

## TERMS AND CONDITIONS OF SALE

1. These Terms and Conditions of Sale are incorporated by reference into the Sales Agreement signed by Purchaser on the first page thereof (hereinafter referred to as the "Agreement"). The Agreement supersedes any prior understanding or written or oral agreement between the parties, and constitutes the entire agreement between the parties and any understanding or representation not contained herein is hereby expressly waived. It is expressly understood that no representative of the Seller has the power to modify the provisions hereof in any respect, that Seller shall not be bound by, or liable to, Purchaser for any representation, promise or endorsement made by any agent or person in Seller's employment not set forth in this Agreement, and no modification or amendment of this Agreement shall be binding on the Seller unless set forth in writing and signed by an authorized officer of the Seller.
2. If Purchaser claims sales or use tax exemption on all or part of the machinery and/or equipment subject to this Agreement (referred herein as the "Goods"), Purchaser must provide Seller with a tax exemption certificate acceptable to Seller. All typographical or clerical errors made by Seller in any quotation, acknowledgment or publication, including any price changes made by manufacturer of the Goods prior to Seller's placement of a binding order are subject to correction. Any changes in material or design can be made in the Goods sold by Seller and Seller is under no obligation to make such changes on Goods previously sold and delivered. Amounts charged on credit cards are limited. Seller may terminate this Agreement in its sole discretion based upon any reasonable negative credit review, site review and/or pricing discrepancy. In the event Seller receives any price increases on any of the Goods from any of the manufacturers of the Goods then Purchaser expressly agrees that Seller can pass on these price increases to Purchaser and the purchase price of the Goods shall be increased by the amount of these price increases.
3. If the full purchase price is not paid in cash at or before delivery of Goods, Purchaser may be required by Seller to execute and deliver to Seller, a promissory note or a series of promissory notes accompanied by an installment sales contract, equipment lease or security agreement, as applicable, UCC 1 or such other lien instrument in form appropriate for the state where the Goods will be located, provided, however, that title to all Goods referred to in this Agreement shall remain in Seller, until the full purchase price has been paid. If Purchaser fails to execute and deliver such promissory note or series of promissory notes and installment sales contract, equipment lease, security agreement, as applicable, or other lien instrument as Seller may request, the full purchase price shall forthwith become due and payable immediately. Until the full purchase price has been paid by Purchaser, Purchaser shall not remove any of the Goods from the premises where they were originally installed without the prior written consent of Seller. In addition, Seller is entitled to file a UCC 1 for a purchase money security interest in the Goods to secure Seller's position with respect to possible other secured parties and other rights under Applicable Laws. Purchaser hereby acknowledges that Seller does not recommend or require any third party financing institution in connection with financing, purchase or leasing the Goods specified in this Agreement, and Purchaser owes the amounts for the Goods set forth herein regardless of any third party Purchaser selects for financing.
4. To secure the payment of the purchase price of the Goods, the payment of interest and reasonable attorney's fees and other legal expenses incurred by Seller as hereinafter set forth, Purchaser hereby grants to Seller a security interest in all Goods and any and all equipment, parts, accessories, attachments, additions and other goods, and all replacements thereof, now or hereinafter installed in, affixed to or used in connection with said goods, and if Purchaser sells or otherwise disposes of the goods in violation of the terms of this Agreement, Seller shall have a security interest in the proceeds of such sale or disposition until all payments due from Purchaser to Seller are made in full (the "Collateral"). In the event Purchaser fails to pay when due any indebtedness secured by this Agreement, Purchaser shall be deemed in default under this Agreement, and Seller shall have all the rights and remedies granted under Applicable Law, including, but not limited to, the rights and remedies under the Uniform Commercial Code, and the right to replevin or repossess the Collateral. In addition, Seller may require Purchaser to assemble the Collateral and make it available to Seller at any place designated by Seller that is reasonably convenient to both parties. The respective names and addresses of Purchaser and Seller are set forth on the Sales Agreement, or as updated from time to time by the parties. Purchaser and Seller agree that this Agreement, or a copy thereof, may be used as a financing statement, and Purchaser hereby appoints Seller as Purchaser's attorney-in-fact for the limited purpose of filing a UCC-1 financing statement on the Collateral in any applicable jurisdiction.
5. In addition to the rights and remedies set forth above, if Purchaser is in default under any of the terms or provisions of this Agreement, Seller, at its option, may retain all payments made by Purchaser hereunder to offset any damages incurred by Seller and/or the purchase price not paid for the Goods. Purchaser agrees that if Purchaser is unable to fulfill the total covenants and obligations as provided for and contained in this Agreement, any money paid herewith as a deposit shall become the absolute property of Seller as partial compensation of Purchaser's failure to perform its agreement and such funds shall be applied to Seller's damages. However, Seller shall also be entitled to immediately proceed under any Applicable Laws to be compensated for all of the damages resulting from Purchaser's breach. If Seller or its assigns retakes possession of the Collateral, Seller shall keep all payments made by Purchaser, and all rights of Purchaser shall then be extinguished, and Seller may forthwith sell the Collateral at public or private sale. Any action required to be taken for Purchaser's failure to perform the terms and conditions of this Agreement shall result in Purchaser's being responsible for the payment of reasonable attorney's fees for any attorney engaged by Seller to protect its interests, all costs incurred, and interest at the maximum rate allowed by law from the date of Purchaser's breach hereof payable on demand, whether the parties litigate or not, including any appellate or bankruptcy proceeding.
6. Purchaser agrees that until the purchase price is paid in full or in the event that this Agreement is financed through the use of an installment sales contract or equipment lease, Purchaser will keep the Goods fully insured for the benefit of Seller and Purchaser as their respective interests may appear. Purchaser shall furnish the Seller with a policy or certificate thereof prior to the date the Goods are delivered. Purchaser agrees the amount of all insurance carried in the Collateral shall be an amount not less than that which shall provide for Seller to receive full compensation for the unpaid portion of the price due to Seller in case full or partial loss occur to Seller's goods. Coverage must be placed with a reputable or financially responsible carrier or carriers with a minimum A.M. Best rating of A+. Purchaser shall cause its insurers to endorse the required insurance hereunder to waive any rights of subrogation against the Seller and its indemnitees. This insurance must name the Seller and its indemnitees as additional insureds under an "Additional Insured" endorsement, and it must be primary over any insurance maintained by Seller and its indemnitees.
7. Delivery dates are estimates only, and not binding on Seller. Seller shall not be liable for any damages caused by delay in delivery beyond its control. In the event of delay, the date of delivery shall be extended for a period of time equal to the time lost by reason of the delay.
8. Except as may be set forth on page 1 of the Sales Agreement, all Goods are sold FOB Shipping Point. Purchaser shall pay all freight, cartage, shipping, and handling charges from the factory where the Goods have been manufactured. The risk of loss or damage from time of shipment of the Goods shall be borne by Purchaser when the Goods are tendered to the carrier. The same shall hold forth whether Seller delivers the Goods to a common carrier, an independent contractor or transport service whether provided by Seller or Purchaser. All transportation, freight, rigging, or delivery prices are valid for 30 days. In the event any of these costs or prices have increased after 30 days from the date of this Agreement then the Purchaser expressly agrees that Seller can pass on these increases in costs.
9. Unless set forth in this Agreement as mutually agreed upon, all delivery of Goods shall be curbside delivery at the point or place designated herein. Seller shall have no responsibility whatsoever to uncrate or set up any of the Goods unless specified by mutual agreement in writing. Purchaser shall have the sole responsibility for all installation of the Goods and any permits required and for providing the connection of the Goods delivered to any plumbing, electric, gas, vent or other utility connections. Purchaser shall be responsible for providing adequate access for delivery of Goods. Seller will store Goods in its warehouse at its discretion at no charge for up to 30 days for any Goods that are required to be shipped to its warehouse prior to shipment or delivery to Purchaser. After 30 days, Seller can assess a reasonable daily charge for this storage. Purchaser agrees to pay all storage charges incurred.
10. Pursuant to notices that may be required under Applicable Laws, there are no cash refunds, credit refunds or exchanges of merchandise under this Agreement.
11. This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns, where permitted by this Agreement. Purchaser expressly agrees that this Agreement is binding upon it and is not subject to cancellation. Purchaser agrees that in the event of cancellation of this Agreement by mutual consent or by notice of right of cancellation embodied in this Agreement, then, and in that event, Purchaser will pay to the Seller any restocking charges, out of pocket costs, and the reasonable value of work done by Seller. This provision shall not give Purchaser the right of cancellation of this Agreement. The obligations of Purchaser and rights of Seller shall survive termination or expiration of this Agreement.
12. The right, title and interest of Seller, in this Agreement and to the Goods referred to herein may be assigned without notice and the assignee shall acquire all of the rights and remedies of Seller, but shall not be deemed to have assumed any of its obligations. Purchaser will not assert against the assignee of Seller, any defenses, counterclaims or setoffs available against the Seller.

13. If any provision is modified by statute or declared invalid, the remaining provisions shall nevertheless continue in full force and effect. Purchaser and Seller agree that this Agreement shall be construed and governed by the laws of the State of Florida (the "Applicable Laws") and that venue for any dispute or litigation arising out of this Agreement shall be in the appropriate State or Federal courts in Miami-Dade County, FL. The parties agree that any signatures or initials communicated electronically or by facsimile machine and any facsimile or photocopy or electronic copy of this Agreement including counterparts shall be valid and binding on the parties.

**14. WARRANTY DISCLAIMER. THE ONLY WARRANTIES, IF ANY EXPRESSLY STATED IN THE SALES AGREEMENT THAT APPLY TO THE GOODS ARE THOSE GIVEN BY THE ORIGINAL MANUFACTURER, AND ARE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. THE SELLER HEREBY DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND NEITHER ASSUMES NOR AUTHORIZES ANY EMPLOYEE, AGENT OR OTHER PERSONS TO ASSUME FOR IT ANY LIABILITY IN CONNECTION WITH THE SALE OF THESE GOODS.** Any description of the Goods is for the sole purpose of identifying them and shall not be deemed to create an express warranty that the Goods shall conform to any such description; any sample or model is for illustrative purpose only and shall not be deemed to create an express warranty that the Goods shall conform to the sample model; and no affirmation or promise, or description, or sample or model shall be deemed part of the basis of the bargain.

**15. PURCHASER SHALL NOT BE ENTITLED TO RECOVER FROM SELLER ANY INDIRECT DAMAGES, PUNITIVE DAMAGES, CONSEQUENTIAL DAMAGES, INCIDENTAL DAMAGES, DAMAGES FOR LOSS OF TIME, LOSS OF PROFIT, LOSS OF USE, MATERIALS IN GOODS, OR LOSS OF INCOME. PURCHASER HEREBY WAIVES ALL RIGHTS OF REFUSAL AND RETURN OF GOODS. PURCHASER ACKNOWLEDGES THAT PURCHASER IS NOT RELYING ON SELLER'S SKILL OR JUDGMENT TO SELECT OR FURNISH GOODS SUITABLE FOR ANY PARTICULAR PURPOSE AND THAT THERE ARE NO WARRANTIES WHICH WOULD EXTEND BEYOND THE DESCRIPTION ON THE FACE HEREOF.**

**16. SELLER'S TOTAL LIABILITY UNDER THIS AGREEMENT, WHETHER IN LAW, EQUITY, CONTRACT, TORT, INFRINGEMENT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, SHALL NOT EXCEED THE PRICE PAID BY PURCHASER UNDER THE AGREEMENT FOR THE GOODS GIVING RISE TO THE CLAIM.** Purchaser shall fully indemnify, defend and hold harmless Seller and its affiliates and their respective shareholders, officers, directors, members, agents and employees against all expenses, costs (including reasonable attorneys' fees), claims, demands, damages, liability, suits or the like arising in connection with or out of (i) any breach by Purchaser of the Agreement; (ii) Seller's adherence to specifications or use of material furnished or specified by Purchaser or any of its agents; (iii) any damage to property or injury (including death) caused by the acts or omissions of Purchaser or its agents; or (iv) any damages arising out of the sale or exchange of all or a part of the Goods sold hereunder to a third party.

**17. PARTS WARRANTY:** (a) New equipment – one (1) year parts replacement; (b) Used equipment: Sold in "AS IS" condition with no warranty. As to (a) above this shall not include padding, belts, hoses and other expendables. Purchaser shall be responsible for all freight and shipping costs incident thereto. Any improper installation or misuse of the Goods shall void this parts warranty. No labor warranty is included.

[Updated 05/2023]