



**Transglobal Incorporated**

## **PURCHASING TERMS AND CONDITIONS**

**PLEASE NOTE: THESE TERMS AND CONDITIONS HAVE CHANGED  
RECENTLY**

### **ACKNOWLEDGMENT / EFFECT OF ADDITIONAL TERMS**

Except to the extent specifically set forth in a purchase order (each, a "Purchase Order," and collectively the "Purchase Orders") issued by Transglobal Incorporated ("TG") to the party identified as Seller, Supplier or Vendor ("Seller") on the face of a Purchase Order, the Purchase Order incorporates, and is made expressly subject to, the terms and conditions contained herein, and any of Seller's terms in addition to or different from those contained herein, whether contained in an acknowledgment, invoice or other business form of Seller, are hereby objected to and shall be of no effect. These terms and conditions may only be waived, altered or modified by a written agreement signed by an officer of TG. Shipment of goods in response to a Purchase Order constitutes acceptance of the terms and conditions set forth herein and in the Purchase Order. In no event shall limitations of liability clauses of whatever nature contained in Seller's forms become effective unless approved in writing by an authorized representative of TG.

### **WARRANTY**

All materials, equipment, and services (collectively "goods") furnished on the Purchase Order shall be of good quality and subject to TG's inspection and approval. Title to the goods shall not pass until delivered to and inspected and accepted by TG. In addition to any other provision of this order, Seller (a) warrants that all goods sold herewith will conform to any applicable designs, specifications, drawings, samples or other technical descriptions, will be merchantable, fit and sufficient for the purpose intended, will be free from defects in materials and workmanship, that all services shall be performed in accordance with current, sound and generally accepted industry practices and in a skillful and professional manner, and that unless accepted or directed by TG, all materials shall be new, and (b) agrees to repair or replace promptly to the satisfaction of and without cost to TG any goods which shall become defective within one year after acceptance by TG, and failure to inspect or complete work not in accordance with specifications shall not relieve Seller from correcting all such work at its own expense. The foregoing warranties shall survive delivery and inspection, acceptance or payment by TG and shall together with Seller's services guarantees, if any, run in favor of and inure to the benefit of TG and its customer and their respective successors and assigns. Seller's agreement to repair or replace defective goods is in addition to all other remedies available to TG at law or in equity. No substitutions of goods may be made without the written consent of TG.

### **PRICES**

Net prices shall not exceed those appearing on the Purchase Order. There is no charge for packing, boxing, crating or drayage other than may be specified herein, or otherwise agreed to in writing by an authorized representative of TG. No charges for extras will be allowed unless they been ordered in writing by TG and the price agreed upon. Except as may be otherwise



Transglobal Incorporated, 2610 N.Park Ave., Warren, OH 44483 USA



provided in the Purchase Order, the contract price shall include all applicable taxes of any kind in effect on the contract date. If Seller sells to another comparable customer at lower net prices than offered herein, Seller agrees to make such prices immediately available to TG. Prices shall be adjusted to any lower quotation from other suppliers or to any lower price prevailing on the date of shipment. If not otherwise specified in the Purchase Order, payment terms are net 30.

### **SHIPMENT/RISK OF LOSS**

Seller must ship the goods covered hereby by the route taking the lowest transportation rate unless otherwise instructed by TG. No allowance will be made for packing, cartage or crating charges unless stated in the Purchase Order, but damage to any goods not packed to insure proper protection would be adequate grounds for rejection. All goods must be shipped in sufficient time to ensure complete on-time delivery compliance. Risk of all loss or damage to the materials specified shall remain upon Seller until delivery and acceptance by TG and thereafter in the event TG shall be entitled to revoke such acceptance.

### **FORCE MAJEURE**

Neither TG nor Seller shall be liable in damages for delay in delivery due to any cause beyond its control or without its fault or negligence. Neither party shall be liable to the other and this Purchase Order shall remain unaffected except that TG at its option may elect either to have the quantities so affected eliminated provided such delay in delivery shall exceed a period of fourteen (14) days from the promised date or to extend the period for delivery of the quantities so affected by the period that the effects thereof persists. Variations in the costs of raw materials or other costs or expenses of Seller's production shall not qualify as force majeure.

### **SHIPPING NOTICE/INVOICE**

TG's count will be accepted as final and conclusive on all shipments not accompanied by a packing ticket. Invoices in duplicate accompanied by the bill of lading or other receipts from the carrier must be mailed at times of shipment to TG's Accounts Payable Department, 2610 N. Park Avenue, Warren, Ohio 44483. Shipments and services rendered on each Purchase Order and/or to each plant shall be invoiced separately. Invoices shall state the shipping point, place of delivery, route, destination, and party responsible to pay freight and terms of payment.

### **PATENT, TRADEMARK AND COPYRIGHT INDEMNITY**

Seller agrees to indemnify and hold harmless TG its successors, assigns, affiliates, directors, officers, employees and/or its customers from and against any and all expenses, costs, liabilities, claims, demands, actions, damages or other losses (including without limitation, attorney's and other professional fees) arising from or by reason of, directly or indirectly, in whole or in part, any actual or claimed infringement of patents, trademarks, or copyrights with respect to the equipment, materials or services furnished hereunder by Seller, and further agrees to defend any action or actions brought against TG its successors, assigns, affiliates, directors, officers and/or employees because of any such infringement.

### **STATUTORY AND REGULATORY COMPLIANCE**

Seller warrants that it has complied with all federal, state and local laws and ordinances, and all lawful regulations of any public authority, including, without limitation, the following (as



amended): Fair Labor Standards Act, Davis-Bacon Act, and the Walsh-Healey Act. Seller further agrees to comply with the provisions of all rules and regulations (including those of the Secretary of Labor) and Executive Orders (including Nos. 11246, 11375, 11625, 11701, and 11758) applicable to the Purchase Order regarding nondiscrimination because of race, creed, color, sex, age, national origin, physical or mental handicap, and veteran status. If TG advises Seller it is a government prime contractor, Seller will extend such provisions to make them binding on its first-tier sub-contractors and vendors on all work relating to this Purchase Order, unless exempted pursuant to the regulations of the President's Committee on Equal Employment Opportunity or successor agency.

Seller shall include on all invoices for the goods covered by this Purchase Order the following statement: "Goods covered by this invoice were produced in conformity with the Fair Labor Standards Act, as amended." Seller warrants that all materials and services delivered hereunder shall comply with all provision of the Williams-Steiger Occupational Safety and Health Act of 1970 (OSHA) including any then current rules and regulations issued thereunder.

All materials furnished on this Purchase Order must comply with current US and International governmental and safety constraints on restricted, toxic and hazardous substances as well as environmental, electrical and electromagnetic considerations. All raw materials, semi-finished or finished products that are ultimately to be sold as TG products, must be free from radiation in excess of natural levels.

#### **CONTRACTOR RESPONSIBILITY**

All contractors doing work at our facility must wear safety glasses with side shields, steel toe metatarsal shoes, and hard hats (must be ANSI standard Z89.1). All contractor tools and equipment for use at our facility must be in safe working order and conform to OSHA standards. Contractors may not use TG tools and equipment unless approved by our VP of Operations.

#### **RESPONSIBILITY FOR LOSS OR DAMAGE**

Seller shall be responsible for loss of, or damage to any chattels, materials, machinery or equipment upon which services are to be performed by Seller, while in the possession or control of Seller, however such loss or damage shall occur.

#### **ASSIGNMENT AND DELEGATION**

No right or interest in this Purchase Order may be assigned by Seller without the written permission of TG, and no delegation of any obligation or of the performance of any obligation by Seller shall be made with the written permission of TG. Any attempted assignment or delegation shall be void for all purposes unless made in conformity with this paragraph.

#### **INSPECTION**

TG shall have the right to inspect the goods covered by this Purchase Order at any reasonable time during its progress, and for a reasonable time after delivery. Any such inspection shall not relieve Seller of its responsibility under any of its warranties (expressed or implied) hereunder. In case any goods are determined to be defective in material, workmanship, or design (if item is of Seller's specification), or otherwise fail to meet the requirements of this Purchase Order, TG shall have the right to reject and return the items at Seller's expense, unless Seller shall in writing direct TG to scrap such items at destination or TG's place of business. TG, at its



option, may cancel this Purchase Order as to all such defective goods, and, in addition may cancel the then remaining balance of this Purchase Order, TG reserving in either or both cases of cancellation all other legal rights and remedies available to it because of such failure to perform.

#### **PERFORMANCE DOCUMENTS**

Seller shall make available to TG any plans, execution drawings, technical calculations and other papers and documents relating to the goods to the extent that TG requires such papers and documents for the use, maintenance or repair of the goods or to the extent this has been agreed by the parties. Upon request, Seller shall also deliver replacement part drawings together with sufficient information to enable us to obtain replacement parts. Title to such papers, documents and drawings shall pass to TSS upon delivery thereof. Furthermore, Seller shall make available for inspection by TG all and any papers and documents relating to the goods (even prior to delivery of the goods) where this is necessary to enable TG to monitor and verify the proper condition and quality of the goods in accordance with the contract; TG's approval of any such papers and documents shall not be construed so as to release Seller from Seller's responsibility for the proper condition and quality of the goods in accordance with the contract, except where TG insists on its desired design despite Seller's concerns having been communicated to TG in writing.

#### **INDEMNIFICATION**

Seller hereby indemnifies and holds harmless TG and its affiliates, officers, directors, employees and agents, and their respective successors and assigns, from and against the entire and full responsibility and liability for any penalties and for any and all penalties, claims, damages, injury, loss and expense of any kind or nature whatsoever (including, without limitation attorneys fees and expenses of litigation) to all persons or entities (including, but not limited to, the employees of TG, of Seller and/or any sub-contractor), and to all property, arising out of or in any manner resulting from the provision of the goods provided for in this Purchase Order and work incidental thereto, or occurring in connection therewith, whether the same arises from the condition of the premises or the equipment, from the services rendered hereunder or from negligence or whether under statute, regulation or rule or otherwise, and even though such damages, injury, loss or expense are attributable to the joint, concurrent or contributory negligence of any indemnified person.

#### **CERTIFICATE OF INSURANCE**

Before Seller shall enter upon TG's premises for performance of any services, or if otherwise requested by TG, Seller shall furnish TG with an insurance certificate or other evidence (which certificate must have attached to it a copy of these terms and conditions acknowledged by the insurance carrier) that Seller is insured against responsibility and liability assumed in this contract, with coverage not less than:

Workman's Compensation Comprehensive Liability (including Automobile Liability)	Statutory
Per person	<u>Bodily Injury</u> \$2,000,000
Per Occurrence	\$1,000,000
Per Occurrence	<u>Property Damage</u> \$1,000,000



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Contractual	<u>Bodily Injury</u>
Per Person	\$1,000,000
Per Occurrence	\$2,000,000
	<u>Property Damage</u>
Per Occurrence	\$1,000,000

Provided, however, that such insurance coverage and amounts shall not be deemed to limit the extent of Seller's assumed responsibility and liability.

### **APPLICABLE LAW**

This Purchase Order shall be governed by the Uniform Commercial Code in effect in Ohio on the date hereof ("Code"). In the event of a breach of any of the Terms and Conditions of this Purchase Order by Seller, TG shall be entitled to all remedies available under the Code, in addition to any other remedies available at law or in equity. The courts located in Trumbull County, Ohio shall have non-exclusive jurisdiction and venue over all controversies in connection herewith, and Seller hereby consents to such jurisdiction and venue.

### **INTEGRATION**

This Purchase Order, and any documents referred to herein, supersedes all prior understandings, transactions and communications, whether oral or written, with respect to the materials referred to herein and from the complete contract between the TG and Seller. No modification, alteration or amendment of this order shall be binding upon TG unless in writing and signed by TG's authorized representative.

### **SET-OFF**

TG shall be entitled to set-off any amount owed at any time from Seller or any affiliate of Seller against any account payable at any time by TG in connection with this Purchase Order. Seller shall have the right to set-off with any counterclaim only if such counterclaim is either undisputed or is the subject of a final, non-appealable order of a court of competent jurisdiction.

### **INSOLVENCY**

In the event of any proceeding by or against Seller in bankruptcy, reorganization or insolvency or for the appointment of receiver or any assignment for the benefits of creditors, TG may terminate this Purchase Order without further liability except for confirming and paying for deliveries previously made and accepted.

### **LIMITATION ON TG'S LIABILITY – STATUTE OF LIMITATIONS**

**In no event shall TG be liable for anticipated profits or for incidental or consequential damages, which are hereby waived. TG's liability on any claims of any kind for any loss or damage arising out of or in connection with or resulting from this Purchase Order or from the performance or breach thereof shall in no case exceed the price allocable to the goods or services which gives rise to the claim. TG shall not be liable for penalties of any description. Any action resulting from any breach on the part of TG as to the goods or services delivered hereunder must be commenced within one year after the cause of action has accrued.**



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**CONFIDENTIALITY**

Seller may not disclose to any third party, or use to the detriment of TG, the existence or details of any Purchase Order, these terms and conditions or any agreement or arrangement with TG, or any information Seller receives or learns about TG in connection with or as a result of a Purchase Order, except as is necessary to perform a Purchase Order. TG electronically stores and processes the data of Seller and any involved third party to the extent necessary or helpful for due and proper performance of the contract.