

AUTOTOOL, INC.
TERMS AND CONDITIONS OF SALE

The following terms and conditions of sale as they appear at www.autotoolinc.com at the time of sale (the "Terms and Conditions") govern the sale of all materials, goods, equipment or services (collectively, the "Equipment") supplied by Autotool, Inc. (the "Company") to any purchaser thereof (each a "Buyer").

By placing an order to purchase Equipment from the Company, Buyer confirms that these terms and conditions apply to the Buyer's purchase of the Equipment, regardless of the form or terms of the Buyer's order. No course of prior dealings or performance between the Buyer and the Company or usage in the trade shall be relevant to supplement or explain any terms used herein. No modification or waiver of these Terms and Conditions will be binding upon the Company unless approved by the Company in writing.

ANY CONFLICTING, CONTRARY OR OTHER TERMS AND CONDITIONS (INCLUDING ANY WARRANTY) SET FORTH IN ANY QUOTATION, CONFIRMATION FORM, ACCEPTANCE INVOICE, BILL OF LADING, PURCHASE ORDER, REQUEST FOR QUOTE, OR OTHER DOCUMENT OR COMMUNICATION FROM THE BUYER (INCLUDING, BUT NOT LIMITED TO, ANY CONFLICTING, CONTRARY OR ADDITIONAL TERMS AND CONDITIONS THAT APPEAR ON THE BUYER'S WEBSITE) (COLLECTIVELY, A "PURCHASE ORDER") SHALL BE CONSIDERED MATERIAL ALTERATIONS TO THESE TERMS AND CONDITIONS, WILL BE OF NO BINDING EFFECT, AND ARE HEREBY SPECIFICALLY OBJECTED TO AND REJECTED BY THE COMPANY. NEITHER THE COMPANY'S ACKNOWLEDGMENT OF A PURCHASE ORDER NOR THE COMPANY'S FAILURE TO EXPRESSLY OBJECT TO ANY CONFLICTING, CONTRARY, OR ADDITIONAL TERMS AND CONDITIONS IN A PURCHASE ORDER SHALL BE DEEMED AN ACCEPTANCE OF SUCH TERMS AND CONDITIONS OR A WAIVER OF THE PROVISIONS HEREOF. THE COMPANY'S ACCEPTANCE OF ANY PURCHASE ORDER IS EXPRESSLY MADE CONDITIONAL ON THE BUYER'S ASSENT TO THESE TERMS AND CONDITIONS (REGARDLESS OF WHETHER SUCH TERMS AND CONDITIONS ARE ADDITIONAL OR DIFFERENT TO THE TERMS FOUND IN SUCH PURCHASE ORDER).

1. Acceptance of Orders

No order shall be binding upon the Company unless and until such order is accepted by the Company in writing at its corporate offices in Plain City, Ohio. Any order received by the Company is subject to credit approval and may be cancelled if the Buyer's credit standing is not satisfactory to the Company

2. Prices/Firm Quotation/Minimum Charge

The price to be invoiced and paid is the price specified in the Company's most recent proposal (the "Proposal") to Buyer. Prices stated are subject to change based on mutually agreed upon written changes in specifications, quantities, designs, or delivery schedules.

The Proposal may be revoked without notice unless it is in writing and specifies that it is "firm", "valid," or the like, in which case it shall be deemed revocable without notice after thirty (30) days unless a longer period is specified.

Prices stated in the Proposal are based on the shipping and installation requirements contained in the Proposal.

3. Price and Delivery Terms/Transportation Allowance

Price and delivery terms are stated in the Proposal. Title and risk of loss will pass to the Buyer at the time stated in the Proposal. The Company's prices do not include sales, use, excise, value added, and similar taxes or charges imposed by any government authority, all of which shall be paid by the Buyer. If the Company is liable for or pays any of the foregoing, the Buyer shall promptly pay such amounts to the Company in addition to the price of the Equipment. If Buyer claims an exemption from any tax, a valid tax exception certificate must be furnished to the Company.

The Company shall not be liable for loss, damage, or expense due to delays in shipment or delivery. All reasonable efforts will be made to ship the Equipment to Buyer according to Buyer's schedule set forth in the Proposal, but any stated delivery dates are estimates only unless they are stated to be "guaranteed" in writing signed by an officer of the Company. The Company shall notify the Buyer of estimated ship dates.

If Buyer requests that the shipping of the Equipment be delayed, the Buyer will pay on demand any costs incurred by the Company for handling, storage, and any demurrage and similar charges. The Company reserves the right to make deliveries in installments and invoice for same at the Company's reasonable discretion. Delay in delivery of one installment shall not entitle the Buyer to cancel other installments. The Company may, in the Company's discretion invoice for the Equipment that the Company is ready to deliver but that the Buyer is not ready to receive.

4. Acceptance of the Equipment and Transportation.

As requested by the Company, Buyer will provide the Company with access to the Buyer's facilities, and otherwise cooperate with the Company, to facilitate the Company installing, testing and "debugging" the Equipment at Buyer's facility. Such cooperation will include, without limitation, access to and cooperation from Buyer's employees responsible for the operation of the Equipment.

Acceptance of any portion of the Equipment automatically will be deemed to occur when such equipment meets the performance specifications (the "Specifications") set forth in the Proposal ("Acceptance"). The Buyer waives any right to revoke Acceptance thereafter.

Notwithstanding anything contained herein to the contrary, Buyer acknowledges that the performance of the Equipment is conditioned on Buyer supplying component parts that meet the specifications for such parts set forth in the Proposal (the "Parts Specifications") and are of good quality.

In the absence of shipping and packing instructions in the Proposal, the Company shall use its own discretion in choice of carrier and method of packing. Unless otherwise set forth in the Proposal, the Company shall not be responsible for insuring shipments, and any insurance so requested shall be at the Buyer's expense and valuation.

5. Termination, Cancellation and Changes

Orders cannot be terminated, cancelled, or modified, or shipments deferred after acceptance of the Buyer's order by the Company, except with the Company's written consent and subject to conditions then agreed upon which may include reimbursing the Company for expenses incurred and commitments made by the Company and paying the Company for lost profits on work in process and the contract value of products or parts completed and ready to be shipped.

6. Payment Terms/Security

Unless otherwise specified in the Proposal, payment of the invoice price, with any applicable cash discount, shall be due in the installments set forth in the Proposal within thirty (30) days of the date of the Acceptance of the relevant portion of the Equipment. The Buyer will not be entitled to any discount or set off right unless specifically set forth in the Proposal or otherwise agreed to in writing by an officer of the Company. Whenever the Company reasonably deems itself insecure, the Company may withhold shipment, withhold or revoke any extension of credit, enforce its security interest, created hereby, in all Equipment (and proceeds there from) sold by the Company to the Buyer and take any other reasonable steps to secure itself without liability for breach or nonperformance of contract in whole or in part.

No delay in the Acceptance of any portion of the Equipment for any reason, will excuse Buyer from its obligations to timely pay the Company for that portion of the Equipment that has been Accepted. The Buyer will pay a late charge of 1.5% of the net invoice amount per month, or if such rate exceeds the maximum rate allowed by applicable law, then a late charge calculated at such maximum rate, on the outstanding balances not paid when due, from the date such balances were due until payment with respect thereof is made in full. The Buyer hereby grants to the Company a security interest in all Equipment and all proceeds and products thereof until all amounts due or to become due hereunder have been paid. The Buyer, on request by the Company, irrevocably authorizes the Company to file financing statements naming the Company as secured party and the Buyer as debtor.

The Buyer will reimburse the Company for any and all costs and fees incurred in collecting any unpaid contract balance, including, but not limited to, any arbitration, and/or court costs, and fees (including attorneys' fees).

7. Warranty

The Company warrants that when used in accordance with the operation guidelines and with component parts and materials that meet the Parts Specifications, for one year after Acceptance, the Equipment will perform substantially in accordance with the final Specifications for the Equipment set forth in the Proposal.

The Buyer must notify the Company in writing if the any of the Equipment fails to comply with the foregoing warranty. Such notice must be given promptly and in any event within 1 day of the first occurrence of such failure. **THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES NOT EXPRESSLY SET FORTH HEREIN, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING THOSE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

Buyer's exclusive remedy and the Company's sole liability under this warranty shall be for the Company to use reasonable efforts to correct any material failure of the Equipment to perform as warranted, if such failure occurs during the warranty period and is reported to the Company within 1 day of being discovered by Buyer, and Buyer, at the Company's request, cooperates with the Company to remedy such failure, including, without limitation, providing the Company with access to the Equipment in order to replicate such failure.

No affirmation of the Company, by words or action, unless expressly set forth in writing by the Company will constitute a warranty or be deemed to modify the terms of this warranty.

This warranty will not apply to any alteration, repair, replacement or modification of the Equipment made without the express prior written consent of the Company, or to any part of the Equipment which has been

subject to misuse, mishandling, neglect (including but not limited to improper maintenance), accident, or improper operation, or to other than normal use or service.

Any claim by the Buyer regarding the Equipment shall be deemed waived by the Buyer unless submitted in writing to the Company within the earlier of (i) 1 day following the date the Buyer discovered or by reasonable inspection should have discovered, any claimed breach of the foregoing warranty, or (ii) **thirteen (13) months** following the date of Acceptance. **[Any cause of action for breach of the foregoing warranty shall be brought within one year from the date the alleged breach was discovered or should have been discovered, whichever occurs first.]**

8. Limitation of Liability

THE COMPANY'S ENTIRE LIABILITY AND THE BUYER'S EXCLUSIVE REMEDY SHALL BE AS FOLLOWS:

(i) IN ALL SITUATIONS INVOLVING PERFORMANCE OR NONPERFORMANCE OF THE EQUIPMENT, THE BUYER'S REMEDY IS SET FORTH IN SECTION 7 ABOVE; AND,

(ii) THE COMPANY'S LIABILITY TO THE BUYER FROM ANY AND ALL OTHER CLAIMS AND CAUSES WHATSOEVER, REGARDLESS OF THE FORM OF ACTION, WHETHER IN FRAUD, STRICT LIABILITY, CONTRACT, TORT (INCLUDING NEGLIGENCE), OR ANY OTHER THEORY OF LAW, SHALL IN THE AGGREGATE BE LIMITED TO THE AMOUNT THAT THE BUYER HAS ACTUALLY PAID TO THE COMPANY UNDER THE PROPOSAL.

THE COMPANY NEITHER ASSUMES NOR AUTHORIZES ANY PERSON TO ASSUME FOR THE COMPANY ANY LIABILITY IN CONNECTION WITH THE SALE OR USE OF THE EQUIPMENT.

9. Consequential Damages.

NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, IN NO EVENT WILL THE COMPANY BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, OR PUNITIVE DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE PROPOSAL OR THE SALE OF THE EQUIPMENT TO BUYER, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SAME. CONSEQUENTIAL DAMAGES FOR PURPOSES HEREOF SHALL INCLUDE, WITHOUT LIMITATION, LOSS OF GOODWILL, LOSS OF USE, INCOME OR PROFIT, OR LOSSES SUSTAINED AS THE RESULT OF INJURY (INCLUDING DEATH) TO ANY PERSON, OR LOSS OF OR DAMAGE TO PROPERTY (INCLUDING WITHOUT LIMITATION PROPERTY HANDLED OR PROCESSED BY THE USE OF THE EQUIPMENT), DAMAGES OR LOSSES RESULTING FROM CLAIMS OF OTHER PERSONS AGAINST THE BUYER, DESTRUCTION OR IMPAIRMENT OR LOSS OF USE OF OTHER EQUIPMENT, OR DAMAGES OR LOSSES SUSTAINED AS A RESULT OF WORK STOPPAGE. THE BUYER SHALL INDEMNIFY THE COMPANY AGAINST ALL LIABILITY, COST OR EXPENSE WHICH MAY BE SUSTAINED BY THE COMPANY ON ACCOUNT OF ANY SUCH LOSS, DAMAGE OR INJURY.

10. Force Majeure

The Company shall not be liable for delays in the execution of its obligations due to causes beyond its reasonable control, including, but not limited to, acts of God, acts of the Buyer, fires, strikes, labor disturbances, floods, war or terrorist act, acts of civil or military authority, freight embargoes, wrecks or delays in transportation, unusually severe weather, or inability to obtain necessary labor, materials or supplies or delays of subcontractors, provided the Company promptly notifies the Buyer after the beginning of any such cause. In the event of any such delay, the date set for delivery of the Equipment, if

any, shall be extended for a reasonable period. In no event will the Buyer be able to cancel the contract of sale for the Equipment, due either to delay in delivery of the Equipment or to any other cause, without the prior written consent of the Company. In case the Company consents to cancellation, cancellation charges judged adequate by the Company shall apply.

11. Termination

The Company may, without cost or liability to it, terminate any transaction to which these Terms and Conditions apply if one or more the following occurs: (a) the Buyer does not pay the Company for the Equipment delivered in accordance with the terms hereof; or (b) the institution of any proceedings against the Buyer, voluntary or involuntary, in bankruptcy or insolvency, or for the appointment of a receiver or trustee, or in the event that the Buyer shall make an assignment for the benefit of creditors.

12. Indemnity

The Buyer defends, indemnifies, releases, and holds harmless the Company from and against any and all claims, demands, damages, actions, or causes of action at law or in equity, together with any and all losses, costs, fines, penalties, expenses, and attorneys' fees in connection with, related to or in any manner growing out of the handling or use of the Equipment asserted by any entity, person, or persons, including but not limited to, employees of Buyer and all third parties for personal injury, disease, and/or death.

13. Governing Law

Ohio Law, exclusive of its choice of law and conflict of law principles, will govern all transactions to which these Terms and Conditions apply. Exclusive jurisdiction of any dispute regarding the subject matter of any Proposal or any dispute arising out of, or in connection with these Terms and Conditions, shall rest in the state courts sitting in Franklin County, Ohio, or the U.S. District Court for the Southern District of Ohio, and each party hereto hereby consents to the personal jurisdiction of such courts and waives any objection based on venue therein.

14. Complete Agreement

These Terms and Conditions and the Proposal set forth the sole and entire agreement (the "Agreement") between the parties regarding the sale of the Equipment herein and supersede any and all prior or contemporaneous oral and written agreements between them regarding the same.

15. Miscellaneous

The Agreement between the Buyer and the Company is not assignable by the Buyer without the Company's prior written consent. All terms and conditions contained herein shall apply to and bind the permitted assignees and successors in interest of the Buyer. The waiver by the Company in writing of any breach or default under these Terms and Conditions will not be deemed to be a waiver of any later breach or default of that same term or of any other term. The exercise or failure to exercise any remedy shall not preclude the exercise of that remedy at another time or of any other remedy at any time. If any provision or portion of the Agreement is held to be invalid, illegal, unconscionable, or unenforceable, the other provisions and portions hereof shall not be affected. The captions used herein are for the convenience of the parties only and shall not affect the construction or interpretation hereof. Any clerical errors are subject to correction.