



Marvair's Standard Terms and Conditions of Sale

In the event Marvair and Customer have entered into a Master Purchase Agreement, which remains in effect and is applicable to this Order, then the terms of the Master Purchase Agreement shall apply to this Customer Purchase Order. In all other instances, all Customer Purchase Orders are accepted subject to these **Standard Terms and Conditions of Sale** and further subject to all additional Marvair terms and conditions presented on or accompanying a Marvair Quotation or Marvair Order Acknowledgment. Marvair specifically rejects and disclaims all conflicting and additional terms and conditions contained in Customer's Purchase Orders, including associated forms and/or documents. Any amendment of Marvair's **Standard Terms and Conditions of Sale** must be in writing and signed by Marvair to be binding on Marvair. In the event of a conflict between Customer's Purchase Order or associated documents and the terms and conditions herein, the terms and conditions herein including the Order Acknowledgment shall govern.

DEFINITIONS AND INTERPRETATION

Within this document definitions are defined as follows:

"**Marvair**" means Marvair, a division of Airxcel, Inc.

"**Customer**" means the person or entity to whom Products or Services are provided.

"**Purchase Order**" means Customer's document for the acquisition of Products and/or Services, exclusive of all pre-printed terms and conditions contained thereon.

"**Quotation**" means Marvair's offer to sell Products and/or Services.

2. ACCEPTANCE OF PURCHASE ORDERS

As used herein, "Acceptance of Customer's Purchase Order" shall mean Marvair's issuance of an Order Acknowledgment, agreeing to supply the Products and/or Services identified in Customer's Purchase Order under the terms and conditions herein. No Customer Purchase Order will be binding upon Marvair until Marvair issues its written Order Acknowledgment.

3. PURCHASE ORDER CHANGES

Customer may not change its Purchase Order without Marvair's written consent. Customer's oral requests for Products and/or Services shall be binding on Customer and may be deemed by Marvair as valid Customer Purchase Orders, governed by these Terms and Conditions.

4. PRICE OF MATERIAL AND/OR SERVICES

The price for Products and Services are based on Marvair's published list prices in effect at time of Marvair's receipt of Customer's Purchase Order unless otherwise set forth in the Order Acknowledgment, or a validly issued Quotation, or proposal. A Quotation or proposal is valid for a period of thirty [30] days from date of issue. Errors or omissions in price and/or terms are subject to correction by Marvair. All published list prices are subject to change by Marvair without notice. Marvair retains all rights to change the Products and/or Services or may discontinue any Products and/or Services at Marvair's sole discretion.

5. PACKAGING, SHIPMENT AND SERVICE DATES

All Products shall be suitably packed for shipment. Marvair may charge for packing and/or packaging including special documentation to comply with Customer requirements. Shipment Date for Products or date for performance of Service is estimated by Marvair but is not guaranteed by Marvair. All shipments are made EXW Marvair shipping location.

6. TITLE, RISK OF LOSS, AND INSURANCE

Title, risk of loss or damage, and insurance responsibilities for the Products pass from Marvair to Customer upon acceptance of Products by the shipping agent or carrier.

7. ACCEPTANCE OR REJECTION OF PRODUCTS AND/OR SERVICES

After the Delivery of the Products, or the performance of Services, Customer shall have a period of **thirty [30] calendar days** to inspect and communicate any rejection to Marvair. Products and/or Services not rejected within the said thirty (30)

day period shall be deemed accepted.

8. PAYMENT TERMS

Customer's payment obligations are stated on Marvair's invoices. Late charges of one and one-half percent [1½%] or the maximum permitted by law, whichever is less, per month on outstanding balances may be charged. All amounts due shall be payable in United States dollars unless otherwise specifically agreed in Marvair's Order Acknowledgement. If, in Marvair's judgment, Customer's financial condition does not justify continuation of the existing payment terms, Marvair may: a) require full or partial payment of Customer's account; b) require payment in advance; and/or c) change Customer's credit terms.

9. PRODUCT AND SERVICES WARRANTY

Marvair warrants from the date of shipment to Customer that Products will substantially conform to Marvair specifications in effect as of the date of shipment and will be free from substantial defects in material and workmanship under normal use, given proper installation and maintenance, for the period of time stated in Marvair's published warranty in effect on the date of shipment. Customer must promptly notify Marvair of any claimed defect in the Product and/or Services. Marvair or its agent may inspect the Product or workmanship on Customer's premises. Product returned to Marvair under warranty must be clearly marked with the RMA number and be shipped prepaid by Customer.

WITH RESPECT TO ALL PURCHASES OF PRODUCT AND/OR SERVICES FROM MARVAIR BY CUSTOMER, THE ABOVE WARRANTY, AND ANY ADDITIONAL WRITTEN WARRANTY ISSUED BY MARVAIR, REPLACES ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, AND ALL OTHER OBLIGATIONS OF MARVAIR, INCLUDING ANY WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. ALL OTHER WARRANTIES ARE DISCLAIMED AND EXCLUDED BY MARVAIR.

10. PRODUCT AND SERVICES WARRANTY LIMITATIONS

Customer's exclusive remedy for any claim related to or arising out of breach of the warranty covering Products or Services shall be the correction of defects by repair, replacement, re-performance of service or credit, at Marvair's discretion. Refurbished Product may be used to repair or replace the Product. Marvair does not warrant that the operation of the Product will be uninterrupted or error-free, that the functions of the Product will meet Customer's requirements or that the Product will operate in combination with other products selected by Customer for its use. Marvair assumes no liability with respect to (a) defects caused by modification, repair, installation, operation or maintenance except as described in Marvair's documentation; or, (b) negligent or other improper use of the Product. Marvair assumes no liability for equipment or services furnished by Customer. No agent, distributor, or representative is authorized to make any warranties on behalf of Marvair or to assume for Marvair any other liability in connection with any Product or Services.

11. RETURNS

Products may not be returned to Marvair without prior authorization. Customer must contact Marvair to obtain an authorization number and return Products to the location designated by Marvair with all transportation charges paid by Customer. Marvair may charge Customer certain fees for Products returned to Marvair.

12. DISCLAIMER OF LIABILITY

MARVAIR WILL NOT BE LIABLE FOR INJURIES OR DAMAGES TO PERSONS OR PROPERTY RESULTING FROM ANY CAUSE WHATSOEVER , WITH THE EXCEPTION OF BODILY INJURIES, DEATH OR TANGIBLE PROPERTY DAMAGE CAUSED BY THE WILLFUL MISCONDUCT OR NEGLIGENT ACT OF MARVAIR. THIS LIMITATION APPLIES TO ALL PRODUCTS PROVIDED AND SERVICES PERFORMED DURING AND AFTER THE WARRANTY PERIOD.

IN NO EVENT SHALL MARVAIR BE LIABLE FOR ANY DAMAGES RESULTING FROM LOSS OF DATA, LOSS OF USE OR LOSS OF REVENUE OR PROFIT AND MARVAIR FURTHER DISCLAIMS ANY AND ALL LIABILITY FOR INDIRECT, INCIDENTAL , SPECIAL, CONSEQUENTIAL, OR OTHER SIMILAR DAMAGES.

13. COMPLIANCE WITH APPLICABLE LAWS

The Customer will comply with all applicable laws affecting the purchase, sale and use of Products and Services, including, when applicable, the Foreign Corrupt Practices Act and the Export Administration Act.

14. SEVERABILITY

If any provision of these terms and conditions is held by a court, government agency or other legal authority of competent jurisdiction to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not invalidate, void or render unenforceable any other portion of these terms and conditions but rather these terms and conditions shall be construed as if it did not contain the particular invalid, illegal or unenforceable provision or provisions, and the rights and obligations of the parties shall be construed and enforced accordingly.

15. FORCE MAJEURE

Marvair is not liable for failure or delay in fulfilling its obligations due to any causes beyond its control. In the event of any such delay, the date for shipment of Products or performance of Services will be extended correspondingly. Marvair retains the right to determine the allocation of its inventory of Products among itself, its present and future customers and Customer. In the event Marvair partially fills Customer's Purchase Order, Customer shall, nonetheless, continue to make payments on Marvair's invoices during the period in which the delay is in effect for those Products and/or Services actually delivered.

16. GOVERNING LAW/VENUE

The contract created by the issuance of an Order Acknowledgment shall be construed, interpreted and applied in accordance with the internal laws (but not the law of conflicts) of the State of Georgia. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply to the sale of Products hereunder.

17. PROPRIETARY RIGHTS INDEMNIFICATION

If any Product bearing the Marvair name, in Marvair's opinion, is likely to or becomes the subject of a claim of infringement of any valid United States copyright or patent, Marvair shall, at its option and expense, either: (1) modify it to make it non-infringing; (2) settle such claim by procuring for Customer the right to continue using the Product; or (3) defend Customer against such claim.

18. CANCELLATION FOR DEFAULT

Marvair may, upon written notice to Customer, cancel any and/or all Customer Purchase Orders effective immediately if: a) Customer becomes insolvent, b) takes or accepts any action for protection against its creditors, c) any proceeding seeking involuntary reorganization, or similar relief is filed against Customer, d) Customer ceases doing business as a going concern or it or its shareholders take any action looking to its dissolution or liquidation, e) Customer fails to perform any material obligations and such failure is not remedied within fifteen **[15] calendar days** after notice has been given Customer, or f) Customer fails to pay for any Purchase Order in accordance with the invoice payment terms.

19. WAIVER

No waiver will be valid unless in writing, signed by an authorized representative of Marvair and no waiver granted will release Customer from subsequent strict compliance herewith.