

APPENDIX



ASTRO TOOL CORP.
CONNECTOR ASSEMBLY TOOLING



Terms & Conditions of Sale

(a) **APPLICABLE TERMS AND CONDITIONS:** These Terms and Conditions exclusively control any sale between ATC and purchaser. If purchaser fails to object in writing to ATC's Terms and Conditions within ten (10) days of receipt of these Terms and Conditions, then Purchaser's acceptance of the goods will be deemed an acceptance of the terms and conditions set forth herein. ATC expressly rejects any pre-printed terms and conditions set forth in any of purchaser's forms. Any proposed terms and conditions proposed by purchaser not contained in a pre-printed form shall not be binding upon ATC unless such terms and conditions are expressly agreed upon by ATC in writing.

(b) **CHANGES:** If the purchaser at any time changes within the general scope of any order and if any such changes cause an increase or decrease in the cost of, or the time required for the performance of any purchase order or any other order affected by such change, an equitable adjustment in the price, the delivery schedule or both shall be made and such order shall be modified accordingly.

(c) **SHIPMENT:** Shipment generally will be accomplished FOB ATC's plant. Notwithstanding this, if ATC prepays the transportation charges purchaser will be obligated to reimburse ATC upon receipt of invoice for the prepaid transportation charges. Any Special or abnormal packaging required will be included in the unit price of the item to be delivered or as a separate line item.

(d) **DELIVERY:** Delivery will be accomplished within the time specified on the face of the acknowledgment or if no time is specified within the normal lead time necessary for ATC to deliver its products in question. Anything to the contrary notwithstanding, ATC shall not be liable to any reasonable delay in production or delivery. In the event a delay in production or delivery occurs beyond a reasonable period of time, which delay is occasioned by fire, strikes, civil or military authority, war, hostility, riots, government action, energy crises, parental leave, or by other causes beyond the control of ATC or without its fault or negligence, the failure of date or dates of delivery of the products ordered hereunder shall be extended for a period of time lost by reason of any such delay.

(e) **PAYMENTS:** In the event any payments of purchaser under any order are not made in a timely manner ATC may either: (1) declare purchaser's performance in breach and terminate any other order for default, (2) withhold future shipments under any order until delinquent payments are made, (3) deliver future shipments under any order on a C.O.D. or cash in advance basis even after the delinquency is cured, (4) charge interest on the delinquency at a rate of 2% per month or the maximum rate permitted by law, if lower, for each month or part thereof of the delinquency in payment plus applicable storage charges or inventory carrying charges, if any, or (5) combine any of the above rights and remedies as a practicable and permitted by law. Nothing herein shall waive any other rights or remedies of ATC permitted by law or set forth in this or any other order between purchaser and ATC and all rights and remedies set forth herein shall be considered cumulative with all other available rights and remedies.

(f) **MATERIAL SHORTAGES AND ALLOCATIONS:** In the event ATC is unable to obtain in a timely manner material sufficient to fulfill all of its orders on hand, ATC shall have the right as a result of said material shortages to equitably allocate lesser quantities of the products to be delivered to all purchasers on the proportionate basis. Unless specifically agreed in writing to the contrary, purchaser agrees to accept partial shipments.

(g) **INSPECTIONS:** The purchaser shall inspect and accept any products delivered immediately after purchaser takes custody of such products. In the event the products do not meet the drawings, designs, and/or specifications, the purchaser shall notify ATC of such noncompliance in writing and give ATC a reasonable opportunity to correct any such noncompliance. The purchaser shall be deemed to have accepted any products delivered and to have waived any such noncompliance in the event a written notification that the products delivered do not comply with the drawings, design, and/or specifications, is not received by ATC within 15 days after the purchaser takes custody of the products delivered.

(h) **INSOLVENCY:** ATC may cancel the whole or any part of any order in the event of the suspension of purchaser's business, insolvency of purchaser, the institution, by the purchaser or others, of bankruptcy reorganization, arrangement of liquidation proceedings involving or affecting the purchaser or any assignment for the benefit of creditors of purchaser or receivership that purchaser places itself in or may be placed in. Such cancellation shall be deemed a cancellation for default of purchaser.

(i) **RIGHT TO COMMUNICATE:** If purchaser is a reseller of ATC products, ATC shall have the absolute right to freely communicate with purchaser's customers concerning the reasons for delay or non-delivery of ATC product. If purchaser is on credit hold for any reason, ATC shall have the absolute right to furnish ATC product directly to purchaser's customer. Purchaser waives all right to claim that such communications and actions are slanderous, libelous, defamatory or constitute interference with a business arrangement.

(j) **SPECIAL TOOLING:** Title to dies, tools, jigs, fixtures, patterns or any other type of special tooling shall remain vested in ATC, whether or not paid for or amortized over the products manufactured under any other purchaser.

(k) **TAXES:** Unless otherwise specifically stated in writing by ATC, prices quoted by ATC do not include sums necessary to cover any taxes or duties including but not limited to Federal, State, Municipal excise, sales or use taxes or import duties upon the production, sale, distribution, or delivery of equipment or furnishing of service hereunder. Any taxes or duties that are due and owing shall be paid by the purchaser. Accordingly, ATC reserves the right to revise any contract between itself and others to include any and all taxes or duties that may become due and ATC may involve purchaser for said additional amount. This cause shall survive the acceptance and complete performance of any order.



(l) **SET-OFF:** All moneys owed under any order shall be due and payable at Beaverton, Oregon and the purchaser is prohibited from setting off said sums due ATC under this order form sums, whether liquidated or not, that are or may be due the purchaser which arise out of a different transaction with ATC, its divisions, subsidiaries or affiliates.

(m) **VENUE:** Washington County, Oregon shall be the proper venue for any actions arising out of or because of the breach of any agreement entered into with ATC.

(n) **ATTORNEYS' FEES AND SUIT COSTS:** Should ATC have to initiate legal action to collect any moneys owed arising out of any contract, or should ATC be sued by a customer under any contract, then if ATC prevails in whole or in part, customer agrees to pay ATC's attorneys' fees, witness fees, and court costs.

(o) **TITLE:** Title to the goods shall pass to the purchaser on identification of the goods to the contract. Purchaser grants ATC a security interest in the goods identified on this document, to secure payment of the purchase price, including all amounts that come due under the Sale Document.

(p) **NON-WAIVER:** No course of dealing or failure of ATC to strictly enforce any term, right or condition of any contract shall be construed as a waiver of such term, right or condition.

(q) **CHOICE OF LAW:** The construction, interpretation and performance of any agreements entered into and all transactions under such agreements shall be governed by the laws of the State of Oregon.

(r) **CANCELLATION COSTS:** In the event of cancellation of any order by purchaser, purchaser shall be liable for reasonable cancellation costs which shall not exceed the contract price for the items canceled.

(s) **RISK OF LOSS:** Purchaser shall be liable for any loss which occurs after goods leave their F.O.B. point which shall be Factory, Beaverton, Oregon, unless otherwise stated on the reverse side of this document.

(t) **ERRORS SUBJECT TO CORRECTION:** All typographical, stenographic and arithmetical errors are subject to correction.

(u) **LIABILITY FOR PATENT INFRINGEMENT:** If goods are made to purchaser's specifications or design, purchaser assumes liability for patent and copyright infringement and agrees to hold ATC harmless from any actions arising out of any alleged infringement.

(v) **RESPONSIBILITY FOR SAFETY TRAINING:** Purchaser and end users stipulate and agree that tampering with, or the improper or unsafe operation of ATC products, especially power actuated products, can cause severe bodily injury or death. Purchaser and end users agree to assume complete and sole responsibility for fully training and continually supervising each of their operators in the proper use and safe operation of all products from ATC.



Limited Warranty and Limitations of Liability

(w) **LIMITED WARRANTY:** ATC warrants each new product sold by it to be free from defects in material and workmanship under normal use and service. ATC's obligation under this warranty is limited to the free correction or, at ATC's option, the refund of the purchase price of any such product which proves defective in normal service within ninety (90) days after delivery to the first user, provided that the product is returned to ATC with all transportation charges prepaid and which shall appear to ATC's satisfaction, after ATC's inspection, to have been defective in material or workmanship, it being understood that ATC products are not consumer products. This warranty shall not cover any damage to any product which, in the opinion of ATC, was caused by normal wear, misuse, improper operation, tampering, neglect, or accident. This warranty is in lieu of all other warranties express or implied.

No warranty, express or implied, is made or authorized to be made or assumed with respect to products of Astro Tool Corporation other than those herein set forth.

(x) **LIMITATION OF LIABILITY:** ATC IS NOT LIABLE FOR CONSEQUENTIAL OR SPECIAL DAMAGES OF ANY NATURE OR KIND RESULTING FROM THE USE, OR MISUSE OF ANY OF ITS PRODUCTS. OWNERS AND USERS OF ATC PRODUCTS ASSUME FULL RESPONSIBILITY FOR INSTRUCTING THEIR EMPLOYEES IN THE PROPER AND SAFE USE OF SUCH PRODUCTS.

(y) **SEVERABILITY:** If any provision herein is held to be in violation of any Federal, State or Local statute or regulation of illegal or unenforceable for any reason, said provision shall be self-deleting without affecting the validity of the remaining provisions.

(z) **TOOLING OR TOOLING COMBINATIONS SUGGESTED BY ATC** may or may not cover a user's specific contract manufacturing requirements. It is the user's responsibility to conduct sufficient testing to validate the suitability of the ATC product(s) selected for the specific requirements of each particular application. ATC DISCLAIMS ANY LIABILITY DIRECT OR CONSEQUENTIAL ARISING FROM USER'S FAILURE TO CARRY OUT SUCH VALIDATION TESTING.

Certificate of Conformance

Astro Tool Corporation certifies that documentary evidence in the form of test reports and inspection records on this material and/or associated processes indicating conformance to applicable specifications are on file and available for review, by appointment, at its home office. The parts so submitted meet dimensional, functional and quality requirements as covered by the applicable purchase order, part numbers and/or specifications.

CERTIFICATES OF CONFORMANCE: A standard Certificate of Conformance is printed on the back of invoices and packing lists. There will be an additional charge for additional and/or non-standard Certificates of Conformance.

Certificate of Calibration/Inspection

The parts so submitted by Astro Tool Corporation meet dimensional, functional and quality requirements as covered by the applicable purchase order, part numbers and/or specifications. The quality system meets ISO9001/AS9000. ATC's metrology system is maintained according to ANSI/NCSL Z540-1-1994 and uses test equipment and material traceable to N.I.S.T.