



Scully Signal Company  
70 Industrial Way, Wilmington, MA 01887-3479, USA • 800.2.SCULLY (272.8559)  
617.692.8600 • fax. 617.692.8620 • sales@scully.com • www.scully.com

## TERMS AND CONDITIONS

- ENTIRE CONTRACT.** THE TERMS AND CONDITIONS SET FORTH BELOW AND ON THE FACE SIDE HEREOF CONSTITUTE THE EXPRESSION OF ALL THE TERMS OF THIS AGREEMENT AND A COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN BUYER AND SELLER. ALL REPRESENTATIONS, PROMISES, OR STATEMENTS BY ANY AGENT OR EMPLOYEE OF SELLER THAT DIFFER IN ANY WAY FROM THE TERMS AND CONDITIONS HEREOF SHALL BE GIVEN NO EFFECT OR FORCE. Any additional, contradictory or different terms contained in any initial or subsequent order or communication from Buyer pertaining to the Goods described on the face hereof (the "Goods") are hereby objected to. No course of prior dealing between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this Agreement, Acceptance or acquiescence in a course of performance rendered under this Agreement shall not be relevant to determine the meaning of this Agreement even though the accepting or acquiescing party has knowledge of the nature of the performance and the opportunity for objection. All Orders are subject to the approval by the Seller at its offices in Wilmington, Massachusetts. No waiver or alternation of terms herein shall be binding unless in writing, signed by an executive officer of the Seller.
- PRICE.** All prices are F.O.B. Seller's plant, Wilmington, Massachusetts, unless otherwise specifically set forth on the face side hereof. Prices stated are subject to change without notice in the event of: (i) alterations in specifications, quantities, design, 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. No Discount will be allowed unless specifically set forth on the face hereof. Buyer agrees to pay a delinquency charge of 1 ½% per month, or if such rate shall exceed the maximum rate allowed by applicable law, then a delinquency charge calculated at such maximum rate, on the outstanding balances not paid when due from the date such balances were due until payment with respect thereof is made in full. Until the purchase price and all other sums due pursuant hereto are paid in full, seller retains a security interest in the Goods and in all proceeds of said Goods. Buyer shall execute financing statement(s) on request and irrevocably authorizes Seller to execute and file same.
- LIMITATION OF LIABILITY.** SELLER'S LIABILITY (WHETHER UNDER THE THEORIES OF BREACH OF CONTRACT OR WARRANTY, NEGLIGENCE, OR STRICT LIABILITY) FOR ITS GOODS SHALL BE LIMITED TO REPAIRING OR REPLACING PARTS FOUND BY SELLER TO BE DEFECTIVE, OR AT SELLER'S OPTION, TO REFUNDING THE PURCHASE PRICE OF SUCH GOODS OR PARTS THEREOF. AT SELLER'S REQUEST BUYER WILL SEND, AT BUYER'S SOLE EXPENSE, ANY ALLEGEDLY DEFECTIVE PARTS TO THE PLANT OF SELLER WHICH MANUFACTURED THEM.
- DISCLAIMER OF CONSEQUENTIAL DAMAGES.** IN NO EVENT SHALL SELLER BE LIABLE FOR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING WITHOUT LIMITATION BREACH OF ANY OBLIGATION IMPOSED ON SELLER HEREUNDER OR IN CONNECTION HEREWITH. Consequential damages for herewith purposes hereof shall include, without limitation, loss of use, income or profit, or losses sustained as the result of injury (including death) to any person, or loss of damage to property (including without limitation property handled or processed by the use of the Goods). Buyer shall indemnify Seller against all liability, cost or expense which may be sustained by Seller on account of any such loss, damage of injury.
- ACCEPTANCE AND TRANSPORTATION.** Upon Buyer's receipt of shipment, Buyer shall immediately inspect the Goods. Unless Buyer provides Seller with written notice of any claim for shortages of or defects in the Goods within forty-eight (48) hours after receipt of shipment, such Goods shall be deemed finally inspected, checked and accepted by Buyer. In the absence of shipping and packing instructions, Seller shall use its own discretion in choice of carrier and method of packing. Seller shall not be responsible for insuring shipments unless specifically requested by Buyer and any insurance so requested shall be at Buyer's expense and valuation.
- TITLE AND RISK OF LOSS.** Title to any goods sold and risk of loss of such Goods passes to Buyer upon delivery by Seller to carrier, and any claims for losses or damages shall be made by Buyer directly with carrier.
- CREDIT TERMS.** All orders and shipments shall at all times be subject to the approval of the Seller's Credit Department. The Seller reserves the right of declining to make shipment whenever, for any reason, there is doubt as to Buyer's

financial responsibility and Seller shall not in such event be liable for breach of nonperformance of contract in whole or in part.

8. **TAXES.** Unless otherwise specifically provided on the face hereof, the price of the Goods purchased is net and does not include sales, use, excise or similar taxes, whether federal, state or local. The amount of any such taxes applicable to the Goods shall be paid by Buyer in the same manner and with the same effect as if originally included in the purchase price.
9. **PACKAGING.** Prices stated are based on Seller's standard packaging. Seller reserves the right of packaging the Goods in pallets, bulk or individual cartons. Packaging will be standard commercial package and acceptable to commercial carrier. Special customer packaging will be furnished only when specified and so stated herein, and the cost thereof shall be borne by Buyer.
10. **DELAYS.** Unless expressly specified to the contrary, Goods in stock will be shipped immediately, and Goods not in stock will be shipped as soon as possible. However, all shipping dates are approximate, and are based upon current availability of materials, present production schedules, and prompt receipt of all necessary information. Seller will not be liable for any damage, loss, fault, or expenses arising out of delays in shipment or other nonperformance of this Agreement caused by or imposed by: (a) strikes, fires, disasters, riots, acts of God, (b) acts of Buyer, (c) shortages of labor, fuel, power, materials, supplies, transportation, or manufacturing facilities, (d) governmental action, (e) subcontractor delay, or (f) if any other cause or condition beyond Seller's reasonable control. In the event of any such delay or nonperformance, Seller may, at its option, and without liability, cancel all or any portion of this Agreement and/or extend any date upon which any performance hereunder is due.
11. **TERMINATION, CANCELLATION AND CHANGES.** Orders cannot be terminated, cancelled or modified, or shipment deferred after acceptance of Buyer's order by Seller, except with Seller's written consent and subject to conditions then agreed upon which shall indemnify Seller against liability and expense incurred and commitments made by Seller and which shall provide for profit or work in process and contract value of products or parts completed and ready for shipment.
12. **ADDITIONAL CHARGES.** If substitute or additional goods, or repair parts, are purchased by Buyer from Seller, the terms and conditions of this contract shall be applicable thereto, the same as if such substitute or additional Goods or repair parts had been originally purchased hereunder.
13. **EQUAL EMPLOYMENT OPPORTUNITY.** The Equal Opportunity clause, Section 202 of Executive Order 11246, as amended, relative to equal employment opportunities and implementing rules and regulations of the Secretary of Labor, is incorporated herein by specific reference.
14. **GENERAL CONDITIONS.** No agent, salesman or other party is authorized to bind Seller by any agreement, warranty, statement, promise or understanding not herein expressed. The sale of Goods pursuant to this order shall be governed by the laws of the State of Massachusetts. In addition to the rights and remedies conferred upon Seller by law, Seller shall not be required to proceed with the performance of any order or contract, if Buyer is in default in the performance of any order or contract with Seller, and in case of doubt as to Buyer's financial responsibility, shipments under this order may be suspended or sent sight draft with bill of lading attached by Seller. Any clerical errors are subject to correction. No delay or omission by Seller in exercising any right or remedy provided for herein shall constitute a waiver of such right of remedy and shall not be constituted as a bar to or a waiver of any such right or remedy on any future occasion. This contract shall be binding upon and shall inure to the benefit of the successors, and assigns of Buyer and Seller, provided, however, that Buyer may not assign or transfer this contract, in whole or in part, except upon the prior written consent of Seller.
15. **ENTIRE CONTRACT.** Upon Seller's acceptance of Buyer's order the terms and provisions set forth herein and in Seller's Acknowledgement shall constitute the entire agreement between Buyer and Seller and no statement, correspondence, sample or other term shall modify or affect the terms hereof.