



Li Gear, Inc.

Terms and Conditions

1. General

These Terms and Conditions set forth the terms and conditions pursuant to which the purchaser (“**Purchaser**”) will purchase and Li Gear, Inc., (“**Seller**”) will sell any gears, gearboxes or gear-related products (the “**Products**”), including any pre-and post-sale services provided by **Seller** in connection with the sale of **Products**. By ordering the **Products**, by accepting the **Products**, and/or by acknowledging the receipt of any quotation, **Purchaser** agrees that these Terms and Conditions shall govern and apply to the sale of the **Products** to **Purchaser**, regardless of any terms and conditions appearing on any purchase order or other forms submitted by **Purchaser** to **Seller**, given verbally by **Purchaser** to **Seller**, or appearing on **Purchaser’s** website. **Seller** expressly rejects any and all other additional, contrary or inconsistent terms and conditions.

2. Acceptance/Inspection/Return

All orders for **Products** are subject to **Seller’s** acceptance at **Seller’s** office on these terms only. **Purchaser** may not assign any quotation, proposal or order without **Seller’s** prior written consent. **Purchaser** shall not return any **Products** delivered to **Purchaser** without the written consent of, and upon terms agreed to by, **Seller**. **Purchaser** is advised to promptly inspect all **Products** upon receipt, and not to open any **Product** containers that show any signs of damage or tampering. **Purchaser** waives any claim that **Products** are defective or non-confirming as a result of damages that occurred in delivery upon **Purchaser’s** opening of the **Product** packaging. **Purchaser** shall otherwise promptly notify **Seller** in writing of any defects or non-conformities in **Products** upon its receipt of the **Products**. Failure to provide such written notice within five business days of **Purchaser’s** receipt of the **Products** shall constitute a waiver of any right to reject the **Products** or to revoke **Purchaser’s** acceptance of the **Products**.

See **Seller’s** “Return Authorization Policy” for additional information on the return of **Products**.

3. Price/Taxes

1. All prices are subject to change by **Seller** without notice prior to **Seller’s** acceptance of **Purchaser’s** order.
2. All prices are subject to change by **Seller** after **Seller’s** acceptance of **Purchaser’s** order pursuant to the terms and conditions of **Seller’s** Quotation or any document incorporated therein or attached thereto.

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3. All prices are subject to change by **Seller** at any time in the event of any change in **Purchaser's** requirements, including a change in **Purchaser's** delivery, production, or packing requirements (quoted price including **Seller's** standard packing).
4. All prices are exclusive of all federal, state, municipal, or other governmental entity's excise, sales, use, occupational, or any other taxes now imposed or hereafter becoming effective.
5. **Purchaser** shall be responsible for collecting and/or paying any and all such taxes, whether or not they are stated in any invoice. **Purchaser** shall indemnify **Seller** from and against the imposition and payment of such taxes. **Seller** may separately bill **Purchaser** for any taxes not included in **Seller's** invoice and **Purchaser** shall pay said taxes, or in lieu thereof, shall provide **Seller** with a tax exemption certificate acceptable to taxing authorities. If **Seller** arranges for transportation of the Products from **Seller's** location, all costs and expenses relating thereto shall be paid by **Purchaser** to **Seller** upon presentation of **Seller's** invoice therefor.
6. All prices for the Products are F.O.B. Chicago, Illinois, unless otherwise specified by **Seller**.
7. Quoted pricing for Products excludes costs of shipping from Chicago to **Purchaser's** delivery location, taxes, and insurance.
8. In special circumstances and upon mutual agreement between **Seller** and **Purchaser**, alternate shipping arrangements, including direct delivery to **Purchaser**, may be made at **Purchaser's** expense.
9. If delivery or installation of the Products is delayed primarily due to the fault of **Purchaser**, all additional expenses incurred by **Seller** resulting from such delay shall be chargeable to and paid by **Purchaser**. Such expenses shall include charges for storage.

4. Delivery and Freight Charges

1. The shipping date(s) specified in **Seller's** Quotations are approximate only and may be affected by circumstances beyond **Seller's** control.
2. The final shipping date(s) will be computed after **Seller** has receive all the data it requires to manufacture or engineer goods for **Purchaser** or after **Seller** accepts **Purchaser's** order, whichever is later.
3. Every effort will be made to effect shipment within the time stated. However, **Seller** shall not be liable for any damages resulting directly or indirectly from delays in the manufacture, shipping, or delivery of goods caused by fire, flood, war, or riot, embargo, strikes, acts of God, acts of civil or military authorities, civil strife or insurrection, transportation delay, whether at place of manufacture

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or elsewhere, fuel, power, or other energy or material shortages, or from delay by reason of any rule, regulation or order of any governmental authority, or from other causes beyond **Seller's** control. In the event of such delay, the shipping date shall be extended for a reasonable length of time, but not less than the time actually lost by reason of the delay.

4. Any change in **Purchaser's** requirements will require the confirmation or revision of the shipping date(s) by **Seller**.
5. IN NO EVENT SHALL **SELLER** BE LIABLE FOR ANY INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES OCCASIONED BY **SELLER'S** OR **SELLER'S** AGENTS' DELAYS, WHETHER OR NOT BEYOND **SELLER'S** CONTROL.

5. Invoices/Payment Terms

Seller will issue **Purchaser** an invoice upon delivery of Products to **Purchaser** or to a location or carrier selected by **Purchaser** in accordance with Section 4. Full payment is due within thirty (30) days of the invoice date.

6. Tooling Fee

Certain orders may incur a tooling fee, which will be separately quoted. If a tooling fee is required, it must be paid by **Purchaser** when the order is confirmed and production will not commence until the fee is paid. All tooling fees are non-refundable.

7. Late Payment

In the event any amount due from **Purchaser** is not timely paid, such amount will accrue interest at a rate of 12% per annum. In addition, **Purchaser** will pay all costs and expenses incurred in connection with the collection of such unpaid amount and interest, including reasonable attorneys' fees and court costs.

8. Cancellation

In the event **Purchaser** requests **Seller** to stop work on or cancel an order or any part thereof, cancellation charges shall be paid to **Seller** as follows:

1. Any work that has been completed or is scheduled to be completed within 30 days of the date **Purchaser** notifies **Seller** in writing to stop work or to cancel shall be invoiced to and be paid in full by **Purchaser**.



2. **Purchaser** must pay the actual costs and overhead expenses, plus 20%, for work in process not covered by paragraph 8.1., and any materials and supplies procured or for which commitments have been made by **Seller** in connection with **Purchaser's** order.
3. **Purchaser** shall promptly instruct **Seller** as to the disposition of the Product and **Seller** shall, if requested, hold the Product for **Purchaser's** account for a reasonable period of time. All costs of storage, insurance, handling, boxing, and or any other costs in connection with such storage shall be borne by **Purchaser**.

In the event of cancellation, **Seller** shall also be entitled to all applicable remedies under the Uniform Commercial Code or other applicable law.

9. Warranty

- (a) **Purchaser** acknowledges that **Seller** has no control over, and is and is not responsible for the manner in which the Products will be used or otherwise be applied by the **Purchaser**. The **Purchaser** therefore agrees to assume all responsibility for any and all sums which the **Seller** and/or the **Purchaser** becomes obligated to pay because of bodily injury or property damages caused by or resulting directly or indirectly from the installation, maintenance, use, or operation of the Products, or the failure of the Products to comply with any safety laws or regulations. **Purchaser** shall indemnify and hold **Seller** harmless from and against any and all actions, claims or demands arising out of or in any way connected with the installation, maintenance, use, or operation, of the Products, or the design, construction or composition of any item or items made or handled by the Products supplied hereunder, including any such actions, claims and demands based in whole or in part on the default or negligence of the **Seller**.
- (b) **Limited Warranty.** **Seller** warrants that the Products sold hereunder will be free from defects in material and workmanship at the time of delivery. In the event that any defects in material or workmanship shall be discovered or become evident in the Products within one year from the date the Products are delivered to **Purchaser**, **Seller** shall repair or replace any defective Products or part thereof, or refund the purchase price thereof, as set forth herein, at **Seller's** sole and exclusive election, subject to the limitations set forth in these Terms.

All parts and/or components of Product(s) alleged to be defective shall at all times be subject to inspection by **Seller** and **Purchaser** shall not dispose of or otherwise modify or destroy the same before inspection by **Seller**. All such parts and/or components shall be returned by **Purchaser** to **Seller** upon **Seller's** request. Furthermore, all freight and related expenses for the return of any alleged defective parts/components and the shipment and delivery of replacement parts and components to **Purchaser** shall be for the account of **Purchaser** and **Purchaser** shall pay the same and/or reimburse **Seller** for the same to the extent paid/incurred by **Seller**.



- (c) **Limitations.** SELLER'S WARRANTY HEREIN IS IN LIEU OF AND EXCLUDES ALL OTHER WARRANTIES OF SELLER AND THE MANUFACTURER OF THE PRODUCTS (COLLECTIVELY, "Manufacturing and Selling Parties"), WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE CREATED UNDER APPLICABLE LAW, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY, ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR USE, AND ANY WARRANTY BY SAMPLE. IN NO EVENT SHALL SELLER OR THE MANUFACTURING PARTIES BE LIABLE (AND PURCHASER SHALL NOT ASSERT ANY CLAIM) FOR SPECIAL, INCIDENTAL, COMPENSATORY OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFITS.

IN ADDITION, THIS WARRANTY SHALL NOT APPLY TO ANY PRODUCTS OR PORTIONS THEREOF WHICH HAVE BEEN SUBJECTED TO ABUSE, MISUSE, IMPROPER INSTALLATION, MAINTENANCE OR OPERATION (INCLUDING, BUT NOT LIMITED TO, THE MATTERS SET FORTH IN SUBPARAGRAPH 5(c) HEREOF), ELECTRICAL FAILURE OR ABNORMAL CONDITIONS; AND TO PRODUCTS THAT HAVE BEEN TAMPERED WITH, ALTERED, MODIFIED, REPAIRED OR REWORKED BY ANYONE NOT APPROVED BY SELLER. THIS WARRANTY SHALL NOT APPLY TO THE PORTIONS OF THE PRODUCTS NOT MANUFACTURED BY SELLER AND THE MANUFACTURING PARTIES. PURCHASER'S SOLE AND EXCLUSIVE REMEDIES UNDER THIS WARRANTY SHALL BE LIMITED, AT SELLER'S EXCLUSIVE DISCRETION, TO: (1) REPLACEMENT OF ANY DEFECTIVE PRODUCTS OR PART THEREOF; OR (2) REPAIR OF ANY DEFECTIVE PRODUCTS OR PART THEREOF; OR (3) RETURN OF THE PURCHASE PRICE FOR ANY DEFECTIVE PRODUCT OR PART THEREOF. IN NO EVENT SHALL SELLER'S LIABILITY HEREUNDER OR OTHERWISE ARISING RELATIVE TO THE SALE OF THE PRODUCTS EXCEED IN ANY EVENT OR UNDER ANY THEORY OR CAUSE OF ACTION, THE PURCHASE PRICE PAID BY PURCHASER TO SELLER FOR THE DEFECTIVE PRODUCT(S).

- (d) **Only Warranty is Found in These Terms.** No agent, employee or representative of **Seller** (or any distributor, dealer or sales representative of **Seller**) has the authority to bind **Seller** to any affirmation, representation or warranty concerning the Products sold hereunder, and unless such affirmation, representation or warranty is specifically included in these Terms and Conditions, it will not form a part of the basis of these Terms and Conditions and shall in no way be binding upon the **Seller** or enforceable by **Purchaser**.
- (e) **Limitations of Actions.** Any statute or law to the contrary notwithstanding, any actions to recover for any loss or damage arising out of, connected with, or resulting from any Quotation for or sale of Products, or from the performance or breach thereof must be commenced with one (1) year period after the cause of action accrues to **Purchaser**, unless otherwise extended by **Seller** in writing. It is expressly agreed that there are no warranties of future performance pertaining to the Products that are the subject of these Terms and Conditions that would extend such one-year period of limitation.



10. Patent Infringement

Seller is not aware of any patents that might apply to the Products or their designs, and therefore, **Seller** makes no representation that the Products will not in and of themselves infringe any patent of the United States. Purchaser shall bear all responsibility for ensuring the Products do not infringe on any patent rights or know-how, and Purchaser shall defend, indemnify, and hold harmless **Seller** in the event a claim is asserted against either party for such infringement, regardless of whether such claim has any merit.

In no event will **Seller** and/or Selling Parties be liable for any patent infringement based on the use of the Products for purposes other than those for which they are sold by **Seller**. **Seller** makes no warranty against patent infringement resulting from portions of the Products made to **Purchaser's** specifications or the use of Products in combination with any other Products or in the practice of any process and if a claim, suit or action against the Manufacturing or Selling Parties is based thereon, **Purchaser** shall defend, indemnify and save **Seller** and the Manufacturing and Selling Parties harmless from and against any and all claims, losses or damages arising there from.

11. Non-Circumvention

Purchaser agrees that for as long as it is doing business with **Seller** and for three (3) years after the delivery of and payment for the Products covered in **Purchaser's** final purchase, it will not: i) directly or indirectly, place orders with, or attempt to purchase goods from, **Seller's** suppliers for Products that **Seller** has sold to **Purchaser** or similar Products, or provided quotes for; or ii) direct potential purchasers to **Seller's** suppliers or assist potential purchasers to contact **Seller's** suppliers. It is acknowledged and agreed that **Purchaser** will be deemed to be in material breach of this agreement if any entity controlled by, or under common control with **Purchaser**, violates this "non-circumvention" provision. **Purchaser** understands that this restriction is necessary and reasonable due to the considerable time, effort and cost expended by **Seller** in identifying, vetting and cultivating a relationship with reliable suppliers, and establishing such suppliers as a valuable resource of **Seller**. In the event **Purchaser** approaches **Seller's** suppliers, directly or indirectly, without **Seller's** consent or involvement, **Purchaser** agrees that it will have caused irreparable harm to **Seller's** business.

12. Force Majeure

Seller's obligations hereunder are subject to, and **Seller** shall not be held responsible for, any delay or failure to make delivery of all or any part of the Products due to acts or circumstances beyond the control of **Seller**, including, but not limited to, labor difficulties, fires, casualties, accidents, acts of God, acts of terrorism, materials fluctuations in currency exchange rates, transportation difficulties, inability to obtain Products, materials, components or qualified labor sufficient to timely perform part or all of any obligation, or governmental regulations or actions. In the event of the occurrence of any of the foregoing, at the option of **Seller**, **Seller** shall be excused from the performance hereunder or the performance of the **Seller** shall be correspondingly extended.

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13. Miscellaneous Provisions

- a. These Terms and Conditions constitute the entire agreement between **Seller** and **Purchaser** as it relates to the purchase and sale of Products to **Purchaser** by **Seller** and the liability of the Manufacturing and Selling parties, and supersede any and all prior agreements, correspondence, quotations or understandings heretofore enforced between the parties relating to the subject matter hereof.
- b. If any term or condition or part of these Terms and Conditions is held invalid, the remaining terms and conditions hereof shall not be affected thereby.
- c. These Terms and Conditions may be modified, canceled or rescinded only by a written agreement by both parties executed by their duly authorized agents.
- d. All rights available to **Seller** under the Uniform Commercial Code except as specifically limited or excluded herein (even though not specifically enumerated), are reserved to **Seller** as remedies available in the event of default or breach by **Purchaser**.
- e. This agreement and any sale of Products to **Purchaser** shall be deemed to have been made in and governed by the substantive laws of the State of Illinois, without regard to choice-of-law provisions. **Seller** and **Purchaser** irrevocably consent to the exclusive jurisdiction of the courts of the State of Illinois (and the Federal courts having jurisdiction in the State of Illinois) for purposes of any judicial proceeding that may be instituted in connection with any matter arising out of or relating to these terms or any sales pursuant hereto.
- f. Any failure by either party to enforce at any time any term or condition hereof shall not be considered a waiver of such party's right thereafter to enforce the same or any other term or condition hereof.
- g. These Terms and Conditions shall be binding upon the successors and legal representatives of **Purchaser** and **Seller**.
- h. The Terms and Conditions and any agreement between the parties may not be assigned without the express written consent of the parties hereto. Any attempted assignment of rights or delegation of duties shall be void.
- i. Upon request by **Seller**, **Purchaser** shall provide **Seller** with all customer information and documentary and other assistance required to maintain strict compliance with federal, state and local laws. **Purchaser** shall take all actions as may be necessary to assure that no customer contravenes any laws or the provisions of any approvals/licenses or exemptions. **Seller** shall be relieved of all obligations to provide any Products, spare parts or technical data to **Purchaser** (or its customer(s)) if



Purchaser (or such customer) violates any laws, or if any approvals/licenses are suspended or revoked.

14. Confidentiality

All drawings, designs, specifications, manuals and programs furnished to **Purchaser** by **Seller** shall remain the confidential and proprietary property of **Seller**. **Purchaser** hereby agrees that such information, except as may be found in the public domain, shall be held in strict confidence by **Purchaser** and shall not be disclosed or circulated by **Purchaser** to any third parties. Copyright in all materials made available by **Seller** shall remain in **Seller** at all times.

Contact Us

If you have any questions regarding this policy, please contact:

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