

## Standard Terms and Conditions of Sale

**1. Agreement.** This order of sale (including all attachments hereto and any amendments or modifications made in accordance with the terms hereof, collectively the "Order") constitutes an expression of intent by AERODYNE ENVIRONMENTAL, INC. ("Seller") to sell the goods, machinery, equipment and services specified on the face hereof (collectively the "Goods") at the price(s) and with the delivery date(s) so specified, upon the terms and conditions set forth herein and in accordance with any specifications on the face hereof and in any attachments, schedules, exhibits, designs or drawings attached hereto (collectively the "Specifications"). This Order shall not constitute an acceptance of any provisions in any purchase order or confirmation of Purchaser that add to or conflict with the terms hereof. This Order shall constitute the entire contract between Purchaser and Seller, notwithstanding any such varying provisions or any form or electronic message sent by Purchaser after the date hereof. Any proposal to vary any of the terms hereof is hereby objected to and rejected, and shall not form a part of the contract. Technical documents, including but not limited to any drawings, descriptions, illustrations or designs, whether supplied by Seller or Purchaser, and whether or not included as part of the Specifications, shall serve only to provide approximations and general guidance as to the characteristics of the Goods and shall not bind either party. There are no oral understandings between Purchaser and Seller, and no agreements other than those embodied herein. This Order may not be amended or modified except in writing signed by an authorized representative of Seller.

**2. Cancellation.** Purchaser shall be liable to Seller for any of the following expenses incurred by Seller: (i) direct costs in connection with the ordering or purchase of materials or parts in connection with **Cancellation.** Purchaser may not cancel this Order, or any part, without Seller's written consent. If Purchaser wrongfully cancels this Order, herewith; (ii) engineering and labor costs in connection herewith; (iii) administrative and overhead costs allocable to work already performed in connection herewith and (iv) costs and expenses to which Seller has been committed prior to cancellation of this order. The amount payable by Purchaser as set forth above shall be reduced by the amount of any payments made by Purchaser in respect of the Goods prior to the date of cancellation. In addition to the above, Purchaser agrees to pay Seller an amount equal to 15% of the total amount payable as set forth above, to compensate Seller for its anticipated profits lost as a result of Purchaser's cancellation. All sums owing pursuant to this paragraph shall be payable in full immediately upon Purchaser's receipt of written notice thereof from Seller.

**3. Price.** All prices are quoted FOB Shipping Point and unless otherwise agreed in writing, and except for Seller's internal costs with respect to inspection and compliance with governmental laws and regulations, do not include any costs of freight, insurance, special packaging or installation, any costs of inspection, permits or other compliance with governmental laws and regulations, any sales, use, excise, customs or other taxes, duties or fees, or any other charges, all of which must be paid by Purchaser. In the event Seller includes any such charges in any price herein, Seller may adjust such charges at any time prior to payment thereof by Seller on Purchaser's behalf in respect of any applicable changes in governing laws or regulations; and Purchaser agrees to pay any additional charges incurred as a result of any such adjustment.

**4. Payment and Inspection.** Unless otherwise agreed in writing, payment is due within thirty days of invoice. Payment terms shall be per Seller's standard payment terms included in this order. If Purchaser delays delivery of any Goods, Seller shall submit, and Purchaser shall pay, invoices for such Goods as if delivery had been made on the originally estimated delivery date; and in addition, Purchaser shall pay all

reasonable storage and other expenses incurred by Seller as a result of such delay. Purchaser may inspect Goods delivered hereunder upon receipt at final destination. Within ten business days thereafter, Purchaser shall give written notice to Seller of any alleged defect in the condition or quality of such Goods or of any alleged nonconformity's with the Specifications, and shall indicate the basis of its claim in detail. Purchaser's failure to furnish such notice in a timely, manner shall constitute irrevocable acceptance of the Goods. Purchaser agrees to pay interest on any payment due under this order at a rate of 18% per annum, computed on the basis of a 360-day year and the actual days elapsed and to accrue from the date such payment is due until paid in full; provided, however, that if such rate exceeds the maximum rate permitted under applicable law, then interest shall be charged at the maximum rate permitted under such law. In addition, Purchaser agrees to pay all costs, including reasonable attorneys' fees, incurred by Seller in the enforcement of any obligation of Purchaser hereunder.

**5. Delivery.** Goods are sold FOB Shipping Point. Unless otherwise agreed in writing, Seller may select the method of, and arrange for, transportation to final destination. The delivery date specified on the face hereof represents Seller's estimate of the date of delivery of the Goods and is based, in part, on information supplied by Purchaser. Accordingly, Seller will attempt in good faith, but does not guarantee or covenant, to deliver the Goods by such estimated delivery date; and Seller shall not be obligated to take any extraordinary steps to meet such delivery date (including the use of overtime labor) nor shall Seller be liable for any damages suffered by Purchaser as a result of Seller's inability to meet the estimated delivery date.

**6. Passage of Title and Security Agreement.** Title to Goods delivered hereunder shall pass to Purchaser at the time of FOB delivery to carrier, and Purchaser agrees to assume all risk of loss of the Goods at that time. Purchaser hereby grants to Seller a security interest in all such Goods to secure payment of all sums due Seller hereunder. Purchaser agrees to execute promptly any financing statements or further documents Seller deems necessary to perfect its security interest, and to perform all other acts necessary for the perfection and preservation of such security interest.

## Limited Warranty and Remedies

**7. Limited Warranty.** Subject to the limitations and exceptions below, all Goods delivered hereunder are warranted to be free from material defects in materials and workmanship for the Warranty Period (as defined below). This warranty shall apply only if (i) Purchaser notifies Seller in writing of the claimed defect within 20 days of discovery; (ii) Purchaser discovers the claimed defect within the Warranty Period; and (iii) Purchaser allows Seller to inspect the Goods claimed to be defective. This warranty shall not apply to Goods that have not been operated and maintained in accordance with operating instructions or that have been accidentally damaged, or to Goods with defects attributable in any way to installation, modification or repair made by any party other than Seller; nor shall this warranty apply if (i) Purchaser or a third party modifies or repairs the Goods without Seller's prior written approval; or (ii) after discovery of a defect, Purchaser fails to take prompt and reasonable steps to prevent the defect from becoming more serious. Further, this warranty shall not apply to the component parts of any Goods manufactured in whole or in part by a party other than Seller and resold by Seller except to the extent that any such third party has warranted such to Seller and is liable to Seller under such warranty. In the event Purchaser complies in full with all of its obligations under this Order, including but not limited to payment in full in respect of the Goods, and the conditions of this paragraph are satisfied, Seller shall correct any material defect either by (i) supplying FOB Seller's plant replacement parts or (ii) repairing any defective parts. If in Seller's judgment repair or replacement would be commercially impracticable, Seller shall issue Purchaser a refund or credit in the amount of the purchase price of the defective Goods. As used herein, the "Warranty Period" is 12 months; except that with respect to any filter media, valve sleeves, wipers and all other replacement parts, the Warranty Period shall be 60 days unless otherwise amended under separate agreement. The Warranty Period shall commence on the earlier of: (i) the date of shipment (or the date of completion of installation if Seller has undertaken to install the Goods); or (ii) if delivery or installation is delayed for reasons beyond Seller's reasonable control, the 30th day following the date upon which shipment would have been made (or if Seller has undertaken to install the Goods, the 30th day following the date upon which installation would have been completed) absent the delay. The foregoing warranty is exclusive and made only to Purchaser. SELLER MAKES NO OTHER EXPRESS, IMPLIED OR STATUTORY WARRANTY, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ALL SUCH WARRANTIES ARE HEREBY EXPRESSLY EXCLUDED. Seller makes no warranty relative to damages caused by abrasion, chemicals, corrosion, wear, abnormal temperature or excessive dust loading. No person is authorized to give any additional warranties on Seller's behalf or to assume for Seller any other liability in connection herewith, except in writing signed by an authorized officer of Seller. For purposes of this paragraph, "Goods" shall specifically include any and all parts thereof.

**8. Limitation of Remedies.** Purchaser's sole and exclusive remedy against Seller arising out of or in connection with any claimed defect in any Goods sold hereunder, whether based upon contract, tort, warranty, strict liability or negligence, and whether for personal injury, commercial loss or other monetary loss, shall be at Seller's option the repair or replacement of such Goods that Seller determines in its reasonable judgment and upon inspection to be defective, or if in Seller's judgment repair or replacement would be commercially impracticable, the issuance to Purchaser of a credit or refund in the amount of the purchase price of such Goods. SELLER SHALL NOT BE LIABLE FOR ANY LOSS, COST, DAMAGE, OR EXPENSE OF ANY KIND ARISING OUT OF A BREACH OF THE WARRANTY. FURTHER, SELLER SHALL NOT BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES, NOR FOR ANY LOSS OF REVENUE, PROFIT OR USE, ARISING OUT OF A BREACH OF THIS WARRANTY OR IN CONNECTION WITH THE SALE, MAINTENANCE, USE, OPERATION OR REPAIR OF THE GOODS SOLD. IN NO EVENT WILL SELLER BE LIABLE FOR ANY AMOUNT GREATER THAN THE PURCHASE PRICE OF A DEFECTIVE PRODUCT. The disclaimers and liability included in this paragraph 8 shall remain in effect and shall continue to be enforceable in the event that any remedy herein shall fail of its essential purpose. Purchaser shall file any action arising from any of these Terms and Conditions within one (1) year after the cause of action exists. For purposes of this paragraph, "Goods" shall specifically include any and all parts.

**9. Engineering Services.** Unless otherwise agreed in writing, Purchaser shall be responsible for the erection, installation and start-up of the Goods, and shall pay all related expenses. Seller at its option may provide the services of its personnel in connection with or subsequent to the erection, installation or start-up of the Goods if Purchaser so desires, and Purchaser shall pay all related expenses incurred by Seller, including but not limited to traveling and living expenses of Seller's personnel, as well as a fee for labor performed by Seller's personnel in connection therewith, based on Seller's normal hourly rates. In the event Seller furnishes any installation services, Purchaser shall at its expense furnish the required installation space for all Goods, and shall timely comply with all applicable specifications for installation and wiring up to and through the date of completion of installation.

**10. Confidential Information.** Purchaser acknowledges that Seller has a proprietary interest in all information, technical data, designs, specifications and memoranda relating to the Goods and any processes and methods with respect to the operation thereof (collectively the "Information"), that the Information is a unique and valuable business asset of Seller, and that Seller would be seriously and irreparably harmed by its wrongful disclosure or other misuse. Purchaser therefore agrees not to use any of the Information for any purpose other than the installation, servicing and operation of the Goods, not to copy any of the Information or disclose any part thereof to any person or entity other than its employees (and then only to the extent required in the performance of their work), and to return all of the Information in its possession to Seller upon request. Purchaser additionally agrees to use reasonable care to insure that its employees, subcontractors and suppliers do not disclose any part of the Information to any other person or entity or appropriate any part of the information to their own use.

**11. Patents.** Seller shall indemnify and hold Purchaser harmless from any liability or cost arising out of any suit, action or claim for the infringement of any patent or patent rights which are or may be asserted against Purchaser because of the design, nature or structure of any of Seller's standard-design Goods; provided, however, that (i) Purchaser notifies Seller in writing of the existence of any such suit, action or claim within 10 days after Purchaser's discovery thereof; (ii) Purchaser grants to Seller exclusive control over the defense and litigation of any such suit, action or claim, and over its negotiation, settlement or compromise; and (iii) In the event infringement occurs, or Seller in its reasonable judgment determines that infringement is likely to occur, Purchaser permits Seller at Seller's option (A) to procure on Purchaser's behalf a license acceptable to Purchaser for the continued use of the Goods, (B) to modify the Goods to the extent necessary to cure any problems of infringement, or (C) to issue Purchaser a refund or credit for the Goods in the amount of the fair market value of the Goods at that time. Purchaser shall indemnify and hold Seller harmless from any liability or cost arising out of any suit, action or claim for the infringement of any patent or patent rights that are or may be asserted against Seller because of the design, nature, structure or use of any Goods ordered hereunder, to the extent such liability or cost arises from or is caused by designs or specifications furnished by Purchaser or modified at Purchaser's request, and Purchaser shall indemnify and hold Seller harmless from any liability for loss or damage, and from all court costs, attorneys' fees and other expenses, incurred by or imposed upon Seller, in connection with the defense of any action brought against Seller by reason of Seller's performance of this Order. At Seller's request, Purchaser shall promptly assume full responsibility for the defense of any such action, which may be brought against Seller.

**12. Force Majeure.** Each party shall be excused from the duty to render timely performance of any obligation hereunder if such inability to perform is caused directly or indirectly by act of God, flood, war, riot, fire, accident, explosion, strikes or labor trouble, act of government, delay or default by subcontractor or supplier of materials or services, transportation difficulty, the existence of any circumstance making performance commercially impracticable or any other cause beyond the party's reasonable control; provided, however, that the obligation to make any payment due and owing under this Order shall not be excused for any reason whatsoever. In the event of a Force Majeure event, Seller's schedule shall be adjusted accordingly and the contract price shall be adjusted to include any additional costs, overhead and reasonable profit.

**13. Waiver of Compliance;** Severability. Waiver by either party of a breach by the other of any provision of this Order shall not be deemed a waiver of future compliance therewith, and such provision shall remain in full force and effect. Any part of this contract held to be invalid or unenforceable shall be deemed ineffective to the extent thereof without affecting the validity or enforceability of any other part of this contract.

**14. Governing Law.** This Order shall be governed and construed under the laws of the State of Ohio and of the United States of America.

**15. Arbitration.** Any controversy or claim arising out of or relating to this Order or the performance or breach hereof shall be settled in Geauga County, Ohio by arbitration in accordance with the Rules of the American Arbitration Association, and judgment upon the award (rendered by the Arbitrator(s)) may be entered in any court having jurisdiction thereof. The parties consent to the jurisdiction of the state and federal courts in Ohio for all purposes in connection with such arbitration. The parties further consent that any process, notice of motion or other application to either of such courts or any judge thereof may be served by registered mail or personal service outside the State of Ohio, provided a reasonable time for appearance is allowed, or in such other manner as may be allowed under the rules of such courts.