

## **TECHNETICS GROUP TERMS & CONDITIONS OF SALE AND SERVICE**

**UNLESS OTHERWISE AGREED TO IN WRITING BY TECHNETICS GROUP, THE FOLLOWING APPLY TO ALL SALES AND SERVICES:**

### **1. ACCEPTANCE AND MODIFICATION.**

a. This document, together with any quotation, constitutes an offer or counteroffer by Technetics Group, LLC or its applicable affiliate (“Seller”) to sell certain products and/or services (the “Products”) to purchaser (“Buyer”), subject to and in accordance with these terms and conditions and attachments to this document (the “Terms and Conditions”).

b. This document is not an acceptance of any offer or counteroffer made or purchase order submitted by Buyer. This offer and any contract arising out of this offer (collectively, the “Contract”) are each expressly conditioned upon Buyer’s assent to all of the Terms and Conditions without modification or addition. Seller’s acceptance of any order is subject to Buyer’s assent to all of the Terms and Conditions set forth herein. Buyer acknowledges agreement with these Terms and Conditions by placement of an order to purchase Products from the Seller or its acceptance of all or any part of the Products. Seller objects to any additional or different terms or conditions contained in any request for quotation, request for proposal, purchase order or other document or communication previously or hereafter provided by Buyer to Seller. If a purchase order or other correspondence contains terms or conditions contrary to the terms and conditions contained in Seller’s acknowledgement, Seller’s acceptance of any order shall not be construed as assent to any additional terms and conditions, nor will that constitute a waiver by Seller of any of the Terms and Conditions nor an acceptance of any such additional provisions. No such additional or different terms or conditions will be of any force or effect, unless specifically agreed to by an executive officer of Seller in writing. The Contract constitutes the entire understanding between the parties with respect to the subject matter of the contract and supersedes any prior discussions, negotiations, agreements and understandings. Modifications to the Contract can be made only by a writing signed by an authorized representative of Seller.

### **2. LIMITED WARRANTY.**

a. Seller warrants that Product supplied by Seller will be free from defect in workmanship and material, to any variation and tolerances: (i) specified by Seller or; (ii) if not otherwise specified by Seller, consistent with accepted variation and tolerances within the industry for Products of the same type.

b. The performance of a service by Seller with respect to any machinery, apparatus, accessories, materials, or supplies provided by Buyer or not manufactured by Seller are specifically excluded from Seller’s warranty. All warranties with respect to machinery, apparatus, accessories, materials or supplies not manufactured by Seller shall be limited to their respective warranties of the manufacturers thereof, if any, which Seller may be permitted to pass on to Buyer.

c. The effects of corrosion, erosion, misuse, improper installation (if not by Seller), neglect and normal wear and tear are specifically excluded from Seller’s warranty.

d. SELLER MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED CONCERNING THE PRODUCTS. ALL OTHER WARRANTIES EXPRESSED OR IMPLIED INCLUDING ANY WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE ARE HEREBY DISCLAIMED. THE FOREGOING EXPRESSES ALL OF SELLER'S OBLIGATIONS AND LIABILITIES WITH RESPECT TO THE PRODUCTS AND SERVICES FURNISHED BY IT HEREUNDER.

**3. LIMITATION ON DAMAGES.**

a. THE LIABILITY OF SELLER, ON ANY CLAIM OF ANY KIND, WHETHER BASED ON WARRANTY, CONTRACT, NEGLIGENCE OR OTHERWISE, FOR ANY LOSS OR DAMAGE ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM THIS CONTRACT, OR FROM THE PERFORMANCE OR BREACH THEREOF, OR FROM THE MANUFACTURE, SALE, DELIVERY, RESALE, REPAIR OR USE OF ANY PRODUCT, SHALL NOT EXCEED THE PURCHASE PRICE FOR THE PRODUCT IN QUESTION, AND UPON EXPIRATION OF THE WARRANTY PERIOD ALL SUCH LIABILITY SHALL TERMINATE. THE FOREGOING, SHALL CONSTITUTE THE SOLE LIABILITY OF SELLER. UNDER NO EVENT SHALL SELLER BE LIABLE FOR ANY CLAIMS FOR SPECIAL, INDIRECT, INCIDENTAL, COLLATERAL, CONSEQUENTIAL, PUNITIVE, OR SPECIAL LOSSES OR DAMAGES. EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SELLER SHALL NOT BE LIABLE FOR ANY RISK, DAMAGE, OR LOSS OCCASIONED BY SELLER'S PERFORMANCE OF A SERVICE WITH RESPECT TO MACHINERY, APPARATUS, ACCESSORIES, MATERIALS, OR SUPPLIES PROVIDED BY BUYER OR NOT MANUFACTURED BY SELLER.

b. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE LIMITATION OF DAMAGES PROVISIONS SET FORTH IN THIS SECTION SURVIVE BETWEEN BUYER AND SELLER EVEN IF THE EXCLUSIVE REMEDY SET FORTH BELOW IS DEEMED TO FAIL OF ITS ESSENTIAL PURPOSE OR OTHERWISE BE DEEMED UNENFORCEABLE.

**4. LIMITED REMEDY.**

a. Any claim that any Product is defective must be provided to Seller in writing, specifying the alleged defect within ninety (90) days of purchase or one (1) year from shipment from Seller's factory, whichever occurs first. Upon receiving a written claim of defect, SELLER shall be afforded an opportunity to inspect and test any allegedly defective Product.

b. Upon confirmation that an allegedly defective Product does not comply with the warranties under this Contract, Seller, at its option, will repair or replace same free of charge including lowest transportation charges or will refund the purchase price thereof.

**5. ORDERS ACCEPTED BY SELLER.**

a. All orders and/or releases received from Buyer are subject to acceptance by Seller and shall not be binding on Seller unless and until accepted by Seller.

b. Orders accepted by Seller cannot be cancelled by Buyer except with Seller's written consent and upon terms that will indemnify Seller against loss, including, without limitation, compensation for all costs of performance incurred by Seller through cancellation.

c. Buyer may, prior to delivery, request changes in the specifications of the product or the quantity ordered; provided however, any such change shall be subject to written acceptance by the Seller. Buyer agrees to pay any and all additional direct or indirect costs occasioned by such change order, and the Seller reserves the right to modify or revoke the limited warranty set forth above if it deems that said change will affect the performance of the product. Seller shall advise the Buyer of the new delivery date necessitated by any such change.

## **6. SAMPLES.**

In the event samples are furnished to Buyer, Seller will not assume any liability in connection with the furnishing or use thereof and there will be no agreement of warranty collateral to, or affecting, the furnishing of such samples.

## **7. PRICE AND PAYMENT.**

a. Prices: Unless otherwise stated, legal delivery and prices are F.O.B. Seller's plant and prices do not include transportation charges. Transportation charges, if included, are estimates only and are subject to change. Seller reserves the right to adjust prices prior to shipment to account for any changes in Seller's cost to perform its obligations under the Contract.

b. Taxes Not Included in Price: Except where otherwise prohibited by law, all sales, excise, use or similar taxes or charges by any national, federal, state or local government or relevant authority, which Seller may be required to pay or collect, shall be in addition to price stated and shall be paid by Buyer, unless a valid exemption certificate is furnished therefore.

c. Payment: Unless otherwise stated in the Contract, all prices are payable in U.S. dollars. All accounts are payable within thirty (30) days. Seller reserves the right to require payment or Irrevocable Letter of Credit (L.O.C.) in advance of shipment if, in Seller's opinion, the credit or financial condition of Buyer is, or is about to become, impaired or Seller has insufficient credit history with Buyer. A monthly finance charge of 1.5% (18% annually) shall be imposed on any portion of Buyer's account not paid within the terms stated on the Seller's invoice from the due date for payment until actual date of payment.

d. Payments Where Shipments are Delayed: In the event of Buyer caused shipment delays including, without limitation, where Buyer requests delay in shipment or Buyer does not perform inspection Buyer requires before shipment, Seller shall have the option of billing for Products when ready for shipment. If material is not ordered out within sixty (60) days after Products are ready, Seller will have the option of billing storage charges.

## **8. DELIVERY.**

a. Shipping Dates: Shipping dates are approximate only and are subject to change.

b. Packaging: Seller will provide commercial packaging, adequate under normal conditions, to protect the Products in shipment and identify the contents. Should Buyer request any special packaging, it will be done at Buyer's expense.

c. Routing: All Products will be shipped via the most cost-effective means of transportation under the circumstances, as determined by Seller, unless agreed otherwise. In the event Buyer requests expedited shipping and handling, Seller shall use commercially reasonable efforts to comply provided Buyer pays all reasonable expediting and increased shipping fees and expenses. If Buyer provides no routing instructions, Seller shall be the sole judge of the best method of routing shipment.

d. Claims: SELLER is not responsible for loss or damage in transit. Claims for loss or damage in transit must be entered and prosecuted by the Buyer. Seller will provide reasonable assistance, at Buyer's expense, upon request.

## **9. SPECIAL TOOLING.**

a. The term "Special Tooling" shall include such items as molds, tools, dies, forms, jigs, mandrels, fixtures, patterns, equipment, except machinery that is required to produce the Products.

b. All Special Tooling shall remain the property of the Seller unless: (i) otherwise agreed in writing by Seller; and (ii) Buyer has made all payments required under any such agreement.

c. The Buyer is responsible for costs resulting from: (i) requested alterations; (ii) major repairs or replacement caused by normal wear; and (iii) additional costs incurred when new factors are introduced such as shorter lead time and/or increased rate of delivery.

d. In the case of Special Tooling owed by Buyer, Seller's responsibility is limited to commercially reasonable handling in manufacture and storage and insurance under Seller's applicable insurance policies as may be in place from time to time. Seller shall be entitled to a lien on all Buyer owned tooling for: (i) the cost of all funds advanced by Seller for which Buyer is obligated to reimburse Seller; and (ii) all amounts payable by Buyer for Product manufactured using the Special Tooling.

## **10. REJECTIONS AND RETURNS.**

a. Notification to Seller: Buyer will be deemed to have inspected and accepted any shipment under this contract or performance of services if, within thirty (30) days after Buyer's receipt of Products, Buyer has not notified Seller in writing that such Products are rejected, including a detailed description of the grounds therefore.

b. Return of Goods: No Products may be returned by Buyer for any reason without Seller's prior written approval.

## **11. DISCREPANCIES.**

If Buyer believes there are or may be any errors, omissions or inconsistencies in the Sales Order Acknowledgement, Invoice, or other documents related or supplemental to its order, Buyer must

submit a claim, with satisfactory evidence in support thereof, within sixty (60) days of the date of sale.

## **12. COLLECTION COSTS.**

Buyer agrees to pay all attorney fees and legal costs incurred by Seller in order to collect any amounts past due that are owed by Buyer.

## **13. INTELLECTUAL PROPERTY.**

Seller retains all rights, title, and interests in any intellectual property rights embodied in or associated with its Products furnished hereunder. Unless the Seller and Buyer mutually agree otherwise in writing, Seller owns all rights, title, and interest in any custom developments relating to its products and services, including all rights, title, and interest in all worldwide copyrights, trade secrets, trademarks, service marks, patents, utility models, industrial designs, proprietary rights or other intellectual property.

## **14. CONFIDENTIALITY.**

All information and materials received by Buyer from Seller pursuant to this Contract (including any idea, concept, design, prototype, product configuration, invention, method, procedure, system, plan, model, program, software or code, data, specification, drawings, diagram, flow chart, documentation, know-how, work of authorship, and any other subject matter, material, collectively referred to herein as “Confidential Information”) shall remain the property of Seller and shall be treated by Buyer as confidential unless Seller has indicated a contrary intent in writing. Buyer agrees to adopt measures to protect the secrecy and confidentiality of Confidential Information that are reasonable under the circumstances, and will promptly notify Seller of any loss, misuse, or unauthorized disclosure of Confidential Information. Buyer will not remove any confidentiality, proprietary, or similar markings from Confidential Information. Immediately upon termination of the Contract, all such Confidential Information, together with any and all copies thereof, shall be returned to Seller. The obligations of confidentiality herein will not apply to information that is or becomes publicly known through no fault of Buyer. Buyer shall not reverse engineer, modify, decompile, analyze the composition of, create other works from, or disassemble any of Seller’s Products.

## **15. INFRINGEMENT.**

a. Should the Products furnished by Seller be of such a nature that the design therefore is supplied by Buyer, or should the Products be labeled or marked with a trademark or trade name requested by Buyer, Buyer agrees to defend Seller in any action, either civil or criminal, brought against Seller by any third party, for the infringement or misuse of any patents, trademarks or other intellectual property rights (“Intellectual Property Rights”) of such third party, and Buyer shall indemnify and hold Seller harmless from all claims, damages or loss, including but not limited to, attorney fees and other costs of litigation, resulting therefrom.

b. As to any of the Products manufactured according to a design or specifications furnished by Seller, Seller agrees to defend Buyer in any action, either civil or criminal, brought against Buyer by any third party, for the infringement or misuse of Intellectual Property Rights of such

third party, and Seller shall indemnify and hold Buyer harmless from all claims, damages or loss, including but not limited to, reasonable attorney fees and other costs of litigation, resulting therefrom. Provided however, Seller shall have no obligation to Buyer for defense or indemnity under this Section unless Buyer notifies Seller in writing within (30) days of any such claim and gives Seller all requested authority, information and assistance (at Seller's expense) to dispose of such claim and to defend any suit that may be brought against the Buyer or Buyer's customer thereon. Seller's liability under this Section to, defend any such suit and satisfy any judgment therein, shall be limited to an amount not exceeding the price paid to Seller for said Products held to infringe. If, in any such suit, an injunction is issued against the further use of said Products or any part thereof, Seller will at its option and expense either procure for the Buyer the right to continue using said Products, or replace the same with non-infringing Products, or modify them so that they become non-infringing, or refund the purchase price and transportation and installation costs of such Products. Seller shall not be liable in any respect except as aforesaid, including without limitation, for any claim of infringement settled by Buyer without Seller's consent. The foregoing expresses all of Seller's obligations and liabilities as to claims of infringement.

## **16. FORCE MAJEURE**

Seller shall not be responsible or liable in damages or otherwise for delays or failure in performance when caused by circumstances, of every nature and description and however arising, beyond Seller's reasonable control, including, without limitation, fire, acts of God, strikes, labor difficulties, disease or pandemic, acts of governmental or military authority, and/or delays in transportation or in procuring materials. In the event that Seller is unable, due to any such occurrence or otherwise, to fulfill its total commitments to all customers, Buyer agrees to accept as full and complete performance by Seller, deliveries in accordance with such plan or proration as Seller may adopt.

## **17. DEFAULT AND TERMINATION.**

a. The following occurrences, among others provided by law or elsewhere in the Contract, shall constitute an event of default: (i) any failure by Buyer to timely make any payment owed by Buyer to Seller; (ii) any failure by Buyer to purchase from Seller the minimum quantities Buyer is obligated to purchase from Seller; (iii) any failure by Buyer to accept any delivery of Products at the time provided for under the Contract; (iv) any failure by Buyer to timely provide adequate assurance of Buyer's ability and intention to perform timely any of Buyer's obligations to Seller following written request by Seller; (v) any breach of Buyer's obligations of confidentiality to Seller; (vi) any infringement by Buyer of Seller's Intellectual Property Rights; and (vii) any other breach by Buyer of the Contract, or any other contract between Buyer and Seller or their affiliates, that Seller determines to be material.

b. Upon the occurrence of an event of default, Seller may, in its sole discretion, immediately exercise any and all of the following remedies, individually or in any combination: (i) cancel the Contract and any other contract between Buyer and Seller; (ii) suspend its performance under the Contract and any other contract between Buyer and Seller; (iii) accelerate all amounts owed by Buyer to Seller; (iv) dispose of any of Buyer's property in Seller's possession or custody and apply the proceeds against Buyer's obligations to Seller; and (v) exercise any and all other rights afforded to Seller by law, equity, statute, or contract.

## **18. CHOICE OF LAW AND DISPUTE RESOLUTION.**

- a. Choice of Law: It is expressly agreed and understood that this agreement shall be governed and interpreted under the laws of North Carolina, without regard to its conflict of law provisions.
- b. Forum: Buyer agrees that any action brought by Buyer against Seller related to or arising from this Contract shall be brought, heard and determined exclusively in either the state or federal located in Charlotte, North Carolina. Buyer irrevocably consents to jurisdiction and venue in the state and federal courts located in Charlotte, North Carolina, for any action brought by Seller. Provided, however, that Seller may pursue claims against Buyer in any competent court having jurisdiction over Buyer.
- c. Limitations period: Any action by Buyer against Seller under this Contract must be commenced within one year after the breach or other event giving rise to Buyer's claim occurs, regardless of Buyer's lack of knowledge of the breach or other event giving rise to such claim. No action for any such claim may be brought thereafter.

## **19. GENERAL PROVISIONS.**

- a. Export controls: The Products and related information covered by this invoice may be subject to the export control laws. The Buyer shall not knowingly sell, export, transfer or dispose of, whether directly or indirectly, the Products and related information covered by this invoice to countries, destinations, or end users that are prohibited under law. Further, the Buyer shall not commit to any order placed by or for any firm which is disallowed under law. Any orders originating from, or which will result in delivery to, prohibited individuals or entities located within or controlled by any country subject to restrictions under export control laws, may not be filled without the prior authorization and approval of the relevant government.
- b. Government Contracts: If the face of the order indicates that it is issued in support of a U.S. Government prime contract or higher-tiered subcontract, Buyer and Seller acknowledge and agree that the order is a commercial product (as defined in FAR 2.101), firm fixed price subcontract that incorporates by reference only those Federal Acquisition Regulation ("FAR"), Department of Defense FAR Supplement ("DFARS") and other FAR agency supplemental clauses that are required to be included in the order based on the type of order, value of the order and the type of Products sold under the order. For purposes of such order, the applicable FAR, DFARS and/or FAR agency supplemental clauses shall be interpreted as if "Government" means "Buyer", "Contracting Officer" means Buyer's authorized designee, "Contract" means the "order", "Offeror" means "Seller", "Contractor" means "Seller", and "Disputes clause" means Paragraph 18 of these Terms and Conditions.
- c. Nuclear Facilities or Activities: If the Products provided by Seller under this Contract are used or otherwise employed in, or in connection with, a nuclear installation, facility or activity located in the United States, Canada, or a country that is a party to the Paris Convention on Third Party Liability in the Field of Nuclear Energy ("Paris Convention") and/or the Vienna Convention on Civil Liability for Nuclear Damage ("Vienna Convention"), Buyer and Seller shall comply with the applicable Nuclear Terms and Conditions available on Seller's website at <https://technetics.com/terms-and-conditions>.

d. **Modifications of Contract:** It is agreed that there is no other agreement in force between Buyer and Seller and no alterations, amendments or modifications to this Contract shall be binding unless agreed to in writing by Seller. Should Seller by any words, acts or writing, waive or be deemed to have waived any of the provisions of this agreement, or should Seller fail to insist upon performance by Buyer of one or more of the terms herein, such action or failure on Seller's part will in no way be deemed to imply or otherwise constitute a waiver of any other terms contained in this Contract. Seller's failure to exercise a right or remedy or Seller's acceptance of a partial or delinquent payment shall not be deemed to be a waiver of any of Seller's rights or Buyer's obligations under this Contract, and shall not constitute a waiver of Seller's right to declare an immediate or a subsequent default.

e. **Severance:** If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected. If any invalid, unenforceable or illegal provision of the agreement would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

f. **Third Party Rights:** A person who is not a party to this Contract shall have no rights under or in connection with it.

g. **Relationship:** Buyer and Seller are independent business entities. Nothing in this Contract shall be construed to create a partnership, joint venture, or any other relationship than that of a customer and supplier. Nothing in this Contract shall be construed to create a distribution or franchise relationship. Seller shall have no obligations to Buyer other than as specified in this Contract. Seller retains sole discretion to accept or reject any future orders from Buyer.