



Standard Terms and Conditions

The following are the terms and conditions under which Astronics Max-Viz (the "Company") products and services are sold to customers. The term "customer" shall mean the Dealer, Distributor or End User as applicable and the term "Agreement" shall mean the Dealer, Distributor or End-User Agreement as applicable

1.0 PRICE

- 1.1 The price for a product is the price listed on the Company sales order confirmation sent to the customer upon receipt of a customer's purchase order for the product.
- 1.2 Prices do not include sales tax, value-added or like taxes now or hereinafter levied by any government on the sale of products or services. Customers are responsible to collect and remit all taxes as required by their appropriate regulatory agencies. In the event that the Company is required to remit the taxes, Customer shall prepay all such taxes that the Company is required to collect or pay in connection with the sale of any Products.

2.0 DELIVERY

- 2.1 The Company shall deliver products ex-works (Incoterms® 2010) Max-Viz's factory in Portland, Oregon, unless otherwise specified on an authorized quotation.
- 2.2 On request by a customer, the Company shall arrange for export and shipment of a product (including transit insurance) at the customer's risk and expense, to the destination specified by the customer.
- 2.3 All customers are responsible for obtaining all import permits and customs clearances required to ship a product.
- 2.4 The Company may refuse to deliver a product if the Company believes, on reasonable grounds, that customer will be unable or unwilling to pay for the product on time.

3.0 PAYMENT

- 3.1 Unless otherwise agreed to, a deposit equal to fifty percent (50%) of the order value must be received at the time the order is placed and the balance payment must be received prior to shipment unless other financial arrangements have been agreed upon in writing prior to shipment.

4.0 ACCEPTANCE

- 4.1 Unless otherwise specified in the "Agreement", delivery occurs and title passes when the product has shipped (if terms are FOB Origin) or when the product is delivered to the customer site (if FOB Destination).
- 4.2 Unless otherwise specified in the "Agreement", the return of any Max-Viz product after "Acceptance" as defined above, is subject to a restocking fee and must be returned in the original condition as "new". "New" is defined as
 - a. Unused, meaning never installed into or onto an aircraft or other device for use;
 - b. Product returns in the original protective packaging with all parts as sent;
 - c. There is no evidence of damage to the product from mishandling.
- 4.3 The restocking fees will apply to all returned products; ten percent (10%) of the original sales price for EVS Systems, and twenty-five percent (25%) of the original sales price for STC Kits.

5.0 LIMITED WARRANTY

- 5.1 The Company warrants that its products will be free from defects in workmanship and material during the applicable "Warranty Period."
- 5.2 The Company's warranty is offered on a Return-to-Factory basis. The Company shall promptly rebuild or, at its option, replace each product that fails to function in accordance with the product specifications during the Warranty Period due to a defect in workmanship or materials, and redeliver the product to the customer ex-works the Company factory in Portland provided that:
 - a. The customer promptly notifies the Company of the failure in writing no later than one (1) week after the expiration of the Warranty Period; and
 - b. On request by the Company, the customer returns the defective product to the Company in accordance with the Company's return materials authorization procedures at the customer's risk and expense. Costs incurred for the removal of equipment from aircraft, including travel and living costs, fault isolation, inbound shipment and item reinstallation are not covered by this warranty.
- 5.3 The Company shall have no liability to rebuild or replace a product if
 - a. The product is not properly installed or maintained,
 - b. The product is operated under abnormal operating conditions, or
 - c. The product is improperly used or used for purposes for which it is not intended in accordance with the Company Installation and Maintenance Manuals.

Further, the Company shall have no liability to rebuild or replace a product if the Company identity code(s) on the product has been altered, defaced or removed.

- 5.4 The Warranty Period for each product is the lesser of two (2) years from the date of installation or thirty (30) months from date of shipment, whichever comes first. The Warranty Period for a rebuilt or replaced product is three (3) months and will expire on either the expiration of three (3) months or the expiration of the original warranty for the product, whichever is later.
- 5.5 If a reported failure to function is not due to a defect in the product and no fault is found, then the customer shall pay the Company a minimum handling and evaluation charge for such services then in effect.
- 5.6 Deliverable prototypes and engineering models are provided "as is" and without warranty of any kind.

6.0 INTELLECTUAL AND INDUSTRIAL PROPERTY MATTERS

- 6.1 The Company shall, at its own expense, except as otherwise provided below, defend or settle, at its option, any claim made or any suit or proceeding brought against a customer based upon an allegation that any Company product furnished hereunder infringes a patent, trademark, copyright, industrial design or chip protection right, if notified promptly in writing and if given information, reasonable assistance and sole authority to defend or settle the same. The Company shall pay all direct damages and costs finally awarded therein against the customer. The customer shall have no authority to settle any action on behalf of the Company, and the customer shall incur no cost or expenses for the account of the Company.
- 6.2 If a product becomes, or in the Company's opinion is likely to become, the subject of a claim of infringement, the Company shall have the sole option, at its expense, to procure for a customer the right to continue using the product, replace the product with a non-infringing product, modify the product so it becomes non-infringing, or refund up to the purchase price of the product upon its return.
- 6.3 The Company shall have no liability for any infringement resulting from:
- a. Compliance with a customer's designs, specifications or instructions,
 - b. Customer modifications not specified in relevant Company publications,
 - c. Use in a manner not reasonably foreseeable, or
 - d. Use with products not supplied by the Company.
- 6.4 The remedies of the customer set out above are in lieu of, and not in addition to, any other remedy available at law or in equity in respect of the products or the use or operation thereof.
- 6.5 Except as otherwise expressly set out in these Terms and Conditions, nothing in these Terms and Conditions or in the furnishing of any information, product or service by the Company to a customer is intended to grant or otherwise transfer, either expressly or by implication, estoppels, or otherwise grant to a customer any right, license or interest of any kind to, or in, any information or any intellectual or industrial property right in such information that comes to the attention of the customer party in connection with the product, or otherwise, including but not limited to, through the inspection of the product. Customers shall not take any action inconsistent with the Company's intellectual or industrial property rights in its products. For greater particularity, a customer shall not "reverse engineer" the Company's products or any part thereof.

7.0 DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY

- 7.1 The parties agree that:
- a. The warranties, obligations and liabilities of the Company and the remedies of its customers set forth in section 5.0 are exclusive and are in substitution for, and customer hereby waives, releases and renounces, all other warranties, obligations and liabilities of the Company and any assignee of the Company, and rights, claims and remedies of customer against the Company, express or implied, arising by law or otherwise, with respect to any nonconformance or defect in any Company product, including, but not limited to, and the Company hereby disclaims, **(i)** any implied warranty of merchantability or fitness, **(ii)** any implied warranty arising from course of performance, course of dealing or usage of trade, and **(iii)** any obligation, liability, right, claim or remedy in tort, whether or not arising from the negligence of the Company, actual or imputed.
 - b. The remedies of rebuild or replacement are the only remedies of customer.
 - c. The Company shall not be liable for any obligation, liability, right, claim or remedy for loss of or damage to any aircraft, in which its products are installed, for loss of use, revenue or profit with respect to any such aircraft, or for any other direct, incidental or consequential damages.
- 7.2 The Company's total liability to its customers arising out of or in connection with a customer's use of a product, or the results of the service provided by the Company in connection with a product, shall not exceed the total amount paid by that customer to the Company for the product. The Company shall not be liable in any event for any indirect or consequential loss, costs or damages, for any economic loss, including but not limited to, loss of revenue or profit incurred by a customer as a result of or in connection with a product.
- 7.3 The customer further acknowledges and agrees that the Company shall not be liable for any unauthorized deviations from the installation guidelines, instructions and information provided in accordance with an approved supplemental type certificate for the particular aircraft.
- ## **8.0 FORCE MAJEURE**
- 8.1 The Company shall not be liable for its failure to perform any of its obligations during any period in which performance is delayed by fire, natural catastrophe, war, warlike acts, embargo, civil unrest, labor unrest (including strike or any other cause beyond the reasonable control of the Company), including, but not limited to failure of the United States Government to issue an export permit, provided that the Company promptly notifies its customers of such delays.

9.0 NOTICE

- 9.1 All notices shall be sent to the Company, to the attention of the Manager, Customer Support, 15940 SW 72nd Street, Portland, Oregon 97224 and, in the case of the other party, the person issuing the order on behalf of the other party.
- 9.2 A notice addressed as set out above, if it sent by facsimile or telex, is deemed to be given when dispatched; if the notice is sent by courier or post, it is deemed to be given only when received.

10.0 MISCELLANEOUS

- 10.1 These Terms and Conditions set forth the entire agreement and obligation of each party in respect of the subject matter hereof. These Terms and Conditions supersede all prior or collateral representations, undertakings and agreements, oral or written, concerning such subject matter, including, but not limited to, any provision set out in a customer's order.
- 10.2 No provision of these Terms and Conditions may be changed, nor may performance of any obligation hereunder be waived unless such change or waiver is set forth in a written document signed by an authorized representative of each of the parties.
- 10.3 This Agreement shall inure to the benefit of and be binding on the parties' respective permitted successors and assigns.
- 10.4 These Terms and Conditions are severable. The invalidity or unenforceability of any provision will not affect the validity or enforceability of any of the other provisions.
- 10.5 Any contract incorporating these Terms and Conditions will be governed by and interpreted in accordance with the internal laws of the State of Oregon applicable to contracts entered into in such state, by residents thereof, and to be performed entirely within such state.
- 10.6 The United Nations Convention on Contracts for the International Sale of Goods does not apply to the sale of products by the Company.
- 10.7 Exportation of Max-Viz products are subject to Export Administration Regulations (EAR) of the US Department of Commerce and other government regulations such as the International Traffic in Arms Regulations (ITAR) specified by the Office of Defense Contracts. It is the Customer's responsibility to complete all necessary documents and secure all certificates necessary to comply with these regulations. If the Company product is to be exported, the Company will assist the Customer in obtaining the proper documentation. In order to complete the export transaction, an End-User certificate or statement and a US Department of Commerce Form BIS-711 will be required from the buyer.