

**MID INDUSTRIAL TOOLS INC  
GENERAL TERMS AND CONDITIONS  
SALE OF EQUIPMENT**

**PLEASE READ THESE TERMS AND CONDITIONS VERY CAREFULLY. THE TERMS AND CONDITIONS FOR THE SALE OF EQUIPMENT TO YOU ARE LIMITED TO THOSE CONTAINED HEREIN. ANY ADDITIONAL OR DIFFERENT TERMS OR CONDITIONS IN ANY FORM DELIVERED BY THE CUSTOMER ARE DEEMED TO BE MATERIAL ALTERATIONS AND ARE HEREBY REJECTED.**

**1 DEFINITIONS & INTERPRETATIONS**

1.1 In these terms, the following words shall have the following meanings:

1.1.1 "Company" means MID Industrial Tools Inc. whose registered office is at 7407 Spencer Hwy, Suite 420, Pasadena, TX 77505 or any other nominated and identified corporate body;

1.1.2 "Contract" means any terms included in these Terms, the Quotation, and together with any and all documentation relating to the agreement between the Company and the Customer, which has been accepted in writing by an authorized representative of the Company;

1.1.3 "Customer" means the person, firm or corporate entity to whom the Company has agreed to sell the Equipment subject to these Terms;

1.1.4 "Delivery" means the point at which the Company makes the Equipment available for pickup by the Customer, FOB the Company's dock, or in accordance with Section 6.2, upon delivery of the Equipment to a location determined in writing by the parties;

1.1.5 "Equipment" means and shall include any and all equipment, machinery, tools supplied by the Company to the Customer as described in the Quotation; and

1.1.6 "Quotation" means the specification sheet to which these terms may be attached, together with any and all documentation relating to the Contract between the Company and the Customer;

1.1.7 "Terms" means these general terms and conditions which shall be posted at [[www.mid-pipe.com](http://www.mid-pipe.com)], which may be updated by the Company from time to time without notice to the Customer.

1.2 Reference to the singular shall include the plural, the masculine shall include the feminine, the whole shall include the part, the personal shall include the corporate.

**2 BASIS OF SALE**

2.1 These Terms shall apply to and be incorporated into the Contract and prevail over any inconsistent terms or conditions contained, or referred to, in the Customer's purchase order, confirmation of order, acceptance of a Quotation, or specification or other document supplied by the Customer, or implied by law, trade custom, practice or course of dealing.

2.2 Any purchase orders sent to the Company by the Customer shall be accepted entirely at the discretion of the Company, and, if accepted will only be accepted on these Terms which shall govern the Contract to the exclusion of any other terms. Additional or different terms and conditions contained in any such purchase order, confirmation, or other document provided by the Customer are null and void and these Terms will control except to the extent expressly modified in writing by the parties. Acceptance is deemed valid upon the Company's acknowledgement of a purchase order.

2.3 Each purchase order which is accepted by the Company in accordance with Section 2.2 shall constitute a separate

legally binding contract between the Company and the Customer.

2.4 No addition, alteration or substitution of these Terms will bind the Company or form any part of the Contract unless the changes are expressly accepted in writing by a person authorized to sign on the Company's behalf.

2.5 The Customer shall at its own expense supply the Company with all necessary data or other information relating to the Contract, within sufficient time to enable the Company to provide the Equipment in accordance with the Contract. The Customer shall ensure the accuracy of all such information provided. The Customer represents and warrants that the purchase order or any order acknowledgement form provided by the Customer are accurate and complete. The Customer agrees that the Company shall not be held liable for any damage, loss or claim, which arises out of the Customer's failure to provide accurate and complete information, documents, materials or instructions. The Company shall not be liable for any information which was illegible, out of sequence or on the wrong form, or for any information which was not provided in a timely manner.

2.6 The Customer acknowledges that the Company's employees or agents are not authorized to make any representation with regard to these Terms or to the Contract. In entering into the Contract, the Customer acknowledges that if it relies on any representation, advice or recommendation given by the Company, its employees or agents to the Customer, it does so entirely at the Customer's own risk.

**3 OPERATING INSTRUCTIONS**

3.1 The Company shall undertake to supply with the Equipment adequate information as to the Equipment's design and conditions of and instruction for operation.

3.2 The Customer shall cause the Customer's employees, representatives, and agents to read, understand and adhere to all operating instructions and safety warnings prior to any use of the Equipment. The Customer represents and warrants that all necessary steps will be taken to ensure that the Equipment will be safe and without risk to health when properly used.

**4 SPECIFICATION**

4.1 The Customer shall be responsible to the Company for ensuring the accuracy of any specifications submitted by the Customer. The Customer shall be responsible for ensuring the accuracy of any order acknowledgement form.

4.2 The quantity, quality, description of, and any specification for the Equipment shall be as expressly set out in the Quotation and order acknowledgement form and no other specification, content of any descriptive material, correspondence or statement, promotion or sales literature shall form part of or be incorporated by reference into the Contract unless agreed in writing by the parties.

4.3 The Equipment is sold in accordance with the Company's current product specifications and any advance sample provided by the Company shall be regarded only as an average representation of the specification concerned and not as a warranty of quality.

4.4 The Company reserves the right to make changes in the specification of the Equipment at any time to conform with applicable statutory or regulatory requirements.

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- 4.5 Work to improve the quality and performance of the Equipment, and the economics of manufacture, is continuously in progress. As such the Company reserves the right to alter the Equipment without notice. Such alteration shall not be deemed to change the description of the Equipment ordered provided that the characteristics of the Equipment supplied conform to the Company's current product specifications.
- 5 **PRICE AND PAYMENT**
- 5.1 The price for the Equipment shall be the Company's price as set out in the Quotation together with any and all documentation relating to the Contract as agreed in writing by the Company. All prices quoted are valid for thirty (30) days from the date of the Quotation only or until earlier acceptance by the Customer. Notwithstanding this Section 5.1, the Company reserves the right to change prices for any subsequent orders without notice to the Customer.
- 5.2 Upon written notice, the Company may at any time before delivery increase the price of the Equipment to reflect any increase in cost to the Company which is beyond the control of the Company (such as, without limitation, any foreign exchange fluctuations, currency regulation, fluctuation in duties or taxes, increase in the cost of labor, materials or other costs of manufacturing costs, any change in delivery dates, quantities or specifications for the Equipment at the request of the Customer or any failure by the Customer to give the Company adequate information).
- 5.3 The Customer shall pay all transport, packaging and insurance costs associated with the delivery of the Equipment. Such transport and packaging costs shall be charged to the Customer at cost plus fifteen percent (15%). Transportation arrangements will be made by the Company, unless previously agreed to by the parties in writing.
- 5.4 The Customer will pay any taxes, whether foreign, federal, state, local, or municipal that may be imposed upon or with respect to the sale of the Equipment. The Customer shall be fully responsible for payment for all applicable fees, duties, tolls and surcharges.
- 5.5 All charges payable by the Customer under the Contract are exclusive of any applicable Value Added Tax and any other tax or duty, which the Customer shall pay to the Company in addition at the applicable rate, unless the Customer presents the Company with a valid tax-exempt certificate.
- 5.6 The Company shall use reasonable efforts to comply with any specific invoicing requirements of the Customer, but failure to comply shall not invalidate the invoice rendered. Any such requests must be communicated to the Company by the Customer in writing before the Equipment is dispatched.
- 5.7 The Customer shall pay the price for the Equipment within fifteen (15) days of the date of the Company's invoice or within such credit terms as are agreed between the parties in writing, regardless of whether Delivery has occurred. Under no circumstances may the Customer off-set any payments owed to the Company for disputed invoices or for returned Equipment.
- 5.8 The Company may invoice the Customer for the price of the Equipment at any time after the Company has sent a purchase order acknowledgement or any other confirmation of the Contract. The Company may also invoice the Customer after Delivery.
- 5.9 All payments due hereunder (if not made by BACS or EFT) shall be made to the Company at its address stated herein or at such other address as the Company may from time to time communicate to the Customer. Any payments sent by U.S. mail shall be sent at the risk of the Customer.
- 5.10 Time shall be of the essence with respect to the payment of all sums due hereunder and the Customer shall be deemed to have breached this Contract if any payments shall remain unpaid for more than fifteen (15) days after the invoice date, at which time the Company may impose a late fee equivalent to one and a half percent (1.5%) per month for each month the account is past due or the maximum rate permitted by law, whichever is lower.
- 5.11 If the Customer fails to make full payment by the invoice due date, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to:
- 5.11.1 cancel the Contract and suspend any further deliveries to the Customer;
- 5.11.2 appropriate any payment made by the Customer for such Equipment supplied under any Contract between the Customer and the Company;
- 5.11.3 withhold title to any Equipment provided to the Customer until any outstanding payment for Equipment has been satisfied; and
- 5.11.4 all costs for any debt collection efforts, including any legal fees which may be incurred.
- 5.12 If the Customer has not remitted payment after sixty (60) days from the date of the invoice, in addition to all other remedies available to the Company under the Contract or by law, the Customer shall return the Equipment in good, saleable condition at a location designated by the Company and upon the Customer's failure to do so, the Company may, at the Customer's cost, enter the Customer's premises to take possession of the Equipment.
- 6 **DELIVERY**
- 6.1 The Customer shall pick up the Equipment from the Company's premises, or as agreed upon in writing by the parties.
- 6.2 The Company may deliver the Equipment to the Customer's facilities or any other location agreed upon by the parties if the Company has agreed in writing to deliver the Equipment.
- 6.3 The Customer represents and warrants that a person authorized to sign on behalf of the Customer will be present upon Delivery and that any such signature will be binding upon the Customer. At the time of Delivery, the Customer will sign an acceptance form specifying the model number which shall constitute the Customer's acceptance of the Equipment.
- 6.4 The Company will use reasonable efforts to have the Equipment available for Delivery on the date requested by the Customer. If there is a change in the anticipated Delivery date, the Company shall notify the Customer of the delay, but shall not be liable for damage, loss or claims which may arise out of such delay.
- 6.5 Where the Equipment is to be delivered in installments, each Delivery shall constitute a separate contract. Failure by the Company to deliver any one or more installments in accordance with these Terms shall not

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- constitute a breach of the entire Contract. The Customer agrees that any damages claimed by the Customer for any material breach of the Contract is limited only to the amount paid for that installment.
- 6.6 If the Customer fails to take delivery of the Equipment, fails to give the Company adequate instructions for Delivery, or fails to provide an authorized person to sign on behalf of the Company, without prejudice to any other right or remedy available to the Company, the Company may:
- 6.6.1 store the Equipment until actual Delivery and charge the Customer for reasonable costs, including all insurance, storage and Delivery costs; and
- 6.6.2 sell the Equipment at the best price readily obtainable and after deducting all reasonable storage and selling expenses, and charge the Customer for any shortfall below the Contract price.
- 6.7 All shipping and packaging materials shall remain the Company's property and shall be returned to the Company in their original state and condition within fifteen (15) days of Delivery, failing which the Customer shall be liable to the Company for their replacement value. The Company may at its option charge the Customer a deposit for all or part of the value of such articles and refund the deposit upon receipt of the articles.
- 7 RISK AND PROPERTY**
- 7.1 Risk of damage to or loss of the Equipment shall pass to the Customer upon Delivery.
- 7.2 Notwithstanding Delivery and the passing of risk of loss, or any other provision of these Terms, title in the Equipment shall not pass to the Customer until the Company has received cash or cleared funds in full for the price of the Equipment.
- 7.3 Until such time as title in the Equipment passes to the Customer:
- 7.3.1 the Customer shall hold the Equipment as the Company's fiduciary agent and bailee, and shall keep the Equipment separate from the property of the Customer and third parties. The Customer shall properly maintain, store, protect and insure the Equipment, clearly identifying the Equipment as the Company's property. The Customer shall name the Company as an additional insured on the Customer's insurance policy covering the Equipment. The insurance policy shall be with a reputable insurance company approved by the Company. Should any insurance claim for the Equipment be made, the Company is to be immediately notified. The Customer shall not settle any claim without the written permission of the Company. The Customer will appoint the Company as its agent and authorize the insurance company to pay any settlement of claims on the Equipment directly to the Company;
- 7.3.2 the Customer shall be entitled to resell or use the Equipment, but shall account to the Company for the proceeds of sale of the Equipment, whether tangible or intangible, including insurance proceeds, and shall keep all such proceeds separate from any moneys or property of the Customer and third parties and, in the case of tangible proceeds, properly stored, protected and insured;
- 7.3.3 the Company shall be entitled at any time to require the Customer to deliver the Equipment to the Company and, if the Customer fails to do so; and
- 7.3.4 the Customer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Equipment which remains the property of the Company, but if the Customer does so all moneys owing by the Customer to the Company shall (without prejudice to any other right or remedy of the Company) become due and payable.
- 7.4 Even though title in the Equipment has not passed to the Customer, the Company shall be entitled to sue for the price of the Equipment once payment has become due.
- 8 WARRANTY AND TITLE**
- 8.1 The Company warrants that except in relation to intellectual property rights of third parties, the Company has good title to the Equipment and, subject to these Terms will transfer such title as it may have in the Equipment to the Customer.
- 8.2 The Company warrants that (subject to the conditions set forth below) the Equipment will correspond with the agreed specifications at the time of delivery and will be free from defects in material and workmanship for a period of twelve (12) months from the date of delivery.
- 8.3 The Company shall not be liable to the Customer for any warranty claims and Sections 8.1, 8.2, 8.5 and 8.6 shall not apply:
- 8.3.1 with respect to any defect in the Equipment arising from any drawing, design or specification supplied by the Customer;
- 8.3.2 with respect to any defect arising from common wear and tear, willful damage, negligence, abnormal working conditions, failure to follow the Company's instructions or safety instructions (whether oral or written), misuse or alteration or repair of the Equipment without the Company's written approval;
- 8.3.3 if the total price for the Equipment has not been paid by the due date for payment;
- 8.3.4 to all equipment and/or parts and materials not manufactured by the Company. In such circumstances, the Customer shall be entitled only to the benefit of any pass-through warranty or guarantee which is provided by the manufacturer. The Customer agrees to submit all such claims directly to the manufacturer; or
- 8.3.5 to any rental equipment which was subsequently purchased by the Customer, regardless of the duration of the rental period. **ALL SUCH EQUIPMENT IS PURCHASED BY THE CUSTOMER ON AN AS IS BASIS WITH NO EXPRESS WARRANTIES OF ANY KIND, EXCEPT FOR THOSE SET FORTH IN THESE TERMS, AND THE COMPANY ASSUMES NO RESPONSIBILITY FOR ANY REPAIRS OF THE EQUIPMENT.** All sales are final and the Customer has no right of return under any circumstances.
- 8.4 **MID MAKES NO IMPLIED WARRANTY AND SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. ALL WARRANTIES, EXCEPT FOR THOSE SET FORTH IN THESE TERMS, CONDITIONS AND OTHER TERMS IMPLIED BY LAW, TO THE FULLEST EXTENT PERMITTED BY LAW, ARE EXCLUDED FROM THE CONTRACT.**

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| 8.5    | Any claim by the Customer based on any defect in the quality or condition of the Equipment or failure to correspond with the agreed specifications shall (whether or not Delivery is refused by the Customer) be submitted in writing to the Company within seven (7) days from the date of Delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after the discovery of the defect or failure, but no later than thirty (30) days from the date of Delivery. If Delivery is not refused, and the Customer does not notify the Company according to the terms of Section 8.2 and this Section 8.5, the Customer forfeits all rights to bring a warranty claim for any alleged defect in the Equipment. In such circumstances, The Customer's obligation to make full payment will still apply. | negligence of the Company, its employees, agents or otherwise) which arise out of or in connection with the Equipment or their use by the Customer.   |
| 8.6    | Where the Customer files a valid warranty claim in accordance with these Terms, which is based on any defect in the quality or condition of the Equipment or its failure to meet the agreed specification, the Company may, at its sole discretion, repair or replace the Equipment (in part or in whole) at the Company's own expense or, refund to the Customer the price of the Equipment. <b>This shall be the Customer's sole remedy under this Contract.</b>  | 11.2 The Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance, or contemplated performance, of the Contract shall not exceed the total price payable by the Customer under the Contract (subject to Section 6.5) or five hundred thousand US dollars (US\$250,000.00) (whichever is the lower) except as otherwise expressly provided in these Terms.   |
| 9      | <b>LIMITATION OF LIABILITY</b>  | 11.3 The Company shall not be liable for any delay or non-performance of its obligations which is caused wholly or partly by reason of an act of God, delay in transportation, labor disputes, fire, flood, war, accident, government action, inability to obtain adequate labor, materials, manufacturing facilities, or energy or any other cause beyond the Company's control or that of its servants or agents, and if the delay or failure has continued for a period of three (3) months, either party may terminate the Contract without prejudice to any rights which may have accrued prior to such termination. |
| 9.1    | <b>MID SHALL NOT BE LIABLE TO THE CUSTOMER FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, FOR PROPERTY DAMAGE, EQUIPMENT RE-WORK, EQUIPMENT DAMAGE, DOWNTIME COSTS, CLAIMS OF THIRD PARTIES, OR LOSS OF PROFITS, REVENUE, OR DATA, WHETHER IN AN ACTION IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE.</b>   | 12 <b>INTELLECTUAL PROPERTY AND INDEMNITY</b>   |
| 10     | <b>USE OF THE EQUIPMENT</b>   | 12.1 The Company warrants that it is not aware of any actual infringement of intellectual property rights of third parties which relate to the Equipment other than those (if any) which the Company has disclosed to the Customer prior to the acceptance of the Customer's order.   |
| 10.1   | The Customer represents and warrants that the Equipment will only be used for its designated function within the limits of design and in adherence to the operating instruction supplied. The Equipment is not to be used and the Customer will not permit it to be used, for any purposes for which it is not expressly designed. Any injury, damage or loss which results from the Customer's failure to use the Equipment for its intended purpose or to strictly adhere to all operating instruction or safety warnings shall be the sole responsibility of the Customer and shall not be covered under warranty.   | 12.2 The Company shall have no liability to the Customer in the event that the Equipment infringes any intellectual property rights of a third party (including without limitation by reason of its possession, sale or use, whether alone or in association or in combination with any other equipment). The Company gives no warranty that the Equipment will not infringe any intellectual property rights of a third party and all conditions, warranties or stipulations relating to such infringement or alleged infringement, whether express or implied by statute, common law or otherwise are hereby excluded.  |
| 10.2   | The Customer agrees that it will not:   | 12.3 If any claim is made against the Customer that the Equipment infringes the patent, copyright, design, trade mark or other industrial or intellectual property rights of any other entity in the United States, the Company shall indemnify the Customer against all loss, damages, costs and expenses awarded against or incurred by the Customer in connection with the claim, or paid or agreed to be paid by the Customer in settlement of the claim, provided that:  |
| 10.2.1 | make any modifications, alterations or additions, or fit any equipment or other accessories to the Equipment;   | 12.3.1 the claim does not arise from the use of any drawing, design or specification supplied by the Customer,  |
| 10.2.2 | remove or alter any trademarks, serial numbers, or any other identifying markings fixed to the Equipment nor attempt to do so nor permit the same;  | 12.3.2 the Customer notifies the Company as soon as reasonably possible in writing of any action, actual or threatened, against the Customer;   |
| 10.2.3 | deface the paintwork or exterior of the Equipment nor add or erect any painting, sign writing, lettering or advertising to or on the Equipment.   | 12.3.3 the Company is given full control of any proceedings or negotiations in connection with any such claim;  |
| 11     | <b>LIABILITY</b>  | 12.3.4 the Customer gives the Company all requested assistance for the purposes of any such proceedings or negotiations and makes no admission of liability without The Company's written consent;  |
| 11.1   | Except with respect to death or personal injury, the Company shall not be liable to the Customer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any indirect, special, consequential loss or damage (whether for loss of profit, goodwill or turnover or otherwise), costs, expenses, revenue anticipated savings or other claims for compensation whatsoever (whether caused by the   | 12.3.5 except pursuant to a final award, the Customer does not pay or accept any such claim, or compromise any such proceedings and makes no admission of liability without   |

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the consent of the Company (which shall not be unreasonably withheld);

12.3.6 the Customer does nothing which would or might nullify any policy of insurance or insurance coverage which the Customer may have in relation to such infringement. This indemnity shall not apply to the extent that the Customer recovers any sums under any such policy (which the Customer shall use its best efforts to do);

12.3.7 the Company shall be entitled to the benefit of, and the Customer shall accordingly account to the Company for, all damages and costs (if any) awarded in favor of the Customer which are payable to, or agreed with the consent of, the Customer (which consent shall not be unreasonably withheld) by any other party with respect to any such claim; and

12.3.8 without prejudice to any duty of the Customer at common law, the Company shall be entitled to require the Customer to take such steps as the Company may reasonably require to mitigate or reduce any loss, damages, costs or expenses for which the Company is liable to indemnify the Customer under this Section.

12.4 The foregoing provisions shall not apply to any infringement caused by the use of the Equipment in a manner or for a purpose which shall have been prohibited by the Company nor to any infringement which is due to the use of the Equipment in association or in combination with any other product.

12.5 The Customer represents and warrants that any drawing, design, instruction or specification given to the Company by or on its behalf shall not infringe any intellectual property rights of any third party.

**13 INDEMNIFICATION**

13.1 The Customer shall defend, indemnify, and hold the Company, their affiliates, officers, directors, and employees harmless against all liabilities, costs, expenses, damages and losses (including any direct or indirect consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by the Company arising out of or in connection with: (i) the Customer's breach or any negligent performance or non-performance of the Contract, (ii) any claim made against the Company by a third party for death, personal injury or damage to property which is attributable to the acts or omissions of the Customer, its employees, agents or subcontractors, or (iii) any claim made against the Company by a third party for any infringement of intellectual property as a result of the Customer's breach of Section 12.5.

**14 CONFIDENTIALITY**

14.1 Both the Company and the Customer shall keep confidential and shall not, without the prior consent in writing of the other disclose to any third party any technical or commercial information which it has acquired from the other as a result of discussions, negotiations or other communications between them relating to the Equipment, including the terms of the Contract.

14.2 All copyright, trademark, patent, and trade secrets created by or used by the Company in relation to the Contract shall remain vested and belong solely to the Company. The Customer shall have a license to use the same only for the purpose of using the Equipment. Any drawings, designs and/or proposals submitted by the Company for approval, information regarding the Company suppliers and manufacturers, shall remain the

property of the Company and shall be treated by the Customer as strictly confidential and shall not be divulged to third parties without the Company's prior written consent.

**15 CANCELLATION AND TERMINATION**

15.1 The Customer shall not, without the prior written Consent of the Company, be entitled to cancel the Contract. If the Customer purports to do so, the Customer shall indemnify the Company for all losses, costs and expenses incurred by the Company in relation to the Contract.

15.2 If the Customer commits any of the following acts, the Customer shall be deemed to have repudiated this Contract and the Company may at any time thereafter, upon written notice to the Customer, terminate the Contract if the Customer:

15.2.1 fails to pay any sum payable under this Contract (or under any other agreement between the Company, any subsidiary or any holding company of the Company and the Customer) within ten (10) days of the invoice becoming due (whether demanded or not);

15.2.3 commits a breach (whether express or implied) of the Contract;

15.2.4 does or allows to be done any act or omission which in the sole opinion of the Company may jeopardize the Company's rights in the Equipment or any part thereof.

15.3 Without prejudice to any other rights or remedies which the Company may have, in the event the Customer makes a general assignment for the benefit of its creditors, or if a petition in bankruptcy shall be filed by or against the Customer, or a receiver shall be appointed on account of its insolvency, or if the Customer shall default in the performance of any obligation under this Contract, the Company may terminate this Contract immediately by providing written notice to the Customer.

15.4 The Customer shall upon any termination under this Section 15 pay to the Company:

15.4.1 all sums accrued due and unpaid at the date of termination;

15.4.2 the cost of all repairs required as at the date of termination; and

15.4.3 any other sums which are or become due to the Company or to which the Company is entitled by way of damages.

15.5 The termination of the Contract shall not affect any rights of the Company or liabilities of the Customer. If the Equipment has been delivered in whole or in part, all unpaid amounts shall become immediately due.

**16 EXPORT**

16.1 Where the Equipment is supplied for export from the Customer's facilities, the provisions of this Section 16.1 shall (subject to any special terms agreed in writing between the Customer and the Company) apply notwithstanding any other provisions of these Terms.

16.2 The Customer shall be responsible for complying with any laws or regulations governing the importation of the Equipment into the country of destination and for the payment of any duties on the Equipment.

16.3 The Company shall not be liable for any damage caused during transit.

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16.4 Payment of all amounts due to the Company shall be made by irrevocable letter of credit opened by the Customer in favor of the Company and confirmed by a bank in the United States acceptable to the Company unless otherwise agreed in writing between the Company and the Customer.

**17 GENERAL CONDITIONS**

17.1 Any notice required or permitted to be given by either party to the other under these Terms shall be given in writing and addressed to the other party at its registered office, principal place of business or at such other address that may be notified to the other party from time to time.

17.2 No waiver by the Company of any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.

17.3 The Company is a member of a group of companies and accordingly the Company may perform any of its obligations or exercise any of its rights by itself or through any other member of its group.

17.4 The Company shall be entitled to subcontract the whole or any part of its obligations under the Contract to any third party which it may in its absolute discretion determine, but no subcontract shall relieve the Company of its obligations.

17.5 If any provision of these terms is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of these terms and the remainder of the provisions in question shall not be affected.

17.6 A person who is not party to this Contract has no right under the Contract to enforce or enjoy the benefit of any term of this Contract.

17.7 The Contract shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods or by any International Commercial Terms.

17.8 These Terms shall be governed by and interpreted in accordance with the laws of the State of Texas, without regard to its conflicts of laws principles. **ALL TERMS OR CONDITIONS NOT HEREIN EXPRESSLY PROVIDED FOR SHALL BE DETERMINED IN ACCORDANCE WITH THE UNIFORM COMMERCIAL CODE AS ADOPTED IN THE STATE OF TEXAS.** The parties hereby consent to the exclusive jurisdiction of the United States District Court for the Eastern District of Texas, Harris County, Texas in any and all actions and proceedings between the parties arising out of this Contract.

17.9 The Customer shall pay all costs, fees, expenses and professional fees incurred by the Company to enforce its rights under these Terms, including attorneys' fees.

17.10 The Contract encompasses the entire agreement between the parties, and supersedes all previous understandings and agreements between the parties, whether oral or written.