

## **Aeromax Industries Incorporated Terms and Conditions of Sale**

All terms and prices are current as of January 1, 2013 and are subject to change without notice

These terms and conditions of Sale and any quote submitted with these Terms and Conditions of Sale (together, the "Contract") are between

1. **AGREEMENT.** Buyer accepts this Contract by: (a) executing a separate agreement with Aeromax Industries, which incorporates these terms
2. **PRODUCTS.** Buyer agrees to buy, and Aeromax Industries agrees to manufacture and/or sell, the products ("Products") described in a
3. **ORDERING.** Customer Service is available to assist with orders at 818-701-9500 from 8:30 am to 5:00 pm Pacific Standard Time, Monday through Thursday and 7:00 am to 3:00 pm Friday. Orders must be placed by mail, fax at 818-886-2845, or by email to sales@aeromax.com Orders must be placed using an Aeromax Industries part number. All orders must have end-use certificate completed prior to Aeromax Industries acceptance of order. Customer reference numbers may be included on the invoice and packing slip if requested at order placement.
4. **PRICE.** Prices for the Products are described on the quote and are effective for the period set forth in the quote or, if none, until otherwise changed, which may occur at any time without notice to buyer. Buyer shall pay Aeromax Industries the price for Products ordered set forth on the quote or as notified to Buyer in Aeromax Industries invoice. Prices exclude all federal, state, or local taxes, and therefore such prices are subject to increase in the amount of any such tax (excluding tax on net income) that Aeromax Industries may be required to collect or pay upon the sale or delivery of the Products. Prices are, and all payments shall be made, in United States Dollars.
5. **PAYMENT TERMS.** Aeromax Industries accepts checks, wire transfers, MasterCard, Visa or Letter of Credit and open account invoicing (upon completion and execution of a credit agreement satisfactory to Aeromax Industries). Unless Prepaid or otherwise stated on the quote, invoice or order confirmation, payment terms for sales of Products are net 30 days after the date of Aeromax Industries invoice. Buyer shall make all payments irrespective of whether Buyer has made or may make any inspection of any Product. Aeromax Industries may cancel or reschedule deliveries of products if Buyer fails to make any payment when due. Aeromax Industries rights under this section shall be in addition to all other rights and remedies available to Aeromax Industries upon Buyer's default. Buyer shall be liable for all expenses attendant to collection of past due amounts, including attorney's fees.
6. **FORCE MAJEUR.** Aeromax Industries shall not be liable for any delays in the delivery of orders, due in whole or in part, directly or indirectly, to fire, act of God, strike, shortage of raw materials, supplies or components, retooling, upgrading of technology, delays of carriers, embargo, government order or directive, or any other circumstances beyond Aeromax Industries control.
7. **DELIVERY TERMS.** Unless otherwise stated on a quote, if any, (a) all domestic deliveries shall be made F.O.B. Aeromax Industry's factory in Chatsworth, California, USA and risk of loss of such Products shall transfer to Buyer upon delivery to the freight carrier; and (b) all international deliveries shall be made Ex Works Aeromax Industries facility, and, unless otherwise stated in a quote, if any, Aeromax Industries shall present the Products to the carrier, and risk of loss of such Products shall transfer to Buyer upon presentation. Orders for stocked product are usually shipped within 48 hours of receipt

unless express delivery is specified. Aeromax Industries will attempt to meet the requirements of Buyer's delivery schedule and Aeromax Industries shall not be in default of performance due to a delay of reasonable duration resulting from any cause. Buyer shall pay, or reimburse Aeromax Industries for, all amounts due for import and export licenses and permits, custom charges and duties, penalties, freight, insurance and other shipping expenses. Unless otherwise instructed, selection of carrier and routing of all shipments shall be at Aeromax Industries discretion. Shipment dates for export sales are approximate and are subject to receipt of all necessary Buyer information, and all necessary licenses, permits and other documents. A variation in the quantity of any Products which are especially made-to-order not to exceed plus or minus ten percent (10%) of the amount agreed upon will be considered to be in compliance with the agreement of the parties.

8. **INSPECTION AND ACCEPTANCE.** Buyer must inspect delivered Products and report claims for any damages or shortages in writing within ten (10) days of delivery or the Products shall be deemed irrevocably accepted and such claims shall be deemed waive, excepted as provided in Section 10. In the event of source inspection by Buyer, Aeromax Industries reserves the right to designate the place within the plant where inspection may be performed and to deny access to areas and processes considered proprietary to Aeromax Industries.

9. **TITLE.** Title to the Products shall stay with Aeromax Industries until Aeromax Industries receives payment in full for such Products. Buyer hereby recognizes that Aeromax Industries retains all right, title and interest in (a) all intellectual property rights in and to the Products; (b) all processes, methods, formula, ingredients, designs, procedures and other practices used by Aeromax Industries or relating to the manufacture and sale of the Products, including all intellectual property rights therein; and (c) all of Aeromax Industries equipment and tooling used in the manufacture and sale of the Products, including all intellectual property rights therein, (collectively "Aeromax Industries Technology"). Buyer hereby assigns to Aeromax Industries all right (including intellectual property rights), title and interest it may now or hereafter possess in and to the Aeromax Industries Technology and in any derivative works of and improvements to the Products and agrees to execute all documents, and take all actions, that may be necessary to effect such assignment. Aeromax Industries is under no obligation to disclose any of the Aeromax Industries Technology to Buyer for any reason.

10. **LIMITED WARRANTY AND REMEDIES.** Aeromax Industries warrants to Buyer that the Products shall be free from defects in materials and workmanship. Any claims for breach of the foregoing warranty shall only be valid if Buyer makes such claims within sixty (60) days of the date of shipment of the Product to which the claim relates, or such shorter period specified on a quote, if any, by notifying Aeromax Industries Sales department in writing and obtaining a Return Material Authorization Number for the return of the Products (which Referenced on all return shipping document). Buyer's exclusive remedy and Aeromax Industries sole liability for any breach of the foregoing warranty shall be for Aeromax Industries, at Aeromax Industries sole option, to repair, replace or modify the defective Product, or refund the Buyer the purchase price paid by Buyer for the defective Product. The warranty service shall be performed at Aeromax Industries facility. In order to receive the warranty service, Buyer must return the defective Product within 30days of notification from Buyer hereunder. All warranty claims will be handled pursuant to Aeromax Industries standard RMA procedures. If Aeromax Industries determines that the original Products were not defective, Buyer shall reimburse Aeromax Industries all costs of handling, transportation and repairs at Aeromax Industries prevailing rates. All

defective Products returned under this warranty, which is replaced, or for which a refund is given to Buyer shall become Aeromax Industries property. THE WARRANTY SET FORTH IN THIS SECTION 10 IS IN LIEU OF ALL OTHER WARRANTIES AND AEROMAX INDUSTRIES HEREBY EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, INFRINGEMENT AND FITNESS FOR PARTICULAR USE. Any repair or attempt to repair Products by anyone other than an authorized representative of Aeromax Industries automatically voids any warranty on those Products.

11. INDEMNIFICATION. Buyer shall indemnify and hold harmless Aeromax Industries from all losses, claims, damages, expenses or liabilities of any kind (including attorney's fees and court costs) resulting from or arising out of any use by Buyer of the Products.

12. LIMITATIONS ON LIABILITY. Aeromax Industries shall not be liable for any loss or damage caused by delay in furnishing the Products. UNDER NO CIRCUMSTANCES SHALL AEROMAX INDUSTRIES BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, COLLATERAL, SPECIAL, PUNITIVE, TREBLE, EXEMPLARY OR INCIDENTAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS OR GOODWILL) WHETHER SUCH CLAIM IS BASED ON CONTRACT, NEGLIGENCE, TORT, WARRANTY OR ANY OTHER BASIS UNDER OR AS A RESULT OF THIS CONTRACT OR THE PRODUCTS, IRRESPECTIVE OF WHETHER AEROMAX INDUSTRIES HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH LOSS OR DAMAGE. IN NO EVENT SHALL AEROMAX INDUSTRIES AGGREGATE LIABILITY UNDER OR AS A RESULT OF THIS CONTRACT EXCEED THE TOTAL AMOUNTS ACTUALLY PAID BY BUYER FOR THE PRODUCTS PURCHASED UNDER THIS CONTRACT. The parties agree that the limitations on liability set forth in the Contract are independent of any exclusive or limited remedies, and shall survive and apply even if such remedies are found to have failed of their essential purpose. No action, regardless of form, arising out of transactions under this Contract may be brought by Buyer more than 1 year after the events which gave rise to the cause of action occurred.

13. TERMINATION/CANCELATION. Aeromax Industries may terminate this Contract or orders placed hereunder with notice to Buyer if (a) Buyer fails to pay when due any sums payable hereunder and such failure continues for ten (10) days after the due date or (b) Buyer materially breaches its obligations hereunder, other than the payment of money, and such breach continues for a period of twenty (20) days after receipt by Buyer of written notice from Aeromax Industries specifying such breach. Buyer may not cancel all or any portion of an order for which Products have been shipped.

14. PROPRIETARY INFORMATION. Aeromax Industries Products are components designed and manufactured to specifications developed, maintained, and controlled by Aeromax Industries. For the purpose of processing orders, Aeromax Industries requires no proprietary information from Buyer, and specifically requests that buyer refrain from including any information that may be considered proprietary. Buyer agrees that all non-public information furnished to buyer by Aeromax Industries, including any variations in pricing from Aeromax Industries standard prices for Products is proprietary to buyer without Aeromax Industries and such information shall be held in confidence and shall not be used or disclosed by Buyer without Aeromax Industries prior written consent. Buyer shall enforce against its employees and agents these obligations of confidentiality.

15. **INSTALLMENT.** Aeromax Industries failure to deliver, or nonconformity of, any installment under any installment agreement with, or blanket order from, Buyer shall not be a breach of this entire Contract.

16. **EXPORT REGULATION; PERMITS.** Buyer will comply with the provisions of the United States Government's Export Administration regulations and related documentation requirements and internal control procedures. Buyer shall be responsible for obtaining any necessary export or import licenses and permits.

17. **APPLICABLE LAW; VENUE.** This Contract shall be governed by and construed in accordance with the internal laws (and not the laws of conflicts) of the State of California. The parties expressly waive the application of the United Nations Convention on Contracts for the International Sale of Goods to this Contract. Any action at law, suit in equity, or judicial proceeding of any kind arising directly, in directly, or otherwise in connection with, out of, related to or from this Contract or the relationship between the parties shall be litigated only in the state or federal courts located in the City and County of Los Angeles, California and the parties waive any right they may have to challenge the jurisdiction of this court or seek to bring any action in any other forum, whether originally or by transfer, removal, or change of venue. The losing party in a lawsuit shall pay its own and prevailing part's attorney's fees and expenses.

18. **MISCELLANEOUS.** This Contract and any other agreement or document entered into by the parties which incorporate these Terms and Conditions by reference, constitute the final, complete, exclusive and entire agreement between the parties and supersede all prior or contemporaneous agreements, written or oral, regarding the subject matter of this Contract. The failure of Aeromax Industries to enforce at any time any of the provisions of this Contract shall not be construed to be a waiver of such provisions nor the right of Aeromax Industries to enforce such provisions in the future. Buyer may not assign any rights under this Contract or this Contract in whole or in part without the prior written consent of Aeromax Industries. Any prohibited assignment shall be null and void. This Contract shall inure to the benefit of successors in interest and permitted assigns. Aeromax Industries may subcontract any of its obligations hereunder. If any provision of this Contract is found to be invalid or unenforceable in any respect, the validity and enforceability of the remaining provisions shall not be affected. The parties may only modify this Contract in a writing signed by both parties.

19. **ATTORNEY'S FEE AND COST-** In the event that either party commences a litigation or arbitration proceeding in connection with or concerning the interpretation, enforcement or performance of this Agreement, including litigation or arbitration stemming from an alleged breach of this Agreement, the prevailing party shall be entitled to recover all the costs and expenses incurred by such party in connection with such litigation or arbitration, including fees and costs incurred in enforcing any judgment or award. Such fees and costs shall include but not be limited to reasonable attorney's fees, reasonable consultant's fees, and actual expert witness fees.