



Tajmac-USA, Inc
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TERMS AND CONDITIONS OF SALE TAJMAC-USA, INC

Acceptance by Seller, Tajmac-USA, Inc, of Buyer's Purchase Order for all goods to be sold by Seller to Buyer (the "Goods") is conditioned on Buyer's agreement to the following terms and conditions. All orders are subject to acceptance by an authorized representative of Seller, an Indiana LLC headquartered in Indianapolis, Indiana, evidenced by Seller's written Order Acknowledgement addressed to Buyer. If such terms and conditions are not acceptable, Buyer must notify Seller within (5) days from the date hereof, otherwise Seller agrees that the following terms and conditions shall be the exclusive terms and conditions of sale except as otherwise expressly agreed to in writing by Seller.

1. PRICES:

- A. Are subject to change without notice at any time prior to the written acceptance by Seller of Buyer's Order;
- B. Become firm upon Seller's acceptance of the Order as evidenced by Seller's Order Acknowledgement, unless escalation terms are conditions precedent to Seller's acceptance of the Order;
- C. Are F.O.B.U.S. port of entry unless specifically otherwise agreed to in a written document signed by the Seller.
- D. Are subject to an increase (to be invoiced at a future date) equal in amount to any tax, tariff or other charge imposed upon the Goods by any person (except for taxes measured by the income of Seller) that Seller may be required to collect or pay arising out of the sale of the Goods;
- E. May be adjusted by Seller if the value of the currency in which Seller must pay the purchase price of the Goods, or any parts thereof, rises more than five percent (5%) between the date of Buyer's order for the Goods and delivery thereof to Buyer.

2. DELIVERY: Delivery date or shipping schedules are

Approximate, based upon the most recent information available to Seller and may be adjusted by Seller upon receipt of subsequent information.

3. VALIDITY OF QUOTATION: The quotation for the Goods given by Seller to Buyer is valid for thirty (30) days from the date of the quotation unless otherwise specified in writing signed by Seller.

4. SPECIFICATIONS AND PERFORMANCE: Descriptions, specifications, drawings, and similar documentation relating to the Goods, issued by or on Seller's behalf, ARE NOT WARRANTED, AND SELLER IS NOT BOUND THEREBY, UNLESS EXPRESSLY SO CONFIRMED BY SELLER IN WRITING. SELLER'S PRODUCTION DATA IS NOT WARRANTED. IN NO EVENT SHALL SELLER BE RESPONSIBLE FOR PERFORMANCE DATA OR STANDARDS RELATING TO GOODS SOLD HEREUNDER, WHETHER SUCH DATA OR STANDARDS ARE SUPPLIED BY SUBCONTRACTORS OR PERSONS OTHER THAN SELLER. If the Goods are to be subject to acceptance tests before shipment, the terms of such tests must be approved by Seller in writing prior to acceptance by Seller of the Order for such Goods, otherwise the tests, if any, described in the Order shall be the only tests applicable. Tolerances relating to the Goods are based on Seller's assumption that all material used in connection with the manufacture of the Goods was properly processed through previous operations, and that locating surfaces will permit the quoted tolerances within the applicable production rate estimated by Seller.

5. INSTALLATION: The unpacking, cleaning and assembly of all Goods sold hereunder, all electrical and other connections, and the setup thereof at the initial point of installation shall be performed by Buyer at its expense. The start-up of Goods shall be performed by Seller at its expense. Prices quoted for the Goods include one (1) each Operator's Handbook, Spare Parts Book, Programming Instructions, Tool Holder Book.

6. TERMS OF PAYMENT: SECURITY AGREEMENT: Upon acceptance of the Order by Seller, Buyer shall promptly pay to Seller thirty percent (30%) of the purchase price which shall not be refunded. Buyer shall pay sixty percent (60%) of the purchase price upon acceptance of the Goods by Seller, but prior to shipment of the Goods to buyer. Buyer shall pay ten percent (10%) of purchase price net thirty (30) days after installation of the Goods at buyer's plant, but no longer than net sixty (60) days from shipping date to buyer from seller. Buyer hereby grants to Seller a purchase money security interest in all Goods sold under this agreement and to the proceeds thereof (including insurance proceeds relating thereto and proceeds arising out of the sale thereof) to secure performance of all of Buyer's obligations arising hereunder. If payment is not made on or before the due date thereof, the unpaid balance thereof shall bear interest at the rate of eighteen percent (18%) per annum. Buyer agrees to pay Seller all of its fees and expenses incurred by it for the purpose of collecting all payments due to Seller, or in recovering possession of the Goods, including reasonable attorneys' fees and expenses. If shipments are delayed by reason of the act of Buyer, or delayed by Seller because of Buyer's account is in arrears, all payments and other indebtedness then owed by Buyer to Seller shall become due on the date that Seller is prepared to make shipment of the Goods. All Goods held by Seller for Buyer shall be at the risk and expense of Buyer. Buyer shall deliver to Seller such financing statements as it reasonably requests to perfect its security interest in the Goods, and Buyer hereby grants to Seller a power of attorney to execute, deliver and record on behalf of Buyer and for the benefit of Seller all such financing statements. The Buyer agrees



to sign and deliver to the Seller such other documents as the Seller may reasonably require to protect the security interest granted by the Buyer to the Seller in the Goods (ex. UCC-filing).

7. CANCELLATION: Acceptance of an Order by Seller shall be an irrevocable sale and is non-cancelable. Any cancellation must be accepted by Seller in writing, and Seller shall have the right to retain all amounts paid to it by Buyer as a nonrefundable deposit against payment of the purchase price therefore without further liability of Seller to Buyer. Buyer will be responsible for all fees and expenses (including reasonable attorneys' fees and expenses) incurred by Seller as a result of the cancellation of any Order.

8. NON-WAIVER OF DEFAULT: In the event of any default by Buyer with respect to the purchase of the Goods, Seller may decline to make further shipments of Goods without affecting its rights arising under the Order including these terms and conditions. If Seller elects to continue to make shipment of Goods to Buyer, such action shall not constitute a waiver by Seller of any of its rights or remedies for any such default.

9. TITLE: Seller shall retain title to all Goods shipped to Seller until Buyer performs all of its obligations arising hereunder.

10. ASSIGNABILITY: The terms and conditions of this agreement shall be binding upon and inure to the benefit of the successors and assignees of Seller and Buyer, and may be assigned to any successor organization or affiliate of Seller without the written consent of Buyer, but shall not be assignable by Buyer without prior written consent of Seller.

11. RISK OF LOSS: Seller shall bear the risk of loss of or damage to the Goods until delivery to Buyer at the F.O.B. point of shipment stated on Seller's Order Acknowledgment or to the F.O.B. U.S. port of entry, whichever shall occur first. Any loss or damage subsequent to such delivery shall be at the sole risk of Buyer. **ACCEPTANCE:** Goods acceptance will take place at the Seller's plant, with the standard acceptance part. If the Buyer desires one of his parts to be considered for acceptance, the part drawing should be mailed immediately. The Seller will quote the cost for this as soon as all the required information is received. Cycle Times: Note that the quoted cycle times are estimates only, based on experience and technological data available. The Seller does expect parts to run at speeds, feeds and within the estimated time. Cycle times can only be qualified at time of set-up based on actual machinability, tool life and other factors. The feeds and speeds chosen are subject to review and approval by Buyer. Any alterations in material characteristic, type of tooling and coolant will affect the production times which are practical to use. The times quoted are based on 100% efficiency of the Goods and additions have to be made for tool change, material loading and other time losses incurred.

12. WARRANTY: DISCLAIMER OF IMPLIED WARRANTIES:

A. THE WARRANTIES PROVIDED HEREIN ARE THE EXCLUSIVE WARRANTIES MADE BY SELLER TO BUYER. SELLER MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED BY LAW OR USAGE. SELLER DISCLAIMS AND BUYER WAIVES, ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. BUYER ACKNOWLEDGES THAT THE DESCRIPTION OF THE GOODS OR REPAIRS STATED IN SELLER'S PURCHASE ORDER IS FOR THE SOLE PURPOSE OF IDENTIFYING THE GOODS.

B. As more specifically provided hereafter, Buyer's remedy for Seller's liability hereunder shall be limited solely to repair, replacement, issuance of credit, or refund of the purchase price upon return of Goods to Seller at Buyer's expense, which remedy shall be at Seller's option. Seller has no responsibility for reimbursing Buyer for repair or replacement costs incurred in connection with the Goods, without Seller having given prior authorization for such costs.

C. EXPRESS PARTS AND SERVICE WARRANTY: Provided (a) Seller is given written notice from Buyer of any defect in, or malfunction of, the Goods within one (1) year commencing from the F.O.B. U.S. place of shipment or the delivery date of the Goods to the F.O.B. U.S. port of entry, as the case may be, as stated on Seller's Order Acknowledgment, whichever shall first occur and (b) such notice is given to Seller within ten (10) days after Buyer becomes aware of any such defect or malfunction, Seller, at its option, will:

1. Without charge, and within a reasonable period of time after receipt of such written notice, inspect such Goods. If Seller, in its sole judgment, determines that such defect or malfunction was caused by misuse, neglect, improper installation, repair, alteration or accident with respect to the Goods, Seller will have no obligation to Buyer hereunder.

2. If after Seller inspects the Goods, Seller determines that the Goods are covered by the Warranty granted hereunder; it will at its expense, perform the required service and/or obtain and install the required replacement parts to correct such defect or malfunction. All forwarding freight charges for warranty parts are the responsibility of Seller unless special same day shipping arrangements are requested by the buyer.

D. IN NO EVENT SHALL SELLER BE LIABLE TO BUYER FOR LOSS OR PROFITS, LOSS OF USE, OR DAMAGES OF ANY KIND BASED UPON A CLAIM FOR BREACH OF WARRANTY, OR FOR FAULTY WORKMANSHIP OR MATERIALS, INCLUDING WITHOUT LIMITATION, CONSEQUENTIAL DAMAGES OR INCIDENTAL DAMAGES, EVEN IF SUCH LOSS OR DAMAGE IS CAUSED BY SELLER'S NEGLIGENCE OR OTHER FAULT. NO OBLIGATION OR LIABILITY OF SELLER



SHALL ARISE OUT OF SELLER'S RENDERING OF TECHNICAL ASSISTANCE OR SERVICE IN CONNECTION WITH THIS AGREEMENT.

13. PATENT INDEMNITY: In the event any lawsuit is commenced against Buyer based on a claim that the Goods sold to Buyer hereunder infringe any validly issued United States letters patent, Seller will assume all costs for the defense of, and any damages (other than consequential or incidental damages) awarded against Buyer in, any such action, provided Buyer gives timely written notice to, and uses its best efforts to cooperate with Seller in, the defense of such claims, and Buyer authorizes Seller to exercise the sole control of all aspects of the defense of such actions, settlements and all negotiations relating thereto. The foregoing indemnity shall not apply if the alleged infringement results from Buyer's use of Seller's products in combination with other products not purchased hereunder.

14. TRADE SECRETS: The drawings, computer programs, technical publications and other documents which Seller provides to Buyer relating to the Goods contain trade secrets and confidential proprietary know-how belonging to the Seller. Buyer agrees that it:

- A. Will not disclose, or permit its employees or agents to disclose, such trade secrets or confidential proprietary know how to any other party; and
- B. Will not sell, license, lease, loan or otherwise directly or indirectly transfer the use of any such information without Seller's prior written approval.

15. SEVERABILITY AND SURVIVAL OF TERMS: Any term or condition hereunder which is determined by a court of competent jurisdiction to be prohibited or unenforceable in any jurisdiction shall, as to such prohibition or unenforceability, be ineffective only to the extent of such prohibition or unenforceability, without invalidating the remaining terms and conditions of sale.

16. MODIFICATION: No addition to, or modification of, any of these terms or conditions shall be binding upon Seller unless made in writing and signed by a duly authorized representative of Seller. These terms and conditions constitute the entire agreement of the parties hereto with respect to the sale of the Goods sold hereunder, and supersede all prior discussions, agreements and understandings of any nature whether written or oral, with respect thereto, and no conditions, warranties or representations other than as expressly provided herein shall be binding upon Buyer or Seller.

17. SERVICE: Services rendered by Seller's representatives in excess of those provided with the original installation of the Goods shall be paid for by Buyer in accordance with the attached Schedule of Field Service and Installation Charges. Buyer assumes all responsibility for injuries and accidents to Seller's representatives in Buyer's facility, and will provide safe and suitable working conditions for Seller's personnel.

18. EXCUSE FOR NONPERFORMANCE: Seller shall not be responsible for any failure to perform its obligations with respect to the Goods arising from causes beyond Seller's control. These causes shall include, but not be limited to: fire, war, insurrections, acts of God, explosions, accident, labor disputes or shortages of material, delays in transportation, inability to secure raw materials or machinery for the manufacture of Goods, acts of any government or any agency thereof or judicial action.

19. CHOICE OF LAW AND JURISDICTION AND VENUE: This agreement has been executed and delivered in and shall be interpreted, construed, enforced and governed by and in accordance with the laws of the State of Indiana, and the courts of that state shall be the exclusive courts of jurisdiction and venue for any litigation, special proceeding or other proceeding as between the parties that may be brought, or arise out of, in connection with, or by reason of this agreement. each party hereby consents to the jurisdiction of such courts. Indiana law applies and any lawsuit will have to be filed in Indiana

20. WAIVER OF JURY TRIAL: EACH PARTY WAIVES THE RIGHT TO REQUEST A TRIAL BY JURY IN ANY LITIGATION ARISING OUT OF OR RELATED TO THIS CONTRACT.