

TRI-MER CORPORATION STANDARD TERMS AND CONDITIONS FOR SALE AND/OR PURCHASE

1. Acceptance. Buyer/Seller (as well as “Buyer” or “Seller” independently), which is to be defined as any party engaged in a commercial transaction with Tri-Mer Corporation (hereafter “TMC” and sometimes “we,” “us” and/or “seller”), as well as any party necessary to a commercial transaction involving TMC and which party knows or reasonably should know that it is in a position to be subject to these Tri-Mer Corporation Standard Terms and Conditions for Sale and/or Purchase (hereafter “TMC Terms and Conditions”), may accept these TMC Terms and Conditions through any of the following methods; 1) executing any contract, purchase order or proposal to which these TMC Terms and Conditions are attached or within which these TMC Terms and Conditions are referenced, 2) the undertaking of any affirmative acts which would lead a reasonable person to believe that a commercial relationship with TMC has been established and therefore that these TMC Terms and Conditions had been accepted, 3) taking any actions related to a commercial transaction involving TMC and which actions are reasonably relied upon by TMC, or 4) sending an invoice to or receiving an invoice from TMC and which invoice is related to any contract, purchase order and/or proposal involving a TMC sale, service or purchase. Upon the acceptance of any contract, purchase order and/or proposal to which these TMC Terms and Conditions are attached, or within which they are referenced, the contract, purchase order and/or proposal becomes binding and shall be deemed to be based upon good and valuable considerations, the receipt and adequacy of which are hereby acknowledged by all parties. Buyer/Seller and TMC further agree that these TMC Terms and Conditions shall be deemed as incorporated within any such contract, purchase order and/or proposal. Buyer/Seller further agrees that these TMC Terms and Conditions shall be controlling over all aspects of its commercial relationship with TMC unless otherwise specifically addressed within, and modified by, the terms of the contract, purchase order and/or proposal. No other Terms and Conditions presented, offered or imposed by any other party shall act to hinder, nullify or supersede these TMC Terms and Conditions. Buyer/Seller and TMC agree to conduct business under the Michigan UNIFORM ELECTRONIC TRANSACTIONS ACT

2. Security Interest and Title. TMC is hereby granted a UCC 1 Security Interest, a purchase money security interest and/or all other UCC, common law or statutory security interests available under the circumstances, to the fullest extent permitted by applicable law, in any and all equipment (otherwise called the “Secured Goods”), as well as any and all products and proceeds thereof, sold by TMC to Buyer until such time that all outstanding debt relating to purchase monies for said equipment, as well as those monies contractually owed to TMC by Buyer for services related in any way, shape or form to the equipment sold, and which outstanding debt is evidenced by contract, purchase order or other record, is paid in full. In order to perfect its interest(s) TMC may ask that Buyer execute one or more financing statements and Buyer agrees to sign and deliver to TMC all UCC-1s, UCC-2s and/or any and all other documents which may be required to perfect TMC’s security interest(s), and to do so immediately upon the request of TMC. All appropriate security interest documents will be recorded as notice to the public that TMC retains a first in line security interest and/or a purchase money security interest in the equipment and all products and proceeds thereof. Buyer and TMC agree that it is their mutual intention that the equipment sold to Buyer by TMC is now and shall forever remain personal property and is not now, and shall never become, either a fixture or a part of a fixture until after the time that TMC has been paid in full and all security interests are released.

Specific Grant of UCC Security Interest. As security for the payment in full for the Secured Goods, and as a condition of the passage of title to Buyer for the Secured Goods as provided for hereunder, Buyer grants to TMC a first priority security interest in the Secured Goods, whenever located, together with all Accounts, Products and Proceeds of any and all of Secured Goods (as such terms are defined by the Uniform Commercial Code as from time to time in effect in any applicable jurisdiction). Upon default in payment by Buyer, TMC may exercise all rights of a Secured Party as provided for by the Uniform Commercial Code.

3. Price, Terms and Payment. Price for any sale or purchase shall be that stated in the appropriate Contract and/or Purchase Order. Buyer shall not hold back or retain any payments due, or percentages of payments due, to TMC and to do so shall be deemed as a material breach of contract by Buyer. The price is a cash price and Buyer/Seller agrees to pay in cash. Buyer/Seller agrees to pay as follows:

Payment terms to be determined prior to issuance of orders.

Any fees associated with collection services will be the responsibility of the Buyer/Seller including attorney’s fees, court costs, and/or collection services.

4. Change Orders and Back Charges.

4.a Change Orders. Any necessary change orders will need to be confirmed via P/O, email, letter, signature or other customary method. It is agreed that a reasonable time for objection is 20 days from the date of issuance of any requests for change orders.

4.b. Back Charges. Buyer/Seller agrees that TMC will not be liable for any back charges unless Buyer/Seller obtains written approval from a corporate officer of TMC. Back charges include, but are not limited to, any costs not included in this proposal for which Buyer/Seller seeks reimbursement.

5. Storage of Equipment. Buyer/Seller will be notified when completed equipment is ready to be scheduled for a shipment date. Once the equipment is ready to be shipped, TMC may store the equipment should Buyer/Seller not be ready for delivery for any reason. This will not relieve Buyer/Seller’s duty to pay all invoices as they become due according to the payment terms shown in Section 3.0 above. Should TMC store equipment for any reason then Buyer/Seller will pay a monthly storage fee to TMC at the rate of 2.5% of the total of the associated Contract and/or Purchase Order price in addition to the duty to pay the cash price and interest charges. Storage fees will be calculated on a daily pro-rated basis according to the actual number of calendar days in the month.

6. Taxes, Permits and Licenses. Buyer/Seller agrees to pay all taxes which may become due by virtue of the sale of equipment and/or services, to include, but is not limited to, all sales, use, excise and foreign corporation taxes whether imposed on Buyer/Seller or TMC. Buyer/Seller agrees to pay any and all costs for all licenses, permits and environmental protection testing imposed on or incurred in connection with this sale. All such costs associated with taxes, licenses, permits and testing paid by TMC, together with all costs, expenses and charges incurred by TMC in defending against or resisting payment thereof, shall be reimbursed to TMC by Buyer/Seller immediately upon receipt of an invoice therefore. If

Buyer/Seller is tax exempt then Buyer/Seller must immediately provide TMC with its exemption certificate prior to the incurring of such costs by TMC and failure to do so will result in Buyer/Seller being held responsible for any costs incurred prior to providing the exemption certificate to TMC.

7. Freight, Transportation and Risk of Loss. Unless otherwise specifically agreed between the Parties in writing, all freight, shipping, transportation or other costs of delivery for all equipment and work shall be assumed by Buyer. TMC shall not be responsible for any shipment costs, permits, escorts, or any other details for delivery of the equipment. TMC will organize and schedule shipment with Buyer/Seller upon notification that equipment is ready to ship. TMC will provide shipping estimates up to one month before projected ship date. All shipping terms shall be as defined by Incoterms 2010 unless specifically indicated as otherwise within the applicable contract, purchase order or proposal. Shipping terms for all transactions covered by these TMC Terms and Conditions, unless specifically indicated as otherwise within the applicable contract, purchase order or proposal shall be "Ex Works" (EXW).

8. Delays in Performance. TMC will not be liable for any damages sustained by Buyer/Seller resulting from our company's, or any supplier's, failure to perform or delay in performing any obligation if such failure(s) or delay(s) is/are caused directly or indirectly by circumstances or events beyond TMC's control. Some examples are invasion, fire, floods, strikes, thefts, interference or restraint by civil or military authority, or hindrance due to regulations (local, state, national, and international). Buyer/Seller agrees to waive any right to incidental or consequential damages as a result of any reasonable delay as long as parties have acted in good faith. In the event that a manufacturer cannot perform for any reason, TMC will attempt to reasonably limit delays to the project and in doing so TMC reserves the right to substitute goods of equal value and performance at its discretion.

9. Limited Warranty. Unless otherwise agreed by the Parties in writing, all warranties for materials and equipment provided by a manufacturer(s) other than TMC will be the sole responsibility of said manufacturer(s) and not TMC. TMC provides no warranty covering, and assumes no responsibility for defects or malfunctions within, said equipment. Each manufacturer will provide certificates of warranty for material and equipment and such certificates are available upon request. Buyer/Seller is hereby notified that each manufacturer has specific requirements regarding startup, operation, and periodic maintenance. Failure to abide by these requirements may void warranties. Limited warranties provided by manufacturers replace and supersede any and all other warranties, whether express, implied or statutory, including without limitation implied warranties of merchantability and suitability and fitness for any particular purpose whatsoever.

10. Cancellation. Unless otherwise agreed to by the Parties in writing, Buyer may cancel the associated Contract and/or Purchase Order by providing written notice to TMC. The first incremental payment (usually five percent) is not refundable for any reason. Upon notice of cancellation, Buyer must also pay TMC for all material and labor costs incurred to date, plus costs for material handling, manufacturing, sales, engineering, and administrative overhead. In addition, along with the notice of cancellation Buyer/Seller must pay TMC ten percent (10%) of the total project cost. TMC may cancel the associated Contract and/or Purchase Order at any time before shipment of equipment, if TMC deems itself insecure as to future payment from Buyer or if it determines that it is commercially unreasonable to proceed. In this event Buyer will be refunded any and all deposits made to TMC after satisfaction of all costs owing to TMC.

11. Events of default. Buyer/Seller shall automatically be in material default upon any of the following: (a) failure to make any payment when due, (b) a negative change in the present financial condition, creditworthiness or responsibility of Buyer/Seller materially affecting Buyer/Seller's ability to pay Seller, (c) a refusal by Buyer/Seller to accept any delivery, (d) failure to perform any obligation hereunder when and as required, or (e) a breach by Buyer/Seller of any provision, representation, meeting of specifications, promise or warranty contained herein or within the applicable Contract and/or Purchase Order between the parties.

12. Remedies on Default. If, in the reasonable opinion of TMC, the Buyer/Seller has defaulted under one or more of the provisions of this or any other the associated Contract and/or Purchase Order between the Parties, TMC may so notify the Buyer/Seller in writing of such default(s), and then TMC may immediately at its option (a) cease performance of any other obligation under this the associated Contract and/or Purchase Order, and/or (b) exercise any remedy under the Uniform Commercial Code of Michigan or any other state where the remedy is sought to be exercised, and/or take any action permitted under the laws of the appropriate jurisdiction, and/or (c) take possession of all equipment and/or work wherever located and remove it from the premises where located, and/or (d) refuse service and start-up, and/or (e) declare all sums owed, or to be payable to TMC immediately payable, and/or (f) as limited attorney-in fact for Buyer/Seller to take possession of the equipment, and/or all products or proceeds thereof, wherever located and sell the same at the best price obtainable at public or private sale, with or without notice (at the sole option of TMC), and execute and deliver all documents necessary therefore with the right of the subsequent Buyer/Seller thereof to remove same from the premises where located, or any number of such remedies. TMC shall remain, upon and following exercise of one or more of its remedies of default, to be entitled to receive all sums owed to TMC by Buyer/Seller, to date of sale, plus such additional charges as may be specifically set forth by TMC. If any net positive sale proceeds shall remain after completion of such sale and payment of all of TMC's costs and charges, the net proceeds shall be remitted to Buyer/Seller. All remedies exercised by TMC shall be free and clear from any liability to Buyer/Seller, and the exercise of one or more of said remedies by TMC shall not eliminate or waive its right to exercise any other legal or equitable remedy it may have.

13. Indemnification and Limited Liability. Buyer/Seller agrees to indemnify and hold harmless TMC of and from any and all claims, demands, losses, causes of action, damage, lawsuits, judgments, including attorneys' fees and costs, but only to the extent caused by, arising out of, or relating to the products provided or work done by Buyer/Seller. Buyer/Seller also agrees to pay the cost of defense in such an event, including payment for TMC's choice of attorneys. TMC will not be responsible for any incidental, consequential, or other damages of whatsoever nature or kind. In no event will TMC's liability to Buyer/Seller exceed the cash price of the defective equipment. It is mutually agreed that the price stated for the equipment herein described is consideration for limiting TMC's liability.

14. Sole Governing Statement of Terms and Conditions. These TMC Terms and Conditions supersede, cancel and nullify all previous, future and contemporaneous Terms and Conditions or other documents which may contradict this document. Any such document issued by Buyer/Seller shall be considered to be for Buyer/Seller's internal use only, and the provisions contained therein shall not amend these TMC Terms and Conditions except as may be expressly agreed to by the Parties in writing. No changes, alterations, or modifications to these TMC Terms and Conditions will be effective unless in writing and signed by the Parties hereto.

15. Intellectual Property Indemnity. Buyer/Seller shall, at its own expense, hold harmless, indemnify, and defend TMC against any allegation or Claim that any Products, processes, materials, or Deliverables, or any part thereof, furnished by Buyer/Seller under the applicable Contract and/or Purchase Order, infringes any patent, trademark or copyright, or misappropriates any trade secret. If said Products, processes, materials, or Deliverables, or any part thereof is held in fact to infringe and/or its use is enjoined, Seller shall, at its own expense: (i) procure for TMC an irrevocable, royalty-free license to continue using such Products, processes, materials, or Deliverables; (ii) with TMC's prior written approval, replace same with substantially equivalent but non-infringing Products, processes, materials, or Deliverable; or (iii) modify such Products, processes, materials, or Deliverables so it becomes non-infringing but maintains the same functionality. No replacement or modification provided according to this section shall in any way amend or relieve Buyer/Seller of its warranties and guarantees set forth in this The associated Contract and/or Purchase Order.

TMC shall promptly notify Buyer/Seller of any allegation, Claim, suit, or proceeding involving TMC in which such infringement is alleged, and TMC shall permit Buyer/Seller to control the defense of any such allegation of infringement, and TMC shall render such reasonable assistance, at Buyer/Seller's cost, in defense thereof as Buyer/Seller shall request or require. Buyer/Seller shall not settle or compromise any such allegation of infringement without prior written approval of TMC, which approval shall not be unreasonably withheld.

16. Non-waiver. The waiver by either Party of a breach of any provision shall not constitute a waiver of any subsequent breach or nullify the effectiveness of such provision.

17. Nondisclosure. Buyer/Seller shall not disclose Confidential Information to any third parties, or use it except in connection with performance of its obligations under this Agreement. Buyer/Seller shall restrict Confidential Information to its employees who need it in connection with performance under this Agreement and who are legally obligated by written agreement to protect such Confidential Information to at least the same extent that Buyer/Seller is obligated hereunder.

Buyer/Seller warrants to TMC that each employee, independent contractor, agent and/or subcontractor associated with the applicable contract and/or purchase order, or performing under any associated agreement, has entered into a written agreement with Buyer/Seller containing legally binding obligations at least sufficient to permit Buyer/Seller to fulfill its obligations to TMC under this agreement and has counseled said employee, independent contractor, agent and/or subcontractor associated with the applicable contract and/or purchase order, or performing under any associated agreement concerning all obligations under these TMC Terms and Conditions. TMC shall have the right to prior approval and rejection of the terms and conditions of all nondisclosure provisions between Buyer/Seller and its employees, independent contractors, agent and/or subcontractors associated with the applicable contract and/or purchase order, or performing under any associated agreement. Buyer/Seller shall not disclose Confidential Information without first obtaining TMC's written permission and approval of any arrangements concerning such disclosure.

Buyer/Seller is hereby placed on notice that any person receiving TMC nonpublic financial or other TMC nonpublic business information while performing, or in connection with performing, under this Agreement may be subject to laws dealing with insider trading and laws dealing with theft of trade secrets, for certain misuses and/or disclosures thereof.

Confidential Information shall be accounted for and returned to TMC upon request or upon completion of this Agreement at TMC's sole discretion.

Buyer/Seller's term of obligation hereunder shall begin on the Effective Date, and shall continue with respect to each item of Confidential Information until such time as Buyer/Seller provides evidence to TMC's satisfaction that an exception in the paragraph below in the Nondisclosure Article applies to such item.

Buyer/Seller's obligations with respect to Confidential Information shall not apply to any Confidential Information that:

Buyer/Seller's permanent documentation proves was legally and ethically in the possession of Buyer/Seller, under no obligation of secrecy, at the time of its disclosure to Buyer/Seller by TMC and was not obtained directly or indirectly from TMC; or,

is or becomes known to the public generally through no fault of Buyer/Seller; or,

is furnished in written form on a non-confidential basis to Buyer/Seller by another party having a bona fide right to disclose such information and who has no obligation of secrecy to TMC with respect to such information.

Buyer/Seller may disclose to the appropriate authorities Confidential Information that, in the opinion of its legal counsel, is required to be disclosed or produced by applicable law provided that Buyer/Seller promptly notifies TMC of its obligation to make such disclosure and reasonably cooperates with TMC to ensure confidential treatment of the Confidential Information so produced or disclosed.

18. Governing Law and Venue.

The choice of laws is that of the State of Michigan, United States of America. Jurisdiction and venue with respect to any suit in connection with these TMC Terms and Conditions shall, at TMC's choice and discretion, reside first in in an appropriate state court, or alternatively in the United States District Court for the Eastern District of Michigan. The Parties hereto expressly agree to waive any objections and to subject themselves to: (i) the jurisdiction and venue of the aforesaid courts; (ii) enforcement proceedings brought in such courts to define the rights and obligations of the Parties; and (iii) service of process under the state of Michigan's Long Arm Statute.