

Terms and Conditions of Sale

1. ENTIRE AGREEMENT AND ACCEPTANCE

This document contains all the Terms and Conditions between TLX Technologies ("TLX") and Buyer to the exclusion of any other statements and agreements, and to the exclusion of any other Terms and Conditions incorporated in Buyer's order. TLX's acceptance of the Buyer's order is expressly conditioned on Buyer's acceptance of these terms and conditions, and Buyer, upon placing an order, is presumed to have accepted all of these terms and conditions without modification. Buyer shall be deemed to have made an unqualified acceptance of this offer and it shall become the Agreement between the parties on the earliest of the following to occur: (i) Seller's receipt of a copy of this Agreement signed by Buyer; (ii) Buyer's payment of any amounts due under this Agreement; (iii) Buyer's receipt of the Products; or (iv) any other event constituting acceptance under applicable law.

2. SHIPMENT

Shipment is F.O.B. TLX's plant or other place of manufacture and/or assembly, unless otherwise specified. The risk of loss of the product (including damage and destruction thereto) passes to Buyer upon shipment. Unless shipping arrangements are specified by Buyer, TLX will make reasonable arrangements for shipping.

3. DELIVERY

TLX will make every effort to fill orders within the time stated or to the schedule supplied by the Buyer. In addition TLX may, at its option, ship a quantity up to 10% over any Buyer's scheduled release quantity. Under no circumstances will TLX be responsible for or incur any liability for damages, costs or expenses of any nature (whether general, consequential, as a penalty or as liquidated damages or otherwise) due to any delays in delivery, or failure to make delivery at an agreed or specified time due to circumstances beyond TLX's reasonable control. If shipment is delayed or suspended by Buyer, Buyer shall pay the invoice price of the products as per payment terms, together with TLX's handling and storage charge, and any cancellation, non-recoverable material or labor charge, or any fees or penalties paid by TLX to vendors supplying the Buyer's program.

4. TERMS AND PRICES

Unless otherwise specified, payment terms are net thirty (30) days from invoice date with a twelve (12%) per annum finance charge on overdue amounts. In addition to the purchase price, Buyer shall pay any federal, state and local sales, excise, privilege, use or other taxes arising from the sale or delivery of the products or the use thereof. Prepaid freight, if applicable, will be added to the purchase price and invoiced separately. If the price includes transportation or other shipping charges, any increase in transportation rates or other shipping charges from date of quotation or purchase order, will be paid by Buyer. If Buyer requests changes in the product or delays the progress or manufacture or shipment of the products, the contract price shall be adjusted to reflect increases in the selling price caused thereby. Buyer agrees to reimburse TLX for any and all costs of collection, including reasonable attorneys' fees.

5. RETENTION OF TITLE

Title to the products sold hereunder shall remain in TLX until the purchase price shall have been fully paid in cash, and the products shall remain personal property, whatever may be the mode of attachment to realty or other property and Buyer shall perform all acts necessary to protect TLX's security interest against third parties. In the case of failure by Buyer to make any payment when due, TLX shall have the option to take exclusive possession of the product wherever found, in addition to any and all right and remedies provided by law. Customer will reimburse TLX for preparatory work charge for the cost of dies, molds, tools and gauges used to manufacture products. Unless otherwise agreed in writing, all such tooling will be and remain TLX property and Buyer will have no interest in such tooling.

6. WARRANTY

TLX WARRANTS THAT AT THE TIME OF SHIPMENT THE PRODUCTS MANUFACTURED BY IT WILL BE MERCHANTABILITY AND FREE FROM DEFECTS IN MATERIALS AND WORKMANSHIP. TLX'S SOLE AND EXCLUSIVE OBLIGATION TO BUYER UNDER THIS WARRANTY IS THE REPAIR OR REPLACEMENT, AT TLX'S OPTION, OF ANY PRODUCTS OR PARTS THEREOF WHICH, UNDER NORMAL USE AND PROPER MAINTENANCE, HAVE PROVEN DEFECTIVE IN MATERIALS OR WORKMANSHIP. This warranty does not cover ordinary wear and tear, abuse, misuse, overloading, alteration, or products which have not been operated or maintained in accordance with TLX's written instructions. No claims under this warranty will be valid unless Buyer notifies TLX in writing within a reasonable time of Buyer's discovery of such defect, but in no event later than six (6) months from date of shipment to Buyer. When a warranty claim arises Buyer must contact TLX to arrange for return shipment, freight prepaid by Buyer. If the defect comes under the terms of this limited warranty, the products will be repaired or replaced and returned freight prepaid. Freight charges paid by Buyer to return products to TLX will be credited to Buyer only if the products are confirmed to be covered by this limited warranty. The risk of loss of any product or parts thereof returned to TLX will be on the Buyer.

THE ABOVE LIMITED WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, (INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE) AND THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE FACE HEREOF. ANY ORAL OR WRITTEN DESCRIPTION OF THE PRODUCTS IS FOR THE SOLE PURPOSE OF IDENTIFYING THE PRODUCTS AND SHALL NOT BE CONSTRUED AS AN EXPRESS WARRANTY.

The remedy of repair or replacement provided for herein is Buyer's exclusive remedy. TLX SHALL NOT BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR SPECIAL DAMAGES INCLUDING BUT NOT LIMITED TO LOST PROFITS OR FOR ANY LOSS, DAMAGE OR EXPENSE ARISING FROM THE SALE, USE OR INSTALLATION OF THE PRODUCTS FROM ANY OTHER CAUSE WHATSOEVER, WHETHER BASED ON WARRANTY (EXPRESSED OR IMPLIED) OR OTHERWISE BASED ON CONTRACT, OR ON NEGLIGENCE, TORT OF THEORY OF STRICT LIABILITY, and regardless of any advice or representation not in writing that may have been rendered by TLX concerning the sale, use or installation of the products. SPECIAL OR OTHER DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS. SELLER'S AGGREGATE LIABILITY WITH RESPECT TO A DEFECTIVE PRODUCT AND THIS AGREEMENT SHALL BE LIMITED TO THE MONIES PAID BY BUYER TO SELLER FOR THAT DEFECTIVE PRODUCT. THE REMEDY DESCRIBED IN SECTION 6 IS BUYER'S EXCLUSIVE REMEDY AND IS IN LIEU OF ANY OTHER REMEDY OTHERWISE AVAILABLE AT LAW OR BY CONTRACT.

7. INSTALLATION

Buyer agrees to cause the product to be installed in accordance with TLX's instructions and will indemnify TLX against any and all damages, demands, suits, causes of action, claims and expenses, including reasonable attorneys' fees incurred by TLX, arising directly or indirectly out of Buyer's failure to cause the products to be so installed.

8. SPECIFICATIONS

Buyer may not make any changes in the specification for the products unless TLX approves such changes by a signed writing, in which event TLX may make additional charges for such changes.

9. NOTIFICATION OF CLAIMS

Buyer must notify TLX and the carrier within fourteen (14) days of the receipt of products of any damage to, or partial loss of, the products during transit. Buyer must notify TLX and the carrier within thirty (30) days from the date of shipment of any nondelivery of products. Failure to give such notification waives all claims which Buyer may otherwise have against TLX for loss or damage in transit.

If delivery is made in installments, any claim which Buyer may have as to any one installment does not relieve Buyer of the obligation to accept delivery of the remaining installments, or permit Buyer to cancel or rescind the remaining installments.

10. CONFIDENTIALITY

All documentation supplied by TLX to Buyer is for internal use between Buyer and TLX. Written consent must be obtained from TLX for any part of the documentation to be released to the public. Any confidentiality agreements in place between TLX and the Buyer are in addition to the terms and agreement of this document.

11. PATENTS

TLX agrees at its own expense to defend and hold Buyer harmless from and against all damage, cost or expense whatsoever (including reasonable attorneys' fees) in respect of, or arising from any claim of infringement of any patent, trademark registered design, or other intellectual property rights relating to the products originally manufactured by TLX, provided Buyer (i) has not modified such products, (ii) gives TLX immediate notice in writing of any claim or institution of threat of suit, and (iii) permits TLX to defend or settle the same, and gives all immediate information, assistance and authority to enable TLX to do so.

In the event TLX elects to defend any suit and the product is held to infringe any United States patent and if Buyer's use thereof is enjoined, TLX shall, at its expense and option, (i) obtain for the Buyer the right to continue using the product, (ii) supply a noninfringing product for installation by Buyer, (iii) modify the product so that it becomes noninfringing, or (iv) refund the then market value of such product. In no event shall TLX's liability exceed the sale price of the infringing product.

Buyer shall defend and hold TLX harmless from and against all damages, costs and expenses whatsoever (including reasonable attorneys' fees) arising from any claims for infringement of intellectual property rights relating to products incorporating a design or modification requested by Buyer.

12. EXPORT COMPLIANCE

These commodities, technology, or software were exported from the United States in accordance with the Export Administration Regulations. Diversion contrary to U.S. law is prohibited.

13. NAMEPLATE

Any nameplate or other form of identification which TLX has affixed to or marked upon any of the products may not be removed by Buyer or by anyone on Buyer's behalf without TLX's written consent.

14. CANCELLATION

Buyer may not cancel orders placed with TLX, except with TLX's written consent and then only if Buyer makes payment to TLX to indemnify it against loss, including but not limited to expenses incurred and commitments made by TLX.

15. LOSS, DAMAGES OR DELAY

TLX shall not be liable for loss, damage or delays resulting from causes beyond its reasonable control or caused by strikes or labor difficulties, lockouts, acts or omissions of any governmental authority or Buyer, insurrection or riot, war, fires, acts of God, breakdown of essential machinery, accidents, embargoes, cargo or material shortages, delays in transportation, or inability to obtain labor, materials or parts from usual sources. In the event of any such delay, performance shall be postponed by such length of time as may be reasonably necessary to compensate for the delay. In the event performance by TLX under this agreement cannot be accomplished by TLX due to any action of governmental agencies, or any laws, rules or regulations, TLX may, at its option, cancel this agreement (and all related purchase and sale orders) without liability.

16. WORK BY OTHERS; ACCESSORIES AND SAFETY DEVICES

Unless agreed in writing, TLX, being the supplier of the products, shall have no responsibility for labor or work of any nature relating to the installation and operation or use of the products, all which shall be performed by Buyer or others. It is the responsibility of Buyer to furnish such accessory and safety devices as may be desired by it and/or required by law (including OSHA standards) relating to Buyer's use of the products. Buyer shall be responsible for ascertaining that the products are installed and operated in accordance with all applicable laws, regulations, and rules and ordinances.

17. GENERAL

(a) No modification or waiver of this agreement or any of its provisions is valid unless expressly agreed to by TLX in writing. No waiver by TLX of any default under this agreement is a waiver of any other or subsequent default.

(b) No agreement is formed hereunder unless Buyer's order is accepted by TLX in writing.

(c) The enforceability or invalidity of one or more of the provisions of this agreement will not affect the enforceability or validity of any other provision of this agreement.

(d) THE COMPLETE AGREEMENT BETWEEN TLX AND BUYER IS CONTAINED HEREIN AND NO ADDITIONAL OR DIFFERENT TERMS OR CONDITIONS STATED BY BUYER SHALL BE BINDING UNLESS AGREED TO BY TLX IN WRITING. No course of dealing, usage of trade or course of performance shall be relevant to supplement or explain any terms used in this agreement.

(e) This Agreement shall be governed by and construed according to the internal laws of the State of Wisconsin, without regard to conflict of law principles. Any cause of action, claim, suit or demand by Buyer allegedly arising from or related to the terms of this Agreement or the relationship of the parties shall be brought in a Court situated in the State of Wisconsin. Both parties hereby irrevocably admit themselves to and consent to the jurisdiction of said Court. Any action brought by Buyer must be commenced within one (1) year after the delivery of goods or completion of services, notwithstanding any statutory period of limitation to the contrary. The provisions of this paragraph shall survive expiration or termination of this Agreement for any reason.