orders from Buyer, shall be kept separate from other Manufacturing Equipment and shall be identified as the property of Buyer. Seller assumes all responsibility for loss or damage to such Manufacturing Equipment with the exception of normal wear or tear, and shall maintain it and keep them in satisfactory working condition at Seller's sole cost and expense.

**13. FORCE MAJEURE.** Buyer's obligation to receive and Seller's obligation to deliver Product by this Order shall be subject to fires, strikes or other causes beyond the reasonable control of either the Seller or Buyer.

**14. TRADEMARK.** Seller shall not use the name or insignia of Norfolk Southern or any of its corporate subsidiaries or affiliates in advertising without written permission of Norfolk Southern.

**15. AMENDMENT.** No term or condition of this Order, including all information shown on the face hereof, may be changed except by a written document executed by an authorized representative of Buyer. In the absence of such a written amendment, Seller will comply strictly with all delivery dates, routings, shipping points, quantities, shipping instructions and other terms and conditions shown on this Order and shall have no right of substituted performance which either increases Buyer's net cost or, in Buyer's opinion, unreasonably delays or interferes with Buyer's program of inventory acquisition or maintenance.

**16. EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION.** This contractor/seller and subcontractor shall 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. Contractor/Seller acknowledges and represents that it complies with the requirement in 41 CFR 60-1.8 and that it has been notified of the requirement to certify it does not maintain segregated facilities and will not permit its employees to perform services at segregated facilities, and Contractor/Seller agrees to obtain similar certification from its subcontractors prior to award of any subcontracts in connection with this Contract.

**17. SDS.** IN COMPLIANCE WITH THE OSHA HAZARD COMMUNICATION STANDARD (HCS) AT 29 CFR 1910.1200 THE SELLER AGREES TO: (1) FOLLOW ALL REQUIRED CONTAINER LABELING PROCEDURES AS REQUIRED BY OSHA HCS; (2) FURNISH TO EACH SHIPMENT LOCATION ANY REQUIRED MATERIAL SAFETY DATA SHEETS (MSDS) WITH THE INITIAL SHIPMENT OF MATERIALS OR PRODUCTS, ADDITIONAL MSDS MUST BE SENT TO EACH LOCATION WHENEVER AN MSDS IS UPDATED; AND (3) FURNISH AN INITIAL COPY OF EACH MSDS AS DESCRIBED IN SECTION 2 ABOVE TO:

NORFOLK SOUTHERN CORPORATION  
SAFETY & ENVIRONMENTAL PROTECTION DEPT ATTN: SDS/IH GROUP  
1200 PEACHTREE STREET, NE, BOX 136  
ATLANTA, GA 30309

AND

SAFETEC COMPLIANCE SYSTEMS, INC.  
ATTN: MSDS UPDATES  
7700 NE PARKWAY DRIVE, SUITE 125  
VANCOUVER, WA 98662

**18. VENUE; WAIVER OF JURY TRIAL.** Each of the parties (i) irrevocably consents to the service of the summons and complaint and any other process in any other action or proceeding relating to the transactions contemplated by this Order, on behalf of itself or its property, by personal delivery of copies of such process to such party in accordance with the terms of Section 26, and nothing in this Section shall affect the right of any party to serve legal process in any other manner permitted by law, (ii) consents to submit itself to the personal jurisdiction of any state court located in the City of Norfolk, Virginia or the U.S. District Court for the Eastern District of Virginia (and appellate courts from any of the foregoing) (the "Chosen Courts") in the event any dispute arises out of this Order or the transactions contemplated by this Order, (iii) agrees that it will not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from any Chosen Court and (iv) agrees that any action relating to this Order or the transactions contemplated by this Order shall be brought exclusively in the Chosen Courts. **EACH PARTY HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS ORDER OR THE ACTIONS OF ANY PARTY IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE AND ENFORCEMENT HEREOF.**

**19. SHIPPING.** (a) Seller shall enclose a packing memorandum with each shipment and shall identify which package contains such memorandum when more than one package is shipped. Unless otherwise specified on the face of this Order, Seller shall mail to Buyer on the day of shipment a shipping notice showing order number, class, item number, date shipped, quantity shipped, and description of Product. Seller shall also show order number, class, item and condition code on the invoice, bill of lading, packing slip, and shipping container. Seller shall include the order number in the description section of the bill of lading and request the carrier to similarly include it on the freight bill. Shipper shall identify each item by class and item number in all shipping papers and documents. Shipments to one location will be consolidated as much as reasonably possible. (b) If the instructions for shipping prepaid or collect designated on the face of this Purchase Order are different from the responsibility, as between Buyer and Seller, for the freight charges as also shown thereon, an appropriate adjustment shall be made in Seller's invoice. If Seller has or undertakes any responsibility for designating carriers or route for shipments for which Buyer has final responsibility for freight charges, and unless contrary instructions appear on this Order, Seller shall (i) to the extent practical, route such shipments via the lines of Norfolk Southern's affiliates and subsidiaries by the authorized junction point nearest origin, and (ii) in all other cases ship by the least expensive manner practicable. Buyer shall have the right to recover, by offset, deduction, or otherwise, any difference between actual freight charges and the lowest available rate.

**20. SEVERABILITY.** If any provision of these terms and conditions should become or be found to be invalid or unenforceable, the remaining provisions and parts hereof shall continue to be fully effective and enforceable.

**21. COMPONENTS.** This Purchase Order is composed of three (3) parts as follows: (1) the purchase order sheet, (2) Norfolk Southern Vendor Freight Routing Instructions and (3) this Addendum of Norfolk Southern Purchase Order Terms and Conditions. No additional documents are a part of this Purchase Order unless the document expressly states that it is intended to be part of this Purchase Order and has been executed by both Buyer and Seller.

**22. NORFOLK SOUTHERN AS AGENT.** If Norfolk Southern advises Seller at any time that it has issued this Order as agent for one of its corporate subsidiaries or affiliates identified to Seller at the time of that advice (called "Principal"), Norfolk Southern shall have no individual corporate liability hereunder, and Principal shall be the sole party required to perform or entitled to performance hereunder. Notwithstanding such notice of Norfolk Southern's status as agent, Norfolk Southern shall have full authority with regard to this Order, including, without limitation, authority to demand and/or enforce any of Principal's rights hereunder and to perform, as agent, any act required or expected of Principal under or in connection with this Order.

**23. CONFLICT MINERALS.** Seller hereby covenants that (a) it shall ensure that none of the Products will contain any Conflict Minerals that directly or indirectly finance or benefit any Armed Group (such covenant the "Negative Covenant"), (b) it shall, without further consideration, provide Buyer with such assistance and cooperation as Buyer may reasonably request (including, without limitation, securing the assistance and cooperation of Seller's suppliers) in order for Buyer to fully comply with the Conflict Minerals Law, and (c) it shall notify Buyer immediately upon becoming aware of any information that may indicate that one or more of the Products may contain Conflict Minerals in violation of the Negative Covenant. The term "Conflict Minerals Law" shall mean Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, as it may be amended from time-to-time, and any regulations, rules, decisions or orders relating thereto adopted by the U.S. Securities and Exchange Commission or successor governmental agency responsible for adopting regulations relating thereto. The term "Conflict Minerals" shall mean (i) columbite-tantalite, cassiterite, wolframite, gold or any derivative of the foregoing (including without limitation tantalum, tin and tungsten) and (ii) any other mineral or any derivative thereof as may be determined from time-to-time by the U.S. Secretary of State to be financing armed conflict within the Democratic Republic of the Congo, Angola, Burundi, Central African Republic, Republic of the Congo, Rwanda, South Sudan, Tanzania, Uganda or Zambia (such countries, collectively, the "Covered Countries") . The term "Armed Group" means an armed group that is identified as a perpetrator of serious human rights abuses in annual Country Reports on Human Rights Practices under sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d) and 2304(b)) relating to any of the Covered Countries.

**24. RETURN OF DEPOSIT MONIES.** In the event that (i) Seller fails to deliver the Products on or before the delivery date in accordance with the terms hereof, (ii) Seller otherwise materially breaches the terms of this Contract, or (iii) a petition is filed by or against Seller under any bankruptcy or insolvency law and such petition is not stayed or dismissed within ninety (90) days, Buyer may immediately terminate this Purchase Order upon oral or written notice to Seller, and Seller shall promptly refund to Buyer all deposit monies paid by Buyer to Seller. The foregoing remedy shall be in addition to, and not in lieu of, all other rights and remedies Buyer may have under this Contract and in law or equity.

**25. DBE REPORTS.** Upon the request of Buyer, Contractor Seller shall report to Railway Buyer, on a quarterly basis, the dollar value of all labor, equipment, tools, supplies, and other materials purchased from any certified minority or women-owned business ("DBE") in connection with Contractor's Seller's performance of the Services and/or provision of Materials the Product and, if applicable, the performance of any services in connection herewith. Such reports shall include the name of each DBE, its type, and the dollar value of the labor, equipment, tools, supplies, and other materials purchased from such DBE. The reports required hereunder shall be sent to Railway Buyer at [supplier.request@nscorp.com](mailto:supplier.request@nscorp.com) within thirty (30) days of the end of each quarter or such other time as may be agreed between Railway Buyer and Contractor/Seller. Railway Buyer reserves the right to supplement this provision at any time.

**26. NOTICE.** Any notice or other communication required or permitted to be made or given under this Order shall be in writing and shall be deemed to have been received by the party to whom it is addressed: (i) on the date indicated on the certified mail return receipt if sent by certified mail return receipt requested; (ii) on the date actually received if hand delivered or if transmitted by facsimile (receipt of which is confirmed to sender); (iii) three (3) business days after such notice was deposited in the United States Mail postage prepaid; or (iv) one (1) business day after such notice was delivered to an overnight delivery service, addressed, delivered or transmitted in each case as follows:

If to Buyer:

c/o Norfolk Southern Corporation  
Three Commercial Place  
Norfolk, VA 23510  
Attn: [            ]  
Fax No.: (XXX) XXX-XXXX

If to Seller: