



## TSP, Inc. Terms and Conditions

### APPLICABILITY

These terms and conditions govern the sale of goods (products) by TSP, Inc. and apply to all purchases of Product from TSP by any purchases (“you” or “your”) with notice of these Terms, however gained, including the use of TSP’s website, [www.tspinc.com](http://www.tspinc.com).

Some of TSP’s Products are subject to intellectual property licenses or other contract terms that you will not find here. If such Supplementary Terms exist for the Products being purchased, they will be found in a quotation, confirmation of sale, Product insert, or written agreement that accompanies or is associated with the Products. If you are uncertain if any Supplementary Terms exist for Products, you should contact TSP’s Customer Service at <https://www.tspinc.com/contact-us/> or by phone at 1-800-277-9778.

These Terms, Supplementary Terms (if any), and terms contained in the accompanying confirmation of sale, constitute the entire agreement (the “Agreement”) between the parties related to the sale of the Products specified in such confirmation of sale.

This Agreement can be accepted only on the exact terms set forth herein and no terms which are in any manner whatsoever additional to or different from those set forth herein (including any of your general terms and conditions of purchase regardless of whether or when you submitted your Purchase Order (“Order”)) shall become a part of or in any way alter or add to the Agreement without the express written consent of TSP. TSP rejects any additional or different terms provided by you that are contrary to these terms. Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the Products covered hereby, the terms and conditions of said contract shall prevail to the extent they are inconsistent with this Agreement.

BY PLACING YOUR ORDER, YOU ACCEPT AND AGREE THAT YOUR ORDER IS AN OFFER TO BUY, UNDER THE TERMS OF THIS AGREEMENT, ALL PRODUCTS LISTED IN YOUR ORDER. YOU AFFIRM THAT IF YOU PLACE AN ORDER ON BEHALF OF AN ORGANIZATION OR COMPANY, YOU HAVE THE LEGAL AUTHORITY TO BIND ANY SUCH ORGANIZATION OR COMPANY TO THE TERMS OF THIS AGREEMENT. ALL ORDERS MUST BE ACCEPTED BY TSP OR TSP WILL NOT BE OBLIGATED TO SELL THE PRODUCTS TO YOU. TSP MAY CHOOSE NOT TO ACCEPT ANY ORDER AT ITS SOLE DISCRETION.

## PRICE AND PAYMENT

You agree to pay TSP the Product prices in effect at the time of Order placement. Prices are subject to change by TSP for any reason, including but not limited to your modification of orders, response to market conditions, or price quoted in error.

Unless otherwise agreed by TSP in writing or noted on TSP Quotation, payment of the purchase price is to be made within Net30 day terms (to approved accounts) or via Credit Card (2% add, processing fee).

TSP accepts Check, ACH, Wire and Credit Cards. You represent and warrant that (i) the credit card information you supply to TSP is true, correct, and complete, (ii) you are duly authorized to use such credit card for the purchase, (iii) charges incurred by you will be honored by your credit card company, and (iv) you pay charges incurred by you at the posted prices, including all applicable taxes, if any.

In addition to the purchase price and taxes paid, you will reimburse TSP for all taxes (other than net income taxes), duties, freight, and other charges of any kind imposed by any governmental authority that result from your payment of any amounts to TSP, or the use of the Products upon receipt of an invoice from TSP. INTEREST WILL BE CHARGED AT THE RATE OF 1% PER MONTH OR THE MAXIMUM LEGAL RATE, WHICHEVER IS LESS, ON PAST DUE ACCOUNTS AFTER THIRTY (30) DAYS FROM DATE OF INVOICE. You shall reimburse TSP for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees. TSP reserves all rights with respect to delivered Products, including the rights of rescission, repossession, resale, and stoppage in transit until the full amount due has been paid.

## ORDER CANCELLATION, MODIFICATION, AND RETURNS

Changes in specification or designs relating to any Products, changes in delivery schedules or reschedules or cancellations of Orders are not permitted unless TSP has accepted same in writing, has determined the additional charge to be made, if any, and the same has been paid by you. Reschedules are never permitted beyond a 30-day window. There are no cancellations and no returns ("NCNR") on any accepted Order of TSP non-standard or custom Products. No returns will be accepted without prior written authorization from TSP and a completed Return Material Authorization form provided by TSP ("RMA"). Contact TSP Customer Service at <https://www.tspinc.com/contact-us/> or by phone at 1-800-277-9778 to request the RMA form.

## DELIVERY

Quoted shipping dates are good faith estimates and are subject to change. TSP reserves the right to ship prior to the quoted ship date and to ship in installments. TSP will not be liable for damages due to any failure or delay in its performance as result of any cause(s) beyond its reasonable control. In its sole discretion TSP may allocate, defer, delay or cancel without liability any order delayed by any such cause(s).

TSP will deliver the Products Exworks (as defined in INCOTERMS 2020). TSP's designated facility indicated in the TSP confirmation of sale. You shall, at your sole cost and expense, be responsible for obtaining all licenses and permits and for satisfying all formalities as may be required to import the Products into any other country in accordance with then prevailing laws, rules and regulations. Any extra charge incurred for additional services, including loading, storage and handling, will be paid by you. Title to the Products and risk of loss or damage to Products shall pass to you upon TSP's tender to carrier, to you or your designated agent, whichever occurs first. If you have not specified a carrier in your Order, TSP may select the carrier but will not be deemed thereby to assume any liability in connection with the shipment nor will the carrier be construed to be an agent of TSP.

**Please note:**

**Parcels:** TSP, Inc. ships ExWorks Batavia & Declares Value on all shipments, parcels, either Collect or Prepay & Add.

**Freight:** Recipient bears responsibility for replacement value – lost/damage, Freight Shipment beyond limited liability of most freight lines, if necessary.

Please be familiar with your Carrier's liability for loss or damage and if you need to secure additional coverage.

Thank you for your understanding.

## INSPECTION AND ACCEPTANCE

You shall inspect the Products upon arrival and notify TSP in writing within 30 days of any claims that the Products do not conform to specifications or of damage. Failure to give such written notice during such period will constitute satisfactory shipment by TSP and irrevocable acceptance by you of all Products. Notwithstanding the foregoing, claims for loss or damage of Products which TSP determine occurred in transit must be made to the carrier and not to TSP.

## TSP DOCUMENTATION AND TECHNICAL INFORMATION

Documentation (TSP Documentation) is provided with some TSP products. All of TSP Documentation that is provided with the Products is subject to these Terms and Conditions. TSP hereby grants to you a single, personal, non-sublicensable, and nonexclusive license to use TSP Documentation to the limited extent necessary for the installation and use of the specific Product to which it relates, and to copy TSP Documentation as necessary for those purposes. Except as provided in this Section, no license to any TSP Documentation is granted to you. All updates, modifications and enhancements to TSP Documentation that are made available to you will be deemed part of that TSP Documentation and will be governed by these Terms and Conditions.

## LIMITED WARRANTY

You must notify TSP in writing within the Period allowed if you discover that a Product is nonconforming or defective and provide a description of the nonconformity or defect, together with pictures of the Product, and a completed TSP Return Material Authorization form provided by TSP ("RMA"). If TSP determines that the Product is nonconforming or defective and the claim is made within the Period allowed, TSP will instruct you to either dispose of or return the nonconforming or defective Product to TSP together with completed RMA. No Product returns will be accepted without a TSP approved RMA. Returned Products must be sent to TSP's designated facility at Customer's Cost.

## LIMITATION OF LIABILITY

IN NO EVENT WILL TSP BE LIABLE TO YOU OR ANY OTHER PERSON OR ENTITY FOR ANY INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES OF ANY KIND, OR LOST PROFITS OR REVENUE, HOWEVER CAUSED, WHETHER RESULTING FROM ANY PRODUCT OR DOCUMENTATION DEFECT OR FROM THE USE OR INABILITY TO USE THE PRODUCT, WHETHER ARISING IN CONTRACT OR STATUTE, TORT, STRICT LIABILITY, NEGLIGENCE OR OTHERWISE, AND WHETHER OR NOT TSP WAS ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES. IN NO EVENT WILL TSP'S LIABILITY OF ANY KIND WITH RESPECT TO TSP PRODUCTS, OR OTHERWISE ARISING OUT OF OR RELATING TO THIS AGREEMENT, EXCEED THE AGGREGATE AMOUNT PAID BY YOU TO TSP UNDER THIS AGREEMENT FOR THE PRODUCT THAT GAVE RISE TO THE CLAIM.

## YOUR INDEMNIFICATION

You will indemnify, defend and hold harmless TSP and TSP's employees, officers, directors and suppliers against all loss, cost, damage and expense (including reasonable attorney's fees and cost of suit) arising out of or related to (i) claims of negligence, strict liability, or otherwise with respect to the Products that are bought by you, your successors or assigns, or any third party, and (ii) your use of the Products.

## INTELLECTUAL PROPERTY

Except to the extent you have supplied specifications, drawings or other intellectual property owned or controlled by you prior to the purchase of the Products ("Pre-Existing Intellectual Property") to TSP for the development of Products specifically for you that incorporate your Pre-Existing Intellectual Property, you acknowledge and agree that as between you and TSP, TSP is the sole owner of all intellectual property associated with TSP Products, including trade secrets, know-how, copyrights, trademarks, service marks, trade dress, and patents, and you will not directly or indirectly do anything to assert an interest in or to claim any rights to TSP's intellectual property. To the extent you submit Pre-Existing Intellectual Property to TSP for the development of Products, you hereby grant TSP a non-exclusive license to the extent necessary to develop the Products for you.

## CONFIDENTIALITY

"Confidential Information" means all information that is disclosed or otherwise made available by either party under this Agreement, or to which the other party has access under this Agreement, that the receiving party knows or should reasonably be expected to know is proprietary or confidential to the other party.

A party receiving Confidential Information agrees to not disclose such confidential Information to any third party without the express written consent of the disclosing Party. The parties agree to use the Confidential Information strictly in performance of the receiving party's rights under this Agreement. During the term of this Agreement and thereafter, the receiving party will safeguard against disclosure of the Confidential Information to third parties using at least the same degree of care to prevent disclosure as it uses to protect its own information of like importance, but at least reasonable care. Each party must provide the other with notice of any governmental, judicial, or administrative order or proceeding to compel the disclosure of Confidential Information received under this Agreement, as promptly as the circumstances of such order or proceeding reasonably permit. Each party will return the other's Confidential Information promptly after the other party's request. Each party, as receiving party, shall be responsible for the breach by any of its employees or contractors or receiving party's obligations under this section.

Neither party will be obligated to maintain any information in confidence or refrain from use if (i) the information was in the receiving party's possession or was known to it prior to its receipt from the disclosing party without obligation or nondisclosure, (ii) the information is independently developed by the receiving party without the utilization of Confidential Information of the disclosing party, (iii) the information is or becomes public knowledge without fault of the receiving party, or (iv) the information is or become available on an unrestricted basis to the receiving party from a source other than the disclosing party.

## COMPLIANCE WITH LAW

The parties agree to conduct their businesses in an ethical manner and in compliance with all applicable laws, including, without limitation, the U.S. Foreign Corrupt Practices Act and U.S. export control laws and regulations. You agree that you will not resell or transship the Products or any technical information regarding the Products: (a) into any U.S. embargoed countries or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce Denied Person's List or Entity List.

## FORCE MAJEURE

TSP will be excused from, and will not be liable for any non-performance under this Agreement that is caused by or arises from, in whole or in part, and occurrence beyond the control of TSP or TSP's suppliers, including but not limited to acts of war (declared or not), terrorism, sabotage, insurrection, riot or other act of civil disobedience, accident, fire, explosion, flood, storm or other act of God, epidemic, pandemic, change in government regulation that renders performance impossible or commercially impractical, shortage of labor, fuel, shortages or price increases for raw material, shipping containers or ships or other modes of transportation used to deliver the Products, or delays at ports of entry, or machinery, or technical or yield failure that are due to circumstances or occurrences beyond TSP's control.

## TERMINATION

Either party may terminate this Agreement by giving notice in writing to other party materially breaches these Terms and does not cure the breach within thirty (30) days of written notice of the breach. TSP may cease work, terminate an Order, otherwise discontinue any ongoing supply to or business with you, in whole or in part, any time, without liability, if you file a petition of any type as to your bankruptcy, are declared bankrupt, become insolvent, make an assignment for the benefit of creditors, or go into liquidation or receivership. In all cases, TSP's rights are cumulative, are not exclusive and in addition to all other rights and remedies it may have at law or in equity. No termination shall affect any accrued rights or obligations of either party as of the effective date of such termination, including TSP's right to payment of the price of Products that are shipped and any damages TSP might suffer. The provisions of the Agreement which, by their nature, would continue beyond the termination or expiration of this Agreement will survive the termination or expiration of this Agreement.

## GOVERNING LAW AND DISPUTES

This Agreement will be governed by and construed in accordance with the laws of the State of Ohio, United States of America, excluding its conflicts of law provision and expressly excluding the United Nations convention of the International Sale of Goods.

## GENERAL

These Terms are subject to change without prior written notice at any time, in TSP's sole discretion. Any changed to these Terms will be in effect as of the "Last Updated Date" reference on TSP's website [www.tspinc.com](http://www.tspinc.com). Your continued use of TSP's website after the "Last Updated Date" will constitute your acceptance of and agreement to such changes.

You may not assign or otherwise transfer your right and obligation under this Agreement except with the prior written consent of TSP a successor to TSP by assignment of this order, or to the assets or business of TSP by merger, operation of law, purchase or otherwise, will acquire all interest of TSP hereunder. Any prohibited assignment will be null and void.

Notices permitted or required to be given hereunder will be deemed sufficient if given by (i) registered or certified mail, postage prepaid, return receipt requested, or (ii) email. Notices given by mail will be effective on the fifth (5<sup>th</sup>) business day following the date the notice was posted. Notices given by e-mail will be effective on the date given. Notices to you will be sent to the address or email addresses designated in your order. Notices to TSP must be sent to TSP, Inc., Attn: Legal, 2009 Glenn Parkway, Batavia, OH 45103.

In any part of this Agreement is held illegal, void or ineffective, the remaining portions will remain in full force and effect. No failure by either party to take any action or assert any right under this Agreement will be deemed to be a waiver of that right in the event of the continuation or repetition of the circumstances giving rise to that right.

Terms Last Updated: 8/16/2024

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