

## TERMS AND CONDITIONS OF SALE

TERMS AND CONDITIONS. The following terms and conditions of sale are applicable to all Quotations and Purchase Orders and are the only conditions applying to the sale of Trans-Tech's products. Buyer's acceptance of these terms and conditions shall be deemed to have occurred unless written notice of rejection is received by Trans-Tech within ten (10) days from the date of receipt hereof. In any event, Buyer's acceptance of delivery of the goods sold hereunder shall manifest Buyer's assent to the terms and conditions hereof. No additions to or modifications of any of the terms and conditions hereof shall be effective unless made in writing and signed by both parties.

1. **WARRANTY.** TRANS-TECH MAKES NO WARRANTY, EXPRESSLY OR BY IMPLICATION, EXCEPT AS SET FORTH HEREIN. Trans-Tech warrants that the products delivered hereunder will be in substantial conformity with the applicable specifications and will be free from defects in material and workmanship. Trans-Tech's obligation under this warranty shall be limited to (at its option) repairing, replacing or granting a credit at the prices invoiced at the time of shipment for any of such products which shall, within one (1) year from the date of receipt by Buyer be returned to the factory of origin, transportation prepaid, and which are after examination, disclosed to Trans-Tech's satisfaction to be thus defective. Prior to returning any product, Buyer shall contact Trans-Tech's Sales Department and obtain an RMA (Return Material Authorization) number. Product received by Trans-Tech without an assigned RMA number may be returned to the Buyer, at Buyer's expense. This warranty shall not apply to any products which have been repaired or altered, except by Trans-Tech, or which shall have been subjected to physical or electrical abuse or misuse. THE WARRANTIES STATED HEREIN ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING THE WARRANTY OF MERCHANTABILITY, AND TRANS-TECH NEITHER ASSUMES NOR AUTHORIZES ANY OTHER PERSON TO ASSUME FOR IT ANY OTHER LIABILITY. NO PRODUCT IS WARRANTED, EXPRESSLY OR BY IMPLICATION, TO BE FIT FOR ANY PARTICULAR USE OR APPLICATION.

2. **LIMITATION OF LIABILITY.** The liability of Trans-Tech, arising out of the supplying of such products, or their use, whether on warranties, negligence or otherwise, shall not in any case exceed the order price of the products furnished by Trans-Tech, and upon expiration of the warranty period all such liability shall terminate, and the foregoing shall constitute the sole remedy of the Buyer and the exclusive liability of Trans-Tech. IN NO EVENT SHALL TRANS-TECH BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, LIQUIDATED, SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES OF ANY NATURE, OR FOR LOST PROFITS, SAVINGS OR REVENUES, OF ANY KIND, WITH RESPECT TO ANY MATTER RELATING TO OR ARISING UNDER THIS ORDER. Any excess repurchase costs, arising out of any termination due to Trans-Tech's default under any provision of this order, shall be limited to ten percent (10%) of the outstanding delivery balance under the order. Except for negligent acts, orders performed on either a Best Efforts, Time and Material, or Cost Reimbursement Basis, shall be exempt from any liabilities associated with warranties, default, or otherwise stated above.

3. **SHIPMENTS/DELIVERY.** Unless otherwise noted in Buyer's order, all shipments hereunder shall be F.O.B. Origin, and Buyer assumes all risk of loss or damage upon Trans-Tech's delivery to the carrier at the shipping point in good condition. Transportation charges shall be pre-paid by Trans-Tech and billed to the Buyer. Shipping dates are approximate and are based upon receiving all necessary information from the Buyer. Trans-Tech shall not be liable for delays in delivery or failure to manufacture or deliver (a) due to causes beyond its reasonable control; (b) due to acts of God, acts of the Buyer, acts of civil or military authority, priorities, fires, strikes, floods, epidemics, quarantine, restrictions, war, riot, delays in transportation or car shortages; (c) due to inability due to causes beyond its reasonable control to obtain necessary labor, materials, components or manufacturing facilities, or accidents to machinery; or (d) due to any other commercial impracticability. In the event of such a delay, the delivery dates shall be deferred for a period equal to the time lost by reason of such delay. Trans-Tech shall, where feasible, promptly advise the Buyer of the occurrence of such cause of delay, and of its effect upon delivery. Notwithstanding the foregoing, security title and right of possession to the products sold hereunder shall remain with Trans-Tech until all payments hereunder (including deferred payments whether evidenced by notes or otherwise) shall have been made in full in cash, and the Buyer agrees to do all acts necessary to perfect and maintain such security right and title in Trans-Tech.

4. **TRANSPORTATION/PACKAGING.** Shipments will be made using those generally accepted methods of transportation that are appropriate for the weight and size of the shipment, the distance and the Buyer's delivery requirements, unless instructions from the Buyer specify the method of shipment. Trans-Tech will package and prepare the products for shipment in accordance with normal procedures. If the Buyer requests or requires any additional packaging or preparation other than in conformity with Trans-Tech's normal procedure, Buyer will pay the costs of such additional packaging or preparation, which will be added to and paid in accordance with the purchase price for the products. Any delivery of product made more than thirty (30) days

in advance of order schedules, may be returned by the Buyer at Trans-Tech's expense.

5. **QUANTITY VARIATION.** Should products delivered hereunder be manufactured specifically for the Buyer, and not a Standard Catalog Item customarily carried in stock by Trans-Tech, Buyer agrees that: (a) delivery of ninety percent (90%) of the amount specified in the order shall constitute fulfillment of the order; and (b) in the case of an overrun, Trans-Tech may deliver such overrun up to ten percent (10%) of the order. In both of these situations, the total price charged by Trans-Tech shall be adjusted to reflect the actual amount shipped to Buyer.

6. **INSPECTION.** Buyer may inspect, or provide for inspection, at the place of manufacture. Such inspection shall be conducted as not to interfere unreasonably with Trans-Tech's operations, and consequent approval or rejection shall be made before shipment of material. No material shall be returned without Trans-Tech's consent.

7. **PRICES/PAYMENTS.** All prices are in U.S. dollars, and unless otherwise stated on the front hereof, payment terms are cash, 0% Net thirty (30) days from date of invoice. Payments shall be made without right of setoff. Pro rata payments shall become due as shipments are made. If shipments are delayed by the Buyer payments shall become due on the date when Trans-Tech is prepared to make shipment. If the work to be performed hereunder is delayed by the Buyer, payments shall be made based on the purchase price and the percentage of completion of the work. Products held for the Buyer shall be at the risk and expense of the Buyer. If the financial condition of the Buyer at any time is such as to give Trans-Tech in its judgment reasonable grounds for insecurity concerning the Buyer's ability to perform his obligations under the order, Trans-Tech may require full or partial payment in advance or may suspend any further deliveries or continuance of work to be performed by Trans-Tech until such payment has been received. Failure to furnish such payment within ten (10) days of demand by Trans-Tech shall constitute a repudiation of the order and in such event Trans-Tech shall be entitled to receive reimbursement for its cancellation charges. In the event of bankruptcy or insolvency of the Buyer, or in the event any proceeding is brought by or against the Buyer under bankruptcy or insolvency laws, Trans-Tech shall be entitled to cancel any order outstanding at any time during the period allowed for filing claims against the estate and shall receive reimbursement for its cancellation charges. As it regards quotations, prices quoted shall remain valid for a period of thirty (30) days from date of quotation. Trans-Tech's Remittance Address is P.O. Box 414387, Boston, MA 02241.

8. **TOOLING/NRE.** Any tooling purchased for the Buyer as part of this order shall be listed as a separate line item under the order. Depending upon the cost of the tooling, and for cash flow purposes, Trans-Tech may choose the option to invoice the Buyer in installments for the cost of such tooling. Buyer owned tooling may not be removed from Trans-Tech's facility prior to completion of the order. However, such tooling may be removed by the Buyer after proper notice of cancellation or default. Due to the requirement for Trans-Tech to maintain, reface, rework, etc., any Buyer tooling procured under the order, and the costs associated with such periodic maintenance, ownership of such tooling shall fully vest in Trans-Tech after a period of two (2) years from the date the tooling first entered service. This shall also apply to any Buyer tooling which has remained inactive at Trans-Tech for a period of two (2) years after completion of an order under which it was used.

9. **CHANGES.** Buyer shall have the right by written order to make changes in drawings, designs or specifications, where the products to be furnished by Trans-Tech are specifically manufactured for Buyer in accordance therewith, and in the method of shipment or packaging. If any such change causes an increase or decrease in the cost of or in the time required for performance of an order, or any other provisions of the order so affected, an equitable adjustment shall be made and the order modified in writing accordingly.

10. **CANCELLATION/TERMINATION.** An order may be terminated or canceled by the Buyer at any time, by written notification, subject to the following conditions: (a) The Buyer will accept delivery of, and pay for at the agreed upon price(s), all products which are completed, manufactured and allocable to the order at the time of Trans-Tech's receipt of such notice of cancellation; (b) The Buyer will pay all costs, direct or indirect, which have been incurred by Trans-Tech with regard to the products which have not been completely manufactured at the time of Trans-Tech's receipt of such notice of cancellation, including a reasonable profit on such costs. Such costs will include the necessary management and administrative personnel, and their related efforts, required to cancel the order, segregate canceled materials, etc., and the costs associated with preparing any cancellation claims to the Buyer, where appropriate; and (c) Trans-Tech will attempt to divert completed parts or work in process from canceled orders to fill other orders, wherever possible. If appropriate, a disposal or restocking charge will be responsibility of the Buyer. The unreleased portion of Blanket Orders may be canceled by the Buyer, at any time, subject to the terms specified above. However, should the unreleased portion of the order not be canceled by the Buyer, within one (1) year of the initial date of the order, the remaining unreleased portion of the

order may be shipped in full by Trans-Tech, and Buyer shall be liable for the cost of such product shipped.

11. **PATENTS.** Trans-Tech shall defend any suit or proceeding brought against the Buyer, based on a claim that any product, or part thereof, furnished under this order constitutes an infringement of any patent of the United States, if notified promptly in writing and given authority, information and assistance (at Trans-Tech's expense) for the defense of same, and Trans-Tech shall pay all damages and costs awarded therein against the Buyer. In case said product, or any part thereof, is in such suit held to constitute infringement and the use of said part or product is enjoined, Trans-Tech shall at its own expense and at its option, either procure for the Buyer the right to continue using said product or part, or replace same with noninfringing comparable products, or modify it so it becomes noninfringing, or remove said product or part and refund the purchase price and the transportation and installation costs thereof. The foregoing states the entire liability of Trans-Tech for patent infringement by said product of any part thereof. Notwithstanding the provisions of the preceding, the Buyer shall hold Trans-Tech harmless against any expense or loss resulting from infringement of patents or trademarks arising from compliance with Buyer's designs or specifications or instructions. The sale of products, or parts thereof, by Trans-Tech does not convey any licenses, by implication, estoppel, or otherwise, under patent claims covering combinations of said products or parts with other devices or elements.

12. **TAXES.** Prices specified do not include sales, use, excise or other similar taxes. All such taxes in effect and/or hereafter levied which are applicable to this transaction are in addition to the prices specified herein, and shall be paid by the Buyer.

13. **DISPUTES.** All disputes concerning a question of fact and/or law arising under an order, which is not disposed of by agreement of the parties shall be decided by a court of competent jurisdiction. However, if both parties agree, any such dispute may be settled by arbitration in accordance with the Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction over the dispute. If any litigation or arbitration is commenced between Trans-Tech and the Buyer, or their personal representatives, concerning any provision of this order, the party prevailing in the litigation or arbitration is entitled, in addition to such other relief that is granted, to a reasonable sum as and for their attorney's fees, or other costs of collection, in such litigation or arbitration.

14. **SAMPLES.** Samples supplied herewith are solely for the purpose of evaluating the suitability of such material for potential use and, as such, the samples are not intended to serve as warranties of any type, either expressed or implied.

15. **NONASSIGNMENT.** Any assignment of this order, or of any rights or obligations hereunder, by the Buyer or Trans-Tech, without the written consent of the other party, shall be void.

16. **CONFIDENTIALITY.** As it applies to all quotations and orders, both parties (the Buyer and Trans-Tech) will hold in confidence any and all data or information which is received from the other party which is marked CONFIDENTIAL or PROPRIETARY, if disclosed in documentary form, or identified as CONFIDENTIAL or PROPRIETARY at the time of disclosure, if disclosed in other than documentary form. Should conditions of the effort warrant such an action, the parties will enter into a separate Non Disclosure Agreement, providing mutual protection regarding the data exchanged between them.

17. **WAIVER.** The waiver by Trans-Tech of any term, provision, or condition hereunder must be in writing, and shall not be construed to be a waiver of any other term, condition, or provision hereof, nor shall such waiver be deemed a waiver of a subsequent breach of the same condition or provision on this order or future orders.

18. **ENTIRE AGREEMENT.** Except as expressly provided to the contrary in writing, the provisions of this order are for the benefit of the parties hereto and not for any other person. This agreement shall be construed to be between merchants. This instrument contains the entire and only agreement between the parties hereto relating to the subject matter hereof, and any representation, affirmation of fact and course of prior dealings, promise or condition in connection therewith or usage of the trade not incorporated herein shall not be binding on either party. No change, modification, rescission, discharge, abandonment or waiver of these standard conditions of sale shall be binding upon Trans-Tech unless made in writing, and signed on its behalf by a Vice President of Trans-Tech.

19. **REMEDIES FOR NON PAYMENT.** It is agreed and understood that in the event of default, which shall include but not be limited to the failure to pay outstanding invoices in accordance with the terms set forth therein, that buyer shall pay all costs of collection, including attorney's fees in an amount equal to 25% of the outstanding balance, which the buyer agrees is reasonable, whether or not suit is filed.