

## TERMS AND CONDITIONS OF PURCHASE

**Acceptance:** Your Order Acknowledgement constitutes only an offer of a contract. TransPerformance (the "Company") must sign and return this Order Acknowledgement to constitute a binding contract. Any such contract, however, will be subject to the following terms and conditions or such other terms and conditions as the Company may require under the order acknowledgement. An electronic or faxed copy will be valid and binding.

**Limited Warranty:** The Company warrants that its products delivered under the Order Acknowledgement will conform to final specifications and to be free from defects in materials and workmanship for a period of one year after delivery. This limited warranty applies only to you and is not transferable. The Company will only replace or repair (at its sole discretion) parts that have been returned at your expense during the limited warranty period and the Company will not have any other liability. You are responsible for all shipping and shipping insurance charges relating to limited warranty service and repairs.

**Warranty Limitation:** The limited warranty described above is the only warranty given by the company. The company disclaims all other warranties, express or implied, including any warranty of merchantability or fitness for a particular purpose. This limited warranty may be extended only through purchase of the limited warranty extension described below. This limited warranty will not apply to any product which has been improperly used, neglected, subject to accident, or which has been repaired or altered except by the Company's accredited representative, excluding normal changes to the guitar setup performed by you or your agent. The Performer™ tuning system uses static sensitive devices that are accessible by removing the back cover of the guitar. Removal of the back cover of the guitar in a non-static safe environment may void the warranty. No warranty is given for any apparatus, instrument, component or accessory not manufactured by the Company.

**2 Year Limited Warranty Extension:** You may extend the above limited warranty by two years by purchasing a 2-year limited warranty extension at the current price. Except for duration, the extension is subject to the terms and conditions of the limited warranty described above and to the availability of replacement parts.

**Software License:** The Company grants you a non-exclusive, perpetual, non-transferable, limited license to use the software contained in the product sold by the Company only for the ordinary use of the product. You receive no other right, title, or interest in such software content and the Company retains all ownership, right, and interest in and to the software. You agree not to disassemble or reverse-engineer the software or the source or object code of the software.

**Retrofit Liability:** You agree that the Company is authorized to make any and all modifications necessary to retrofit the guitar with the Automatic Tuning System or other products. If your guitar is damaged during the retrofit process, the Company will at its sole discretion replace the instrument with a guitar of similar model or type, or pay you for the declared value of the guitar.

**Limitations of Liability:** The company will not under any circumstances, whether as a result of breach of contract, breach of warranty, tort or otherwise be liable for consequential, incidental, special, or exemplary damages including, but not limited to, loss of profits or revenues, loss of use of or damage to any associated equipment, cost of capital, cost of substitute products, facilities or services, downtime cost, or claims of your customers. The company's liability on any claim arising out of, resulting from, or concerning any aspect of this agreement or from the products or services furnished hereunder will not exceed the price of the specific order or shipment which gives rise to the claim.

**Terms of Payment:** Before work can begin, you agree to pay the Company half of the full purchase price. Any remaining balance, including applicable taxes, shipping and handling, and extended limited warranty charges will be due prior to shipment unless the Company accepts other terms. Credit card, certified check or money order will be accepted. Personal check or business check must clear before acceptance. No C.O.D. terms will be accepted. **ALL PAYMENTS MUST BE MADE TO AXCENT TUNING SYSTEMS, LLC, 2513 PINE CONE CIRCE, FORT COLLINS, COLORADO, 80525-6619.** All prices shown are F.O.B., Fort Collins, Colorado and unless otherwise stated, do not include cartage, insurance charges, applicable Federal, State, or local taxes, imposts or any similar charges, all of which are due and payable by you.

**Force Majeure:** The Company will not be liable for, nor be deemed in default by reason of, any delay or failure in the performance of this contract when due in whole or in part to any act of God or the public enemy, law, regulations, or order of any governmental agency, riot, strike or civil commotion or any other cause direct or indirect, beyond the Company's reasonable control.

**Shipment:** Delivery of all goods will be F.O.B, Fort Collins, Colorado. Unless otherwise agreed, delivery of the goods to any carrier will constitute delivery to you. The Company assumes no responsibility for delay, breakage or damage after delivery in good condition to the carrier. Except as otherwise expressly stated herein or in the Order Acknowledgment, you will pay any and all shipping fees relating to the sale of the products referred herein.

**Cancellation:** Cancellation of any sale prior to shipment by the Company will be subject to a restocking fee equal to 2% of the total price specified on the Order Acknowledgment. This fee will be charged prior to any refund. If you supplied the guitar for retrofit, the tuning system will be removed, and the guitar will be returned to you in its current state at the time of cancellation. In such case, you understand that the guitar may be in an unplayable condition.