

**Thompson Direct, INC. (TDI) TERMS AND CONDITIONS**

ALL SALES ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS.

1. Definitions.

1.1 "Accessory Products" mean spare parts purchased, at Buyer's option, to enhance the system or replace components within the system.

1.2 "Agreement" means this Sale Agreement.

1.3 "Buyer" means the person or entity that enters into this Agreement for the design and for manufacture of the system, subsystem accessory products, or related services and/or Buyer's assigns, successor's agents and transferees.

1.4 "Default Specifications" means the TDI Default Specifications set forth in Exhibit A, attached hereto, which set forth the default functional and technical performance criteria for the system.

1.5 "Final Product Throughput" means the end-product as fully processed by the TDI system.

1.6 "TDI" means Thompson Direct, Inc.

1.7 The "Operation and Maintenance Manual" means the operative and instruction guide supplied by Seller to Buyer, which addresses one or several of the devices, components or Subsystems within the system.

1.8 "Order" means Buyer's order in the form of Seller's Proposal, signed by Buyer and delivered to Seller.

1.9 "Order Acknowledgement Form" means the written form Seller sends to Buyer indicating that Seller is in receipt of Buyer's Order.

1.10 "Parties" means the Buyer and Thompson Direct, Inc.

1.11 "Product Samples" mean Buyer-supplied components and/or material to be fed through and/or processed by the system to create a Final Product Throughput.

1.12 "Product Schedule" means the actions undertaken by TDI to design and build the system over a period of time.

1.13 "Production Schedule Date" means the date upon which production is scheduled for completion.

1.14 "Proposal" means Seller's written description of the system and/or Accessory Products

1.15 "Quote" means the price quote for the System and/or Accessory Products.

1.16 "Seller" means Thompson Direct Inc.

1.17 "Shipment Date" means the estimated date upon which TDI anticipates shipment of the System from the TDI facility.

1.18 "Specifications" means the functional and technical performance criteria for the System, as agreed-to by the Parties.

1.19 "Subsystem" means any smaller TDI-designed system that constitutes a component of the overall System.

1.20 "System" means the custom-designed product manufactured by Seller according to the Specifications, which may or may not include various other Subsystems.

1.21 "System Manual" means the operative and instruction guide supplied to Buyer by Seller with the shipment of the System, which addresses the overall System, and may or may not address each separate device, component or Subsystem within the System

2. The System.

2.1 Purchase and Supply. Seller will sell the System and/or Accessory Products to Buyer under the terms and conditions set forth in this Agreement.

2.2 Specifications. The System will be manufactured by Seller according to the Specifications. The Proposal will include a Quote for each component of the System. If the Buyer does not provide specifications prior to the Quotation process, the Default Specifications will apply. All specifications supplied by Buyer are subject to (a) TDI's written approval and (b) signature by a TDI-authorized representative.

2.3 Packing. Unless otherwise specified in this Agreement or Buyer's Order,

the System and/or all Accessory Products are to be packed and identified in accordance with customary industry practice. Seller shall mark each container with necessary shipping information, including the applicable purchase order number, date of shipment, and the name and address of Seller and Buyer.

3. Assent to Terms and Conditions of Agreement. Unless otherwise indicated, Seller's Proposal will expire thirty (30) days following the date the Proposal is transmitted to Buyer. Seller's Proposal is not binding upon Seller until Buyer's Order is accepted in writing by Seller on an Order Acknowledgement Form. Buyer's Order must be submitted within the timeframes provided herein.

4. Price, Price Adjustment & Additional Charges.

4.1 Price. The purchase price for the System will be set forth in the Quote. The pricing of Accessory Products is subject to change from time to time. Price does not include shipping or installation unless noted in writing.

4.2 Price Adjustment. The purchase price in the Quote may be increased to reflect increases in the cost of materials or labor, if:

4.2.1 Shipment of the System is scheduled for a date that is more than three (3) months after the date of Buyer's Order;

4.2.2 Shipment of the System is delayed by Buyer to a date that is more than three (3) months after the date of Buyer's Order; or

4.2.3 Shipment of the System is accelerated due to an accelerated Production Schedule Date.

4.3 Delivery, Risk of Loss and Title. The System will be delivered f.o.b. Seller's determined facility. Buyer will pay all packaging, handling and freight to Buyer's destination. Risk of loss or

damage to the System passes to Buyer at the time of delivery to the carrier. Seller will purchase shipping insurance at Buyer's request and at Buyer's expense. Transfer of title is not deemed to occur until payment in full has been received by Seller. Shipment dates are Seller's best estimate of when product(s) will be shipped or delivered, but the Shipment Date is not guaranteed.

4.4 Taxes. Buyer will pay all duties and taxes including sales, use, property, excise, value added and gross receipts taxes levied on the System or Accessory Products. Seller will not collect an otherwise applicable tax if Buyer's purchase is exempt from Seller's collection of such tax and a valid tax exemption certificate is furnished by Buyer to Seller. If buyer does not provide a valid tax exemption form prior to billing then TDI will not be liable to refund collected taxes. It will be the buyers responsibility to collect the taxes from the state or other government agencies.

4.5 Cancellation of Orders. Following Seller's acceptance of Buyer's Order, the Order can be cancelled only with Seller's written consent. A minimum cancellation charge of 35% of the purchase price of the System or Accessory Products will be assessed and will vary according to the date on which the cancellation occurs in the Production Schedule, the quantity of work and materials that are salvageable, the degree to which the System is custom-designed, and other factors in TDI's sole discretion.

4.6 Additional Charges. Additional work completed or time consumed by reason of Buyer's alterations or delays caused by Buyer, will be charged to Buyer at Seller's current price for work or material at the time of such alterations, changes, or delays.

5. Payment.

5.1 Payment of Purchase Price. If Seller approves Buyer for credit, the payment schedule is (a) 50% of the purchase price in certified or other currently available funds within five (5) days following acceptance of Buyer's Order; (b) no later than installation of equipment (i) 50% of the purchase price in certified funds; and (ii) the remaining balance by Buyer's delivery of an irrevocable letter of credit or some other TDI-approved payment alternative, drawn on a U.S. bank in an amount equal to the remaining balance due for the benefit of Seller or Seller's agent. The letter of credit and/or its equivalent must be drawn on a financial institution and in form reasonably acceptable to Seller, must be in U.S. dollars, and will expire no earlier than 60 days after the requested shipment date. Under no circumstances will Seller be liable to Buyer for delays in shipment caused by Buyer's delay in payment.

If Seller does not approve Buyer for credit, payment will be disbursed to Seller within five (5) days following acceptance of Buyer's Order by certified or other currently available funds or by Buyer's delivery of an irrevocable letter of credit or some other TDI-approved payment alternative, drawn on a U.S. bank in an amount equal to the full amount of the purchase price. The letter of credit and/or its equivalent shall provide for interim draws in accordance with the schedule referenced in the preceding paragraph, be drawn on a financial institution and in form reasonably acceptable to Seller, in U.S. dollars, and will expire no earlier than 60 days after the requested shipment date.

Buyer authorizes Seller to review any and all necessary credit reports and information to assess whether Seller will extend credit to Buyer.

5.2 Invoicing for Ongoing Services and/or Accessory/Replacement Products. Seller will invoice Buyer for any ongoing services or Accessory Products purchased separately from Buyer's Order for the System. Invoices will reference purchase order number, item number and description of product(s) and/or service(s), unit price of products and/or service(s), total amounts due, and the due date. Invoices shall be due and payable within thirty (30) days after the date of invoice. Payments will be applied to oldest invoices first. Overdue invoices will accrue interest at a rate equal to the lesser of 18% per annum or the maximum rate allowable by law. Any terms other than net 30 must be requested in writing prior to order.

5.3 Non-payment of Amounts Due. Seller hereby retains a security interest in the System or Accessory Products for any portion of the purchase price thereof unpaid by Buyer. Seller is

authorized to perfect its security interest. In addition, if payment in full is not made within sixty (60) days following delivery of the System, or within 60 days of the invoice date for any and all additional charges accrued by Buyer, whichever applies, Seller may at its sole discretion, activate the control software installed in the System that will disable the System from functioning. Upon receipt of full payment, Seller will reactivate the System.

6. Performance of System and Product Samples.

6.1 Acceptance Criteria of System Performance. The acceptance testing shall be conducted in two (2) phases, as set forth below:

6.1.1 Phase One Acceptance Testing. Prior to shipping the equipment from the Thompson Direct, Inc. facility to the place of delivery, TDI will conduct a system performance test mutually-agreed upon with the Buyer and reduced to a writing signed by both Parties. Buyer may, at its option, witness the Phase One Acceptance Test in person or by electronic means supplied by TDI.

If the Parties do not agree upon an a specific test, the Parties agree that TDI will conduct a 30-minute test demonstrating 80% uptime, after excluding any lost time or lost production due to Nonconforming Product Samples (defined in section 3.3 of Exhibit A and all related subsections) or other factors out of TDI's control. TDI reserves the right to restart or continue the test until completed, or to abbreviate the test by discounting lost time or lost production due to Nonconforming Product Samples or other factors out of TDI's control.

It is Buyer's responsibility to supply an adequate amount of acceptable quality test product pursuant to ¶ 6.2 below. TDI bears no responsibility if Buyer fails to provide Acceptable Product Samples to TDI.

6.1.2 Phase Two Acceptance Testing. After completion of delivery of the System, assembly, and training at the place-of-delivery, TDI personnel will conduct a second test to confirm the System's performance ("Phase Two Acceptance Testing"). The Phase Two Acceptance Testing will be conducted using the same Product Samples and performance criteria specified for the Phase One Testing. If the Phase One performance criteria are met during the Phase Two Acceptance Testing, the Parties agree that the System shall be deemed accepted.

6.1.3 Modification of system. Buyer will not modify or add to any part of the system including but not limited to software until system is deemed accepted.

6.2 Acceptance of All Other Goods. For any other goods that are not subject to paragraphs 6.1.1 – 6.1.2, Buyer will have ten (10) days after receipt to reject nonconforming goods before such goods are deemed accepted by Buyer.

6.3 Product Samples. Seller requires Buyer to supply Product Samples to TDI prior to TDI's submission of a Proposal to Buyer, and in sufficient quantities to (a) evaluate Product Samples for consistency in structure and form, and (b) design the System Specifications to process the Product Samples provided. The projected System performance, as presented in the Proposal, is valid only for Product Samples provided to Seller prior to the date of the Proposal.

Buyer must also supply to Seller actual Product Samples to the same specification as those provided prior to the TDI Proposal, so that TDI may conduct Acceptance Testing of the System, as set forth above in paragraphs 6.1.1-6.1.2. TDI will estimate and advise Buyer of the quantity of Product Samples TDI requires. If not otherwise specified by TDI, TDI requires a stack of each Product Sample, approximately 25 inches high, for testing any System that is composed of feeders. If automatic product loaders are to be tested, a

minimum of 5,000 samples are required. Product Samples should be shipped at Buyer's cost to Seller no later than ten (10) days after Seller's acceptance of Buyer's Order. Product Samples will not be returned. Seller does not guarantee feeding performance of any specific product unless an exact Product Sample has been tested before delivery of the System to Buyer.

#### LIMITED WARRANTY AND LIMITATION OF LIABILITY

To activate the warranty, Buyer must sign and return to TDI (a) the Proposal and (b) fully completed warranty registration cards, which Buyer will receive with the System.

Seller warrants to Buyer, for a period of one year from the date of delivery of the System to Buyer or for 2000 operating hours, whichever occurs first, that the System or Accessory Product(s) will be free from defects in material and workmanship. An extension of this Limited Warranty is available for an additional charge. OTHER THAN THE FOREGOING, NO WARRANTY OR GUARANTEE, WHETHER STATUTORY, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY AS TO MERCHANTABILITY OR FITNESS FOR ANY PURPOSE IS MADE. THE EXPRESS WARRANTY SET FORTH HEREIN SHALL BE THE SOLE AND EXCLUSIVE REMEDY BY THE BUYER HEREUNDER FOR ANY SYSTEM OR ACCESSORY PRODUCTS DELIVERED TO THE BUYER WHICH ARE FOUND TO BE DEFECTIVE IN ANY MANNER, WHETHER SUCH REMEDIES BE IN CONTRACT, TORT, STRICT LIABILITY, OR BY LAW. OTHER THAN AS SET FORTH HEREIN, SELLER SHALL UNDER NO CIRCUMSTANCE BE DIRECTLY OR INDIRECTLY LIABLE FOR ANY LOSS OR DAMAGE HOWSOEVER ARISING FROM SUCH MERCHANDISE, INCLUDING LOST USE, LOST PRODUCT, LOST REVENUE, LOST PROFITS, COST OF CAPITAL, OR SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES.

If during the warranty period, the System or an Accessory Product fails to meet the Specifications, Buyer shall notify in writing of the specific nature of the failure and all-pertinent observations related to the failure.

Seller does not represent or warrant that Systems or Accessory Products sold by it complies with OSHA or any like state, local, or national law or regulation, and the cost of modification and responsibility for such compliance is imposed upon Buyer. Equipment must be used in a non-condensing, low-humidity, dry environment, unless explicitly exempted by TDI in writing.

THE TOTAL CUMULATIVE LIABILITY OF SELLER TO BUYER FOR ANY CLAIM OF ANY KIND, FOR ANY LOSS OR DAMAGE WHATSOEVER ARISING OUT OF, CONNECTED WITH OR RESULTING FROM THE SALE OR SERVICING OF THE PRODUCTS HEREIN, SHALL NOT EXCEED THE PURCHASE PRICE OF THE SYSTEM OR ACCESSORY PRODUCT. BUYER AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS SELLER FROM ALL CLAIMS ARISING IN WHOLE OR IN PART ON ACCOUNT OF IMPROPER USE, ABUSE, MISUSE, USE NOT IN ACCORDANCE WITH SELLER'S RECOMMENDATIONS SET FORTH IN THE OPERATION, MAINTENANCE AND SYSTEM MANUALS SUPPLIED BY SELLER, OR BUYER'S FAILURE TO PERFORM UNDER THIS AGREEMENT.

Warranty coverage excludes cost of delivery to and from Seller's determined facility. All units that the customer wishes to have repaired under warranty shall be accompanied by a TDI issued Returned Material Authorization (RMA) and must be sent to Thompson Direct at Buyer's expense. A service fee of \$500.00 will be charged for products sent to Seller for warranty repair, which are found to comply with the Specifications. Seller reserves the right to suspend any and all warranties if the Buyer has a delinquent account.

The System and Accessory Products are sensitive. To qualify for the warranty set forth in this Agreement, the System and Accessory Products warranted must be repaired by knowledgeable and specially trained TDI personnel only. Accordingly, warranty coverage will be void in its entirety upon any sign or evidence of (a) opening the System or field service conducted by individuals other than Seller's authorized personnel, (b) tampering or any kind of misuse of the System including Buyer's use of belts, stripper wheels or other parts not supplied by Seller, or (c) abuse of the System or Accessory Products. Non-warranty work will be completed according to Seller's standard rates and charges in effect at the time.

7. Confidentiality. Buyer acknowledges that Seller's technology is confidential and agrees not to disclose or utilize for its own commercial benefit any technology that Buyer learns through the purchase or use of the Systems and/or Accessory Products. In no manner does this Agreement imply or authorize any form of technology license to Buyer for any portion of Seller's technology except for Buyer's use of the System and Accessory Products for their intended purpose.

8. Export Controls. Buyer agrees that it will not, without obtaining prior authorization from the U.S. Department of Commerce:

- (i) export or re-export, directly or indirectly, any technical data or products (as defined by the U.S. Export Administration Regulations) received by Buyer under this Agreement to destinations restricted or prohibited by U.S. law;
- (ii) disclose such technical data to destinations restricted or prohibited by U.S. law; or
- (iii) export or re-export, directly or indirectly, any direct product resulting from the technical data received by Buyer to destinations restricted or prohibited by U.S. law.

Buyer hereby agrees to indemnify, defend and hold harmless Seller for any export, re-export or disclosure in violation of U.S. law that results directly or indirectly from Buyer's actions.

10. Patents. Seller warrants that it has utilized reasonable efforts to ensure that the System and/or Accessory Products do not infringe on any patented technology belonging to any other person or entity. If infringement is found and Buyer's use of the System, Subsystem and/or Accessory Products is restricted, Seller will, at its option, either (a) redesign the System, Subsystem, and/or Accessory Products to avoid the infringement; (b) seek a license to allow the current technology to be utilized by Seller; or (c) allow Buyer to return the System, Subsystem and/or Accessory Products for a full refund.

11. Choice of Law.

11.1 Governing Law. The laws of the State of Illinois, United States of America and any applicable Federal laws of the United States of America, as from time to time amended and in effect, govern all matters arising out of or relating to this Agreement, including without limitation its validity, interpretation, construction, performance (including the details of performance), and enforcement; provided that any applicable conflict of law provision that results in the application of the laws of a foreign jurisdiction shall be disregarded. Buyer and Seller expressly agree that neither this Agreement, nor any ancillary agreement, undertaking, or performance that may be promised, performed, or executed to implement this Agreement will be subject to or interpreted by the United Nations Convention on Contracts for International Sale of Goods.

11.2 Foreign Corrupt Practices Act of 1977. Buyer is subject to the laws and regulations of the Foreign Corrupt Practices Act of 1977 (FCPA), Title 15 United States Code Service section 78dd-1 and its progeny.

11.3 Prohibition on Flowdown Provisions. In no event will this Agreement be subject to any other contract which would subject Seller to any additional terms and conditions or liability. Buyer bears all liability for all other contracts to which Buyer is subject.

12. Forum Selection Clause. Buyer and Seller agree that all disputes, claims, controversies and disagreements relating to or arising out of this Agreement are subject to the exclusive jurisdiction and venue of the state and federal courts of Illinois, of the United States of America. Buyer waives any objections to jurisdiction or venue in any proceeding before any such court in Illinois and hereby submits to the exclusive jurisdiction of any such court in Illinois. Buyer and Seller agree that the exclusive choice of forum set forth in this section does not prohibit the enforcement of any judgment obtained in that forum or any other forum.

13. Miscellaneous.

13.1 Governing Language. The English language of this Agreement shall govern and control any translations of the Agreement into any other language. Documents furnished by Buyer to Seller under the terms of this Agreement shall be furnished in English or accompanied by an English translation. Seller will not be held responsible for errors or misunderstandings that may occur due to omissions or translations to another language. Seller reserves the right to correct all errors.

13.2 Assignment. This Agreement shall be binding upon and shall inure to the benefit of Buyer and Seller and their respective successors and assigns, **provided, however**, that Buyer may not assign its rights or delegate its duties under this Agreement without Seller's prior written consent, which may be granted or withheld at Seller's sole discretion.

Buyer and its assignees and/or transferees of the System and/or Accessory Products, including all associated proprietary and intellectual property rights, agree to the terms and conditions of the Agreement. Buyer agrees to indemnify, defend and hold harmless Seller for any claim or loss or damage suffered as a result of any assignee or transferee failing to abide by these terms and conditions.

13.3 Counterparts. This Agreement may be executed in multiple identical counterparts, all of which taken together constitute a single agreement.

13.4 Entire Agreement. This Agreement and any exhibits attached hereto, including Thompson Direct, Inc. General System Default Specifications (Exhibit A), constitute the entire agreement and understanding between Buyer and Seller. All prior written or oral agreements, undertakings, promises, warranties, or covenants relating to any subject matter not expressly set forth within this Agreement are hereby superseded.

13.5 Amendments and Waivers. No inconsistent, additional or modified terms or conditions, including price, will apply unless specifically agreed to in a writing signed by Buyer and Seller. No waiver of any provision or condition shall be valid unless set forth in a writing signed by the waiving party.

13.6 Force Majeure. Whether foreseen or unforeseen, Seller will not be liable for any failure, defect in performance, delay in the performance of orders or in the delivery of goods, or for any damages arising from events beyond Seller's reasonable control, including without limitation, acts of Buyer, acts of God, accidents, fires, floods, acts of insurrection or war, governmental interference, embargo, delays by the shipper, strikes, labor disturbances, unavailability or shortage of supplies or raw materials, unforeseen absence of transportation capabilities or rescheduled, postponed or cancelled transportation arrangements, changes due to export controls or the ability to obtain an export license, or any other like cause.

13.7 Limit of Time to Bring Action. No actions or arbitrations arising out of this Agreement may be brought by Buyer more than eighteen (18) months after the occurrence of the event giving rise to such action or arbitration.

13.8 Attorneys Fees. Seller will be entitled to recover reasonable attorneys'

fees and costs in any proceeding to enforce payment from Buyer.

13.9 Buyer's right to use all of Seller's products, systems and materials are conditioned upon Buyer's acceptance of these Terms and Conditions.



## GENERAL SYSTEM DEFAULT SPECIFICATIONS

1.0 SCOPE. The scope of these Default Specifications is to define the equipment configuration and performance requirements for the Custom Thompson Direct, Inc. System (hereinafter "System"). All definitions set forth under the TDI Terms and Conditions apply to these Default Specifications.

### 2.0 APPLICABLE DOCUMENTS.

National Electric Code 1993

3.0 DEFAULT SPECIFICATIONS. The System shall be configured as specified herein (the "Default Specifications"), unless more specifically defined in the applicable Proposal. To the extent that any of the Default Specifications specified here are varied by the Proposal submitted to Buyer, for the purposes of creating custom-designed product-specific or application-specific requirements, those specifications that are specially varied will apply. Other than to the extent specifically varied in the Proposal, the Default Specifications apply.

3.1 POWER REQUIREMENTS. Each Subsystem will have 110 VAC +/-10%, 50/60 HZ or 208 VAC +/- 10% 50/60 HZ single phase power available on a circuit capable of delivering 15 amps minimum per feed station. The power will be clean and free from power surges or power outages. The power, fusing, wiring and disconnects will be in accordance with the applicable requirements of the National Electrical Code, as updated.

### 3.2 ENVIRONMENTAL REQUIREMENTS.

3.2.1 TEMPERATURE REQUIREMENTS. The System will be maintained and operated in a location where the temperature range is maintained between 10 to 35 degrees Celsius (50 to 95 degrees Fahrenheit).

3.2.2 HUMIDITY REQUIREMENTS. The System will be maintained and operated in a non-condensing, dry location with a relative humidity range of 40 to 80%.

3.3 PRODUCT SAMPLE REQUIREMENTS. This System is a customized high technology system that depends upon strict quality standards and uniformity of Product Samples handled in order to achieve strict quality standards and uniformity of Final Product Throughput. By way of example and without limitation, the Product Samples to be fed and/or processed by the System will be uniform and free of defects, such as bent corners, dog ears, warpage, tears, bends, folds, debris, contamination, any other nonconforming factor that affects feeding and/or secondary processing, or any other nonconforming Product Sample Tolerances as defined below. Product Samples that do not fall within the Product Sample Tolerances set forth below or within the Proposal will be deemed "Nonconforming Product Samples."

#### 3.3.1 PRODUCT SAMPLE TOLERANCES.

3.3.1.1 DIMENSIONAL TOLERANCE. The dimensional tolerance of any Product Sample will exhibit no more than a +/- 1/32 inch variance from the nominal values designated in Buyer's Proposal.

3.3.1.2 SQUARENESS TOLERANCE. The squareness tolerance of any Product Sample will exhibit no more than a +/- 1/32 inch variance from the nominal values designated in Buyer's Proposal.

3.3.1.3 THICKNESS TOLERANCE. The thickness of any Product Sample will exhibit no more than a +/-10% variance from the nominal values designated in Buyer's Proposal.



- 3.3.1.4 FLATNESS TOLERANCE. The maximum warpage or curl of any Product Sample will be less than +/- 1/16 inch when measured lying on a flat surface.
- 3.3.1.4 PRINTABILITY. All products required for printing or ink jetting must be approved and tested prior. This includes any changes in material or coatings.
- 3.4 OPERATOR REQUIREMENTS. Due to the customized high-technology of this System, it is imperative that all users of the System ("operators") adopt and practice TDI- operating procedures to properly function. To ensure effective production, all equipment operators must (a) be properly trained by TDI-authorized personnel and (b) adhere at all times to the prescribed procedures set forth in the various Operation, Maintenance and System Manuals. All System Performance Specifications and Guarantees are conditioned upon the adherence of all operators to the above-mentioned requirements. By way of example without limitation, all operators must be capable of performing all equipment adjustments and product set-up procedures in accordance with the applicable Operation, Maintenance and System Manuals, and trained to properly load product into the feeder magazines, perform feeder parametric settings and to properly adjust photoeyes and holding apparatuses, software.
- 3.5 RELIABILITY OF PRODUCT SAMPLES SUPPLIED TO TDI. In order to design and build a System that will assemble and/or process Final Product Throughput that is consistent in specification, the TDI System requires consistent Product Samples. In order to accomplish this goal, the performance projected within TDI's Proposal is valid only for (a) those Product Samples that pass TDI's factory testing prior to TDI's draft Proposal; and (b) those Product Samples that (1) conform to the TDI pre-proposal factory testing and (2) are provided to TDI prior to TDI's receipt of Buyer's Order and in sufficient quantities to perform testing prior to shipment of the equipment ("Phase One Acceptance Testing" Terms and Conditions paragraph 6.1.1).
- 3.6 PROCEDURES FOR ACTIVATING WARRANTY COVERAGE. The TDI General System Default Specifications incorporate the Limited Warranty set forth under Thompson Direct, Inc. Terms and Conditions. All warranties require the Buyer to return a signed copy of the signature page of the Proposal to Thompson Direct, Inc. to become effective.
- 3.6.1 EQUIPMENT WARRANTY. All applicable equipment warranties require the Buyer to return a fully completed warranty registration card to Thompson Direct, Inc. If the equipment requires return to TDI, the Buyer shall call TDI in advance and request a return material authorization number (RMA), which must be written on the outside of the shipping container.
- 3.6.2 PERFORMANCE WARRANTY. Upon request of the Buyer, Thompson Direct, Inc. will negotiate and price into its Proposal an efficiency level (parts per minute at a to-be-determined confidence level) for each type of Product Sample received by TDI, in sufficient quantities and with sufficient time to perform testing on the System, provided that such Product Samples are consistent and conforming. For purposes of calculating an efficiency level, all lost time or lost production due to Nonconforming Product Samples or factors out of TDI's control shall be subtracted from the production uptime, and product changeover time is excluded.

To qualify for any applicable performance warranty the Buyer agrees to comply with the following:

- a) The System will be completely installed by qualified TDI personnel and all operators will be properly trained by qualified TDI personnel;

- b) Buyer will notify TDI in writing of any deficiencies observed in the System's performance with sufficient detail to assist TDI in determining the source of the reported problem;
- c) Product Samples are in compliance with the Product Sample requirements and tolerances specified herein; and
- d) Upon proper notification of any problem, TDI will have 30 days to repair, replace, or arrange a partial or complete refund in exchange for returning the defective equipment. The amount of refund will depend upon the problem, equipment condition upon return, and the assignment of responsibility. The amount of any refund will be within the sole discretion of Thompson Direct, Inc.
- e) Buyer will not modify any part of equipment or software including but not limited to computers. If any modifications need to be performed, then TDI will not be liable for system performance. Including but not limited to antivirus, firewalls, security or other third - party software or hardware.