



## WHIRLWIND BUILDING COMPONENTS

A Division of Whirlwind Steel Buildings, Inc.

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# TERMS & CONDITIONS FOR SALES OF GOODS

## Component Sales Division

### DEFINITIONS:

As used herein, "Seller" means Whirlwind Steel Buildings, Inc. a/k/a, Whirlwind Building Systems, Whirlwind Building Components, Whirlwind Technical Sales Department, P.O. Box 75280, Houston, TX 77234. "Buyer" means the person or entity represented by the signature on the acceptance page herein. "Component Order" means each purchase contract between Buyer and Seller under which Buyer agrees to purchase and Seller agrees to fabricate and deliver Goods for a mutually agreed price. "Goods" means the materials, equipment, goods, elements, parts, or chattels comprising the Component Order. "Change Order" means a written document signed by Buyer and accepted by Seller that revises or modifies the Component Order in any fashion.

### CONTINUING AGREEMENT:

Buyer wishes to purchase and Seller wishes to sell Goods for a mutually agreed price, on an ongoing basis. Because it is agreed that such an arrangement will benefit both parties, and for mutual consideration, the undersigned, individually, jointly and severally agree to the following terms and conditions for all purchases Buyer makes from Seller. Each Component Order, with attachments, shall exist concurrently and cumulatively with these terms and conditions, the terms and conditions of Seller's credit application, and any credit terms specific to that Component Order

### ORDER ACCEPTANCE:

Buyer's Orders of Goods are documented by a written Component Order, including attachments. Buyer's or Buyer's representative's or agent's signature on the Component Order signifies that (1) Buyer has checked and verified the Component Order for accuracy (2) Buyer agrees to accurately complete and submit Seller's Job Site Information form, when requested by Seller, with the signed order (3) Buyer agrees to timely accept the Goods, as itemized in the Component Order when fabrication is complete, (4) Buyer agrees to timely pay the agreed price as stated on the Component Order, and (5) these terms and conditions apply to the order. All orders are subject to acceptance by Seller. Buyer's signature on the Component Order signifies that Seller agrees to fabricate Buyer's Component Order, in accordance with the Component Order, in a workmanlike manner. Any conflicting provision of a purchase order issued by Buyer shall be of no force and effect. Buyer consent to receiving faxes. A faxed, signed copy of a Component Order and any attachments shall act as an original.

### CHANGES:

Orders are specially fabricated in accordance with Buyer's signed Component Order. Buyer shall send any requests for additions, deletions or other revisions to the Component Order to Seller, promptly and in writing, referencing the Component Order number of the order to be changed. If Buyer's written change requests are made via FAX, Buyer must obtain signed verification from Seller that the change request was received and accepted in order for the change to be valid. If the requested changes result in pricing changes to the Component Order, Seller will produce a "Change Order" documenting such changes. The Buyer must sign and return the Change Order to the Seller for the change(s) to become a valid part of the Component Order. Buyer agrees to pay for any Goods fabricated by the Seller on the order prior to processing the Change Order. Seller will not be responsible for any delay in fabrication or shipment caused by Change Orders made at a point in time whereby the completion of the Change Order would cause a delay in the completion of the Component Order.

### CANCELLATION BY BUYER:

Buyer may cancel any Component Order upon written notice to Seller and upon the payment of Seller's cancellation charges which shall include all costs incurred but unpaid at the time of cancellation including, but not limited to, payment for any Goods fabricated prior to Seller processing the cancellation. If Buyer's written cancellations are made via FAX, Buyer must obtain signed verification from Seller that the cancellation was received in order for the cancellation to be valid.

### TERMINATION BY SELLER:

If (i) Buyer fails to make any payment when due and owing; (ii) Buyer commits a material or anticipatory breach of the Component Order, Seller's credit terms, or this agreement; (iii) Buyer becomes insolvent, or enters voluntary or involuntary bankruptcy or receivership; then Seller shall have the right (without prejudice to any other rights or remedies it may have hereunder or by operation of law) to terminate the Component Order and to seek all remedies available, at law or in equity.

### FABRICATION SCHEDULE :

Orders for fabricated Orders are usually ready to ship within three (3) to ten (10) working days following Seller's authorized release of Order to fabricator's shop. This completion schedule depends on the type of Goods ordered, the Buyer's account status and the Seller's current workload and is not guaranteed. If shipment of any part of the order is delayed or is not in accordance with the order, the Buyer's obligation to accept the remainder of the Order shall not be affected.

### PRICING:

The Price payable by Buyer for the Goods shall be as set forth on the Component Order. Unless otherwise noted on the Component Order, the Price does not include taxes, insurance charges, transportation or storage charges, unloading of Goods at Buyer's job site, building permit costs or fees, charges for performance bonds, bid bonds or payment bonds or any charges arising out of Change Orders, all of which shall be the responsibility of Buyer. All prices are quoted as a net, F.O.B. Seller's plant, payable in United States Dollars at Seller's offices, in Houston, Harris County, Texas U.S.A. without offset or withholding of any kind. Prices in Seller's book are subject to change without notice and must be verified. All quotations are for acceptance within fifteen (15) days. After fifteen (15) days, prices are subject to change without notice. If Seller's fabrication of an Order is delayed for any reason including, but not limited to, the request of Buyer or Force Majeure, for a continuous period of fifteen (15) calendar days or more, the Order shall be subject to re-pricing by Seller to reflect any increases in labor and/or material, which Buyer agrees to pay.

### SALES OR USE TAX:

Prices quoted do not include applicable sales or use taxes. Buyer shall be responsible for paying any and all taxes that may be imposed on Component Orders by any taxing authorities unless, prior to shipment or pick-up, Buyer provides Seller with (i) a valid sales or use tax exemption (ii) a signed copy of their original resale certificate or (iii) written documentation of any other tax exemptions verifying tax exempt status. When invoicing Component Orders, Whirlwind will use all available information in an attempt to charge the appropriate tax in effect on shipment date as required by the various states. However, should a subsequent audit reveal that a different Tax is due than what Seller included in its invoice to Buyer, Buyer agrees to pay any additional Tax due and Seller agrees to refund any excess Tax that was erroneously collected.

### PAYMENT/CREDIT TERMS:

Seller's Credit Department, at its sole discretion, shall have the right to approve and assign Buyer credit, set credit limits, set payment terms and increase, decrease, modify or terminate Buyer's credit privileges and/or payment terms at any time. Unless Seller notifies Buyer otherwise, the following terms will apply:

1. First time or occasional Buyers shall pay cash on delivery, C.O.D., for the contract value of the Component Order, including applicable taxes and freight charges, on or before the date of delivery or, if Buyer is picking up the Goods, at the time Buyer picks up the order. Payment shall be made with cash or Cashier's Check payable to Whirlwind Steel Buildings, Inc. In some circumstances, prior arrangements can be made through Seller's Credit

Department to accept a personal or company check. Personal or company checks shall be verified with the Buyer's bank prior to shipment or pick up which may delay fabrication time. Seller shall not be responsible for any delay on an order caused by the process of verifying checks. Acceptance of a personal or company check is at Seller's sole discretion.

2. Specially fabricated Orders may require up to a 50% deposit before fabrication can begin, at Seller's discretion.
3. Subject to approval by Seller's Credit Department, Buyers can establish an "Open Account" with Seller by completing a credit application. Lines of credit are granted or denied based on Seller's review of Buyer's credit references, the customer's overall credit history, years in business, financial strength and history with Seller. Orders are not eligible for fabrication until Seller's Credit Department has completed a credit evaluation, approved Buyer for Open Account status and established satisfactory payment terms. Seller does not guarantee that all applying Buyers will qualify for Open Account status or that Open Account status is applicable on orders that exceed Buyer's established credit limit. Seller shall not be responsible for delays due to Credit Department review. Open Account Buyers enjoy the following privileges subject to compliance with all other clauses contained herein.
  - a) Open Account Buyers receive a maximum credit limit under which they can order Goods without agreeing to pay C.O.D. Payment from Open Account Buyers is due thirty (30) days from the date of invoice. It is the Buyer's responsibility to know his credit limit and to keep his total purchases under this maximum credit limit.
  - b) Open Account Buyers paying their invoice within ten (10) days of the date of order shipment or pick up will receive a ½ of 1% discount on Goods only, excluding any taxes or freight.
  - c) Seller, at Seller's discretion, may waive the deposit requirements for certain specially fabricated orders of established Open Account Buyers.

Open Account Buyers must maintain good credit and a prompt pay history to keep open account privileges. Seller's Credit Department reserves the right to request and receive Buyer's updated financial information, when Seller's Credit Department deems necessary, in order to maintain Buyer's Open Account status and credit limit. Open Account status may be revoked, at any time, at Seller's discretion.

4. Buyer agrees that all current obligations shall become immediately due and payable in the event of (a) Buyer's failure to accept a completed order when ready for shipment or pick-up (b) Buyer's failure to pay debts as they become due (c) Buyer's failure to comply with Seller's credit or payment terms (d) Buyer's dissolution, bankruptcy, insolvency, or death (e) termination of the contract by Buyer or Seller for any reason (f) Buyer's failure to provide satisfactory security or assurance for performance of Buyer's obligations if requested by Seller (g) any breach or anticipatory breach of contract.

**PAST DUE ACCOUNTS and DISPUTE RESOLUTION:**

If Buyer fails to fulfill the terms of payment, Seller may, at his option, defer additional order acceptance, shipment or pick-up, put Buyer's account on "Credit Hold" status, cancel the uncompleted balance of the order and/or require 100% prepayment of any current or future order. Any Open Account standing may be revoked and reevaluated. A Buyer on Credit Hold will not be allowed to place, pick up, or ship any order(s) until Credit Hold status has been removed by the Seller. Any order in progress at the time an account is placed on Credit Hold status shall be delayed until this status is removed by the Seller. Seller will attempt to notify any Buyer who is placed on Credit Hold status, but it is ultimately the Buyer's responsibility to

know his account status at all times. Seller shall not be responsible for any order, fabrication, progress or project delays resulting from an account status change to Credit Hold.

All deferred payments shall bear interest from the time they are due until paid at the highest rate permitted by law and if collection of the account requires any legal counsel or procedures, Buyer agrees to pay reasonable attorney's fees plus interest, costs and any other damages as may be allowed by law. No failure of the Seller to exercise any right occurring from default of the Buyer shall impair the Seller's rights in case of any subsequent default.

THE LAWS OF THE STATE OF TEXAS SHALL CONTROL THE VALIDITY, CONSTRUCTION AND INTERPRETATION OF THIS CONTRACT EXCLUDING ANY CONFLICTS OF LAWS PRINCIPLES WHICH WOULD DIRECT THE SUBSTANTITIVE LAW OF ANOTHER JURISDICTION TO APPLY. Buyer agrees that activities to be performed under the Component Orders/contracts will be performed primarily in the State of Texas and that payments are due and payable in Harris County, Texas. Buyer agrees that venue, for all purposes of any and all lawsuits, causes of action, arbitrations, or other methods of resolving disputes is proper in any state or federal court in Harris County, Texas, consents to such jurisdiction and waives any right to transfer any action brought in any such court. If Buyer is located in Louisiana, the parties agree to waive any right or redress under Section 9:2779 of the Louisiana Revised Statutes as it relates to the forum and choice of law for any Component Orders.

**FORCE MAJEURE:**

Seller shall not be liable to Buyer or to any third parties for whose use any of Buyer's Component Orders is intended for any penalties, damages (whether liquidated or unliquidated), claims or any other losses occasioned by Seller's failure to make delivery, or delay in making a delivery, of a Component Order when such failure or delay results from causes or events beyond Seller's reasonable control (a "Force Majeure Event"), including, but not limited to, fires, floods, storms, hurricanes, casualty losses, accidents, or other acts of God, stress, labor disputes or difficulties, acts or requirements of government or civil authority, riot, war, terrorism, embargo, truck shortage or any transportation delay or difficulty, or inability to obtain labor or raw Goods, or delayed direct shipment of Goods by third parties, or approval drawings which are not timely returned by Buyer or Buyer's architect or representative.

**WAIVER OF CONSEQUENTIAL DAMAGES:**

Notwithstanding anything stated to the contrary herein, IN NO EVENT SHALL SELLER BE LIABLE TO BUYER FOR ANY SPECIAL OR CONSEQUENTIAL, INCIDENTAL, INDIRECT OR PUNITIVE DAMAGES of any kind or character, including, but not limited to, loss of use, loss of profit, loss of property, or loss or revenue, whenever relating to or in connection with any Component Order.

**SECURITY INTEREST:**

Buyer grants and Seller retains a security interest in the Goods to secure payment of the contract price and all other charges due and owing to Seller by Buyer for any Goods purchased by Buyer. This security interest constitutes a 'purchase money security interest' pursuant to the Uniform Commercial Code and this document is a contract, security agreement and financing statement between Buyer and Seller.

**LIMITED COMPONENT WARRANTY:**

Seller warrants to Buyer that its Goods will be consistent with Seller's specifications and will be free of defects in workmanship for one (1) year from the date the Component Order is shipped. Claims for Goods that are defective when delivered must be made to Seller, in writing, within ten (10) days after the date of order shipment or pick-up, or shall be conclusively waived. With respect to Goods purchased from third parties, Seller shall have no warranty or other obligations with respect to such third party Goods, but Seller hereby assigns to Buyer the right to enforce (along with Seller) all warranties and guarantees Seller receives from the manufacturers and suppliers of third party Goods. Buyer can request and/or purchase additional warranties for external paneling, exterior sloped roof panels, vertical wall panels and roof weathertightness. The Weathertightness warranty, available on Super Seam-II, Super Seam-Plus, Weather Snap-16 and Weather Lok-16 standing seam roof systems must be requested and included on the Component Order by the Buyer and approved by Seller prior to Order Acceptance. In the event such additional warranties are purchased and/or granted, the terms, conditions and limitations thereof shall be expressly stated in the Warranty Certificates issued by Seller with respect thereto. THE WARRANTIES SET FORTH IN THIS SECTION SUPERSEDE AND ARE EXPRESSLY PROVIDED IN PLACE OF ANY AND ALL OTHER WARRANTIES, WHETHER EXPRESS, STATUTORY OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY

**IMPLIED WARRANTY OF MERCHANTABILITY AND THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, BOTH OF WHICH ARE HEREBY EXPRESSLY DISCLAIMED BY BUYER WITH RESPECT TO GOODS.** All warranty claims not readily discoverable upon delivery shall be presented by Buyer, in writing, within the term of the applicable Seller warranty period (which commences on the date the Component Order is delivered) or within thirty (30) days of discovery, whichever is first, to Buyer. Seller shall have the right and shall be given reasonable time to inspect and confirm any defect. Any Buyer replacement, repair or remedy of claimed Goods unauthorized by Seller shall void any remaining Goods warranty and shall be performed at the total expense of the Buyer, without recourse. Seller will, at its option, either repair or furnish replacement of defective Goods ex works, or without replacement, render a reasonable credit for Goods which prove defective. Any such warranty replacement, repair or remedy shall only be warranted until the conclusion of the original Goods warranty term. **THIS SHALL BE THE SOLE OBLIGATION OF SELLER WITH RESPECT TO COMPONENT ORDERS, AND BUYER SHALL BE ENTITLED TO NO OTHER REMEDIES.** Damages or Defects caused by outside sources, including but not limited to, improper installation, improper storage or handling, misuse or abuse, lack of proper maintenance, or normal wear and tear are not covered under Seller's warranties. Seller's warranties (except roof weathertightness) are not transferable and not assignable beyond the original end use customer.

#### **PREPAID FREIGHT ARRANGEMENT:**

When requested by Buyer, Seller will make reasonable effort to arrange shipments via what Seller considers, but does not warrant, to be a reliable, insured, bonded, independent trucking company. Freight charges will be prepaid by the Seller or added to the Buyer's Component Order cost at Seller's option. **SELLER SHALL NOT BE RESPONSIBLE FOR ANY LOADING, TRANSPORTATION, OR DELIVERY PROBLEMS, INCLUDING BUT NOT LIMITED TO, DELIVERY DELAYS, DAMAGES TO PROPERTY, PERSONAL INJURIES OF ANY KIND, UNLOADING EXPENSES, DEMURRAGE, OR ANY LIQUIDATED OR CONSEQUENTIAL DAMAGES REGARDING FREIGHT OR DELIVERY.**

Buyer shall be responsible for meeting the delivery truck at the destination, at the agreed time, and for timely unloading the truck using Buyer's equipment and without the delivery driver's assistance. All demurrage, standby, off-loading or other costs associated with any delay in accepting delivery or unloading Component Orders shall be paid by Buyer.

#### **BUYER PICK-UP:**

Buyer may make arrangements to pick-up Orders at Seller's plant. It is Buyer's responsibility to call ahead to confirm the loading schedule and that Buyer's order is complete and ready for loading. Seller's Shipping Department normally loads on a first-come, first served basis, beginning at 6:00 a.m., Monday through Friday (excluding Holidays and Inventory days). Buyers picking up large orders must be in Seller's plant no later than 12:30 p.m. Buyers picking up smaller orders must be in Seller's plant no later than 3:00 p.m. All C.O.D. Orders must be paid in full prior to loading.

Seller will load orders for pick-up, but Buyers are responsible for sending suitable vehicles, capable of hauling the size and weight of the Buyer's order. Since Seller loads Goods with overhead cranes and forklifts, a flatbed trailer without side boards is most suitable. Seller cannot load open end, closed trailers, such as horse trailers or export containers, and shall not be responsible for any damages of any kind incurred during loading.

Buyer shall be responsible for providing an appropriate method and materials for securing the Goods to the vehicle, and Buyer shall secure the loaded Goods. Seller shall not be responsible or liable for any damage or loss to Goods, vehicles or persons caused from unsecured or improperly secured Goods shifting or falling from Buyer's vehicle during transport, or caused from Buyer rearranging or loading of additional non-order Goods. Buyer's vehicle or trailer shall be empty prior to Buyer's order being loaded. Seller will not rearrange any pre-existing Goods on Buyer's vehicle, and will not allow Buyer to rearrange Goods on Seller's premises. Seller will not block over any pre-existing Buyer Goods in order to load Buyer's order on top of such pre-existing Buyer Goods. Seller may, at their discretion, refuse to load a Buyer's order if Seller judges possible risk to vehicle, Goods or public safety.

Seller shall not be held responsible or financially liable for any accidents or damages caused to vehicles, Goods, person or property for any reason regarding loading or transporting Buyer's Order. Risk of loss or damage shall pass to Buyer upon commencement of loading onto Buyer's transportation vehicle.

Partial order pick-ups are generally discouraged and only occasionally allowed at Seller's discretion. Partial pick-ups shall be pre-approved in writing, and such approval shall not release

Buyer's financial obligation for any order balance. In cases where partial pick-ups are part of a C.O.D. order, payment for the entire order balance must be paid prior to initial pick-up. Buyer shall be responsible for any additional freight charges resulting from multiple pick-ups.

#### **COMPLETED ORDERS NOT SHIPPED OR PICKED-UP WITHIN 30 DAYS:**

Any Component Order which has not been shipped or picked-up by Buyer within thirty (30) days of completion will be invoiced by the Seller and the full contract price shall be due and payable by Buyer at that time. It is acknowledged that Seller does not have a storage area designed for long-term storage and that orders left over thirty days from completion may be damaged or lost. Seller shall not be responsible for any damage to, or loss of, any such order and Buyer's obligation to accept and/or pay the agreed price for the order shall not be affected by any damage or loss incurred during storage. In the event Buyer requests a repair or replacement of any Goods damaged or lost during storage, Buyer shall pay for the repair or replacement, cash in advance, at current prices, in addition to the original amount due for the order. Seller shall not be responsible for any charges due to delays, increased cost, or additional freight incurred for the replacement order. An Order that has not been shipped or picked-up by Buyer within sixty (60) days of completion can be disposed of by Seller in any manner Seller chooses, at Seller's sole discretion, in which case Buyer shall remain obligated to pay the agreed price. Any unpaid account of an order fabricated and not shipped or picked-up within thirty (30) days may be turned over to an attorney for collection of the entire agreed price of the order, plus reasonable attorney fees and any other interest, storage charges, costs and damages as may be allowed by law.

#### **BILL OF LADING:**

Buyer is responsible for verifying that the Goods listed on the Bill of Lading are received. All obvious shortages and/or damages must be noted, in writing, on the Billing of Lading prior to Buyer, or his receiving representative, signing the Bill of Lading. Failure by the Buyer to document shortages of the number of packages or notation of damages documented on the signed Bill of Lading at the time of delivery or pick-up shall waive any claim of such shortage and/or damage. It is the Buyer's responsibility to retain a copy of the Bill of Lading documenting any shortages and/or damages. Loss of the Bill of Lading shall also waive any right to claim any shortage and/or damage.

Buyer agrees that Buyer's or Buyer's representative's loaded vehicle will exit the Seller's plant through the security gate. Buyer will allow Seller's Security Officer to video tape the load before tarpaulins are placed over any Goods, and Buyer will verify Bill of Lading information. This procedure protects both Buyer and Seller by validating that the Buyer is exiting with the correct Order(s).

#### **SHORTAGES & DAMAGES:**

Seller shall not be liable for any damage or shortage of Goods unless Buyer notifies Seller, in writing, within ten (10) days after delivery or pick-up. In the event that Seller is responsible for the shortage and/or damage, Seller will send such Goods to the delivery address via a reasonably priced shipping method of Seller's choice. Seller is not obligated to send Goods via overnight airfreight or direct hotshot truck lines unless Buyer prepays for such service. Seller shall not be responsible or liable for delays, Buyer's erection crew or rental equipment costs, or any liquidated or consequential damages of any kind relating to shortages or damages. Seller shall not be responsible for loss or damage to Goods that occur after delivery to the jobsite.

#### **FABRICATION ERROR REMEDY:**

Buyer shall notify Seller of any alleged fabrication errors, in writing, within ten (10) days or shipment or pick-up and allow Seller to investigate and confirm or deny the alleged errors or any remedies by Seller shall be waived. Seller shall remedy all fabrication errors Seller confirms to be Seller's by, at Seller's option, either repairing or furnishing replacement Goods ex works, or by rendering a reasonable credit for any Goods, repair or remedy. Seller shall have no obligation to remove or dismantle defective parts or to erect or install replacement parts. Seller shall not be responsible for fabrication errors attributed to defective fabrication drawings or details supplied by Buyer, or dimensions on Seller's issued approval drawings that have been confirmed approved by Buyer. All fabrication errors caused by Buyer or third parties, including but not limited to improper storage at the jobsite or improper installation, will be the financial responsibility of the Buyer. Back charges that are unauthorized by Seller shall be disallowed and the Buyer's account placed on immediate Credit Hold until resolution. Seller shall not be responsible or financially liable for delivery delays

or any of Buyer's costs expended on remedies unauthorized by Seller, including but not limited to Buyer's erection crew expense or rental equipment costs or liquidated or consequential damages of any kind relating to fabrication errors.

**ITEMS SOLD AS "REJECTS" OR "SECONDS":**

Items sold using the term "Reject or "Seconds" are non-prime blemished Goods, and are not claimable or returnable for any reason and are sold on an "as is", first-come, first-served basis without a warranty of any kind.

**SPECIAL ORDER GOODS:**

Special Order Goods, including but not limited to non-stock panels, trim, hardware, etc., may be subject to a 50% deposit before the Component Order will be processed. Once Seller orders Special Order Goods for Buyer, Buyer shall be financially liable for payment of the sales price for such items. It is the Buyer's responsibility to determine which Goods are Special Order Goods. Special Order Goods may require additional acquisition time, depending on the specific Goods. Seller shall not be responsible for project delays due to Special Order Goods availability and/or delivery.

**GOODS TAKE-OFFS:**

Seller does not offer this service in the Component Sales Division. To keep prices as low as possible, the list of Goods required is always the Buyer's responsibility. Seller's Sales personnel will offer information on the Goods offered, but Seller shall not be responsible for a Goods take-off.

**ENGINEERING ADVICE:**

Seller does not offer engineering advice through the Component Sales Division. Section properties on panels and standard Zees and Ceas are available in Seller's catalog so the Buyer's Engineer can determine the necessary design for the desired application, but Seller shall not be responsible for any damage or injury resulting from design problems of any kind.

**COLOR MATCH / PAINT:**

Buyer acknowledges that Seller's standard colors for panels and trim Goods may not match those colors offered by other companies even though the color names may be the same, and may not match Seller's own colors that have aged. Seller, therefore, does not warrant or represent that its colors will match those of any existing building. Seller offers a variety of colors in a variety of paint qualities and limited finish warranties, with information available upon request. It is the responsibility of the Buyer to ascertain and specify which color, quality and limited finish warranty will satisfy the Buyer's project requirement. Seller will not be responsible for Buyer's selection of color, paint quality and limited finish warranty combination. By signing the Component Order, Buyer assumes responsibility for Buyer's color selection.

Seller's standard red oxide primer is intended to be a provisional coating for short-term field protection only. Seller is not responsible

for the standard red oxide primer's compatibility to any finish coat applied by the Buyer. Bundling, loading, shipping, the weather, and other conditions can cause abrasion and rust on primer coated Goods which may require repair and a second coat of primer at the expense of the Buyer. Seller shall not be responsible for the appearance, adherence or durability of any primer or finish coat applied by the Buyer.

**INSTALLATION:**

Seller's Goods should be installed by qualified professional steel erectors. If Buyer is not a qualified professional steel erector, Buyer should hire a competent erector who is trained and experienced with installing and erecting steel building Goods safely. Seller shall not be responsible for damages to Goods, property or injuries to persons due to negligent or improper installation by any person.

**MISCELLANEOUS:**

The titles to each of the various paragraphs herein are included for convenience or only and shall in no way define, limit, or describe the scope or intent of this agreement.

In the event that one or more of the provisions hereof shall for any reason be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision hereof, and the remainder of the terms and conditions shall be construed as if such invalid or unenforceable provision had never been contained herein.

No oral agreement or other understanding shall in any way modify the terms and conditions herein; written modifications, to be effective, must be signed by both Buyer and Seller.

If Buyer is a legal entity, including, but not limited to, a corporation, limited partnership or joint venture, Buyer represents and warrants that this agreement and its execution have been duly authorized by all necessary entity officers and proceedings, and Buyer represents and warrants that persons or entities placing any Component Orders with Seller on behalf of Buyer have been duly authorized by Buyer to place such Orders.

In the event that Buyer's Purchase Order and/or terms or conditions are inconsistent with Seller's Component Order or Terms and Conditions, Seller's Component Order and Terms and Conditions shall govern. Seller will not accept, execute or be bound by Buyer's Purchase Order or any terms and conditions attached thereto. If Buyer's Purchase Order Number should appear on any Seller document(s), it is strictly for Buyer reference only.

This agreement shall be binding upon and inure to the benefit of the parties hereto, their respective successors and permitted assigns. In absence of an original, a fax executed copy of this contract shall act as an original.

The parties below acknowledge that they have read and understand Whirlwind Steel Buildings, Inc.'s Terms and Conditions for Sales of Goods - Component Sales Division and agree to abide by the terms and conditions as stated.

**BUYER (MUST COMPLETE ALL):**

Agreed to and Accepted by Buyer at Houston, Texas:

Signed By: \_\_\_\_\_  
Buyer

Print Name: \_\_\_\_\_

Company Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Buyer's Present Physical Address:

\_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

**SELLER:**

Agreed to and Accepted by Seller at Houston, Texas:

By: \_\_\_\_\_  
**Whirlwind Steel Buildings, Inc.**

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Whirlwind Customer Number: \_\_\_\_\_

**SIGNED, FOUR-PAGE ORIGINAL SHOULD BE RETURNED TO WHIRLWIND PRIOR TO ANY ORDER PLACEMENT.**