

## TMI Standard Selling Terms and Conditions

**Prices:** All prices are EXW TMI EP, LLC Wixom MI (hereinafter referred to as "TMI"), unless otherwise stated. Prices also do not include any federal, state, or local taxes or other governmental charges upon or with respect to the sale, purchase, manufacture, delivery, storage, processing, use or consumption of any of the goods or services provided hereby. Consequently, in addition to the price specified, the amount of such taxes or other governmental charges that TMI may be required to pay or collect under present or existing future law shall be paid by the purchaser and added to the invoice.

**Cancellation or Changes:** An accepted order is not subject to cancellation or change except on terms acceptable and satisfactory to TMI, including reasonable cancellation charges in the event of cancellation or an equitable price adjustment in the event of changes in an accepted order. Direction from purchaser to cancel may be treated as a repudiation making the purchaser immediately liable for loss, expense and other damages sustained. If this order is cancelled or delayed prior to the completion of the contract, purchaser shall indemnify TMI for costs incurred by TMI up to the date of cancellation or delay and for all damages sustained by TMI due to cancellation or delay of this order.

**Failure to Deliver:** TMI shall not be responsible for delays in delivery, or failure to deliver due to causes beyond its reasonable control, including without limitation, acts of God, acts of purchaser, government action (civil or military), taking or preempting TMI's production facilities, legal interferences or prohibitions, fires, strikes or other labor difficulties, or hostilities, insurrections or riots, embargoes, equipment breakdown, wrecks or delays in transportation, unusually severe weather, inability to obtain necessary labor, material or manufacturing facilities due to causes beyond its reasonable control or any like dissimilar cause beyond its reasonable control. In the event of such delay, the date of delivery shall be extended for a period equal to the time lost by reason of the delay. TMI shall have the right to furnish suitable substitutes for materials which cannot be obtained because of above causes and to portion its shipment among its customers in such a manner as it shall be equitable. If the material, apparatus or equipment is or thereafter become subject to government control, allocation, regulation or restriction, the necessary and proper rating certificate shall be supplied by the purchaser. Delivery dates are from receipt of order, prints, models or materials, whichever is later, which are to be furnished by the purchaser. Due to the nature of TMI's custom work, delivery dates are estimates and not guarantees, and purchaser understands and agrees to reasonable delays in delivery. Overtime and other direct costs incurred to hasten delivery of purchaser's request shall be added to the stated prices and paid by purchaser. Shipment of goods ready for delivery can be deferred beyond date for delivery only with TMI's consent and upon full payment of TMI's invoice for same plus storage costs. There shall be no penalties for late shipments unless arranged prior to production and confirmed by TMI in writing.

**Risk of Loss:** TMI assumes no responsibility for delays, breakage or damage after having made delivery to a common carrier, at which time, all risk of loss for any cause passes to purchaser. Unless otherwise specified, packing will be for domestic shipping and meet the requirements of United States common carriers.

**Claims:** No claim for variances from purchaser's specifications or shortages in orders will be considered by TMI unless presented to it in writing within thirty (30) days after receipt of goods.

**Payment:** If the financial condition of the purchaser at any time does not, in the judgment of TMI, justify continuance of the work to be performed by TMI on the terms of payment as agreed upon, TMI may require full or partial payment in advance or shall be entitled to cancel any order then outstanding and receive reimbursements for its reasonable cancellation charges, and in the event of bankruptcy insolvency of the purchaser or in the event any proceeding is brought against the purchaser, voluntary or involuntary, under the bankruptcy or any insolvency laws, TMI shall be entitled to cancel any order then outstanding, and shall receive reimbursement for its reasonable cancellation charges. Title to tools and fixtures shall remain in TMI until all terms of payment have been satisfied.

**Default:** TMI may make partial shipments and each shipment shall be treated as a separate transaction, but in the event of any default by the purchaser, TMI, without prejudice to any other remedy provided herein or by law, may treat such default as breach of the entire contract or may defer further deliveries until such default is cured, in which latter event, if TMI so elects, the dates of all subsequent deliveries shall be extended for a period equal to the length of time of such deferral. If, despite any default by the purchaser, TMI elects to continue to make deliveries, its actions shall not constitute a waiver of any default by the purchaser or in any way affect TMI's remedies provided herein or by law for any such default.

**Quality Systems:** Although TMI is registered for specific products with respect to ISO9001, not all TMI products fall within the scope of registration. TMI's intention is to manufacturer all of its products within an ISO9001 system whenever possible. For all Standard Products, TMI will maintain a copy of all controlling documentation at TMI. Customers are free to review this documentation upon request at TMI's facilities. All changes with respect to TMI Standard Products will be controlled by the applicable TMI Quality Management Team.

**LIMITED WARRANTY:** All TMI production products are warranted against defective materials and workmanship for a period of one (1) year from the date of delivery to the original purchaser. Any product that is found to be defective within the one year period will be replaced at the discretion of TMI. **THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, OF MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, PERFORMANCE, OR OTHERWISE.** TMI is not an expert in the customer's technical field and therefore does not warrant the suitability of its products for the applications selected by the customer. TMI accepts no responsibility for misuse, misapplication or unauthorized modification of its products.

A limited warranty does not apply to for prototype parts. Prototype parts are supplied "AS IS" without warranty of any kind, express or implied. TMI will have no liability for any claims related to prototype parts, and Buyer shall indemnify, defend and hold TMI harmless from any such claims. TMI makes no warranty to those persons defined as consumers in the Magnuson-Moss Warranty – Federal Trade Commission Improvement Act. TMI does not warrant that the operation or use of Buyer of the Products or Services in its applications will comply with requirement of any safety code or regulation, or with any environmental or other law or regulation.

**LIMITATION OF LIABILITY:** TMI's obligation under this limited warranty is strictly and exclusively limited to the repair or replacement free of charge of such articles as are found to be defective in material or workmanship on the condition that the purchaser gives prompt written notice to TMI of any claim to breach of warranty within the warranty period, and, if requested, returns the defective articles to TMI. TMI will not assume any expenses or liability for repairs made to its articles outside of its plant, without its prior written consent. TMI reserves the right to satisfy its warranty obligation in full, with respect to defective articles, by the payment to the purchaser of all sums paid by the purchaser to TMI for such articles. **IN NO EVENT SHALL TMI BE LIABLE FOR CLAIMS (BASED UPON BREACH OF EXPRESS OR IMPLIED WARRANTY, NEGLIGENCE OR OTHERWISE) FOR ANY DAMAGES, WHETHER DIRECT, IMMEDIATE, INCIDENTAL, FORESEEABLE, CONSEQUENTIAL, OR SPECIAL.**

**Return of Goods:** Goods may not be returned to TMI for repair or replacement or credit, or otherwise, without TMI's prior written authorization and TMI will not accept any responsibility for goods returned without such authorization. All transportation costs incident to the shipment of any material to or from TMI under this or the foregoing paragraph shall be charged to the purchaser.

**Waiver:** No provision hereof and no breach of any provision shall be deemed waived by reason of any previous waiver of such provision of any breach thereof. There are no understandings, conditions or agreements relative to this quotation that are not fully expressed herein.

**Terms, Interest and Collection Costs:** Terms of payment for this quotation are set forth therein. In the event it is necessary to place any contract based on this proposal in the hands of an attorney for collection, purchaser shall pay TMI's reasonable costs of collection of money due and unpaid, including reasonable attorneys' fees.

**Design Modifications:** Purchaser will allow extra charges for authorized or requested changes to purchaser's design or specifications. TMI is not responsible for dimensional or other errors on purchaser's drawings, and purchaser shall reimburse TMI for additional costs resulting from such errors.

**Intellectual Property Rights:** TMI shall retain all rights in all intellectual property, including any rights under any patents as well as any un-patented information, such as trade secrets, confidential information, trademarks, trade dress, or copyrights possessed by TMI which may be protected by state, federal and/or common law, and nothing in this Quotation or Acknowledgement shall be deemed or construed to be a transfer or license of any of TMI's intellectual property. Buyer shall obtain rights to such intellectual property only to the extent that TMI may grant such rights (whether by license or otherwise) in writing.

**Liabilities:** Purchaser agrees to defend, and protect, and save harmless TMI against all suits from all damages, claims and demands for actual or alleged infringement of any patent or for manufacture of goods by reason of TMI's execution of the designs, prints, drawings, requirements, or specifications of purchaser.

**Purchaser's Property:** TMI shall have the right to scrap, without liability, prints submitted for quotation, as well as models, patterns, tools, fixtures or other property belonging to purchaser unless written directions for shipment of such property are given to TMI within thirty (30) days of notification by TMI.

**Tooling Modifications:** Modifications made to the tooling in order to manufacture an acceptable part will be at the discretion of TMI.

**Choice of Forum:** The rights and obligations of purchaser and TMI shall be governed by the laws of the State of Michigan, without giving effect to principles of conflicts of law. Any lawsuit between purchaser and TMI shall be filed exclusively in a court either located in or having jurisdiction over, Oakland County, Michigan.



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**Orders:** The above terms and conditions shall be deemed included as part of any order or orders placed with TMI in accordance with or as a result of this Quotation or Acknowledgement. All orders by purchaser require a written purchase order and are subject to acknowledgment by TMI. The terms of this Quotation or Acknowledgement supersede the terms of purchaser's purchase order. Any additional or different terms on purchaser's purchase order form are deemed material alterations to any contract between TMI and purchaser, and TMI hereby gives notice of its objection to them. The terms and conditions set forth by this Quotation or Acknowledgement are limited to orders placed with TMI or resulting from this Quotation or Acknowledgement. Any subsequent orders placed by buyer not resulting from this Quotation or Acknowledgement, such as orders for service parts, may be subject to terms and conditions differing from the terms and conditions of this Quotation or Acknowledgement.