



General Terms & Conditions

1. Applicability

- a. These general terms and conditions of sale (these "GTC's") are the terms which govern the sale of equipment ("Equipment") by the seller ("Seller") to the buyer ("Buyer") named on the invoice and Bill of Sale. Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the Equipment, the terms and conditions of the contract shall prevail to the extent they may be inconsistent with these GTC's.
- b. In the absence of a contract, the invoice, Bill of Sale and these Terms (collectively "Terms") constitute the entire agreement between the parties. This Terms supersedes all prior or contemporaneous understandings, agreements, negotiations, representations, warranties, and communications, whether written or oral. These Terms prevail over any of Buyer's general terms and conditions of purchase regardless of whether or if a Buyer has submitted a purchase order containing terms. Fulfilment of Buyer's order does not constitute acceptance of any of Buyer's terms and conditions and does not serve to modify or amend these Terms.

2. Delivery

- a. Upon receipt of Buyer's purchase order, an email confirming desire to purchase, or any similar purchase order, Seller shall provide an order confirmation and expected ship date to Buyer. The expected ship date will be within a reasonable time after the receipt of Buyer's purchase order, subject to availability of the Equipment. Seller shall not be liable for any delays, loss or damage in transit.
- b. Unless otherwise agreed in writing by the parties, Seller shall deliver the Equipment to the location specified on Buyer's purchase order using Seller's standard method for shipping such Equipment and at Buyer's cost. Buyer shall be responsible for all unloading costs and provide equipment and labour reasonably suited for receipt of the Equipment at the location.
- c. Seller may, in its sole discretion, without liability or penalty, make partial shipments of Equipment to Buyer. Each shipment will constitute a separate sale, and Buyer shall pay for the units shipped whether such shipment is in whole or partial fulfilment of Buyer's purchase order.
- d. If the Buyer, for any reason, fails or is unable to accept delivery of the Equipment at the location on the specified delivery date, then: (i) risk of loss to the Equipment shall pass to Buyer; (ii) the Equipment shall be deemed to have been delivered; and (iii) Seller, at its option, may store the Equipment until Buyer pick up, whereupon Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).

3. Non-Conforming Equipment and Non-Delivery

- a. "Non-Conforming Equipment" means only that the product shipped is different than identified on Seller's order confirmation. Buyer shall inspect the Equipment within three (3) days from the delivery date. Buyer will be deemed to have accepted the Equipment unless it notifies Seller in writing of any Non-Conforming Equipment during the three (3) days and furnishes such supporting evidence or documentation as required by Seller.
- b. The quantity of any installment of Equipment as recorded by Seller on dispatch from Seller's place of business is conclusive evidence of the quantity received by Buyer on delivery unless Buyer can provide conclusive evidence proving the contrary.
- c. The Seller shall not be liable for any non-delivery of Equipment (even if caused by Seller's negligence) unless Buyer gives written notice to Seller of the non-delivery within ten (10) business days of the date when the Equipment would, in the ordinary course of events, have been received. Any liability of Seller for non-delivery of the Equipment shall be limited to replacing the Equipment within a reasonable time or adjusting the invoice respecting such Equipment to reflect the actual quantity delivered.

- d. If Buyer timely notifies Seller of any Non-Conforming Equipment, Seller shall, in its sole discretion: (i) replace such Non-Conforming Equipment with conforming Equipment, or (ii) credit or refund the Price for such Non-Conforming Equipment, together with any reasonable shipping and handling expenses incurred by Buyer. Buyer shall ship, at its risk of loss and at Seller's expense, the Non-Conforming Equipment to Seller's chosen facility as directed by Seller. If Seller exercises its option to replace Non-Conforming Equipment, Seller shall, after receiving Buyer's shipment of Non-Conforming Equipment, ship to Buyer, at Buyer's risk of loss and at Seller's expense, the replaced Equipment to the location.
- e. Buyer acknowledges and agrees that the remedies set forth in Sections 3(b) through 3(d) are Buyer's exclusive remedies for the delivery of Non-Conforming Equipment.

4. Cancellations and Returns

- a. Buyer may cancel a purchase order for any reason or no reason upon written notice to Seller within three (3) business days after submitting such purchase order to Seller unless the Equipment has already shipped. Any cancellation requested after shipping, if approved by Seller, shall be subject to a ten percent (10%) cancellation fee plus costs incurred by Seller for shipping. Purchase orders are non-cancellable after delivery to the location.

5. Shipping Terms

Delivery of the Equipment shall be made in accordance with the terms on the Invoice unless otherwise specified on Seller's quote.

6. Title and Risk of Loss

If Seller has arranged shipping, title and risk of loss passes to Buyer upon delivery of the Equipment at the location. If Buyer has arranged shipping, title and risk of loss passes to Buyer upon pickup of Equipment from Seller's address. As collateral security for the payment of the purchase price of the Equipment, Buyer hereby grants to Seller a lien on and security interest in and to all of the right, title and interest of Buyer in, to and under the Equipment, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing.

7. Price

- a. Buyer shall purchase the Equipment from Seller at the price(s) set forth in the invoice.
- b. All prices are exclusive of all sales tax, goods and services tax, value added tax, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any governmental authority on any amounts payable by Buyer. Buyer shall be responsible for all such charges, costs and taxes; provided that, Buyer shall not be responsible for any taxes imposed on, or with respect to, Seller's income, revenues, gross receipts, personnel or real or personal property or other assets.

8. Payment Terms

- a. Buyer shall pay all invoiced amounts due to Seller in compliance with the terms stated on the Invoice.
- b. Buyer shall pay interest on all late payments at the rate of eighteen percent (18%) per annum, compounded daily. Buyer shall reimburse Seller for all costs incurred in collecting any late payments, including, without limitation, reasonable legal fees. In addition to all other remedies available under these Terms or at law (which Seller does not waive by the exercise of any rights hereunder), Seller shall be entitled to suspend the delivery of any Equipment if Buyer fails to pay any amounts when due hereunder.
- c. Buyer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Seller, whether relating to Seller's breach, bankruptcy or otherwise.

9. Limited Warranty

- a. Buyer acknowledges that it is buying the Equipment on an “as-is-where-is” basis.
- b. Seller makes no condition or warranty whatsoever with respect to the equipment, including any (a) condition or warranty of merchantability; (b) condition or warranty of fitness for a particular purpose; (c) condition or warranty of title; or (d) warranty against infringement of intellectual property rights of a third party; whether express or implied by law, course of dealing, course of performance, usage of trade or otherwise.

10. Limitation of Liability

- a. In no event shall seller be liable for any consequential, indirect, incidental, special, exemplary, or punitive damages, lost profits or revenues or diminution in value, arising out of or relating to any breach of these terms, whether or not the possibility of such damages has been disclosed in advance by buyer or could have been reasonably foreseen by buyer, regardless of the legal or equitable theory (contract, tort or otherwise) upon which the claim is based, and notwithstanding the failure of any agreed or other remedy of its essential purpose.
- b. In no event shall seller's aggregate liability arising out of or related to this agreement, whether arising out of or related to breach of contract, tort (including negligence) or otherwise, exceed the total of the amounts paid to seller for the equipment sold hereunder.
- c. The limitation of liability set forth in Section 10(b) shall not apply to (i) liability resulting from Seller's gross negligence or willful misconduct and (ii) death or bodily injury resulting from Seller's acts or omissions.

11. Insurance

During the term of this Terms and for a period of one (1) year thereafter, Buyer shall, at its own expense, maintain and carry insurance in full force and effect which includes, but is not limited to, commercial general liability (including product liability) in a sum no less than is commercially reasonable and adequate for Buyer's industry with financially sound and reputable insurer(s). Upon Seller's request, Buyer shall provide Seller with a certificate of insurance from Buyer's insurer evidencing the insurance coverage specified in these Terms. The certificate of insurance shall name Seller as an additional insured. Buyer shall provide Seller with thirty (30) days' advance written notice in the event of a cancellation or material change in Buyer's insurance policy. Except where prohibited by law, Buyer shall require its insurer to waive all rights of subrogation against Seller's insurers and Seller.

12. Compliance with Law

Buyer is in compliance and shall continue to comply with all applicable laws, regulations and ordinances including, without limitation, environmental, labor laws and anti-corruption laws. Buyer shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under these Terms. Buyer shall comply with all export and import laws of all countries involved in the sale of the Equipment under these Terms or any resale of the Equipment by Buyer. Buyer assumes all responsibility for shipments of Equipment requiring any government import clearance. Seller may terminate these Terms if any governmental authority imposes antidumping or countervailing duties or any other penalties on Equipment.

13. Termination

In addition to any remedies that may be provided under these Terms, Seller may terminate these Terms with immediate effect upon written notice to Buyer, if Buyer: (i) fails to pay any amount when due; (ii) has not otherwise performed or complied with any of these Terms, in whole or in part; or (iii) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

14. Waiver

No waiver by Seller of any of the provisions of these Terms is effective unless explicitly set forth in writing and signed by Seller. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from these Terms operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

15. Confidential Information

All non-public, confidential or proprietary information of Seller, including but not limited to specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by Seller to Buyer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" in connection with these Terms is confidential, solely for the use of performing this transaction and may not be disclosed or copied unless authorized in advance by Seller in writing. Upon Seller's request, Buyer shall promptly return all documents and other materials received from Seller. Seller shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain; (b) known to Buyer at the time of disclosure; or (c) rightfully obtained by Buyer on a non-confidential basis from a third party.

16. Force Majeure

No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached these Terms, for any failure or delay in fulfilling or performing any term of these Terms (except for any obligations of Buyer to make payments to Seller hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the impacted party's ("Impacted Party") reasonable control, including, without limitation, the following force majeure events: (a) acts of God; (b) flood, tsunami, fire, earthquake, tornado, explosion; (c) epidemics, pandemics; (d) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest; (e) government order, law or actions; (f) embargoes or blockades in effect on or after the date of these Terms; (g) national or regional emergency; (h) strikes, lockouts, labour stoppages or slowdowns, labour disputes, or other industrial disturbances; (i) shortage of adequate power or telecommunications or transportation facilities; and (j) other events beyond the reasonable control of the Impacted Party. The Impacted Party shall give notice within three (3) business days of the force majeure event to the other party, stating the period of time the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such force majeure event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event that the Impacted Party's failure or delay remains uncured for a period of thirty (30) consecutive days following written notice given by it under this Section, the other party may thereafter terminate this Terms upon fifteen (15) days' written notice.

17. Amendments and Modifications

These Terms may only be amended or modified in writing specifically stating that it amends these Terms and is signed by an authorized representative of each party.

18. Assignment

Buyer shall not assign any of its rights or delegate any of its obligations under this Terms without the prior written consent of Seller. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Buyer of any of its obligations under these Terms.

19. Relationship of the Parties

The relationship between the parties is that of independent contractors. Nothing contained in this Terms shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

20. No Third-Party Beneficiaries

This Terms is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.

21. Choice of Law

These Terms and all related documents, including all exhibits, schedules, attachments, and appendices attached hereto, and all matters arising out of or relating to these Terms, whether sounding in contract, tort, or statute are governed by, and construed in accordance with, the laws of the State of Florida, United States of America, without giving effect to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of Florida.

22. Choice of Forum

Each Party irrevocably and unconditionally agrees that it will not commence any action, litigation, or proceeding of any kind whatsoever against the other Party in any way arising from or relating to these Terms and all contemplated transactions, in any forum other than the Courts of Miami-Dade County, Florida, and any appellate court from any thereof. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of such courts and agrees to bring any such action, litigation, or proceeding only in Miami-Dade County, Florida. Each Party agrees that a final judgment in any such action, litigation, or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

23. Waiver of Jury Trial

Each party acknowledges and agrees that any controversy that may arise under these terms is likely to involve complicated and difficult issues and, therefore, each party irrevocably and unconditionally waives any right such party may have to a trial by jury in respect of any legal action arising out of or relating to these terms or the transactions contemplated hereby.

24. Severability

If any term or provision of these Terms is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of these Terms or invalidate or render unenforceable such term or provision in any other jurisdiction.

25. Survival

Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of this order including, but not limited to, the following provisions: Section 12 (Compliance with Laws), Section 15 (Confidential Information), Section 21 (Governing Law), Section 22 (Choice of Forum), Section 23 (Waiver of Jury Trial) and this Section 25 (Survival).