

TRICON INDUSTRIES, INC.
CUSTOMER STANDARD TERMS AND CONDITIONS OF SALE

1. **APPLICABILITY TO ALL CONTRACTS.** These terms and conditions (the "Standard Terms and Conditions") will apply to, and will be deemed incorporated in, all Contracts for sales of goods or services to any customer ("Buyer") by Tricon Industries Incorporated ("Seller"), whether or not expressly referred to in the Contract. The term "Contract" includes all accepted quotations, purchase orders, releases, requisitions, work orders, shipping instructions, specifications and other documents pertaining to the sale of goods to Buyer. By placing an order for goods, Buyer will be deemed to represent that it has read and agreed to these Standard Terms and Conditions. Any additions to, changes in, modifications or revisions of these Standard Terms and Conditions submitted by the Buyer will be deemed to be a counter-offer and rejected by Seller, except to the extent expressly agreed to in a writing signed by an authorized representative of Seller. Buyer's acceptance of products or services called for in said contract shall constitute its acceptance of the following terms and conditions of sale.
2. **QUOTATIONS.** All sales quotations are offered for acceptance within thirty (30) days unless a longer time is specified on the face of the quotation, and if not so accepted within the designated period will be deemed withdrawn. All quotations are and will be deemed to constitute invitations to order goods only as described in the written quotation provided by Seller, subject to these Standard Terms and Conditions. The prices quoted are valid for the proposal in which they are contained only and may not be relied upon as a basis for pricing similar, repeat or subsequent orders.
3. **PRICE ADJUSTMENTS.** Customer acknowledges that the price set forth in any quotation provided by Seller is based on Seller's costs included in the goods as of the date of the quotation. In the event that such raw material, component or service costs increase (including surcharges) during the term of the Contract, Seller may increase the contract price to reflect increases in such costs as of the date of any shipment. Should any costs thereafter decrease, the price will be adjusted downward but not below the price specified in the quotation.
4. **CANCELLATION CHARGES.** If a Contract for goods is cancelled by Buyer, Seller will invoice Buyer for (a) costs of unused raw materials purchased to produce the goods and (b) if production of the goods has commenced, for the goods based on percentage of completion with normal profit. If, at the time of the cancellation, the goods are 90% or more completed, the Buyer will be invoiced for 100% of the contract price for the goods.
5. **TAXES.** All prices quoted are exclusive of federal, state, local or foreign sales, use or excise taxes and any other fees, tariffs, duties or licenses levied upon, or measured by the sale, the sales price or use of the goods ordered by Buyer which are imposed upon Seller by reason of the manufacture, sale or delivery of such goods. Buyer agrees that it is responsible for any and all such taxes and fees.
6. **SHIPMENTS.** All prices quoted are exclusive of shipping and handling charges. All shipments of goods are Ex-Works Origin or F.O.B. Seller's plant unless otherwise specified in the Contract. Delivery dates will be determined from the date of Seller's acceptance of the Contract. Delivery dates are approximate, and Seller will not be liable for delay or shipment unless specified in the Contract. Buyer assumes all responsibility and liability for loss and damage resulting from the handling, storage or use of goods upon delivery to the shipper at Seller's plant.
7. **FORCE MAJEURE.** Seller will not be liable for delay or failure to ship the goods due to acts of God; acts of the Buyer; acts of civil or military authority; wars, riots or terrorism; fires, strikes, floods or power failures; delays or shortages in transportation; inability due to causes beyond its reasonable control to obtain necessary labor, raw materials or components; or other causes beyond Seller's reasonable control. Under any such circumstances, Buyer agrees to accept deliveries in accordance with such plan or schedule as Seller may adopt.
8. **INSPECTION.** Buyer agrees to inspect any goods supplied by Seller upon receipt and to give notice in writing to Seller of any damage, defect or other claim within thirty (30) days of the date of receipt. Failure to provide such written notice of a claim within the specified time constitutes an unqualified acceptance of the goods and a waiver of any and all claims with respect to the goods. Each shipment of goods by Seller to Buyer will be accepted or rejected by Buyer in its entirety. Buyer's acceptance of any part of the goods tendered in a shipment will constitute a complete acceptance with respect to all the goods tendered in that shipment.
9. **WARRANTY. SELLER MAKES NO WARRANTY, WHETHER OF MERCHANTABILITY, FITNESS OR OTHERWISE, EXPRESS OR IMPLIED, CONCERNING THE GOODS OTHER THAN THAT THEY WILL CONFORM TO THE SPECIFICATIONS CONTAINED IN THE CONTRACT. ANY RECOMMENDATIONS MADE BY SELLER CONCERNING THE USE OF THE GOODS ARE BELIEVED TO BE RELIABLE, BUT SELLER MAKES NO WARRANTY OF THE RESULTS TO BE OBTAINED.**
10. **LIABILITY.** Seller's liability on any claim of any kind, including negligence, for any loss or damage arising out of, connected with or resulting from any goods that are the subject of a Contract, or from the performance or breach thereof, will in no case exceed the contract price for such goods. At Seller's option, Seller may repair any rejected goods or ship replacement goods, provided that Seller has been given timely notice of the rejection of the goods by Buyer. The foregoing constitutes Buyer's sole and exclusive remedy and a fulfillment of all of Seller's liability with respect to the goods. **SELLER WILL IN NO EVENT BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL OR OTHER DAMAGES RESULTING FROM**

DELAYED DELIVERY, SHORT SHIPMENT, HANDLING, STORAGE OR USE OF THE GOODS.

11. **TERMS OF PAYMENT.** Unless otherwise expressly agreed to by Seller in Seller's quotation, terms of payment for goods or services are thirty (30) days net from the date of the Seller's invoice. Terms of payment for tooling, molds, dies, fixtures, and automated equipment are ten (10) days net from the date of Seller's invoice, which will be presented to Buyer in installments of the total quoted price. Complete and final payment for all tooling is required when any one of the following is achieved: (a) the product delivery quantities exceed one hundred percent (100%) of the quoted PPAP quantity included with the tooling purchase; (b) interim approval of any type; or (c) PPAP approval. Inspection rights granted to Buyer will not affect or alter the payment terms or the timing of Buyer's payment obligations. If Buyer fails to make any payments as required, Buyer agrees to indemnify Seller for all costs and expenses, including reasonable attorney fees, court costs and associated expenses incurred by Seller to enforce the Seller's rights to payment.

12. **BUYER'S CREDIT.** Buyer acknowledges and agrees that Seller has the right, along with or without using any other remedy available to Seller, to terminate a Contract or to suspend further deliveries in the event Buyer fails to make full payment for any shipment when such payment is due. Buyer further acknowledges and agrees that if, at any time, Buyer's credit standing becomes unsatisfactory to Seller, Seller may require cash payments or other security satisfactory to Seller in its sole and absolute discretion, with respect to goods previously shipped and any future deliveries.

13. **INSOLVENCY OF BUYER.** In any of the following events affecting Buyer, Seller may immediately terminate any Contract with Buyer without any liability to Buyer: (a) insolvency of Buyer or admission by Buyer of inability to pay its debts as they come due, (b) filing of a voluntary petition in bankruptcy by Buyer, (c) filing of any involuntary petition in bankruptcy against Buyer, (d) appointment of a receiver or trustee for Buyer or (e) execution by Buyer of an assignment for the benefit of creditors. Buyer will reimburse Seller for all costs Seller incurs in connection with any of the foregoing, whether or not a Contract is terminated, including, but not limited to, all reasonable attorney or other professional fees associated with the termination of the Contract and enforcement of the rights of the Seller under the Contract.

14. **INDEMNITY FOR INFRINGEMENT OF PROPRIETARY RIGHTS.** Buyer, at its own expense, agrees to hold harmless and defend Seller from any domestic or foreign claim, lawsuit or proceeding of any kind whatsoever brought against Seller, in any capacity, alleging that any goods, or part thereof, manufactured by Seller according to Buyer's specifications constitutes an infringement of patent or other proprietary rights of any third party, and Buyer will pay any and all judgments, expenses and costs that may be awarded to the claimant against Seller.

15. **BUYER PROPERTY.** All tooling, molds, dies and other property provided by Buyer, or manufactured by Seller at

Buyer's expense, for the specific purpose of producing goods for the Buyer, will be deemed property of Buyer ("Buyer Property"). So long as Seller is producing goods for Buyer, Seller will maintain such Buyer Property at Seller's premises. When production of goods using such Buyer Property ceases, Buyer will be responsible for removing such Buyer Property at Buyer's expense. In the event that Buyer property has not been used to produce any goods for a period of two or more years, Seller may notify Buyer by registered or certified mail at Buyer's last known address. If within sixty (60) days of such notice, Buyer does not make arrangements to pick up such Buyer Property at Buyer's expense, title to such Buyer Property will be deemed to have been transferred to Seller, and Seller may dispose of such Buyer Property in any manner Seller deems appropriate.

16. **ENTIRE AGREEMENT.** These Standard Terms and Conditions, together with other any other Contract documents, constitute the entire agreement between Seller and Buyer with respect to the matters which are the subject of each Contract and supersede all prior oral or written representations and agreements.

17. **MODIFICATIONS AND WAIVERS.** No modification to any Contract, or any of these Standard Terms and Conditions incorporated therein, purported to have been made by any agent or representative of Seller will be binding on Seller until such modification is in writing signed by an authorized signatory of Seller. No waiver by Seller of any Contract term, and no course of dealing, will be deemed to constitute a continuing waiver unless such waiver is signed by an authorized signatory of Seller.

18. **ASSIGNMENTS; BINDING EFFECT.** No Contract may be assigned by Buyer without Seller's prior written consent. Each Contract will be binding upon and inure to the benefit of, the parties and their respective successors and permitted assigns.

19. **SEVERABILITY.** If any provision of any Contract is invalid or unenforceable under any statute, regulation, ordinance, executive order or other rule of law, such provision will be deemed reformed or deleted, as the case may be, but only to the extent necessary to comply with such statute, regulation, ordinance, order or rule, and the remaining provisions of the Contract will remain in full force and effect.

20. **GOVERNING LAW.** The validity, interpretation and performance of each Contract will be governed by and construed in accordance with the internal laws of the State of Illinois, U.S.A. without regard to principles of conflicts of laws.

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