



111 West Buchanan Street ~ PO Box 130
Carthage, IL 62321-0130
Telephone: 217/617-4406 ~ Fax: 217/357-6230
website: www.tracelabs.com ~ email : info@tracelabs.com

General Terms and Conditions

1. Quotation: Orders for goods (including services) are subject to acceptance in writing by the Trace Laboratories, Inc. (hereinafter "Trace", and together with Purchaser, the "Parties"). Prices quoted, unless otherwise stated, are subject to acceptance within 30 days from date of quotation. Prices are quoted and payment is to be made in U.S. Dollars.
2. Acceptance of orders, whether oral or written, is based on the express condition that Purchaser agrees to all of the terms and conditions expressed herein. These terms and conditions will govern unless Purchaser notifies Trace of their unacceptability within 5 days from the receipt of Trace's acknowledgment of order. Purchaser's failure to object to these terms and conditions within 5 days in writing, or acceptance of delivery by Purchaser, will constitute Purchaser's assent to these terms and conditions. These terms and conditions represent the complete agreement of the Parties, and no terms or conditions in any way adding to, modifying or otherwise changing the provisions stated herein shall bind Trace unless made in writing and signed and approved by an authorized representative of Trace. No modification of any of these terms shall be invoked by Trace's provision of services following receipt of Purchaser's purchase order, shipping or similar forms containing printed terms and conditions conflicting or inconsistent with or in addition to the terms herein.
3. Payment terms: ½ %, 10 days from delivery; net 30 days from delivery. Payment of Trace's invoices shall not be delayed or contingent upon approval or payment from Purchaser's customer or any other third party. Purchaser agrees to pay cost associated with collection of any overdue amount including reasonable attorney's fees. With regard to long-term testing projects, Trace reserves the right to invoice work completed at the end of each month in accordance with Generally Accepted Accounting Principles or with such other arrangements as may be agreed upon by the Parties in writing prior to acceptance of the order.
4. In addition to remedies provided by law, Trace reserves the right to withhold test data reports and test samples until such time as all amounts owed by Purchaser to Trace are paid in full.
5. Purchaser is expected to furnish all operational test equipment necessary to verify the functional integrity of the items under test unless other arrangements have been made with an authorized representative of Trace. Furthermore, Purchaser's personnel may be expected, within Trace's sole discretion, to assist with making some or all operational measurements.
6. Purchaser is encouraged to consult with Trace before designing and/or fabricating any operational test equipment or tools to ensure compatibility with Trace's equipment. Trace will not be held responsible or liable for direct, indirect, consequential or other expenses or damages arising as a result of Purchaser's failure to consult with Trace in accordance with this Section 6.
7. Purchaser agrees that Trace's obligation is to perform services and report the results in accordance with specifications set forth in Purchaser's order. Trace will not render an opinion on the suitability of the item tested for any intended purpose. Trace will exercise reasonable care in the performance of services in accordance with applicable specifications and instructions received from Purchaser.
8. Trace's liability for loss, damage or delay incurred in the performance of, or as a result of the testing, handling or reporting shall, in aggregate, not exceed the total fee for services rendered in the performance of the project specified in Purchaser's order.
9. Purchaser agrees that regardless of the claim or the form in which any legal or equitable action may be brought by Purchaser against Trace, Trace shall not be liable for any damages or expenses, direct or indirect, special, consequential, exemplary or compensatory, including but not limited to loss of profits except to the extent otherwise herein provided.
10. Test durations are estimated and will vary with Trace's workload at the time testing is actually conducted.
11. The delivery estimate is effective from the later of the date of receipt of purchase order by Trace or the acceptance by Trace of applicable specifications, drawings, samples, and/or artwork. Any delivery date or schedule referenced in any order is an estimated delivery date or schedule and shall not be binding on Trace or considered relied on by Purchaser unless Trace has specifically agreed to said delivery date or schedule in writing by separate agreement exclusively for that purpose. Purchaser acknowledges that any significant deviation to the testing requirements and/or parameters may impact price and/or delivery time.
12. In the event of a failure or test anomaly, the Purchaser will be contacted immediately. If Purchaser elects to discontinue testing, charges will be prorated based on the amount of testing and or other engineering services actually completed.



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13. Trace may, under certain circumstances, subcontract testing to an affiliated laboratory. Purchaser will be notified of Trace's intent and reasons for subcontracting any work preferably at the proposal stage, but in every instance, prior to the commencement of testing. To the extent that Purchaser requires specific accreditation and/or other qualifications, Purchaser shall notify Trace and Trace shall certify that the affiliated laboratory to which the testing is subcontracted possesses those accreditations and/or qualifications.
14. Trace shall not be liable for delays in delivery or default in delivery for any cause beyond Trace's reasonable control, including, but not limited to, the following: (a) fires, floods or other casualties; (b) wars, riots, civil commotion, embargoes, governmental regulations or martial law; (c) Trace's inability to obtain necessary materials from its usual sources of supply; (d) existing or future strikes or other labor troubles affecting production or shipment, whether involving employees of Trace or employees of others, regardless of responsibility or fault on the part of the employer; or (e) other contingencies of manufacture or delivery. In the event of any delay in Trace's performance due in whole or in part to any cause beyond Trace's reasonable control, Trace shall have such additional time for performance as may be reasonably necessary under the circumstances. Acceptance by Purchaser of any services shall constitute a waiver by Purchaser of any claim for damages of any delay in services.
15. All taxes and excises of any nature whatsoever, now or hereafter levied by any governmental authority, either directly upon the sale or transportation of any services covered hereby, or upon the subject matter hereof, shall be paid and borne by Purchaser.
16. Where applicable, partial tooling and set-ups quoted and made by Trace are designated as Trace proprietary testing set-ups, and will not be released from the Trace facility. Trace may dispose of any fixtures, special tooling, drawings or the like which are the property of Purchaser and are left unclaimed for thirty (30) days from the date of written notification by Trace to Purchaser.
17. Except as otherwise agreed in writing by the Parties, all right, title and interest to fixtures, special tooling, drawings, designs and other data is and shall remain the property of the Trace. Purchaser owned equipment at Trace's facilities shall be subject to additional charges for storage, transportation and taxes to the extent applicable.
18. Charges for change in scope of services specified in any purchase order will be commensurate with additional work required.
19. Government inspection of any materials or parts at any facility of Trace or its affiliates may be cause for a price increase.
20. Trace will provide services in compliance with written specifications as furnished by Purchaser, unless otherwise specified on the face thereof. If Purchaser does not furnish specifications, Trace reserves the right to provide services in accordance with generally accepted industry specifications.
21. Purchaser shall be responsible for procuring at its cost, insurance protecting the value of property or samples, if it so desires. The sums payable to Trace by Purchaser are based upon the value of the services rendered and such sums are not related to the value of property belonging to Purchaser or others. Purchaser further understands that certain tests are hazardous and agrees that Trace neither assumes nor accepts any responsibility for any injury or damage to property or personnel that may occur during or as a result of tests, wherever performed, whether performed in whole or in part by or on behalf of Trace or by Purchaser, whether or not any equipment, facilities or personnel for or in connection with such tests is furnished by or on behalf of Trace, or by Purchaser, except when such injury or damage results solely from gross negligence on the part of Trace's personnel and in such event subject to the limitations of liability set forth below in this paragraph. Purchaser does not seek any indemnity by this agreement from Trace against any losses or damage. Trace makes no warranty, expressed or implied, relative to the services it furnishes, and Purchaser agrees that Trace shall not be liable for any Purchaser losses or damages, irrespective of origin, whether directly or indirectly caused by the performance or nonperformance of obligations imposed by this contract or otherwise. If Trace is found liable, its liability shall in no event exceed the amount of fee paid by Purchaser for such services, as noted in Section 8 herein, and Purchaser's sole remedy or in equity shall be to recover up to such amount.
22. Obvious errors made by Trace in bids, estimates and quotations are subject to correction.
23. Trace reserves the right to require payment for any services hereunder in advance, or to require satisfactory security, if the financial responsibility or credit of Purchaser, at any time, becomes unsatisfactory to Trace. Security may include, but is not limited to, execution by Purchaser of a promissory note, security agreement, financing statement, and/or personal guaranty. If Purchaser fails to make payment in accordance with the terms of this agreement, or fails to comply with any provision hereof, Trace may, at its option (and in addition to any other remedies), cancel any unfulfilled portion of this order; Purchaser is to remain liable for all unpaid amounts.



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24. Purchaser may terminate this contract in whole or in part upon notice in writing to Trace. Trace shall thereupon, as directed, cease work and transfer to Purchaser title to all completed services and to any materials or supplies acquired by Trace specifically for the purpose of performing this contract, and Purchaser shall pay Trace as follows: (1) the contract price for all products which have been completed prior to termination; (2) the contract price less 17.5% for services in the work-in-process stage; (3) the cost F.O.B. Trace's plant of materials and supplies acquired specifically for the purpose of performing this contract; and (4) reasonable cancellation charges, if any, paid by Trace as a result of commitments made to third parties in connection herewith.
25. Waiver by Trace of any breach of these terms and conditions shall not be construed as a waiver of any other breach, and failure to exercise any right arising from any default hereunder shall not be deemed a waiver of such right, which may be exercised at any subsequent time.
26. Any proposals, prints, brochures, drawings, or other information or know-how furnished to Purchaser by Trace are intended for confidential use by Purchaser, shall remain the property of Trace, and shall not be disclosed to a third party or used to the detriment of Trace's competitive position or for any other purpose except as provided for herein.
27. This Agreement and all the terms and conditions set forth herein shall be binding upon Trace and Purchaser and their permitted successors and assigns; provided, however, that Purchaser may not assign, transfer or delegate in any manner, any of its obligations or rights hereunder except in connection with the sale or transfer to another party of all or substantially all of Purchaser's business relating to this contract.
28. Any action for claims arising under this Agreement must be commenced within one (1) year following delivery of the services to Purchaser hereunder.
29. Purchaser shall pay all applicable freight, insurance and inspection charges and all duties, tariffs, and counselor's fees, and any other duties, fees or charges incurred in connection with the sale, transportation or delivery of any services ordered hereunder. Purchaser agrees to indemnify, defend and hold Trace and its affiliates harmless therefrom. In the event that Trace pays any such amounts, Purchaser agrees to reimburse the amounts so paid.
30. This Agreement shall be entered into in the English language. Should translation of this Agreement into any other language be required or desired for any reason, it is understood that in all matters involving interpretations of this Agreement, the English text shall control.
31. This Agreement shall be deemed to have been executed and delivered in **Illinois**, U.S.A. Except as otherwise provided herein, this Agreement and all rights and obligations hereunder, including matters of construction, validity and performance shall be governed by the laws of **the State of Illinois**, U.S.A., including the Uniform Commercial Code as enacted in that jurisdiction, without giving affect to the principals of conflicts of law thereof. The jurisdiction and venue of any legal proceedings for the resolution of disputes arising hereunder or in connection with this Agreement shall be in the federal or state courts sitting in **Cook County, Illinois**, U.S.A. In the event that Purchaser's place of business is in a country that ratified the United Nation's Convention on Contracts for the International Sale of Goods (1980) (the "Convention"), the parties agree to exclude application of the Convention.