

## General Conditions of Sale

These are the General Conditions of Sale for the sale of products and services by Mach III Clutch, Inc. ("Seller").

- Contract Defined.** If the sale of products by Seller to Buyer is not otherwise covered by an applicable written agreement between Seller and Buyer, then, upon acceptance by Seller of the quantity of Product specified on Buyer's purchase order, such quantity, together with these Conditions of Sale and all other provisions of any applicable document(s) of Seller on which these Conditions are printed, will constitute "the Contract" between Seller and Buyer.
- Shipments.** Shipments of each Product will be made FOB Seller's Facility. Buyer will select the carrier, and promptly unload each shipment at its own risk and expense, including demurrage or detention charges.
- Warranties.** Seller warrants that each Product will meet specifications designated as such in the Seller's current, applicable publications. Seller also warrants that it will comply with all applicable laws and governmental rules, regulations and orders. **SELLER MAKES NO OTHER WARRANTIES WHETHER OF MERCHANTABILITY OR OTHERWISE, AND NONE WILL BE IMPLIED.**
- Price and Payments Terms.** For each Product, the price, FOB point and terms of payment will be specified for that Product in the Contract or otherwise quoted by Seller. Any tax (other than income), duty or other governmental charge now or hereafter imposed on the Product or on any raw material used in manufacturing the Product (or on Seller, or required to be paid or collected by Seller by reason of the manufacture, transportation, sale or use of such Product or raw material) will be paid by the Buyer in addition to the price. If Seller is prevented by law, regulation or government action from increasing or continuing any price already in effect under the Contract, Seller may terminate the Contract with thirty days notice. If no items of payment are specified or quoted, then funds are due in Seller's bank or financial institution within thirty days from the date of Seller's invoice.
- Excuses for Nonperformance.** The Parties will be excused from the obligations of the Contract to the extent that performance is delayed or prevented by any circumstance (except financial) reasonably beyond its control or by fire, explosion, mechanical breakdown, strikes or other labor trouble, plant shutdown, unavailability of or interference with the usual means transporting the Product or compliance with any law, regulation, order, recommendation or request of any governmental authority. In addition, Seller will be so excused in the event it is unable to acquire from its usual sources and on terms it deems to be reasonable, any material necessary for manufacturing the Product. If, because of such circumstances, there should be a shortage of any Product from any of Seller's sources, Seller will not be obligated to purchase Product in order to perform the Contract and may apportion its available Product among all its customers and its own internal uses in such manner as it, in its sole judgment, finds appropriate. Quantities of Products consequently not shipped will deducted from the applicable remaining quantity obligation.
- Liabilities-Claims-Indemnification.** Buyer will indemnify Seller against any liability (whether strict or otherwise) for any claim, loss or expense on account of any injury, disease or death of persons (including Buyer's employees) or damage to property (including Buyer's) arising out of Buyer's unloading, storage, handling, sale or use of the Product (except to the extent caused by Seller's negligence). Seller or Buyer will not have any liability to the other for any claim (except for indebtedness of Buyer to Seller, or Buyer's failure to perform its purchase obligations hereunder) arising out of or in connection with this Contract unless claimant gives the other Party notice of the claim, setting forth fully the facts on which it is based, within ninety days of the date such facts were discovered, or reasonably should have been discovered Seller's liability for defective or non-conforming Product, whether or not based on negligence, will not exceed the purchase price of the Product involved in the claim and **NO PARTY WILL BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, LOST PROFITS OR PUNITIVE DAMAGES** of the other. The provisions of this Article 6 will survive termination of the Contract.



7. **Remedies.** If Buyer fails to pay any indebtedness to Seller in accordance with the terms for such indebtedness (whether or not under this Contract), Seller may, in addition to any other remedies, suspend shipments, change terms of payment, or terminate this Contract by notice to Buyer. Buyer's obligation to perform will not be limited by any previous waiver by Seller. In the event that Buyer breaches any term or condition of this Contract, Buyer will reimburse Seller for all costs and expenses related to Seller's pursuit of payment for any claim in any way arising from such breach, including but not limited to reasonable attorney's fees.
8. **Notices.** Notice by either Seller or Buyer will be made only by email or similar electronic transmission, effective at the time sent to at the number set out in the Contract with confirmation, or by letter or telegram addressed to the other Party at its address in the Contract and will be considered given as of the time it is sent by facsimile transmission or deposited with the U.S. Postal Service or the telegraph company, postage or charges prepaid.
9. **Governing Law.** This contract will be interpreted and the rights, obligations and liabilities of the parties determined in accordance with the laws of the State of Kentucky, without regard to its conflict of laws principles. Buyer agrees that any action arising out of or related to the agreement shall be venue only in Boone County, Kentucky and/or the United States District Court for the Eastern District of Kentucky located in Covington, Kentucky.
10. **Assignability.** Neither this Contract (include all rights, duties and obligations hereunder) nor any claim against Seller or Buyer arising directly or indirectly out of or in connection with this Contract will be assignable by Seller or Buyer or by operation of law, without the prior written consent of the other Party. However, notwithstanding the above, Seller shall, have the right to assign this Contract to a controlled subsidiary of Seller or to a purchaser or other successor to a significant portion of Seller's assets involved in the manufacture of Product without the consent of Buyer.
11. **Exporter of Record.** Notwithstanding anything to the contrary contained herein, if the product is to be exported from the United States of America, the Buyer shall, for purposes of this agreement, be the "exporter of record" as that term is used by U.S. customs and/or the Bureau of Export Administration ("BXA") and shall comply with all regulations (including those related to reporting, filing and record keeping) of U.S. customs and/or the BXA.
12. **Acceptance, Entirety and Release.** Seller's acceptance of Buyer's order proposal is expressly conditional on Buyer's assent to the terms of the Contract and Seller rejects any terms of Buyer's order or proposal, which differ from or are in addition to them. Buyer's assent to the terms of the Contract will be conclusively presumed by Buyer's acceptance of Product at the point of delivery specified above. This Contract, as of its beginning date, contains the complete and exclusive agreement of Seller and Buyer concerning the Product, merges and supersedes all prior understandings and representations (oral or written) between the Parties concerning the Product and, except for any indebtedness or indemnity obligation of Buyer to Seller, each releases the other from all claims arising in connection with any such prior contract. This Contract may only be amended in a writing signed by both parties.