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## Standard Terms and Conditions of Sale

Revision Date December 3, 2014

**PLEASE include the Tri-Mation quote number on all purchase orders.**

Quoted delivery time is firm for a period of seven (7) days. Delivery is dependent upon material and component availability required to build equipment and may require adjustment based on our suppliers delivery. Delivery is also dependent on timely delivery of customer supplied prints and customer supplied parts of sufficient quality and quantity.

The following terms and conditions shall apply to any and all sales of goods and services by Tri-Mation Industries Inc. (hereinafter Tri-Mation). Any suggested exceptions shall be submitted in writing and shall not be effective unless agreed to by Tri-Mation. Any attempt to substitute or add any additional or conflicting terms and conditions is hereby expressly rejected, and shall be of no force or effect. **If there exists a conflict between these terms and conditions and a term of condition set forth in the body of the proposal of which this is a part, the term or condition in the body of the proposal will control.** Note: Tri-Mation Progressive Payment Schedule and Payment Terms as defined below are subject to the final approval of Tri-Mation Finance Department; Tri-Mation reserves the right to modify the Invoice Schedule and Payment Terms as a result of ongoing credit review. Any deviation from these standard terms may affect other quoted terms, including without limitation, price, and or delivery.

### Price

All prices are in United States Currency, and do not include any taxes, duties, freight charges, or fees unless specifically itemized in this proposal. The Purchaser must provide to Tri-Mation a valid tax exemption certificate, if not, Tri-Mation reserves the right to charge the Purchaser sales tax, goods and services tax and or other transaction tax, duty, fee applicable to this purchase. The prices are firm for a period of thirty (30) days, after which prices are subject to change.



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## Freight

All shipments from our plant will be EXW Tri-Mation Location, and will be shipped Freight collect. Where goods are shipped to a foreign destination, Purchaser shall be Importer of Record for all international deliveries and as such, is liable for any and all costs, freight charges, customs, duties, VAT and other related taxes, including without limitation, customs clearance and brokerage fees, and delivery charges to the final destination. All prices assume Purchaser is the Importer of Record. If this is not the case, then Tri-Mation reserves the right to amend pricing.

Any customer desiring a “ship pre-paid and add charges” method will need to indicate a separate line item on their purchase order.

All incoming freight and parts shipped to Tri-mation Industries, Inc. must be shipped “freight prepaid”.

## Terms

Equipment < \$15,000

100% Net 30 days from shipment or run off at TMI. (\*)

Equipment between \$15,000 and \$50,000

50% at Design Approval Net 30

50% or balance due at shipment or run off at TMI Net 30 (\*)

Equipment between \$50,000 and \$100,000

40% at Design Approval Net 30

50% at shipment or run off at TMI Net 30

10% or balance due upon system acceptance (\*), but in no case later than thirty (30) days following receipt of equipment at Purchaser’s facility. Net 30

Equipment > \$100,000

30% at receipt of Purchase Order Net 30

30% at Design Approval Net 30

30% at shipment or run off at TMI Net 30

10% or balance due upon system acceptance (\*), but in no case later than thirty (30) days following receipt of equipment at Purchaser’s facility. Net 30

(\*) **System Acceptance** criteria to be mutually agreed upon between Purchaser and Tri-Mation prior to purchase order acceptance. Reference Quote and RFQ.



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### **Programs placed on Hold**

If a program is placed on hold or delayed for more than 45 days, by the customers for reasons within or without the customer's control, TMI will invoice for materials purchased and labor performed up to the point of the project being placed on hold.

### **Replacement Parts, Parts, Machined Components, Purchased Components, and Services Invoicing**

One hundred (100%) percent of the total purchase price will be invoiced upon shipment of the Parts / Components from Tri-Mation or completion of service.

### **Payment**

All invoices shall be due upon 30 days receipt.

Tri-Mation may charge interest on all and any amounts unpaid after invoice due date. Such interest shall be at the rate of the lesser of (i) one and one half percent (1.5%) per month or part thereof; or (ii) the highest rate allowed by law.

When required by Tri-Mation, Purchaser shall issue an Irrevocable Letter of Credit (LOC) in favor of Tri-Mation in the amount of 100% of the purchase price. The LOC is to be issued by a bank or other financial institution, approved by Tri-Mation, within thirty (30) days from the date Purchaser places its purchase order with Tri-Mation. The LOC shall be valid until 100% of the Price is paid to Tri-Mation.

### **Changes**

Quoted prices are based upon the submitted part samples, part drawings, and specifications available at time of quotation and therefore subject to re-evaluation if changes are required. Please note that the pricing of equipment on this quotation, as well as options, is based on their being purchased at the onset of the order. Should an item be added after the initial release of the order, its pricing will require revision to cover any additional costs incurred. Any program delays that result in increased purchase material cost due to the delay, will require revision to cover any additional costs incurred.

Quoted prices assumes 3D data is available and of a quality that allows it to be used to develop 3D surfaces required for fixtures. Lack of quality 3D data may increase the project price.

Unless otherwise provided in the Quotation and except as otherwise provided for herein, the Customer shall pay additional charges for changes requested by Customer which are



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outside the original Scope of the Work provided in the quotation request. Additional charges shall be on a time and materials basis, at standard hourly rate, unless premium time is required to meet project deadlines. Such charges shall be in addition to all other amounts payable under the Proposal, despite any maximum budget, contract price or final price identified therein. TMI may extend or modify any delivery schedule or deadlines in the Proposal as may be required by such Changes.

### **Operator Instructions / Training**

Tri-Mation will demonstrate machine operation to Purchaser's key personnel. Purchaser is responsible for creating operator instructions and training unless specifically defined in a quoted line item.

### **Warranty**

Tri-Mation warrants to Purchaser that all goods supplied hereunder, which are manufactured by Tri-Mation will be free from defect in material or workmanship for a period of one (1) year from the delivery date unless a different period is set forth in the body of the proposal in which these terms are incorporated. Original Equipment Manufactures components (Purchased Parts supplied as part of the equipment) are limited to the Warranty supplied by the OEM. Should any defect appear during the warranty period, Tri-Mation shall, if given prompt notice by Purchaser, correct such nonconformity by, in Tri-Mation's sole discretion, either (i) repair at the jobsite, or (ii) repair or replacement of the nonconforming goods EXW Purchaser facility.

The foregoing warranties are subject to revocation in Tri-Mation's sole discretion in the event that Purchaser (1) modifies the goods in any way without the express written consent of Tri-Mation; (2) employs such goods in a manner that is not in accordance with Tri-Mation or original equipment manufacturer supplied instructions; or (3) damages the goods in any manner through any means.

The foregoing warranties also are subject to revocation or modification in Tri-Mation's sole discretion in the event that Purchaser uses or transfers the goods outside of the original Purchaser location from which they were sold. In such event, Tri-Mation may charge Purchaser, at prevailing prices, for all travel, labor, and parts necessary to service such goods.

Repair parts are warranted by Tri-Mation for a period of one (1) year from the date of delivery, provided, however, that repairs or replacements to original goods shall not renew or extend the warranty period of such goods. Replaced goods or parts become the property of Tri-Mation. Goods supplied hereunder, which have been purchased by



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Tri-Mation from manufactures other than Tri-Mation, shall have only the warranty offered by the manufacturer thereof, and Tri-Mation disclaims any responsibility with respect to the performance of such goods. Service labor provided by Tri-Mation is warranted by Tri-Mation for a period of ninety (90) days from the date that the Service is performed.

THE FOREGOING WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES OF QUALITY OR PERFORMANCE, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE.

### **Limit of Liability**

EXCEPT AS PROVIDED IN THE SECTION ENTITLED "PATENT AND COPYRIGHT INDEMNITY", TRI-MATION SOLE AND EXCLUSIVE LIABILITY HEREUNDER SHALL BE TO REPAIR OR REPLACE GOODS OR PARTS THEREOF FOUND TO BE DEFECTIVE WITHIN THE WARRANTY PERIOD. IN NO EVENT SHALL TRI-MATION BE LIABLE TO PURCHASER FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES WHETHER IN CONTRACT, TORT, OR OTHERWISE, INCLUDING BUT NOT LIMITED TO DAMAGES RELATED TO LOSS OF PROFITS OR REVENUE, LOSS OF USE OF THE GOODS OR ANY ASSOCIATED EQUIPMENT, COST OF SUBSTITUTE GOODS, DOWNTIME COSTS, OR OTHER DAMAGES TO PURCHASER OR ITS CUSTOMERS.

### **Inventions**

Purchaser acknowledges and agrees that any and all ideas, discoveries, concepts, and improvements, whether patentable or not, made during the performance of this Agreement shall be solely owned by Tri-Mation. Purchaser agrees to cooperate, at Tri-Mation's expense, in the preparation, filing, and prosecution of patent applications relating to inventions conceived and or reduced to practice as a result of Tri-Mation's performance under this Agreement.

### **Patent and Copyright Indemnity**

Tri-Mation will indemnify and defend Purchaser against a claim that the goods supplied hereunder infringe a United States patent or United States copyright; provided, however, that the obligation to defend and indemnify shall not extend to claims based upon processes incorporating or products manufactured through the use of such goods. Tri-Mation will pay resulting costs, damages, and reasonable attorney's fees awarded as a



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result of such claim; provided that (1) Purchaser notifies Tri-Mation within twenty (20) days of learning of the claim, (2) Purchaser give Tri-Mation such information and assistance, at Tri-Mation expense, as Tri-Mation may request for the defense, and (3) Tri-Mation is given the sole control of the defense and all related settlement negotiations. Purchaser acknowledges that in no event shall Tri-Mation liability to Purchaser under this Patent and Copyright Indemnity section exceed the amount paid by Purchaser to Tri-Mation for any allegedly infringing goods.

Aside from its obligation to defend and indemnify, Tri-Mation's sole liability to Purchaser in connection with a claimed infringement shall be, at its option and expense, either to procure for Purchaser the right to continue using the goods or to replace the same so that they may become non-infringing. If neither of the foregoing alternatives is reasonably available, Purchaser agrees to return the goods on written request of Tri-Mation, and Tri-Mation shall refund Purchaser's net book value of the goods and transportation costs thereof.

Tri-Mation has no liability for any infringement claim based upon combination, operation or use of any goods supplied hereunder with goods not supplied by Tri-Mation, or based upon alteration or modifications of any goods supplied hereunder.

The foregoing states the entire obligation of Tri-Mation with respect to infringement of patents and copyrights. To the extent that the goods or any part thereof are supplied according to specifications and designs furnished by Purchaser, Purchaser agrees to indemnify Tri-Mation in the manner and to the extent set forth above insofar as the terms thereof are appropriate.

### **Security Interest**

Purchaser grants to Tri-Mation a security interest in any and all goods sold to Purchaser by Tri-Mation to secure the purchase price of such goods until fully paid. Purchaser agrees that acceptance of these terms and conditions constitutes a security agreement and hereby authorizes Tri-Mation to file and record such UCC Financing Statements and related documents with such persons and governmental offices as Tri-Mation deems appropriate, desirable, or necessary to perfect, effectuate, complete, preserve and or continue its purchase money security interest. Purchaser hereby grants Tri-Mation, its agents and employees, as Purchaser's agent with full power, authority and right to execute and file in the name and on behalf of Purchaser such UCC Financing Statements.

### **Cancellation**

Upon cancellation of this order, Purchaser shall pay to Tri-Mation the following amounts:



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(1) the purchase order price of all goods and services which have been completed in accordance with this order and not previously paid for; (2) cost associated with all design, management, manufacture, and assembly of any custom components; (3) any and all cost (including legal fees and judgments) incurred by Tri-Mation as a result of the cancellation of subcontracts related to this order; (4) a reasonable profit; and (5) cost for the return of any standard purchase components to Tri-Mation's suppliers. This cancellation provision does not preclude Tri-Mation from exercising any other remedies it may have at law or in equity.

### **Force Majeure**

Neither Tri-Mation nor Purchaser shall have any liability to the other or to third parties for any failure or delay in performing any obligation under this Agreement due to circumstances beyond its reasonable control including, without limitation, acts of God or nature, act of government or insurrections, fires, floods, tornadoes, strikes (including labor trouble or other industrial disturbance), war, acts of terrorism, embargoes or blockades, legal restrictions, or power, communication, satellite or network failures.

### **Compliance with Laws**

Purchaser will comply with any and all laws and regulations applicable to the use, transportation, re-sale or export of the goods, services and or technology provided by Tri-Mation and acknowledges that export or re-export of such items may require that Purchaser obtain an export license from the appropriate authority.

### **Choice of Law and Jurisdiction**

These terms and conditions shall be construed according to the law of, and any dispute shall be decided in, the State of Michigan.