

TPS, LLC's TERMS and CONDITIONS of SERVICE

1. PURCHASER'S ACCEPTANCE of these CONTROLLING TERMS, and TPS's RIGHT to WITHDRAW, CORRECT or ADJUST a QUOTE. These Terms and Conditions of Service (Terms) are material to TPS, LLC's (TPS's) offer, as contained in a quote, to provide aftermarket services (Services) for a purchaser. A purchaser's acceptance of TPS's quote is expressly limited to the purchaser's acceptance of these Terms. These Terms shall apply to all Services that TPS offers to provide, and they shall control over any proposed conflicting terms and conditions. Unless TPS otherwise agrees in a writing signed by an authorized TPS official, TPS expressly objects to any conflicting terms and conditions contained in a purchaser's purchase order, acknowledgement, confirmation or any other communication, and such conflicting terms shall be inapplicable and of no force or effect. TPS may change its published or quoted prices, terms and conditions at any time without notice before a purchaser unconditionally accepts a quote in writing, and all TPS quotes remain subject to correction at any time for clerical errors and to adjustments for additional labor and/or materials that TPS may have to provide due to unforeseen circumstances. A purchaser accepts these Terms by acknowledging a TPS quote in writing, by directing TPS to commence the quoted Services in any manner, by accepting the quoted Services, and/or by paying for any of the quoted Services.

2. COMPENSATION, INVOICING, and PAYMENT. In consideration for the Services, a purchaser shall pay TPS according to the quoted pricing and payment terms without any offsets. Failure to pay within quoted terms shall constitute a material breach of contract entitling TPS to immediately stop providing the Services. Upon such a breach, TPS will charge a purchaser interest of 1 ½% per month, or the maximum interest rate permitted by applicable law, whichever is greater, on all delinquent amounts owed. Also, if at any time a purchaser's financial condition no longer justifies the specified payment terms, TPS may demand partial or full payment and other reasonable assurances before proceeding with the Services, or, at its option, stop the Services. TPS shall also be entitled to reimbursement from a purchaser for all costs TPS incurs in collecting delinquent amounts owed, including attorney fees and court costs.

3. CHANGES REQUIRED by a PURCHASER'S CHOICE or BECAUSE of UNFORESEEN CIRCUMSTANCES. A purchaser may need to change an order's specifications for a variety of reasons after accepting a quote, and TPS may need to increase the price of a quote at any time if and when TPS determines that additional labor and/or parts and materials are necessary to properly complete the Services due to circumstances that were not reasonably foreseeable when TPS provided its latest quote. In either case, TPS shall, within fifteen (15) days of learning of the need for a price adjustment, notify a purchaser of such need and TPS and the purchaser shall negotiate an equitable price adjustment and/or completion date. If they are unable to agree upon such an equitable price adjustment and/or completion date, then TPS may stop the Services and proceed under the dispute resolution clause below. Regardless of the dispute resolution outcome, a purchaser shall pay TPS for all the Services TPS performed up the date that TPS notified a purchaser of the need for a price adjustment, as well as any reasonable order cancellation costs TPS may incur.

4. LIMITED WARRANTIES:

On the Services, TPS warrants for a period of ninety (90) days after completing the Services that (1) the Services shall conform to the quote's description and be performed in a competent and workmanlike manner, and (2) all parts used to complete the Services shall be free of liens and free from defects in materials and workmanship.

On parts and materials that TPS supplies but does not install, TPS warrants for a period of ninety (90) days after shipping them that all parts and materials shall be free of liens and free from defects in materials and workmanship provided the parts and materials are properly installed and maintained and not damaged or otherwise altered or abused by a purchaser or anyone else.

Remedy. If the warranted Services or the parts and materials prove to be non-conforming or defective within their warranty period and provided a purchaser notifies TPS in writing of the alleged defects within the warranty period, TPS will, at its option, (1) re-perform the Services at its expense, (2) repair or replace any defective parts or materials at its expense, or (3) refund to a purchaser the price it paid TPS for the non-conforming Services and/or defective parts and/or materials. TPS shall not, however, be responsible for any charges for labor and/or parts incidental to the removal and re-installation/remounting of equipment repaired or replaced under these warranties.

THESE LIMITED WARRANTIES AND THIS REMEDY ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, REMEDIES, AND CONDITIONS, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES, PARTS OR MATERIALS. TPS SPECIFICALLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES WITH RESPECT TO SUCH SERVICES, PARTS OR MATERIALS, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTIES IMPOSED BY COURSE OF DEALING OR USAGE OF TRADE. IF TPS CANNOT LAWFULLY DISCLAIM IMPLIED WARRANTIES UNDER THIS LIMITED WARRANTY, ALL SUCH WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE LIMITED IN DURATION TO THE DURATION OF THE 90-DAY EXPRESS LIMITED WARRANTY.

5. **LIMITATION OF LIABILITY:** NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, UNDER NO CIRCUMSTANCES, WHETHER ARISING UNDER CONTRACT, EQUITY, TORT (INCLUDING NEGLIGENCE), OR OTHER LEGAL THEORIES, SHALL TPS, ITS AGENTS OR ITS EMPLOYEES BE RESPONSIBLE OR LIABLE FOR LOSS OF PROFIT, LOSS OF OPERATING TIME, OR LOSS OF OR REDUCTION IN USE OF ANY FACILITIES (INCLUDING EXISTING FACILITIES) OR ANY PORTION THEREOF, INCREASED EXPENSE OF OPERATION OR MAINTENANCE, OR FOR ANY OTHER SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES.

NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, UNDER NO CIRCUMSTANCES SHALL TPS BE RESPONSIBLE OR LIABLE FOR ANY LOSS, COST, OR DAMAGE ARISING FROM ANY SOURCE WHATSOEVER, INCLUDING TPS'S OWN NEGLIGENCE, IN EXCESS OF THE PRICE A PURCHASER PAID FOR THE SERVICES, PARTS AND MATERIALS THAT CAUSE THE LOSS, COST, OR DAMAGE.

6. **INDEMNIFICATION.** A purchaser shall defend, indemnify and hold TPS, its officers, directors, shareholders, employees and agents harmless against any third party claims, losses, damages, liabilities or expenses (including reasonable attorneys' fees and other litigation expenses and costs) relating to personal injury, death or property damage arising from a purchaser's negligent act or omission with respect to the Services, parts or materials purchased, or arising out of any design, specification, material or component that the purchaser supplies or requires TPS to use for the Services, including infringement of any third party's intellectual property rights.

7. **FORCE MAJEURE.** TPS shall not be liable to a purchaser during any period in which its performance is delayed or prevented, in whole or in part, by a circumstance beyond its reasonable control. TPS will promptly notify a purchaser if such a circumstance occurs and use its best efforts to remedy the situation as soon as possible. Upon the occurrence of any such delay, the estimated time for completion of the Services shall be extended for a time equal to the delay time reasonably attributable to the force majeure event.

8. **TPS'S INTELLECTUAL PROPERTY.** TPS shall retain all rights to any intellectual property ("IP") that it may use to provide the Services, including patents, trademarks, know-how, copyrights, software, engineering and designs, models, production prints, drawings, technical data, and other information and documents. Unless TPS advises in writing to the contrary, all such IP and other confidential information and documents that TPS may disclose or deliver to a purchaser are proprietary to TPS and a purchaser shall keep them confidential and use the IP solely for inspecting, installing, operating and maintaining the products, and for no other purpose. A purchaser shall hold in confidence and not give, loan, disclose, exhibit or sell to any other party or interest, outside of its own company, any such IP or other confidential information.

9. **SEVERABILITY.** If any of these Terms is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other Terms and the remainder of the Term in question shall not be affected thereby.

10. **ASSIGNMENT.** A purchaser may not assign any of its rights under an order/contract without TPS's prior written consent.

11. **DISPUTE RESOLUTION.** Any dispute arising out of, under or in connection with these Terms or the underlying performance of the Services shall first be referred to TPS's and a purchaser's Chief Operating Officers to in good faith mutually attempt to resolve. If this fails, the dispute shall be referred to and settled exclusively by final and binding

arbitration under the American Arbitration Association's Rules for Expedited Arbitration, by a single arbitrator appointed by agreement or (in default) nominated, on the application of either party, by a nationally recognized arbitration organization (i.e., AAA, JAMS, or other nationally recognized organization). The place of arbitration shall be in Pennsylvania and the parties consent to the exclusive personal jurisdiction of such venue and to the dispute being governed by Pennsylvania law, without reference to principles of conflicts of law. The U.N. Convention on the International Sale of Goods shall not apply to any orders/contracts unless stated.