

## GENERAL TERMS OF SALE

### 1. GENERAL

- A. Seller's prices are based on these sales terms, and (i) this document together with any additional writings signed by Seller shall represent the final, complete and exclusive statement of the agreement between the parties and may not be modified, supplemented, explained or waived by parol evidence, Buyer's purchase order, a course of dealing, Seller's performance or delivery, or in any other way except in writing signed by an authorized representative of Seller, and (ii) these terms are intended to cover all activity of Seller and Buyer hereunder, including sales and use of products, parts and work and all related matters (references to products include parts and references to work include construction, installation and start-up). Any reference by Seller to Buyer's specification and similar requirements are only to describe the products and work covered hereby and no warranties or other terms therein shall have any force or effect. Catalogs, circulars and similar pamphlets of the Seller are issued for general information purposes only and shall not be deemed to modify the provisions hereof.
- B. The agreement formed hereby and the language herein shall be subject to the laws in effect on the date hereof of the state in which any order resulting from this Proposal is accepted.

### 2. TAXES

Any sales, use or other similar type taxes imposed on this sale or on this transaction are not included in the price. Such taxes shall be billed separately to the Buyer. Seller will accept a valid exemption certificate from the Buyer if applicable; however, if an exemption certificate previously accepted is not recognized by the governmental taxing authority involved, and the Seller is required to pay the tax covered by such exemption certificate, Buyer agrees to promptly reimburse Seller for the Taxes paid.

### 3. CONTRACT PERFORMANCE, INSPECTION AND ACCEPTANCE

- A. Unless Seller specifically assumes installation, construction or start-up responsibility, all products shall be finally inspected and accepted within (30) days after receipt at point of delivery. Products not covered by the foregoing and all work shall be finally inspected and accepted within (30) days after completion of the applicable work by Seller. All claims whatsoever by Buyer (including claims for storage) excepting only those provided for under the WARRANTY and PATENTS Clauses hereof must be asserted in writing by Buyer within said (30) day period or they are waived. If this contract involves partial performance, all such claims must be asserted within said (30) day period for each partial performance. There shall be no revocation of acceptance. Rejection may be only for defects substantially impairing the value of products or work and Buyer's remedy for lesser defects shall be those provided for under the WARRANTY Clause.
- B. Shipping dates are approximate and are based upon prompt receipt of all necessary information. Seller shall not be responsible for nonperformance or delays in performance occasioned by any causes beyond Seller's reasonable control, including, but not limited to, labor difficulties, delays of vendors or carriers, fires, governmental actions, acts of God, acts of war and material shortages. Any so occasioned shall effect a corresponding extension of Seller's performance dates which are, in any event, understood to be approximately. In no event shall Buyer be entitled to incidental or consequential damages for late performance or a failure to perform.
- C. Neither party shall be considered in default or breach of its obligations under the Contract to the extent that performance of such obligations is prevented or delayed by any circumstances outside its reasonable control including, without limitation: strikes, lock-outs or other industrial disputes, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, embargoes, economic or trade sanctions, including any amendments to such embargoes and economic trade sanctions, accidental breakdown of plant or machinery, fire, flood, storm, disease outbreak or epidemic and/or any resulting quarantine restrictions ("Force Majeure"). Either party may be entitled to terminate the Contract if the Force Majeure situation continues, or it is obvious that it will continue, for more than one hundred and eighty (180) days without liability to the other party. Furthermore, should both parties agree that they want to continue the Contract when reasonably practicable to do so, notwithstanding the aforementioned 180 day period being reached, the parties will agree in good faith to renegotiate any necessary Contract amendment(s) to allow the Contract to continue.

### 4. RISK OF LOSS

Full risk of loss (including transportation delays and losses) shall pass to the Buyer upon delivery of products to the f.o.b. point or if Seller consents to a delay in shipment beyond the contract date at the request of the Buyer, upon notification by the Seller that the products are manufactured.

### 5. TITLE

The title to and property in all apparatus sold hereunder and any substitutions or additions thereto and the right to possession thereof whether attached to realty or

otherwise shall not pass from the Seller until all payments as herein set forth have been fully made by the Buyer in cash. Upon failure to make any payment as herein provided, the whole purchase money and any note or security given on account thereof shall forthwith become due and payable and the Seller may immediately enter the premises where the said apparatus is located and take possession of and remove the same as its personal property and may retain any or all partial payments already received a rental charge for the use of the said apparatus and material without affecting any further or other claims which it may have against the Buyer. The Buyer agrees to do all acts necessary to perfect and maintain such right and title in the Seller.

### 6. WARRANTY

- A. Seller warrants that (i) any Goods provided hereunder will be of good material and workmanship; (ii) any Services provided by Seller shall be performed by competent and qualified personnel in a professional and workmanlike manner in accordance with generally established industry standards; and (iii) the Goods and/or Services supplied by Seller hereunder will conform to any applicable specifications and/or drawings that have been agreed upon between the parties as set forth in the Contract. All claims for defective products or parts under this warranty must be made in writing immediately upon discovery and, in any event, within one (1) year from start-up or eighteen (18) months from shipment of the applicable item, whichever occurs first. Defective items must be held for Seller's inspection and returned to the original f.o.b. point upon request. THE FOREGOING IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES WHATSOEVER, EXPRESS, IMPLIED AND STATUTORY, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS.
- B. Upon Buyer's submission of a claim as provided above and its substantiation, Seller shall at its option and cost (but not including transportation, removal, reinstallation, and decontamination) either (i) repair or replace its product, part or work at the original f.o.b. point of delivery, or (ii) refund an equitable portion of the purchase price.
- C. Seller shall have the sole right to specify the manner and timeframe for such repair/replacement/re-performance. Defective or non-conforming parts(s) / Goods must be returned to Seller free of contaminants and, in the event of replacement, will become the property of Seller unless Seller instructs otherwise. If Seller opts to perform any warranty obligations in-place, Buyer shall, without cost to Seller, during a specified time period agreed upon by the parties, provide access by disassembling, removing, replacing and reinstalling any equipment, structures, or other obstructions to the extent necessary to permit Seller to perform its warranty obligations.
- D. The foregoing is Seller's only obligation and Buyer's exclusive remedy for breach of warranty, and except for gross negligence, willful misconduct and remedies permitted under THE CONTRACT PERFORMANCE, INSPECTION AND ACCEPTANCE and the PATENTS Clause hereof, the foregoing is Buyer's exclusive remedy hereunder by way of breach of contract, tort or otherwise. In no event shall Buyer be entitled to incidental or consequential damages. Any action for breach of this agreement must commence within two (2) years after the cause of action has accrued.
- E. Any warranty repair or replacement of Goods or re-performance of Services shall be warranted by Seller for the remainder of the original warranty period. No "evergreen" or "in-place" warranty is being provided.

### 7. PATENTS

Seller agrees to assume the defense of any suit for infringement of any United States patents brought against Buyer to the extent such suit charges infringement of an apparatus or product claim by Seller's product in and of itself, provided (i) said product is built entirely to Seller's design, (ii) Buyer notifies Seller in writing of the filing of such suit within ten (10) days after the service of process thereof, and (iii) Seller is given complete control of the defense of such suit, including the right to defend, settle and make changes in the product for the purpose of avoiding infringement. Seller assumes no responsibility for charges of infringement of any process or method claims, unless infringement of such claims is the result of following specific instructions furnished by Seller.

### 8. TERMS OF PAYMENT

- A. Unless other terms are specified, all payment shall be in U.S. dollars. All shipments, unless otherwise specified, shall be F.O.B. manufacturer's plant. If delivery is delayed by Buyer, date of readiness for delivery shall be deemed date of delivery for payment purposes. If manufacture is delayed by Buyer, a payment shall be due based upon purchase price and percentage of completion. Balance payable in accordance with terms stated herein.
- B. For contracts totaling less than \$30,000 U.S. dollars, all payment shall become due thirty (30) days after shipment.
- D. For contracts totaling \$30,000 U.S. dollars and greater, special progress payments, as offered by Seller, shall apply. In cases where special terms are not proposed, final payment shall become due thirty (30) days after shipment.

- (1) In the event any equipment is ready for shipment prior to the scheduled date, any payment not due in accordance with the above terms shall immediately become due and payable upon notification by Seller to buyer that the equipment is ready for shipment.
  - (2) If shipments are delayed by Buyer for any cause whatsoever or are delayed by Seller for any cause whatsoever beyond Seller's control, payments shall become due and payable from the date of notification by Seller and the equipment is ready for shipment.
- E. Seller may, at its option, upon Buyer's default in payment hereunder, charge Buyer with any cost incurred by seller incidental to its collection efforts including without limitation, reasonable attorney's fees and court costs.
- F. A service fee equal to 1.5% percent per month (18% per annum) shall be charged on all amounts not received by the specified due date in order to recover costs and damages incurred as a result of the delay in payment.
- G. Seller reserves the right to adjust the Contract Price if Seller incurs extra costs due to changes or delays caused by Buyer. If, during the performance of this Contract, the price of raw materials significantly increases through no fault of Seller, the price of the Goods shall be equitably adjusted by an amount reasonably necessary to cover any such significant price increase. As used herein, a significant price increase shall mean any raw material increase in price exceeding 5% experienced by Seller from the date of the Contract. Where the delivery of Goods is delayed through no fault of Seller, as a result of the shortage or unavailability of raw materials, Seller shall not be liable for any additional costs or damages associated with such delay(s). If a supplier increases the price of its equipment incorporated into the Goods during production, Buyer acknowledges that Seller may increase the price of the Goods accordingly. Such price increases shall be documented through quotes, invoices and receipts.

#### **9. LIMITATION OF LIABILITY**

In no event shall Seller be liable to Buyer, end-user or any third party for special, indirect, punitive or consequential damages whether for breach of contract, breach of warranty, tort or otherwise. The Seller's liability on any other claim for loss or liability arising out of or connected with this contract, or the manufacture, sale, delivery, resale, or use of any apparatus covered by this contract (including but not limited to loss of liability arising from breach of contract), shall in no case exceed the unit price of such apparatus or part thereof involved in the claim, except as provided in the paragraph entitled "Patents".

#### **10. CONTRACT CHANGES**

In the event of a change to the Contract ("CO") resulting in an extension to the delivery date(s) which will impact Seller's invoice schedule, Seller reserve the right to invoice the Buyer for the original Contract Price in accordance with the most recent project plan, prior to the CO. Previous invoice milestones will be adjusted pro-rata and invoiced upon Seller's acceptance of the CO. Seller shall be entitled to an equitable adjustment for any increased cost and an adequate extension of time required by Seller to complete the Contract in accordance with any CO.

#### **11. SUSPENSION**

The Buyer shall have the right to suspend the Contract. If the suspension period should exceed thirty (30) days, Seller has the right to consider the Contract terminated for convenience and be compensated in accordance with Section 12.A. Upon resumption of performance, Seller shall have the right to equitable relief as necessary in accordance with Section.

#### **12. TERMINATION**

A. Buyer may terminate this Contract, in whole or in part, upon at least seven (7) calendar days advanced written notice to Seller. In the event of termination for Buyer's convenience, Seller shall be reimbursed for the reasonable Direct Costs incurred by Seller in performing the Contract until termination and for its costs in effecting such termination notwithstanding any other provision of the Contract. Any Goods or Services sold by Seller that are incomplete shall be deemed to be sold "AS IS," and "WITHOUT WARRANTY OR GUARANTEE OF ANY KIND."

B. If Seller fails to cure a material breach within a reasonable time after receipt of notice of breach from Buyer, and on Seller's acceptance of such breach, Buyer shall have the right, at its option, to terminate the Contract upon payment to Seller for work performed until the time of termination.

C. Seller may cancel this Contract, in whole or in part, at any time if: (i) Buyer suspends work or delays delivery in accordance with Section 11 beyond 45 days without it being mutually agreed upon in advance; (ii) Buyer breaches any material term of this Contract; and/or (3) Buyer files bankruptcy or otherwise fails to either make full and timely payments, meet its obligations, or provide further assurances.

#### **13. LAW AND JURISDICTION**

The Contract shall in all respects operate and be governed by Georgia law in the USA.

A. The official language of the Agreement is English. It is the express wish of the parties that this Agreement and any related documents be drafted and executed in English.

B. All disputes arising out of or in connection with this Contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration conducted in accordance with the rules and procedures of the American Arbitration Association and any award or adjudication render thereby shall be final, non-reviewable, non-appealable and binding upon the parties. The language to be used in the arbitral proceedings shall be the English language. The arbitration shall take place in the City of Gainesville in the State of Georgia.

#### **14. ENTIRE AGREEMENT**

This Contract contains the entire understanding of the parties with respect to the subject matter hereof and supersedes any and all prior negotiations, contracts, commitments, and writings with respect thereto. There are no oral understandings, terms or conditions and neither party has relied upon any representation, express or implied, not contained in the Contract.