



#### SKYLINE™ TERMS AND CONDITIONS.

DEALERS, DISTRIBUTORS or VEHICLE OWNERS (the "CUSTOMER") agrees to purchase from SKYLINE EMISSIONS, INC. (the "SELLER") the products and services (the "Products") subject to the provisions of these standard terms and conditions ("Agreement"), including any attachments hereto.

**WARNING REGARDING CALIFORNIA.** This Product is not legal for sale and use on vehicles in California. This Product may not be distributed, sold, offered for sale, or advertised in or into the State of California—or be installed into any vehicles that are used in California and are certified as emission-compliant by the California Air Resources Board (CARB).

**DISCLAIMER** Before using any Product, CUSTOMER shall determine the suitability of such Product for Customer's intended use. Customer shall assume all risk and liability whatsoever resulting from the use of the Products. This Product may void the Original Equipment Manufacturer's warranty.

**ORDER ACCEPTANCE** No change to the quote or the Purchase Order shall be binding upon the SELLER unless accepted in writing by the SELLER. If there are inconsistencies in the TERMS AND CONDITIONS and other documents, such inconsistencies shall be considered in the following order: (i) these TERMS AND CONDITIONS, (ii) the Order Acceptance, and (iii) the Seller quotation or other contract document incorporated by reference by Seller in the Order Acceptance."

**QUOTATIONS** Stenographical and clerical errors subject to correction. Until a purchase order is accepted by us, quoted prices are subject to change without prior notice. All quotes are for immediate acceptance. CUSTOMER acknowledges that the price set forth in any quotes and/or pricing lists provided by SELLER is based on SELLER's costs included in the goods as of the date of the quotation and/or of the pricing list. In the event that such raw material, component or service costs increase (including surcharges) from the quotation date or pricing list to the Purchase Order acceptance date by SELLER, SELLER may increase the Product's price to reflect increases in such costs as of the date of any shipment. Adders and surcharges will apply and will be due and payable upon receipt of an invoice from the SELLER. Specifically, CUSTOMER pricing is subject to change at SELLER's sole discretion in the event that the market price of any of the raw materials used to manufacture the product quoted changes from the date of quotation until the purchase order is accepted by SELLER and if the time elapsed between the quote and the purchase order submission is more than thirty (30) calendar days.

**PRICING AND TAXES** All prices quoted and accepted by the SELLER in the Purchase Order form are based on U.S. dollars, and are exclusive of all installation, training, support and maintenance charges, unless otherwise specified in writing in the quote or Purchase Order Form. All purchase prices are exclusive of tariffs, sales, use, value added or other taxes, which CUSTOMER agrees to pay.

**CUSTOMER CONDUCT** CUSTOMER shall conduct its solicitation, sales and other activities under this Agreement according to good business standards, trade practices, SELLER policies and applicable laws. CUSTOMER is prohibited from selling Products to end users if the Products do not comply with the certification and verification requirements as defined by the end users and/or contract awards for a specific sale. CUSTOMER agrees to be bound by all applicable federal, state, and local laws, orders and regulations.

**RETURNS, EXCHANGES AND CANCELLATION POLICY:** Acceptance of return of Products, Exchanges and/or cancellation of orders are at SELLER's sole and absolute discretion. The SELLER reserves the right to charge the CUSTOMER for cancellation of work performed and / or restocking charges for Products returned. Product(s) should be returned in original condition to Skyline Emissions, Inc. 200 Progress Drive, Montgomeryville, PA 18936. Shipping costs for returns and exchanges to be paid by the CUSTOMER.

**REJECTIONS** CUSTOMER shall inspect all Products promptly upon receipt thereof at the shipping destination and may reject any Products which fail the quality specifications as determined by SELLER on the date of delivery. Products that fail the quality specifications as determined by SELLER (the "Rejected Products") that are not rejected by written notification to SELLER within ten (10) working days of receipt shall be deemed to have been accepted. Before returning Rejected Products, the CUSTOMER must complete and submit a Returns Goods Authorization ("RGA") form to SELLER and obtain a RGA number for submission with the Rejected Products. Rejected Products shall be returned freight prepaid by CUSTOMER to SELLER within five (5) working days of receiving a RGA from SELLER. As promptly as possible but not later than thirty (30) working days after receipt by SELLER of properly Rejected Products, SELLER shall replace such Rejected Products, prepay transportation charges back to CUSTOMER and reimburse CUSTOMER for any costs of transportation incurred by CUSTOMER in connection with the return to SELLER of such Rejected Products. For Rejected Products which SELLER finds to be improperly rejected, such findings are at SELLER's sole and absolute judgment and with no 3<sup>rd</sup> parties involved in the decision, CUSTOMER shall pay transportation charges in both directions. Before products are shipped to CUSTOMER a Purchase Order will be issued to SELLER to compensate SELLER for labor, restocking fees and other relevant costs incurred by SELLER during the SELLER's product inspection process.

**SHORTAGE OF DELIVERY** Written claims for shortage in delivery to CUSTOMER must be made within ten (10) working days of the delivery of the Products to CUSTOMER, where CUSTOMER shall verify the number of parcels and the contents of any opened parcels. All shortage of delivery claims or for wrong goods, that are apparent upon receipt of the shipment, shall be in writing to SELLER within ten (10) working days after CUSTOMER learns of the fact on which such claims are based.

**NO SET-OFF** In no event shall CUSTOMER be entitled to deduct or set-off any claims against money due or to become due to SELLER from any counterclaim arising out of this or any other transaction with the SELLER.

**INTELLECTUAL PROPERTY** Neither Customer, nor its affiliates (nor their respective successors, assigns, licensees or other transferees) shall enforce (or attempt or purport to enforce) against SELLER or its affiliates, (sub)licensees, manufacturers, and distributors any existing or future patent that claims (or purports to claim) any or part of the Products or the use, design, manufacturing, layout and packaging thereof. This non assertion covenant shall be a covenant that transfers with any sale, license or other disposition or grant of rights under the applicable patent rights

**CONFIDENTIAL INFORMATION** Customer shall not disclose proprietary or confidential business or technical information disclosed by SELLER or related to any Products to any third parties and shall not use such information for its own benefit or for any purpose other than for the express purpose for which it was disclosed as set forth in writing by SELLER at the time of disclosure.

**WARRANTY** SELLER warrants the Products to be free from defects in material or workmanship according to the SELLER's warranty policy as stated in the Product's owner's manual. SELLER will only warrant product if conditions as determined in the Product's owner's manual are adhered to. SELLER's warranty will not apply if Product replacement is required because of accident, neglect, misuse, transportation or other causes outside of SELLER's control. All regular freight shipping costs will be paid by SELLER unless the Product is found upon inspection by SELLER not to be eligible for replacement under this warranty, in which case the CUSTOMER shall be responsible for the shipping costs. Expedited freight charges shall be the sole responsibility of the CUSTOMER. THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

**LIMITATION ON PRODUCT AND INSTALLATION WARRANTY LIABILITY** SELLER WILL NOT BE LIABLE FOR ANY LOSS, DAMAGE, OR EXPENSE, INCLUDING INJURY OR DAMAGE TO BUSINESS, EARNINGS, PROFITS OR GOODWILL SUFFERED BY ANY PERSON INCLUDING DISTRIBUTOR AND ITS CUSTOMERS, CAUSED DIRECTLY OR INDIRECTLY BY THE IMPROPER PRODUCT INSTALLATION OR MAINTENANCE SERVICE BY DISTRIBUTOR OR CUSTOMER, AND/OR VEHICLE/PRODUCT ACCIDENT, NEGLIGENCE, MISUSE, COMPONENT SWAPPING, IMPROPER USE OF ALTERNATIVE FUELS OR FUEL ADDITIVES, TRANSPORTATION OR OTHER CAUSES OUTSIDE OF SELLER'S CONTROL PURSUANT TO THE PRODUCT'S OWNER'S MANUAL; AND IN NO EVENT WILL SELLER BE LIABLE FOR ANY DAMAGES, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, FOR ANY COSTS OF PROCUREMENT OF SUBSTITUTE GOODS, FOR ANY CONSEQUENTIAL, SPECIAL, INDIRECT OR INCIDENTAL DAMAGES, OR FOR PENALTIES SUFFERED BY DISTRIBUTOR, ITS CUSTOMERS OR ANY OTHER PARTY DUE TO IMPROPER PRODUCT INSTALLATION OR MAINTENANCE SERVICE BY DISTRIBUTOR OR CUSTOMER, AND/OR VEHICLE/PRODUCT ACCIDENT, NEGLIGENCE, MISUSE, COMPONENT SWAPPING, IMPROPER USE OF ALTERNATIVE FUELS OR FUEL ADDITIVES, TRANSPORTATION OR OTHER CAUSES OUTSIDE OF SELLER'S CONTROL PURSUANT TO THE PRODUCT'S OWNER'S MANUAL, EVEN IF SELLER WILL HAVE BEEN ADVISED OF THE POSSIBILITY OF SAME. THIS LIMITATION IS INTENDED TO LIMIT THE LIABILITY OF SELLER AND WILL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. SKYLINE™ PARTS CARRY A LIMITED WARRANTY OF 1 YEAR. COMPONENTS THAT ARE SUBJECT TO REGULAR USAGE WEAR AND TEAR ARE NOT COVERED UNDER THE STANDARD SELLER PRODUCT WARRANTY, THESE COMPONENTS INCLUDE BRACKETS, RUBBER COMPONENTS, GASKETS, SEALS, NUTS, BOLTS AND WASHERS. No loss or damage to the Products or any portion thereof shall relieve the Customer from its obligations hereunder.

**MODIFICATIONS** The sales conditions contained herein may not be modified except by a specific amendment thereto and endorsed hereon by the Parties, nor may these sales conditions be modified by any provisions contained in the CUSTOMER's purchase order.

**CUSTOMER'S SALES** All Product sales by CUSTOMER to its end users shall be at CUSTOMER's discretion and at CUSTOMER's sole risk of collection and loss. CUSTOMER shall be responsible for selecting the appropriate product for the end user's application (e.g. sizing) and for payment to SELLER for the Products ordered by CUSTOMER irrespective of whether CUSTOMER receives payment from its end users.

**TERMS OF DELIVERY** Transport insurance and other business liability insurance for risks shall be taken out by CUSTOMER. Irrespective thereof, SELLER shall take out a business liability insurance policy for risks following general practice. CUSTOMER is responsible for transport insurance, no shipments are insured unless requested in writing on the CUSTOMER's order and will be charged back to CUSTOMER at cost.

**PAYMENT TERMS** Payment for Products purchased by CUSTOMER will be due on credit terms as approved by SELLER in its absolute and sole discretion. All payments shall be in U.S. dollars. All exchange, interest, banking, collection or other charges shall be at the sole expense of CUSTOMER. SELLER reserves the right to revoke any credit extended to CUSTOMER and suspend shipment of any Products ordered by CUSTOMER if CUSTOMER fails to make any payments to SELLER when due. CUSTOMER acknowledges and agrees that all amounts not timely paid by CUSTOMER to SELLER shall bear interest as set forth below for overdue accounts and that CUSTOMER shall reimburse SELLER for all attorneys' fees and expenses incurred by SELLER in collecting such amounts.

**FAILURE OF PAYMENT** If CUSTOMER fails to make any payment within agreed terms ("due date"), the SELLER shall not be obligated to continue performance under any agreement with CUSTOMER and shall be entitled to collect interest on the outstanding balance at a rate of 1.5% per month or the maximum rate permitted by law, whichever is lower. The charging of such interest shall not be construed as obligating SELLER to grant any extension of time in the terms of payment. No cash discount shall be available to the Customer. In addition the SELLER may invoice and collect from CUSTOMER for any inventory or purchase commitments held or made in and on behalf of the CUSTOMER.

**TITLE RETENTION** Title or ownership of the Products shall not pass to the Customer, notwithstanding delivery thereof, but shall remain vested in SELLER until the purchase price of the Products is paid in full. Upon default by the Customer, and subject to applicable law, SELLER may repossess and deal with the Products as it sees fit and retain all payments which have been made by the Customer on account of the purchase price as partial damages. Upon any such realization of security, the Customer shall remain liable for any deficiency in the purchase price and shall reimburse SELLER for all costs and expenses, including reasonable legal fees, incurred in enforcing its rights. All rights and remedies of SELLER are cumulative and in addition to those available at law or in equity

**APPLICABLE LAWS** This Agreement and any Terms Agreement shall be governed by and construed in accordance with the laws of the State of New York. Each of the parties hereto hereby irrevocably submits to the exclusive jurisdiction of the Courts of the State of New York located in the County of New York and the Federal courts of the United States of America located in the County of New York for the purpose of any action or proceeding arising out of or relating to this Agreement

**WAIVER OF JURY TRIAL** Each of the parties hereto hereby irrevocably waives any and all right to trial by jury in any legal proceeding arising out of or related to this Agreement or the Products.

**LIABILITY LIMITATION AND STATUTE OF LIMITATION** Except for cases of negligence or willful misconduct by CUSTOMER, neither party shall be liable to the other, whether by way of contribution, indemnification or otherwise, for punitive, special or consequential damages, regardless of whether such claim for damages is based upon delays in delivery, breach of warranty, or other breach of contract, strict liability, negligence, or any other theory now known or hereinafter adopted by legislation or by any court. In no event shall SELLER be liable for anticipated profits or for incidental or consequential damages. SELLER's liability on any claim of any kind of any loss or damage arising out of or in connection with or resulting from this Agreement or from the performance or breach thereof shall in no case exceed the price allocable to the goods and/or services or unit thereof which gives rise to the claim. SELLER shall not be liable for penalties of any description. Any action resulting from any breach on the part of the SELLER as to the goods and/or services delivered hereunder must be commenced within one year after the cause of the action has accrued. Limitation of liability in this section as part of a bargain with respect to the pricing of the products and understands that the pricing would be higher if SELLER were required to bear liability in excess of that stated herein. SELLER neither assumes nor authorizes any person, firm or entity to assume for SELLER any other additional liability or responsibility in connection with the Products, including any affirmation, representation, or warranty concerning the Products made by an agent, employee, or representative of SELLER

**SURVIVAL** All payment obligations, provisions for the limitation of or protection against liability of SELLER and any other provision of an Agreement which by its nature are continuing shall survive the termination, cancellation or expiration of such Agreement.

**FORCE MAJEURE** Neither party shall be liable to the other for any other for any expense, claim, loss or damage suffered by reason of such party's failure to perform its obligations pursuant to this Agreement if such failure to perform is due to acts beyond the control of the party not performing. Such acts include, but are not limited to, Acts of God or public enemy, acts of national, state, or local government in its sovereign or contractual capacity, fires, floods, civil disobedience, strikes, lockouts, or freight embargo. **WAIVER** SELLER'S failure to insist on the performance of any of the terms or condition herein or to exercise any right or privilege of SELLER's waiver of a breach hereunder, shall not thereafter waive any other terms, conditions or privilege whether of the same or similar type.