

**EAST AIR CORPORATION**  
Standard Terms and Conditions of Sale

- 1. Firm Quotation:** The terms contained in this quotation are firm for a period of thirty (30) days from the date of this quotation unless otherwise specified. However, Seller reserves the right to revoke this quotation at any time prior to the receipt by Seller of Buyer's Acceptance. The prices quoted above do not include any applicable taxes. All material quoted from stock is done so on a subject to prior sale basis.
- 2. Buyer's Acceptance of Quotation:** Acceptance of this quotation must be made in writing, and may be in the form of an order, signed by a representative of the Buyer. Any such acceptance by the Buyer shall be deemed a representation by the Buyer that said acceptance has been duly authorized by the Buyer and shall result in an agreement between the Buyer and the Seller when received by the Seller, and approved by the Seller's Credit Department. The Buyer acknowledges and agrees that an order from the Buyer in response to this quotation shall be deemed an acceptance, and that any modification or change in the Buyer's order shall not be deemed effective to change the terms and conditions of this quotation. The Buyer agrees that any variance from the terms and conditions of this quotation in the Buyer's Acceptance Order may be ignored by the Seller as not binding upon it, and of no legal effect, and that the Seller may proceed to fill the Buyer's order in accordance with the terms and conditions of this Quotation, as set forth herein. The Seller shall have no obligation to ascertain whether or not the Buyer's order conforms to the terms and conditions of this Quotation.
- 3. Delivery:** The goods which are the subject of this quotation shall be deemed delivered, either in a single delivery, or in lots, when the Seller places them with a carrier for delivery to the Buyer Ex-Works, at which time delivery shall be complete, and title to the goods shall pass to the Buyer. All risk of loss thereafter shall be borne by the Buyer, who may take appropriate arrangements to insure the goods upon such delivery. The Seller shall have no obligation to insure the goods for the Buyer's benefit. Shipment charges are not included in the quoted price and shall be at the Buyer's expense unless otherwise specified by Seller. The carrier shall be deemed the agent of the Buyer, even though it may be selected by the Seller. If shipping charges are advanced by the Seller, they shall be re-invoiced to the Buyer by the Seller and shall be subject to the terms of the payment specified in paragraph 5 below.
- 4. Buyer's Remedies for Damaged and Defective Goods:** In the event that the goods are claimed by the Buyer to be defective, all such defects must be reported in writing to the Seller within five days of receipt of the goods by the Buyer, but in any event within ten days of delivery as defined in paragraph 3 above. East Air allows thirty (30) days from date of invoice to return all parts. Return Material Authorization (RMA) required before returning parts and material. The Buyer's remedies for such defective goods are limited to those remedies specified under paragraph 16, Express Limited Warranty and Limitation of Liability, of these terms and conditions.
- 5. Payment:** Net 30 days from the date of invoice, with a finance charge of 1 ½% per month on all unpaid balances. Seller shall be entitled to collect from Buyer, all such costs and expenses of suit and execution proceedings, including a reasonable attorney's fee, as may be undertaken to enforce payment. In light of the warranties specified herein, payment shall be made, and may be enforced without any right to set-off against amounts allegedly due on account of any alleged claim whether arising from the sale of these goods or otherwise, that the Buyer may have against the Seller. Should the Buyer fail to accept delivery of the goods, as specified herein, it shall nevertheless be obligated to make full payment for the goods as specified under this paragraph.
- 6. Bankruptcy of Insolvency of the Buyer:** If the Buyer applies for relief under any provision of the bankruptcy laws, or otherwise becomes bankrupt or insolvent during the term of this agreement, this agreement shall immediately terminate. Such termination shall not prejudice the Seller's right to payment for goods already delivered, and for work in progress, and/or commitments made by the Seller as set forth in paragraph 7 hereof Cancellation by the Buyer.
- 7. Cancellation by the Buyer:** Upon cancellation by the Buyer for any reason whatsoever, of the order for all or part of the goods covered by this contract, the Buyer agrees to reimburse the Seller, upon demand, for all costs and expenses already incurred, and for all financial commitments made by the Seller in connection with the processing, handling, transportation and/or fabrication of said goods, or component parts thereof, as of the date notice of cancellation is received by the Seller, plus a cancellation charge of 5% of the total order value. Such payments shall be made by the Buyer within thirty (30) days of demand. The provisions of paragraph 5, Payment hereof, pertaining to finance charges for late payments and the costs of enforcing payment and collection, shall all be applicable under the provisions of this paragraph as though fully set forth herein. Seller's determination of all such cancellation costs and charges shall be conclusive. Seller shall however, if requested, provide Buyer with a general itemization of the said charges, without necessity for disclosing the names of Seller's suppliers, or any information that is of a proprietary nature, or could place Seller at a disadvantage with his competitors. Cancellation of all or any of the goods covered by this contract shall be effective only upon receipt or written notice by the Seller, from the Buyer of such cancellation.
- 8. Installation:** Installation assistance is not included in the price quoted and is quoted under Seller's standard rates where applicable, unless otherwise stated in the body of this Quotation, Terms and Conditions.
- 9. Service of Equipment:** Except as stated in paragraph 16 Warranties, hereof, Service calls requested by the Buyer for the maintenance and repair of the equipment shall be made by the Seller, at Sellers standard rates then prevailing, at the Buyer's expense. Seller's standard rates are available under separate cover, where applicable.
- 10. Excuse of Performance by Seller:** a) Seller shall not be liable for delays or for failure to deliver all or part of the goods herein, on account of: any Act of God, war declared or undeclared, armed conflict, riot, fire, explosion, any casualty, flood, sabotage, and/or any material change in circumstances such as (but not limited to) lack of adequate fuel, power, raw materials, container, transportation, labor, components, damage to, failure or breakage of machinery or apparatus and/or compliance with governmental requests, laws, regulations, orders or actions, national defense requirements, and/or labor trouble, strikes, lockout or injunction, (Seller shall not be required to settle a labor dispute against its own best judgment); and/or any other events whether or not of the classes enumerated herein, which are beyond the reasonable control of the Seller and which make impracticable the manufacture or transportation of all or part of the goods, or of a material or component upon which the manufacture of the goods is dependent. b) If Seller determines that its ability to supply its total demand for goods or obtain any, or a sufficient quantity, of any material used directly or indirectly in the manufacture of the goods, is hindered, limited or made impracticable, Seller may allocate its available supply of the goods or such material (without obligation to acquire other supplies of any such goods or materials) among itself and its purchasers on such basis as Seller determines to be equitable, and in its best interests without liability for any failure of performance which may result there from. c) In the event that the Seller is delayed in delivering, or is unable to deliver goods for any reasons covered under subparagraph (a) and/or (b) above this paragraph, the Seller shall not be required to cure or prevent any such delays or failures to deliver by incurring increased costs hereunder, this quotation having been priced out on that basis. **NOR SHALL THE SELLER BE LIABLE TO THE BUYER OR ANY OTHER PERSON FOR ANY DIRECT OR CONSEQUENTIAL DAMAGES FOR ANY SUCH DELAYS OR FAILURE TO DELIVER.** Any such delays in delivery shall not affect the Seller's right to collect payment for the delayed goods, when delivered, in accordance with the terms and conditions of this agreement. Any such

failure to deliver shall not affect the Seller's right to collect payment under the terms of this agreement for goods that have already been delivered d) In the event that Seller is unable to perform under subparagraphs (a) or (b) of this paragraph, it shall notify Buyer of its inability to perform within a reasonable time, so that Buyer may make other arrangements. e) If any of the terms and conditions of this quotation, or any agreement resulting from its acceptance shall contravene, or be deemed unlawful or invalid under, the laws of any state, country or jurisdiction which touches or concerns performance, either party may, at its sole option, within a reasonable time after discovery of the said laws, declare the entire agreement invalid, in which event the parties shall cooperate and use their best efforts to mitigate any damages, direct or consequential, suffered by the other party as a result, but shall not be liable for the same except to the extent provided under paragraph 7, Cancellation by Buyer. If neither party opts to declare the entire agreement invalid, then it is understood and agreed that any invalid clause shall not invalidate the entire agreement, and the agreement shall be construed as if it did not contain the said invalid provision.

**11. Assignment:** Buyer shall not (by operation of law or otherwise) assign its rights or delegate its performance hereunder without duly authorized prior written consent of Seller, and any attempted assignment or delegation without consent shall be void.

**12. Representation:** Seller has not authorized, and will not be responsible for any representations, promises, or inducements made by any agent or employee of Seller, unless contained herein, or in writing executed by a duly authorized representative of Seller. It is understood and agreed that Buyer is purchasing the goods described herein, based entirely on his own judgments as to their suitability for his purposes, and Seller makes no representations, guarantees or warranties regarding the same.

**13. Exclusivity:** The terms and conditions contained herein constitute the full understanding of the parties, a complete allocation of risks between them and a complete and exclusive statement of the terms and conditions of their agreement. No conditions, usage of trade, course of dealing or performance, understanding or agreement purporting to modify, waive, vary, explain, or supplement the terms and conditions of this contract shall be binding unless hereafter made in writing and signed by a duly authorized representative of the party to be bound and no modification shall be effected by the acknowledgement or acceptance of purchase orders or shipping instruction forms containing terms or conditions at variance with or in addition to those set forth herein.

**14. Waiver:** No waiver by either Seller or Buyer with respect to any breach or default, or of any right or remedy, and no course of dealing regarding the same, shall be deemed to constitute a continuing waiver of that or any other breach or default or of that or any other right or remedy, unless such waiver be expressed in writing signed by a duly authorized representative of the party to be bound. Any remedies specified hereunder or available to the parties in law or in equity consistent with the terms of this agreement, may be utilized repeatedly, until the aggrieved party has secured any compliance, rights and remedies to which he is entitled, including (without limiting the generality of the foregoing) full payment pertaining to the collection and enforcement of judgments.

**15. Law Governing:** This Agreement and all rights and duties of the Seller and Buyer shall be governed by the laws of New Jersey except as specified to the contrary herein. The parties to this Contract agree that any action by either party for breach of this agreement, or to resolve any dispute arising under this agreement, shall, at the Seller's option be brought either in New Jersey State Courts, or the Federal District Court for the County of Bergen, if it has subject matter jurisdiction, or shall be resolved by binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association) In either event, each party agrees that Service of Process, or Demand for Arbitration will be affected by Certified Mail, Return Receipt Requested, sent to the last known address of the other party.

**16. Express Limited Warranty and Limitation of Liability:** a) Defective Goods Seller warrants to Buyer that at the time of delivery the goods which are sold in factory new condition will be free from defects in material and manufacture and will conform substantially to the Original Equipment Manufacturer's (OEM) applicable specifications. Seller's liability and Buyer's remedy under this warranty are limited to the repair or replacement, at Seller's election, of goods or parts returned to Seller which are shown to Seller's reasonable satisfaction to have been defective; provided that written notice of the defect shall have been given by Buyer to Seller within thirty (30) days after the first operation or use of the goods but in no event later than ninety (90) days after the date of delivery of such goods to Buyer. Alternately, Seller warrants to Buyer that at the time of delivery, the goods which are sold in new surplus condition is warranted only to the time that Buyer inspects the incoming material and accepts and/or rejects the goods. If a defect is found with equipment sold as new surplus, Seller shall attempt to replace the defective material or provide a refund in full. Inspection/acceptance disposition must be made within thirty (30) days after receipt of goods. Parts being returned for quality deficiency will be returned freight collect, for full credit or replacement. Alternately, Seller warrants to Buyer that at the time of delivery, the goods which are sold in Overhauled Certified Condition (OHC) shall be warranted for a period of not less than six (6) months, but no longer than one (1) year from the date of receipt of such goods, depending upon type of equipment. This warranty shall not apply to equipment which Seller determines became defective or inoperative due to negligent or intentional misconduct, misuse, abuse, improper installation and operation, neglect, improper maintenance or accident whether foreseeable or unforeseeable by the Buyer or any other person. b) Indemnification - Buyer agrees to indemnify and hold seller and its employees from and against all claims, liability, loss, damage or expense, including all counsel fees arising from or by reason of 1) any injury or death allegedly caused by the use, sale, transfer or alteration of the goods furnished hereunder; 2) any damage or destruction of any property or injury to any person or persons caused by any act or omission, whether negligent or otherwise, of Buyer or of any employee, subcontractor, workman, servant or agent employed by Buyer. Such obligation of Buyer shall survive acceptance of the goods and payment therefore by the Buyer.

**17. Licenses, Permits and Governmental Regulations:** Seller shall not be responsible for obtaining from any Government, any required permission to sell, export or import the goods described herein. Any and all such requirements that may be necessary shall be obtained by Buyer at its expense and shall where necessary be presented to Seller before delivery. Failure of Buyer to fulfill such requirements shall not affect the obligation to pay for goods ordered.

**18. Resale:** The prices quoted do not include any discount or commission for the Buyer, and no such discount or commission is due, absent or written agreement between Buyer and a duly authorized representative of Seller. This Quotation and the Warranties contained herein have been priced on the basis that the Buyer will be the end user of the goods, and is not purchasing these goods for export or for resale to others, which could result in increased costs, liability and/or risks to Seller. In the event that these goods are resold by the Buyer to any third party ALL WARRANTIES CONTAINED HEREIN SHALL BE NULL, VOID AND OF NO EFFECT, ALL LIMITATIONS OF LIABILITY CONTAINED HEREIN SHALL BE DEEMED TO APPLY TO ALL SUCH THIRD PARTIES, and buyer further agrees to INDEMNIFY SELLER AND HOLD IT HARMLESS FOR ANY AND ALL DAMAGES FOR WHICH THE SELLER MAY BE FOUND LIABLE TO ANY THIRD PARTY, (INCLUDING COSTS OF SUIT AND REASONABLE ATTORNEY'S FEES) ARISING OUT OF ANY RESALE OF THE GOODS TO THIRD PARTIES.

**19. Agency:** Respecting goods not manufactured by Seller, the Seller is acting as distributor of the goods. Buyer acknowledges that Seller is not the agent of the manufacturer, and is not authorized to bind the manufacturer to any contractual commitments, or make any representation in behalf of the manufacturer.