

TERMS AND CONDITIONS OF SALE

1. Offer and Contract

Acceptance by Seller of Buyer's order is expressly made conditional on assent to these Terms and Conditions, either by written acknowledgement or by conduct of Buyer that recognizes the existence of the contract with respect to Goods described on this acknowledgement form.

These Terms and Conditions also serve as notice of Seller's objection to and rejection of any Terms and Conditions of purchase or sale included in Buyer's purchase order or other writing that are different from or additional to these Terms and Conditions.

Sales representatives are not authorized to bind Seller.

All written quotations automatically expire thirty (30) days from the date quoted unless otherwise specified.

2. Prices and Taxes

Prices are subject to change without notice at any time prior to acceptance of order on Seller's acknowledgement form. All prices are FOB, Warrenville, IL unless otherwise agreed by Buyer and Seller in writing. Buyer agrees to pay all present and future U.S. federal state and local tax obligations, including but not limited to sales, use and excise taxes. If Buyer claims that the Goods are exempt from any particular tax, Buyer must provide Seller with a tax exemption certificate acceptable to the tax authorities.

3. Cancellation Charges

No cancellations or changes of any kind in the purchase order shall be effective unless agreed to in writing by Seller. All changes are accepted subject to adjustment in prices and delivery dates. All cancellations are accepted subject to cancellation charges which will be determined by the Seller and will reflect, among other factors, the expenses already incurred and commitments made by Seller, sales and administrative overhead and profits.

Seller shall have the absolute right to cancel the order upon (i) material breach of any of these Terms and Conditions by Buyer, or (ii) failure by Buyer to make any payment or (iii) insolvency of Buyer, the filing of voluntary petition in bankruptcy by Buyer, the filing of an involuntary petition to have the Buyer declared bankrupt, the appointment of a receiver or trustee for Buyer, the execution by Buyer of an assignment for the benefit of creditors, or (iv) the discontinuance of business by Buyer or the sale by Buyer of the bulk of its assets other than in the usual course of business. Upon cancellation, Seller shall be entitled to a cancellation charge as described above.

4. Shipment and Delivery

All delivery dates are estimates only. Seller's only obligation with respect to delivery dates shall be to use reasonable effort to meet same. All shipments shall be F.O.B. Warrenville, IL unless otherwise agreed in writing between Buyer and Seller. Title and risk of loss shall pass to Buyer at the F.O.B. point. Unless otherwise agreed in writing, Seller will ship via surface transportation. Seller will not be liable for any delays, breakage, loss or damage after having made delivery in good order to the carrier. Seller reserves the right to insure all shipments at Buyer's expense.

5. Force Majeure, Waiver

Seller shall not be liable for any delay to make delivery or failure to deliver due to any clause or contingency beyond the control of Seller (including but not limited to accidents, breakdowns, strikes, riots, sabotage, insurrections, war, delay or interruptions in or failure of sources of materials, supplies, labor, energy or transportation, acts of God or orders of any court, governmental body, authority or agency). Seller may, at its option, allocate available supplies among its customers, including Buyer, in any manner that Seller decides is fair and reasonable, extend the delivery time or cancel the contract for such Goods, in whole or in part. Such allocation, extension of delivery time or cancellation shall not affect the right of Seller to cover for any unpaid Goods previously delivered. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES OR FOR ANY OTHER LOSS, DAMAGE OR EXPENSE OF ANY KIND INCLUDING LOSS OF PROFITS ARISING IN CONNECTION WITH SUCH FAILURE OR DELAY IN DELIVERY.

6. Terms of Payment

Unless otherwise expressly agreed between Buyer and Seller in writing, terms of payment are net thirty (30) days after date of shipment. Seller reserves the right to alter or suspend credit terms and require COD, or advance payment, whenever Seller has reasonable doubt as to Buyer's creditworthiness. If Buyer becomes delinquent in payment or refuses to accept COD shipments, Seller shall have the right, in addition to any other rights it may have, to cancel any order of Buyer's, without further deliveries and declare all unpaid amounts for Goods previously delivered immediately due and payable. Each shipment shall be considered a separate and independent transaction and payment therefore shall be made accordingly. Amounts past due shall be subject to a late charge of 1.5% per month. All costs and expenses incurred by Seller as result of non-payment or delinquent payment by Buyer, including collections costs, interest, and reasonable attorneys fees shall be paid by Buyer.

7. Claims and Remedies

All claims for loss or damage in transit are to be made by Buyer directly to the carrier. No deduction of any kind from the invoice amount shall be made. Buyer shall inspect all Goods immediately upon their arrival and shall immediately give written notice to Seller of any claim that the Goods do not conform to the terms of the contract. Seller shall have reasonable access to inspect any allegedly non-conforming Goods. Buyer waives any right to assert any claim against Seller arising from any non-conformity of Goods which would have been observable on reasonable inspection or testing within thirty (30) days after delivery.

Written notice of any alleged defect within the warranty period must be presented to Seller immediately upon Buyer's discovery of the defect and Seller must be allowed to inspect the Goods while they are in the alleged defective condition. Operation of the Goods must be suspended until written clearance is issued by Seller for continued operation provided that Seller, upon receipt of written notice of an alleged defect, proceeds without unreasonable delay to remedy any defects coming within the warranty.

8. Warranty, Disclaimer, Limitation of Liability

Goods Other Than Tool Sets:

Seller warrants that the Goods (other than Tool Sets) manufactured by Seller, when properly installed, used and maintained, will be free from defects in material and workmanship, assuming normal and proper usage, for (i) a period of six (6) months from the date of shipment to the end-user when employed by the end-user for production use, and (ii) a period of one (1) year from the date of shipment to Buyer who acts as an authorized TOX Pressotechnik distributor when employed by such Buyer solely for demonstration purposes.

Tool Sets:

Seller warrants that the Tool Sets manufactured by Seller are warranted only to the extent of the results contained in the test report(s) pertaining to that Tool Set. TOX Pressotechnik makes no warranty for the technical or commercial success of the clinch process or for uses outside the scope of the installation and operation guidelines, or for the useful life of the Tool Set, as TOX Pressotechnik has no control over the operating conditions, materials or applications for which the Tool Set is used.

General Warranty Terms Applicable To All Goods:

The above warranties by Seller do not extend to any Goods subject to (i) improper installation or storage, (ii) accident, damage, abuse or misuse, (iii) abnormal or unusual operating conditions or applications, (iv) operating conditions or applications above the rated capacity of the Goods (or beyond the results of the test report(s) pertaining to that Tool Set), (v) operating conditions or applications not made known to Seller prior to the date of the agreement, or (vi) a purpose or application in any way different from that for which the Goods were designed. Seller's warranty does not extend to any Goods or parts thereof that are not manufactured by Seller or that Buyer alters or modifies or that Buyer adds to or incorporates into Seller's Goods (including but not limited to controls, electronics, valves and other parts or equipment and only the warranty, if any, given by the manufacturer thereof, will apply. Seller's obligation under this warranty will not apply to any product which (i) is normally consumed in operations or (ii) has a normal life inherently shorter than the warranty period stated herein.

THE WARRANTY EXPRESSED HEREIN IS IN LIEU OF ANY OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND IS IN LIEU OF ANY AND ALL OTHER OBLIGATIONS OR LIABILITY ON THE SELLER'S PART. UNDER NO CIRCUMSTANCES WILL SELLER BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR FOR ANY OTHER LOSS, DAMAGE OR EXPENSE OF ANY KIND, INCLUDING LOSS OF PROFITS, ARISING IN CONNECTION WITH THE CONTRACT OR WITH THE USE OR LIABILITY TO USE SELLER'S GOODS FURNISHED UNDER THE CONTRACT. SELLER'S SOLE LIABILITY AND BUYER'S SOLE REMEDY ARE LIMITED TO EITHER (i) REPAIR OR REPLACEMENT OF DEFECTIVE PARTS OR GOODS, OR (ii) AT THE SELLER'S OPTION, RETURN OF THE GOODS TO SELLER AND REFUND OF PURCHASE PRICE, SUCH REMEDY SHALL BE BUYER'S ENTIRE AND EXCLUSIVE REMEDY, IN THE EVENT OF BREACH OF WARRANTY OR NEGLIGENCE OF SELLER.

9. Confidentiality

All drawings, diagrams, specifications, and other materials furnished by Seller relating to the sale, installation, service or repair of Goods furnished hereunder and the information therein are proprietary to Seller. Buyer may not reproduce or distribute such materials without the written Consent of Seller except to Buyer's employees who may use the material as part of their duties. All such materials relating to the Goods supplied by Seller (except information as may be established to be in the public domain or disclosed through judicial or government action) shall be received in confidence, and Buyer shall exercise reasonable care to hold all such information in confidence.

In the event Buyer's personnel visit Seller's plant or assembly facility or otherwise receive any proprietary or confidential information from Seller, said information shall be retained as confidential by Buyer and not disclosed to any third party without the written consent of Seller.

10. Limitation of Actions

Any cause of action arising from this agreement or the breach thereof must be commenced within one (1) year after the cause of action accrues.

11. Applicable Law

The law governing the agreement and any further agreement or contractual relation between Seller and Buyer shall be the law of the State of Illinois. The invalidity of any provision of this agreement shall not affect the validity of the remaining provisions.

12. Non-Assignment

Buyer's rights and obligations hereunder may not be assigned without prior written consent of Seller.

TOX Pressotechnik L.L.C.