

**TNE International, LLC**  
**Terms and Conditions of Sales**  
**PRF-G-002, R1, 5/10/13**

All sales by Seller are made pursuant to the following terms. No other or additional terms or conditions are or will be accepted including Buyer's Terms of Conditions of Purchase.

**ACCEPTANCE OF ORDERS -**

All orders, whether placed directly or through an agent, and all subsequent amendments thereto, are subject to a final approval and acceptance by Seller's main office and will have any or all other terms and conditions of sale subordinate and superseded by the terms and conditions herein, whether written or implied.

**LIMITATION OF WARRANTIES, REMEDIES AND DAMAGES -**

THE WARRANTY STATED BELOW IS GIVEN IN PLACE OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE. NO PROMISE OR AFFIRMATION OF FACT MADE BY ANY AGENT OR REPRESENTATIVE OF SELLER SHALL CONSTITUTE A WARRANTY BY SELLER OR GIVE RISE TO ANY LIABILITY OR OBLIGATION.

Seller warrants that on the date of its delivery to carrier the goods are free from defects in workmanship and materials.

SELLER'S SOLE OBLIGATION IN THE EVENT OF BREACH OF WARRANTY OR CONTRACT OR FOR NEGLIGENCE OR OTHERWISE WITH RESPECT TO GOODS SOLD SHALL BE EXCLUSIVELY LIMITED TO SORTING, REPAIR OR REPLACEMENT, F.O.B. SELLER'S POINT OF SHIPMENT, OF ANY PARTS WHICH SELLER DETERMINES TO HAVE BEEN DEFECTIVE or if Seller determines that such repair or replacement is not feasible, to a refund of the purchase price upon return of the goods to Seller.

Any action against Seller for breach of warranty, negligence or otherwise must be commenced within one year after such cause of action accrues.

NO CLAIM AGAINST SELLER FOR ANY DEFECT IN THE GOODS SHALL BE VALID OR ENFORCEABLE UNLESS BUYER'S WRITTEN NOTICE THEREOF IS RECEIVED BY SELLER WITHIN ONE YEAR FROM THE DATE OF SHIPMENT.

Seller shall not be liable for any damage, injury or loss arising out of the use of the goods if, prior to such damage, injury or loss, such goods are (1) damaged or misused following Seller's delivery to carrier; (2) not maintained, inspected, or used in compliance with applicable law and Seller's written instructions and recommendations; or (3) installed, repaired, altered or modified without compliance with such law, instructions or recommendations.

UNDER NO CIRCUMSTANCES SHALL SELLER BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES AS THOSE TERMS ARE DEFINED IN SECTION 2-715 OF THE UNIFORM COMMERCIAL CODE.

**TERMS OF PAYMENT -**

Unless otherwise stated herein or on Purchase Order, payment of each invoice is required within thirty (30) days after date of shipment. Any balance unpaid after the required payment date shall be subject to a service charge of 1% per month from such date.

**TAXES -**

Any sales, use, excise, and other taxes applicable to this transaction and the goods and/or services furnished by Seller are not included in the price and shall be paid by Buyer when due. If Seller pays any such taxes, Buyer shall reimburse Seller upon demand.

**INDEMNIFICATION AND SAFE OPERATION -**

In the event of personal injury or damage to property or business arising from the use of the goods, Buyer shall, within forty-eight (48) hours thereafter, give Seller written notice of such injury or damage. Buyer shall cooperate with Seller in investigating any such injury or damage and in the defense of any claims arising therefrom.

If Buyer fails to comply with this section or if any injury or damage is caused, in whole or in part, by Buyer's failure to comply with applicable federal or state safety requirements, Buyer shall indemnify and hold Seller harmless against any claims, loss or expense for injury or damage arising from the use of the goods.

**GOVERNING LAW -**

This agreement shall be governed by and construed under the laws of the State of Michigan.

**DELIVERY AND DELAYS -**

Unless otherwise specified herein, deliveries shall be F.O.B. Seller's point of shipment and risk of loss shall pass to Buyer upon Seller's delivery to carrier. All shipping dates are approximate and Seller shall not be liable for loss or damage because of delays occasioned by labor disputes, damage to facilities, or failure of suppliers or subcontractors to meet scheduled deliveries or any other cause beyond Seller's reasonable control or making its performance commercially impracticable.

Notwithstanding other provisions hereof, if shipment is delayed at Buyer's request, the goods shall be deemed to be stored at Buyer's risk and expense and Seller may thereupon bill Buyer for the full price and storage costs. Buyer shall pay such bill within 30 days after mailing thereof.

### **BUYER'S INSPECTION UPON RECEIPT OF SHIPMENT -**

Buyer shall inspect the goods as soon as received. If any loss or damage is discovered, Buyer must notify both the carrier and Seller at once. Seller will cooperate with Buyer in filing claims with the carrier.

### **CHANGES AND CANCELLATION -**

Seller reserves the right to change or cancel any order whenever circumstances require allocation of production or delivery or Seller deems change or cancellation to be necessary to comply with applicable laws, ordinances, regulations, directives or administrative actions. Seller reserves the right to make changes in materials or design which it determines appropriate for the goods.

### **SECURITY INTEREST AND REPOSSESSION -**

Until full payment has been made therefore, Seller shall have a security interest in goods shipped to Buyer and the goods shall remain personal property. Upon request Buyer shall execute and deliver to Seller security agreements and financing statements further evidencing Seller's security interest. Buyer authorizes Seller to file a financing statement or statements relating to the goods, without Buyer's signature thereon, as Seller may deem appropriate and appoints Seller as Buyer's attorney-in-fact for the limited purpose of executing (without requiring Seller to do so) financing statements in Buyer's name and performing other acts which Seller deems appropriate to perfect and continue its security interest and to protect and preserve the goods.

In the event Buyer defaults in making any payment due Seller, Seller in addition to any other rights or remedies provided by law, shall have the right, with or without legal process, to enter the place where said goods are located and to repossess the goods in accordance with the Uniform Commercial Code.

### **ASSURANCES -**

Shipment by Seller shall at all times be subject to the prior approval of its credit personnel and Seller may, at any time, decline to make shipment except upon receipt of prior payment or upon other terms and conditions or security satisfactory to such personnel.

### **PATENTS -**

Except as to goods manufactured according to design supplied by Buyer, Seller will defend and hold Buyer free and harmless in a suit or proceeding brought against Buyer insofar as it is based on a claim that use of the goods by Buyer constitutes an infringement of any existing U.S. Patents, provided, however, that Buyer gives Seller prompt written notice of such suit or proceeding; permits Seller, through its counsel, to defend and/or settle the same; and gives Seller all necessary information, assistance and authority to enable Seller so to do. If Buyer's use of the goods is held to constitute infringement and further use is enjoined, Seller shall, at its option, either (i) procure for Buyer the right to continue using the goods; or (ii) replace the goods

with non-infringing goods; or (iii) modify the goods to non-infringing goods. The foregoing states Seller's entire liability for patent infringement and shall not be construed to render Seller liable for damages based on product output.

#### MISCELLANEOUS -

This instrument constitutes the entire agreement between Seller and Buyer, superseding all previous understandings and writings regarding this transaction. Any amendment or modification of this Agreement shall be void unless in writing and signed by Seller.

No delay or omission by Seller in exercising any right or remedy hereunder shall be a waiver thereof or of any other right or remedy, and no single or partial exercise thereof shall preclude any other or further exercise thereof or the exercise of any other right or remedy. All rights and remedies of Seller are cumulative.

Sales made pursuant to this Agreement shall be governed by the Uniform Commercial Code as the same may from time to time be construed and in effect in the state wherein Seller has its main office.

#### ARBITRATION -

All disputes that may arise between the parties regarding the interpretation of the contract and the legal effect of the contract shall, to the exclusion of any court of law, be arbitrated and determined in accordance with the latest Commercial Arbitration Rules of the American Arbitration Association. The arbitration proceeding shall be held in the city in that state where the principal office of the Seller is located. The parties recognize and consent to the above mentioned arbitration association's jurisdiction over each and every one of them.