

TERMS AND CONDITIONS

- Offer:** This Submission is intended as an offer by Tech Electronics, Inc. ("Tech Electronics") to provide and install the systems and items specified on the face hereof (the "System") upon the term(s) and conditions and at the price(s) and within the installation date(s) stated herein. This submission, together with the documents attached hereto or incorporated herein by reference, shall constitute the entire agreement of the parties and may not be modified in any way unless specifically agreed to by Tech Electronics in writing. No terms stated by Customer in its request for proposal, purchase order, specification, acknowledgment or other documents shall be binding upon Tech Electronics, except as expressly incorporated herein by Tech Electronics, and Customer is hereby notified of Tech Electronics' objection to, and rejection of, any such terms which are in addition to, differ from, conflict with or are not included in the terms and conditions set forth in this Submission. **TECH ELECTRONICS OFFER IS EXPRESSLY LIMITED TO ACCEPTANCE UPON THE TERMS AND CONDITIONS CONTAINED HEREIN.** This submission shall not constitute a binding contract, unless and until this Submission is accepted and approved in writing by a corporate officer of Tech Electronics at its home office in St. Louis, Missouri.
- Acceptance:** Customer's acceptance of this offer shall occur by verbal acceptance, by written acceptance, confirmation by purchase order, by making full or partial payment for the System, or by accepting delivery, or allowing installation, of part or all of the System.
- The System offered by Tech Electronics will comply with the requirements specified and described on the face hereof. Tech Electronics makes no agreement or representation that it will install the System in compliance with specifications or criteria differing from those stated, or incorporated into, the Submission. If the Customer believes the System as it is described and specified by Tech Electronics in the Submission differs from the Customer's specifications or criteria, the Customer must give Tech Electronics notice within ten (10) days of receiving this Submission. Upon such notice Tech Electronics shall have the right to withdraw or revise the Submission at Tech Electronics' discretion. Tech Electronics assumes no responsibility for Customer's acceptance of this Submission in violation of any specifications or criteria communicated to Customer by third parties, unless such specifications are specifically adopted or referenced in this Submission by Tech Electronics.
- Taxes:** Any excises, levies, or taxes which Tech Electronics may be required to pay or collect, under any existing or future law, upon or with respect to the sale, purchase, delivery, storage, or processing of the System or any related use, consumption or transportation of any of the material covered hereby, shall be paid by Customer in addition to the sales prices, unless stated otherwise in writing.
- All agreements of Tech Electronics are subject to delays in performance beyond Tech Electronics' control. The parties agree that Tech Electronics shall not be liable for (and Customer may not refuse delivery or installation as a result of) any delay in the delivery or shipment of the System or the installation thereof, or for any damages (of any kind or nature) suffered by reason thereof, in the event that such delay or failure is, or such damages are, directly or indirectly due to any cause beyond Tech Electronics' control, including, but not limited to, acts of nature, fire, flood, riot, war, embargo, lockouts, strikes and slowdown, epidemics, inadequate transportation facilities, shortage or unavailability of materials, supplies or sources of energy, delay or default in delivery on the part of Tech Electronics' suppliers, regulation by any governmental authority, or acts or omissions of Customer. Customer shall reimburse Tech Electronics for any additional cost to Tech Electronics resulting from delays not caused by Tech Electronics, and in such event the time for delivery and installation of the System shall be extended for a period equal to the duration of the delay.
- Lightning protection provided as part of this Submission is only provided under such terms and conditions as set out in the manufacturer's specifications and is limited to the voltage and surges provided for in the manufacturer's data. (Copies of such terms and conditions are available for inspection upon request.)
- Cancellations or Hold-Ups:** Cancellations, modifications of orders, hold-ups or deferred delivery of orders can only be made with the written consent of Tech Electronics, and only upon terms that will indemnify it against any and all losses or costs that may have been incurred up to the time of such cancellation or hold-up, and which may later accrue as a result of such cancellation or hold-up.
- The parties agree that Tech Electronics is not an insurer nor is this Submission intended to be an insurance policy or contract nor is it intended to be a substitute for an insurance policy or contract. Insurance, if any, will be obtained by the Customer. The prices and charges of Tech Electronics herein are based solely upon the value of the goods and services provided and are not related to the value of the Customer's property or the property of others on Customer's premises; the parties recognize that these prices and charges are not sufficient to justify or allow Tech Electronics to assume any risk of any damages, actual, consequential or otherwise, to Customer or its property or the property of others. Because the damages which might result from malfunctions, etc., are difficult, if not impossible, to assess, and to determine as far as causation, it is agreed between the parties that Tech Electronics is only responsible for damages specifically set forth and enumerated herein. In the event Tech Electronics should become liable for damages, it is agreed between the parties that the maximum liability of Tech Electronics to the Customer for any and all damages arising out of the performance (or failure thereof) by Tech Electronics of its obligations under this submission shall be, and the same is hereby set at, the amount of money paid or to be paid by the Customer as consideration for the obligations of Tech Electronics, i.e., the sale prices as set forth on the cover page hereof. Further, Tech Electronics does not covenant, represent or warrant the usage, effect or operations of any System installed pursuant to this Submission, and does not warrant, covenant or represent that any System installed pursuant to this submission will not malfunction or be compromised or circumvented and therefore does not represent that the System will prevent any loss by burglary, hold-up, fire or in all cases provide the protection for which it is designed, installed or intended.
- If, within thirty days after receipt of same, the Customer shall give notice to Tech Electronics that any material covered hereby is defective, and if such material shall have been properly used for the purpose for which provided and if such is defective, such material shall be replaced by Tech Electronics at its original point of delivery, or at its option, expressed in writing, Tech Electronics may allow the return of such material and grant credit for the invoice price thereof. Tech Electronics will not be responsible for any costs incurred in making replacements under this warranty, including but not limited to cost of removal, installation or reinstallation of any part or parts. Tech Electronics reserves the right to discontinue, change or modify any product as manufactured or System as installed. In the event this warranty remedy is required, if the part or component of the System originally installed is not available, Tech Electronics may at its option substitute a part of equal quality. Enforceability of this warranty is limited to the Customer. **ANYTHING CONTAINED HEREIN NOT WITHSTANDING, TECH ELECTRONICS' LIABILITY TO CUSTOMER, IF ANY, WITH RESPECT TO THE PRODUCTS OR SYSTEMS INSTALLED, SHALL BE LIMITED AS PROVIDED IN THIS SECTION. TECH ELECTRONICS SHALL HAVE NO OTHER LIABILITY ON ANY CLAIM OF ANY KIND, WHETHER FOR NEGLIGENCE, BREACH OF CONTRACT, BREACH OF WARRANTY, STRICT LIABILITY, TORT, OR OTHERWISE FOR ANY DAMAGE OR INJURY TO PERSON OR PROPERTY OR LOSS ARISING OUT OF, CONNECTED WITH, RESULTING FROM THIS SUBMISSION, OR FROM THE PERFORMANCE OR BREACH THEREOF, OR FROM THE MANUFACTURE, SALE, DELIVERY, RESALE, OR REPAIR OR USE OF ANY PRODUCTS OR SYSTEM HEREIN EXPRESSLY PROVIDED, AND SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE. TECH ELECTRONICS DISCLAIMS ANY OBLIGATION OR LIABILITY FOR THE LOSS OF USE OF THE SYSTEM OR PRODUCTS WARRANTED, LOSS OF TIME, COST OR EXPENSE (INCLUDING WITHOUT LIMITATION, LABOR EXPENSE), INCONVENIENCE, COMMERCIAL LOSS OR ANY OTHER DIRECT, INDIRECT, CONSEQUENTIAL, SPECIAL OR INCIDENTAL DAMAGES.**
- Terms of Payment:** Terms of payment shall be effective from the date of invoice. Tech Electronics reserves the right to stop work and/or performance if the terms as outlined herein are not complied with by the Customer. Customer agrees that it will pay or reimburse Tech Electronics for any and all expenses, including, but not limited to, interest and attorney's fees, which are incurred by Tech Electronics in the collection of amounts due and payable herein. Payments not received within 30 days of the date of the invoice shall be subject to interest calculated at 18% per annum.
- Invoicing and Payments:** Tech Electronics may Invoice Customer monthly for any and all materials delivered to the job site or to an off-site storage facility and for all work performed on-site and off-site. Ten percent (10%) of the contract price is for engineering, drafting and other mobilization costs incurred prior to installation. This 10% shall be included in Tech Electronics' initial invoice. Customer agrees to pay Tech Electronics the amount invoiced upon receipt of the invoice. Waivers of lien will be furnished only upon written request, as the work progresses, to the extent payments are received.
- Lease prices are subject to credit approval.
- All necessary conduit 120 VAC receptacles, junction boxes, etc., are to be furnished and installed by Customer.
- Amendments or Changes:** If it becomes necessary at any time, or from time to time, subsequent to the date of this Submission and prior to completion of performance hereunder to make any changes in the terms of this Submission, or to any of the schedules or addenda attached hereto, and made a part hereof, any such change shall be effective only upon acceptance in writing signed by an authorized representative of Customer and an authorized officer of Tech Electronics and in such event the price, work schedules and other terms and conditions as appropriate shall be as changed by the parties in written amendment hereto.
- The Customer will provide conduit in all ceilings that are used as a return air plenum in compliance with local codes and ordinances and will provide all other required access, ventilation, and clearance in compliance with local codes and ordinances.