

## TEKNOR APEX COMPANY

### General Terms and Conditions of Sale

**Introduction: These terms and conditions apply to all sales or provision of services by Teknor Apex Company whether by purchase order or otherwise. Acceptance by Teknor Apex Company of any order or request for services is expressly limited to the terms and conditions set forth below. No one except a duly authorized officer of Teknor Apex Company may modify the terms hereof and any modification must be in a writing signed by such duly authorized officer. If these terms are not acceptable, you should notify Teknor Apex Company at once.**

1. Agreement.

These terms and conditions constitute the entire agreement between the parties hereto and supersede all previous communications, representations or agreements, either verbal or written, between the parties hereto with respect to the subject matter hereof.

2. Acceptance.

Unless otherwise specifically agreed to in writing and signed by an authorized representative of Teknor Apex Company, all orders received by Teknor Apex Company are subject to these terms and conditions. Offers to purchase goods or provide services can be accepted only by an authorized representative of Teknor Apex Company. **Any different or additional terms and conditions proposed in a purchase order or otherwise are hereby rejected by Teknor Apex Company and shall not be incorporated into this agreement.**

3. Delayed Deliveries/Unforeseen Circumstances.

Delivery will be made on or about the date indicated in Teknor Apex Company's acknowledgement; however, Teknor Apex Company cannot be responsible for delays due to any cause beyond its control, including, but not restricted to, acts of God, war, acts of the enemy, hostilities, civil commotion or sabotage, acts of Government, fires, floods, explosion or other catastrophes, accidents, epidemics, quarantine restrictions, differences with workmen, embargos or other transportation delays of any kind, inability to obtain fuel or other material, and delays incurred by Teknor Apex Company's suppliers due to such causes. Any such causes of delay, even though existent on the date of Teknor Apex Company's acknowledgement, shall extend the time of Teknor Apex Company's performance by a period or periods equivalent to the delays so occasioned and to such further extent as may be necessary to enable Teknor Apex Company to make delivery by the exercise of reasonable diligence in view of the circumstances existing after such causes of delay have been removed.

Teknor Apex Company reserves the right to cancel any delivery in the event of a material adverse change in the availability or cost of materials or in the event of any other material unforeseen circumstances.

4. Payment.

The price of goods delivered will be due and payable in accordance with terms of payment set forth in Teknor Apex Company's acknowledgement. Teknor Apex Company may cancel deliveries of goods if Buyer fails to make any payment when due. Teknor Apex Company's rights under this section shall be in addition to all other rights and

remedies available to Teknor Apex Company upon Buyer's default. If payment is not made in accordance with said terms of payment, Buyer shall pay to Teknor Apex Company all reasonable costs of collection, including reasonable attorney's fees incurred by Teknor Apex Company in collecting sums due on account of the sale. In the event that payment is not made when due, interest on the overdue payment shall be due at the rate of one and one half percent per month. No return of goods ordered and shipped will be allowed unless such goods shall be shown to be defective.

5. Changes and Deletions.

**Teknor Apex Company agrees only to sell the quantity of goods set forth in Buyer's purchase order and expressly rejects any terms or conditions that purport to establish a requirements contract.** Changes requested by Buyer in quantities, drawings, specifications, or delivery schedules may only be made with the written consent of Teknor Apex Company. Any change requested by Buyer and consented to by Teknor Apex Company which causes an increase in Teknor Apex Company's costs hereunder or in the time required for performance will result in an equitable adjustment in the pricing.

6. Raw Materials and Production Facilities.

Except when otherwise agreed to by Teknor Apex Company in writing, Teknor Apex Company reserves the right to (i) select the raw materials to be used in the manufacture of the goods, (ii) select the supplier of such raw materials, and (iii) select the facility and production line to be used in the manufacture of the goods.

7. Title/Delivery Point.

Delivery shall be made F.O.B. Teknor Apex Company's manufacturing facility (i.e. Pawtucket, RI; Brownsville, TN; Fountain Inn, SC or Industry, CA), unless otherwise indicated. Notwithstanding the payment of freight costs by Teknor Apex Company, title to the goods and all risk of loss transfer to Buyer upon delivery to the carrier.

8. Taxes.

Buyer will pay all taxes due on any order, including, but not limited to, sales, use, excise or any direct or indirect tax of a similar nature of federal, state, county, or municipal origin. If Teknor Apex Company is required to collect and/or pay such taxes, Buyer shall reimburse Teknor Apex Company for the full amount.

9. Warranty>Returns.

Teknor Apex Company warrants only that the goods sold shall conform to Teknor Apex Company's standard specifications or such other mutually agreed-to and documented specifications. This express warranty is in lieu of and excludes all other express warranties and is extended only to Buyer. **TEKNOR APEX COMPANY EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES INCLUDING THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE AND MAKES NO WARRANTY AS TO THE RESULTS BUYER CAN EXPECT FROM BUYER'S USE OF THE GOODS.** No employee or agent of Teknor Apex Company is authorized to make warranties about goods sold by Teknor Apex Company, and Buyer should not rely on any oral or written communications from employees or agents of Teknor Apex Company that purport to constitute a warranty.

Any assistance furnished by Teknor Apex Company in the selection of goods or suggestions as to their processing or use are accepted by Buyer at Buyer's own risk, and Teknor Apex Company shall not be liable to Buyer for results obtained by Buyer from such assistance or suggestions.

Defective goods may be returned to Teknor Apex Company only with the written consent of Teknor Apex Company and in accordance with its specific instructions. The right to return unused goods on account of defect, short count, or for any other cause, shall be deemed waived by Buyer unless a request is made in writing within 7 days of Buyer's discovery, after reasonable diligence, of the cause to which such return relates; provided, however, that no return shall be permitted after the period of 6 months following the receipt of the goods. Unused goods returned in accordance with this section and found to be defective will be replaced or repaired without charge, but Teknor Apex Company shall not be liable for any loss or damage directly or indirectly arising from the use of the goods or from any other cause.

Claims of defect related to goods used or consumed by Buyer shall be deemed waived by Buyer unless such claims are made in writing within 6 months from the receipt of goods to which the claim relates and are accompanied by documentation supporting the claim of defect. If such goods are found to be defective, Teknor Apex Company will replace them without charge.

Teknor Apex Company's liability is expressly limited to the replacement or repair of defective goods at its option. Buyer shall have no remedies other than those stated above.

**In no event and under no circumstances will Teknor Apex Company be liable for consequential damages of any kind.**

10. Buyer's Indemnity.

Buyer shall defend, indemnify and hold harmless Teknor Apex Company and its employees and agents against all sums, costs, liabilities, losses, obligations, suits, actions, damages, penalties, fines, interest and other expenses (including reasonable attorney's fees) that Teknor Apex Company may incur that result from (i) Buyer's ownership, maintenance, transfer, transportation or disposal of the goods sold hereunder, (ii) Buyer's use of the goods sold hereunder, (iii) Buyer's failure to test the goods or assure itself that the goods are fit for Buyer's intended purpose, (iv) any infringement or alleged infringement of the intellectual property rights of others arising from Buyer's specifications, and (v) Buyer's violation or alleged violation of any federal, state, county or local laws or regulations, including without limitation, the laws and regulations governing product safety, labeling, packaging and labor practices.

11. Proprietary Rights.

Teknor Apex Company retains exclusive rights in and to any proprietary information, data and materials related to the goods sold hereunder, as well as the rights to all discoveries, inventions, patents and other proprietary rights that Teknor Apex Company may develop in the course of manufacturing the goods. Buyer shall not "reverse engineer" any goods sold by Teknor Apex Company or otherwise attempt to obtain any proprietary rights of Teknor Apex Company.

12. No Waiver.

Any concession or indulgence made by Teknor Apex Company or its failure to insist on performance of any of these terms and conditions shall not be considered a waiver of any other terms, whether the same or similar. No waiver by Teknor Apex Company of any default or provision hereof shall be deemed a waiver of any subsequent default or provision.

13. Governing Law.

The terms and conditions shall be deemed to have been made in and shall be governed by the laws of the State of Rhode Island. Any legal action shall be resolved in the courts of the State of Rhode Island.

14. Severability.

If any provision of this Agreement, or parts thereof, shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.