

**AMARILLO GEAR COMPANY LLC**  
**TERMS AND CONDITIONS OF SALE**  
**Effective: January 1, 2014**

1. **Acceptance; Agreement.** These Terms and Conditions of Sale (these “Terms and Conditions”) constitute the sole terms and conditions of the agreement between you (“Buyer”) and Amarillo Gear Company LLC, as seller (“Seller”) with regard to the provision of product renewal services and the resulting renewed product (“Renewed Goods”) and all sales of goods (“New Goods”, and together with Renewed Goods, collectively, “Goods”). These Terms and Conditions supersede all other terms and conditions, oral or written, and all other communications between the parties suggesting additional or different terms. These Terms and Conditions expressly limit acceptance to these provisions. No order shall have any force or effect until the earlier of acknowledgment in writing by Seller or commencement of manufacture or shipment of Goods. Any proposal for additional or different terms or any attempt by Buyer to vary in any degree any of the provisions of these Terms and Conditions is hereby deemed material and is objected to and rejected. No terms of any document or form submitted by Buyer shall be effective to alter or add to the provisions contained in these Terms and Conditions. Unless otherwise stated herein, Buyer's submission of a purchaser order, or receipt of any portion of the Goods shall constitute acceptance of these Terms and Conditions without objection.

2. **Prices.** Seller's prices are subject to change without notice. Unless otherwise specified, all quotations are valid only for immediate acceptance. Seller reserves the right to correct any errors or omissions in quotations, specifications or prices without liability. Unless Seller otherwise specifies in writing, all freight, insurance and shipping charges shall be at Buyer’s sole cost and expense.

3. **Orders.** All orders are subject to acceptance at Seller's office.

4. **Terms of Payment.** Payment terms will be those approved by Seller. Granting of credit terms is subject to continuing approval of Buyer’s credit by Seller. If Buyer's credit becomes unsatisfactory to Seller for any reason, Seller may, at its sole discretion, require different payment terms, including, but not limited to, payment in advance of shipment. In addition, Seller, at its discretion, may require advance deposits of up to 100% of the selling price for specially manufactured goods ordered by Buyer.

No discounts shall be taken except as specifically allowed in writing by Seller. The price for the Goods and all other amounts due to Seller from Buyer shall be paid without abatement, deduction, or setoff. The date of payment of an invoice shall be the date the payment is received by Seller at location designated on the invoice. If Buyer’s account becomes delinquent, Buyer shall be liable for all costs and expenses related to collection of past due amounts, including, without limitation, costs of collection, attorneys’ fees, and expenses.

5. **Taxes.** Prices do not include any sales, use, excise, privilege, or other taxes or assessments now or hereafter imposed or levied by or under the authority of any federal, state, or local law, rule, or regulation. If Seller pays any such taxes or assessments, Buyer shall, upon demand, immediately reimburse Seller for such amounts.

6. **Risk of Loss.** All risk of loss or damage to Goods shall pass to Buyer upon delivery thereof to Buyer, to its designated agent, to a carrier for delivery to Buyer or being made available to

Buyer, whichever occurs first. Unless otherwise agreed by Seller in writing, all shipments shall be EX Works Amarillo, Texas.

7. **Delivery.** All shipping and delivery dates are estimates and are based upon prompt receipt of all necessary information from Buyer. Delays in securing Buyer's approval of necessary specifications or samples of products and materials shall, if Seller so chooses, extend the date of delivery. Seller shall not be liable for any claim, Loss, expense, or damage of any kind whatsoever for delays in delivery.

8. **Limited Warranties and LIMITATIONS ON WARRANTIES.**

Unless otherwise provided with the particular Goods, Seller warrants to Buyer that the Amarillo Right Angle Fan Drive, Amarillo Parallel Shaft Gear Drive, and the Amarillo Gear Composite Drive Shaft (whether new or renewed) will be free from defects in material and workmanship for a period ending on the earlier to occur twelve months from the date of installation or eighteen months from the date of shipment from Seller's factory. Seller warrants to Buyer that the Amarillo Right Angle Pump Drive (new) will be free from defects in material and workmanship for a period ending on the earlier to occur of twenty four months from date of installation or thirty months from date of shipment from Seller's factory. All other products will be free from defects in material and workmanship for a period ending 12 months from ship date. This Limited Warranty shall be void if the Goods are not installed, operated, serviced and maintained in accordance with Seller's published instructions for the Goods in effect from time to time or if transmitted loads are not within the published limits for the Goods. In addition, this Limited Warranty shall be void if the Goods are is in any way subjected to: (i) improper storage; (ii) accident, damage, abuse or misuse; (iii) abnormal operating conditions or applications; or (iv) repair or modification by Buyer or any third party without the prior written consent of Seller. Any contract created between the Seller and Buyer is subject to the specific condition that Seller is not obligated to provide insurance, defend and/or indemnify any person or entity other than as provided in Section 12 and that there are no flow-downs from the federal government that become part of the contract.

With respect to any defect in material or workmanship covered by this Limited Warranty, if Buyer notifies Seller of such defect in writing within the warranty period, Seller will, at its sole option, (i) with respect to New Goods, either repair or replace any such defective Goods or part thereof, or (ii) with respect to Renewed Goods, repair or re-perform the defective services or part thereof. This shall be Buyer's exclusive remedy. Any claims not made within the warranty period are deemed waived by Buyer. Before returning any Goods or part hereunder, Buyer must contact Seller for a Return Goods Authorization number and to arrange for transportation. Seller will not pay any transportation costs incurred without its prior written approval.

In no event will Seller be liable, whether in tort, contract or otherwise, for any bodily injury, death, or property damage resulting from or in any way arising out of any Goods or their sale, use, renewal or manufacture. Seller shall not be liable for any costs for removal, shipping or re-installation of the Goods. **IN NO EVENT SHALL SELLER BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, OR ANY OTHER LOSSES OR EXPENSES.**

No change in any provision in this Limited Warranty may be made without the prior written agreement of an authorized officer of Seller.

**THIS IS THE SELLER'S ONLY WARRANTY. SELLER MAKES NO OTHER WARRANTY OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED. ALL**

**IMPLIED WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR ANY PARTICULAR PURPOSE ARE HEREBY DISCLAIMED AND EXCLUDED BY SELLER.**

9. **Claims.** Buyer agrees to inspect Goods upon arrival. If any Goods received by Buyer are damaged, or if the quantities received by Buyer do not agree with the quantities indicated on the shipping documents, and if Buyer intends to assert any claim against Seller on this account, Buyer shall mark an exception on its receipt to the carrier and shall, within fifteen (15) days after receipt of such Goods, furnish Seller detailed written information as to any damage or shortage. Buyer shall advise Seller in writing promptly after receipt of any Goods, and in no event not later than thirty (30) days after such receipt of any claim Buyer may have against Seller with respect to such Goods. Failure to give written notice during the foregoing periods will constitute satisfactory shipment by Seller and Buyer's irrevocable acceptance of all Goods. If Buyer has any claims with respect to any Goods, Buyer shall afford Seller a reasonable opportunity to inspect such Goods. Any action arising from or relating to these Terms and Conditions or the Goods must be commenced by Buyer within one year after the expiration of the applicable Limited Warranty, and no such action may be maintained which is not commenced within such period.

10. **Returns.** Goods may not be returned without prior written authorization of Seller. Requests to return Goods must be made within 30 days after receipt of Goods by Buyer. Returns are authorized at Seller's discretion. Goods must be in new condition and able to be returned to stock without further repair or refurbishment. All Goods returned hereunder must be shipped to Seller prepaid. Renewed Goods are not returnable and Goods that are made to order, discontinued or custom products are not returnable for credit. All returns must show the return goods authorization number on the packages. Seller reserves the right to establish a restocking fee not to exceed 100% of the value of the Goods.

11. **Tools, Dies and Fixtures.** Unless otherwise expressly set forth in writing by Seller, any tools, dies or fixtures which may be used, developed or acquired for use in the production of the Goods shall be owned by Seller even though Buyer may be charged in whole or part for the cost of such tools, dies and/or fixtures.

12. **Indemnification.** Buyer shall defend, indemnify and hold Seller, its affiliates and their respective representatives, agents, employees, successors and assigns harmless from and against all claims, suits, demands, losses, liabilities, damages and expenses (including, without limitation, reasonable attorneys' fees) (collectively, "Losses"), including death or injury, arising out of or relating to (a) Buyer provided specifications, structure, operation, material, method of manufacture or other directions including, without limitation, any resulting violation of intellectual or proprietary rights; (b) accident, damage or Buyer's use, abuse, misuse; (c) Buyer's non-compliance with any federal, state, or local law or regulation; (d) Buyer's breach of these Terms and Conditions; and (e) Goods being subjected to, in whole or part: (i) improper installation or storage; (ii) accident, damage, abuse or misuse; (iii) abnormal operating conditions or applications; (iv) operating conditions or applications above the rated capacity of the Goods; or (v) any use or application other than or varying in any degree from Seller's instructions or that for which the Goods were designed.

13. **Patents.** Except with respect to Renewed Goods and Goods manufactured in accordance with Buyer provided specifications, structure, operation, material, method of manufacture or other

directions and except for Goods or components thereof manufactured by others and resold by Seller, and provided Buyer has made all payments due hereunder, Seller shall defend, at its expense, any suit or proceeding brought against Buyer based upon any claim that the New Goods or any part thereof infringe any United States patent issued as of the date of Seller's quotation and shall pay any damages and costs awarded therein against Buyer, provided that Seller is notified promptly in writing of such claim and is given full authority, information and assistance by Buyer to defend or settle the suit. If the Goods or any part thereof are deemed to infringe any such patent, Seller shall, at its expense and sole option either: procure for Buyer the right to continue using said Goods or part; replace them with non-infringing Goods or parts; modify them so they become non-infringing; or remove them and refund the depreciated purchase price for them.

14. **Force Majeure.** Seller shall not be liable for any delay in or failure of performance hereunder due to any contingency beyond its reasonable control.

15. **Termination.** Seller shall have the right to terminate the agreement formed by these Terms and Conditions or to cease work hereunder, in whole or in part, at any time, if (i) Buyer is in default of or commits a breach of any of the provisions of these Terms and Conditions or any other agreement it has with Seller; (ii) a petition initiating a proceeding under any applicable law relating to bankruptcy, insolvency, or reorganization is filed by or against Buyer; (iii) Buyer executes an assignment for benefit or creditors; (iv) a receiver is appointed for Buyer or any substantial part of its assets; or (v) Seller has any reasonable ground for insecurity with respect to Buyer's ability to perform and Buyer is unable to provide Seller with adequate assurance of its ability to perform within ten days, or such other period of time designated by Seller, after written request therefor by Seller.

Seller's right to terminate under this section is not an exclusive remedy. Seller shall be entitled to all other rights and remedies it may either at law or in equity. No termination hereunder shall affect any accrued rights or obligations of either party as of the effective date of such termination.

16. **Storage.** In absence of agreed shipping dates, Seller shall have the right to invoice Buyer and ship the Goods once they are ready for shipment. If Buyer is unwilling to accept shipment of the Goods on the agreed shipping date or as provided in the prior sentence, Seller may, at its option, place the Goods in storage and bill Buyer for the storage charges. In such case, risk of loss shall pass to Buyer when the Goods are placed in storage, and the date the Goods are placed in storage shall constitute the date of shipment for purposes of beginning the warranty period.

17. **Waiver.** Failure of Seller at any time to require Buyer's performance of any obligation hereunder shall not affect Seller's right to require performance of that obligation or of any other obligation of Buyer hereunder. No delay or omission by Seller in the exercise of any right, power, or remedy hereunder shall impair such right, power, or remedy or be considered to be a waiver of any default or acquiescence therein.

18. **Amendment:** Any attempt by Buyer to modify, supersede, supplement or otherwise alter these Terms and Conditions will not modify these Terms and Conditions or be binding on Seller unless such change has been approved in a signed writing by Seller which expressly states that these Terms and Conditions are modified, superseded, supplemented or otherwise altered.

19. **Miscellaneous.** Buyer shall not assign any of its rights or obligations hereunder without Seller's prior written consent. Provisions which by their nature should survive will remain in force after any termination or expiration. These Terms and Conditions shall be construed in accordance with the laws of the State of Texas without regard to any rules on conflicts of laws. Buyer hereby consents to personal jurisdiction in the State of Texas. The section headings contained herein are not part of these Terms and Conditions and are included solely for the convenience of the parties.