

STANDARD TERMS AND CONDITIONS
FOR
PURCHASE OF CAPITAL EQUIPMENT

1. SCOPE OF WORK

Except as expressly stated otherwise in the Agreement, Seller is responsible for (i) all labor, materials, equipment, tools and supervision necessary to perform the Agreement; (ii) designing, assembling, constructing, and building the Equipment listed in the Agreement, and (iii) conducting testing and training procedures related to the operation and maintenance of the Equipment listed in the Agreement (hereinafter collectively "Scope of Work").

2. TAXES

Any tax imposed on Seller by any federal, state, local or other legal government taxing authority which arises out of or is based upon the sale of the Equipment (for greater certainty, excluding and excepting any taxes based on Seller's income), whether characterized as present or future sales, use, excise, value added, or other similar tax applicable to the price, sale, or delivery of any products or services furnished hereunder or to their use by Seller or Buyer will be for Buyer's account and will be quoted as separate itemized charges. In addition to the Price specified herein, Buyer shall pay the gross amount of any such present or future sales, use, excise, value added, or other similar tax; or Buyer shall furnish Seller with evidence of an acceptable exemption to the taxing authorities.

3. PRICE

Buyer shall pay Seller the Price identified for Equipment, subject to changes only as provided in paragraph 20 of this Agreement. Unless expressly stated otherwise on Buyer's purchase order, the Agreement Price shall be based upon FOB Buyer's facility or the destination designated by Buyer, and includes all costs related to testing at Buyer's and/or Seller's facility, installation (if any), start-up, training, applicable taxes, excises, duties, quotations fees or any other governmental impositions on or related to the Equipment. The Price referred to in Buyer's purchase order is stated in U.S. dollars unless expressly provided otherwise.

4. DELIVERY, PERFORMANCE AND LIQUIDATED DAMAGES

TIME IS OF THE ESSENCE FOR THIS ORDER. Except as otherwise stated in the Agreement, delivery shall be F.O.B Buyer's facility or the destination designated by Buyer. Seller agrees to deliver the Equipment in compliance with this Agreement, including all scheduled performance and delivery dates set forth on Buyer's purchase order. Seller will ensure that the Equipment is packed and shipped in an appropriate and suitable manner. Buyer's count of the Equipment and components thereof will be final for all shipments shipped without an accompanying packing list. Seller will notify Buyer immediately of any circumstance which may delay the delivery of the Equipment, along with any corrective action Seller has taken to minimize the effect. In the event delivery is not in compliance with this Agreement, including delivery of the Equipment in accordance with the scheduled delivery dates (unless caused by an excusable delay as defined in paragraph 13), at Buyer's sole discretion, Buyer shall have the right to (i) require Seller to ship the Equipment, either completed or not completed at Buyer's option, at

the earliest possible moment and by the fastest manner (air freight) at Seller's sole cost and expense; (ii) terminate this Agreement by written notice to Seller and shall, in addition to all other remedies available at law or in equity, be entitled to a refund of all monies paid by Buyer to Seller under this Agreement; or (iii) terminate part of the work to be performed under this Agreement or the applicable purchase order, and Seller shall, in addition to all other remedies available at law or in equity, be responsible for all costs incurred by Seller to complete the work in accordance with this Agreement. The parties understand that the agreed upon liquidated damage amount set forth in the Agreement is a fair and reasonable estimate of the damages and potential liabilities that Buyer may incur as a result of a delay in the Final Acceptance of the Equipment through no fault of Buyer ("Liquidated Damages"). Examples of the calculation of Liquidated Damages appears on the attached **Chart A**.

Additional costs incurred by Buyer as a result of nonconformance with this Agreement will be paid by Seller, including additional production charges, labor charges, and transportation costs.

4.1 Risk of loss – Unless otherwise stated on the purchase order, delivery shall not be deemed to be complete until the Equipment has been actually received and accepted by Buyer notwithstanding any agreement to pay freight, express, parcel post or other transportation charges, and the risk of loss or damage in transit shall be upon the Seller.

5. PRE-ACCEPTANCE AND ACCEPTANCE

5.1 General. Seller will submit to Buyer all production, function and quality control test reports and other data as Buyer may request from time to time concerning the Equipment. Seller grants to Buyer the right to enter Seller's premises at any reasonable time to make an inspection and examination of the Equipment, their component parts and the fabrications/assembly techniques proposed or used by Seller as Buyer may deem appropriate. Seller agrees to fully cooperate with Buyer in such inspections.

5.2 Pre-acceptance. Upon completion of fabrication of the Equipment at Seller's facility, Seller shall provide Buyer with notice that the Equipment is ready for shipment/pre-acceptance testing. Buyer shall have the right to inspect the Equipment prior to shipment at Seller's facility within thirty (30) days of the date Buyer receives such notice ("Pre-acceptance Inspection Period"). During the Pre-acceptance Inspection Period, Buyer shall confirm that the Equipment complies with all applicable specifications and requirements. Any defects or deficiencies discovered by Buyer shall be promptly repaired or replaced by Seller at Seller's sole cost and expense, and the Equipment shall be subject to another Pre-acceptance inspection or test by Buyer.

5.3 Final Acceptance. All Equipment ordered under this Agreement shall be subject to final acceptance by Buyer ("Final Acceptance"). Buyer shall notify Seller at least ten (10) days prior to the date of the final acceptance testing, which shall be designed by Buyer to evaluate whether the Equipment is in compliance with all applicable specifications and operates as contemplated in the Agreement. In the event the Equipment fails to operate in compliance with this Agreement and/or does not meet all specifications and requirements contained in this Agreement (including the applicable purchase order), Seller shall at Seller's own expense, immediately make such repairs or adjustments so as to render the Equipment in compliance therewith and the Acceptance Test shall be repeated. Notwithstanding payment or any prior inspection, Final Acceptance will not occur until (i) Seller has corrected all deficiencies related to the Equipment identified by Buyer, (ii) Seller has provided all documentation pursuant to paragraph 9, (iii) Seller provides evidence to Buyer that all of Seller's subcontractors have been paid, including lien waivers if appropriate, and (iv) Seller has satisfied all other requirements as are specified in the Agreement. In the event Final Acceptance by Buyer is not achieved within thirty (30) days of the date Buyer first began final acceptance testing, Seller shall be

deemed in material breach of this Agreement, and Buyer may revoke the Agreement, terminate this Agreement for default, and/or reject the Equipment, in whole or part, in addition to any other remedies Buyer may have at law, in equity or under this Agreement.

5.4 Remedies. In the event that the Equipment or any portion of the Equipment is not in compliance with any laws, the specifications contained in the Agreement, or are otherwise defective, Buyer may return the defective Equipment or part thereof to Seller, who shall refund to Buyer its cost plus freight to Buyer's facility and freight for return to Seller. If Buyer prefers to accept the defective or non-conforming Equipment instead of requiring correction or replacement, the Agreement will be adjusted to reflect a reduction in the total Price as appropriate and equitable. Such adjustment will be effected whether or not final payment has been made.

5.5 Testing Materials. For only the first pre-acceptance test and the first final acceptance test performed, Buyer shall be responsible for its own travel costs and the costs of providing any materials or supplies that Buyer deems necessary in order to verify the proper operation and performance of the Equipment. For all pre-acceptance and final acceptance tests performed after the first one, Seller shall be responsible, at its sole costs and expense, for any materials or supplies that Buyer supplies or that Seller requests Buyer to supply in order to verify the proper operation and performance of the Equipment. In addition, Seller shall be responsible for any and all travel expenses and other related costs incurred by Buyer as a result of the non-compliance of the initial pre-acceptance test or final acceptance tests performed or due to any subsequent pre-acceptance and/or final acceptance testing that are performed. The pre-acceptance testing and final acceptance testing parameters shall be established by Buyer and shall be based upon the specifications and requirements set forth in this Agreement.

6. SELLER'S WARRANTIES

6.1 General. Seller warrants that the Equipment, including all material and work furnished pursuant to this Agreement, (i) will be of the highest grade and quality unless otherwise specified by Buyer in writing; (ii) will be free and clear of all liens, claims or encumbrances arising or resulting from the acts or omissions of Seller or anyone claiming by or through Seller; (iii) will be merchantable and fit for the particular purpose(s) known by or disclosed to Seller as applicable thereto; and (iv) shall meet and conform to this Agreement, including but not limited to, all design, manufacture and performance for the specifications and requirements specified in the Agreement. If requested by Buyer, Seller will furnish satisfactory evidence as to the kind and quality of material and work furnished under this Agreement and/or incorporated in the Equipment. Seller further warrants that the Equipment will comply with all applicable federal, state, and local laws and regulations. Unless otherwise stated herein, Seller warrants that it is a Seller in the ordinary course of goods of this kind. Seller warrants that the Software (as defined in paragraph 15) will conform to the Documentation in all material respects, and that if the Software is used in accordance with the Documentation, the Equipment will operate in accordance with the Specifications. These warranties are in addition to any "shrink-wrap", "click-on" or other warranty regarding the Software that may be included with the Equipment.

6.2 For a period of twelve (12) months after the date of Final Acceptance of the Equipment, Seller agrees to promptly (not more than 24 hours from the date of Buyer's notice to Seller) perform any corrective work in connection with the Equipment which may be required without cost to Buyer. Seller shall also be responsible, at its sole cost and expense, for all labor and travel expenses incurred by Seller to perform any warranty service hereunder or to send its personnel to Buyer's facility). Seller further agrees that all materials, components, parts, and equipment incorporated into the Equipment will carry manufacture and/or vendor warranties involving terms and duration which

are, at a minimum, not less favorable to Buyer than those typically offered and meeting industry standards of such materials and equipment.

6.3 Nothing contained in paragraphs 6.1 or 6.2 of this Agreement will be construed to establish a period of limitation with respect to any other obligation which the Seller might have under this Agreement.

6.4 In the event Seller fails to respond to any of its obligations under this warranty within the time frame established herein or to complete any warranty work within a timely manner as deemed by Buyer given the facts and circumstances, Buyer shall have the right to perform the necessary corrective action or repairs necessary by itself or by retaining a third party. In such cases, Seller will be charged any and all direct costs incurred by Buyer to perform the work covered under this warranty. Notwithstanding the foregoing, where the failure or any delay to correct such failure may result or threatens to create significant liability or damages or unreasonable costs to Buyer if not immediately repaired, Buyer shall have the right, without notice to Seller, to immediately perform the necessary repairs or corrective action by itself or through a third party, and Seller agrees to reimburse Buyer for any and all direct costs incurred by Buyer relating to the performance of such work.

7. INSURANCE

Seller and its subcontractors shall maintain (i) Commercial General Liability Insurance, including coverage for product's liability and completed operations arising out of or related to the Equipment or Seller's performance under this Agreement, with a per occurrence limit of not less than \$2,000,000, and a general aggregate of not less than \$5,000,000; (ii) Automobile Liability Insurance with a combined single limit of \$1,000,000 per occurrence for bodily injury and property damage covering use and operation of owned, non-owned and hired vehicles. Seller's insurance shall be primary and non-contributing to any other insurance which may apply. Seller will furnish certificates of insurance to Buyer at the time the Agreement is issued by Buyer. The insurance policies will provide for cancellation only after thirty (30) days prior written notice to Buyer. Buyer's failure to require or demand any evidence of insurance does not constitute a waiver of any requirement for Seller to obtain insurance, nor does it limit Seller's other obligations. Seller agrees to insure all shipments of Equipment for full value if required by the agreed upon delivery term. Seller shall provide worker's compensation insurance and unemployment compensation insurance as required by applicable law.

8. WORK AT BUYER'S FACILITY

In the event this Agreement requires the performance of service work, removal, moving or installation of the Equipment by Seller upon any property, premise or project of Buyer, Seller shall examine the same to determine whether they are safe for such services and shall advise Buyer promptly of any situation Seller considers to be unsafe. Seller (its agents, employees, and sub-contractors) shall comply with the requirements of all applicable safety and health laws, regulations, rules, ordinances and orders. These include, but are not limited to, the Occupational Safety and Health Act of 1970 ("OSHA") and all standards promulgated thereunder, and with Buyer's plant safety program. Seller shall comply with and is directly responsible for compliance therewith on the part of its respective agents, employees, material persons and subcontractors. Seller shall keep those portions of the Buyer's premises where Seller is performing work or services clean of debris, and upon completion of the work shall leave the premises clean and ready for use. If Seller fails to clean up to Buyer's satisfaction, Buyer may do so and the cost will be charged to Seller or deducted from the Price. Seller shall directly receive and be responsible for all citations, assessments, fines or penalties which may be incurred by reason of its failure or failure on the

part of their agents, employees, material persons or subcontractors, to so comply. Notwithstanding the provisions of any Worker's Compensation statute, Seller agrees to and shall indemnify, protect, defend and hold Buyer harmless from and against all costs (including reasonable attorney's fees), damages, and liability arising out of or allegedly arising out of any violations by Seller, its employees, agents, and subcontractors of any applicable safety and health laws, regulations, rules, ordinances, and orders, including but not limited to OSHA.. Seller warrants that all certificates and licenses that may be required for the performance of any services or work under this Agreement will be obtained by Seller. Seller will coordinate all work and services to be performed at Buyer's premises with the Buyer in advance to ensure that suitable power, materials, handling equipment and other items are available.

9. DOCUMENTATION

Seller will provide Buyer at no additional cost to Buyer, with (i) a complete listing of recommended spare parts for the Equipment, (ii) operation, maintenance, and training manuals, and (iii) copies of the technical and mechanical specifications relating to the Equipment, including layouts, drawings, diagrams, software and models of the Equipment (collectively hereinafter "Documentation"). In addition, no more than thirty (30) days after receipt of Buyer's purchase order, Seller will provide Buyer with any site/facility specifications relating to the requirements necessary for the proper set-up of the Equipment, including necessary floor loads to hold the Equipment, height, depth and width requirements, electrical, power, water, and heating requirements, and all other requirements necessary to properly and safely install, set up, maintain and operate the Equipment. Any and all Documentation provided to Buyer shall be written in English. Seller further agrees, at its own cost and expense, to ensure that any Documentation provided to Buyer accurately reflects the description, design, specifications, etc. of the Equipment as of the date of Final Acceptance by Buyer.

10. SUBCONTRACTORS

Seller will furnish to Buyer in writing all names and addresses of the persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for the principal portion of the Equipment. Buyer will promptly reply to Seller in writing stating whether or not Buyer has objection to any such proposed person or entity. Neither party will make a substitution for any subcontractor, person or entity previously selected if the other party objects to such substitution.

11. CONFIDENTIALITY

The mutual non-disclosure agreement signed between the parties shall govern the exchange of a party's confidential information.

12. OWNERSHIP OF IMPROVEMENTS

Seller agrees to, and hereby does, assign its entire right, title and interest in all intellectual property, including, but not limited to: all writings, designs, mask works, software, inventions, improvements and discoveries, conceived or made by all employees and agents of Seller in connection with their provision of services or the Equipment to Buyer under this Agreement (collectively hereinafter "Improvements"), with the understanding that patent rights retained by Seller in the Equipment shall remain the intellectual property of Seller. Seller further agrees to do all lawful acts and sign all assignments and other papers Buyer deems necessary, appropriate or advisable relating to applications for patents, mask works, registrations, trademarks, and copyrights related to the Improvements, both United States and foreign, or relating to the conduct of any interference, litigation or other controversy in connection therewith,

provided that all expenses incident to the filing of such applications, the prosecution thereof and the conduct of any interference, litigation or other controversy, including Seller's employees' time and travel expenses incurred in connection with such applications, shall be borne by the Buyer. Seller further agrees not to assert any intellectual property right against Buyer in relation to Buyer's use of any Improvements in connection with Seller's performance under this Agreement, and grants a royalty free, irrevocable, non-exclusive, worldwide license to any patent rights in the Equipment provided that Buyer use is limited to Buyer and its affiliates to use, operate and maintain the Equipment supplied under this Agreement.

13. EXCUSABLE DELAYS

Either party may suspend performance during the occurrence of an excusable delay. An excusable delay may include any delay that is not the result of fault or negligence of the party and whose performance is prevented by the delay which results from the acts of God or public enemy, restrictions, prohibitions, priorities or allocations imposed by governmental authority, embargoes, floods, fires, earthquakes, epidemics, unusually severe weather, delays of similar nature or governmental causes, and strikes or labor disputes (of or involving the delayed party's employees only). Notwithstanding the foregoing, Seller shall not be excused from performance hereunder where the reason for the delay was reasonably foreseeable and/or avoidable, or where alternate sources of materials, goods or services are reasonably available even if at a higher cost to Seller. If the Seller anticipates any event that could constitute a delay in delivery or in its ability to comply with any of its performance obligations under this Agreement, Seller shall promptly notify Buyer in writing of the same. In the event of an excusable delay, performance of this Agreement will be extended for a reasonable period of time to be determined by Buyer and not to exceed a period equal to the length of the delay itself. Buyer reserves the right to visit Seller's facility during normal business hours and, after due notice, to inspect Seller's operations to evaluate the progress of the Work and determine adherence to the Contract Schedule. Seller shall promptly take all commercially reasonable steps to avoid or end delay without additional cost to Buyer. Notwithstanding anything to the contrary set forth in this Agreement, in the event an excusable delay affecting Seller's performance exceeds thirty (30) days, Buyer may terminate this Agreement without liability notwithstanding anything to the contrary stated in this Agreement.

14. SPARE PARTS

Seller agrees for a period of fifteen (15) years after the delivery of the Equipment, to maintain an adequate inventory of all unique or specially manufactured parts to properly support and maintain the Equipment purchased under this Agreement. For parts that are commercially available at a comparable price, Seller will identify for Buyer, the manufacturers, vendors, or other sources of Seller's supply of such parts, as well as parts numbers and prices, and agrees to maintain for a period of seven (7) years after delivery of the Equipment, an adequate inventory of such purchased parts to properly support and maintain the Equipment purchased. The prices of all parts shall be adjusted in accordance with Seller's price list.

15. SOFTWARE

In the event that software is required for the installation, testing, calibration, operation or maintenance of the Equipment ("Software"), Seller hereby grants to Buyer an irrevocable, perpetual, paid-up, worldwide, nonexclusive license to use the Software for such purposes. Any Software that is custom developed by Seller for Buyer under this Agreement ("Custom Software"), shall be delivered to Buyer with the applicable source code. All rights, title, ownership and interest in such Custom Software shall vest in Buyer upon payment by Buyer to Seller for the work performed. At the time of delivery of the Equipment, Seller shall deliver written documentation to Buyer that adequately

describes the functionality and operation of the Software (“Documentation”).

16. TERMINATION FOR DEFAULT

In the event Seller shall be adjudged bankrupt, makes a general assignment for the benefit of its creditors, or if a receiver shall be appointed on account of Seller's insolvency, or in the event Seller is in default of any material provision or requirement of this Agreement and that breach is not remedied within ten (10) days of notice given by Buyer to Seller, Buyer may terminate this Agreement in whole or part, in addition to any other rights or remedies which Buyer may have, and cancel further performance by Seller under this Agreement. In the event of such termination, Buyer may complete the performance of this Agreement by such means as Buyer selects, and Seller shall be responsible for any additional costs incurred by Buyer in so doing. Seller shall deliver or assign to Buyer any completed work or work in progress as Buyer may request. Any amounts due to Seller for goods and services completed by Seller in full compliance with the terms of this Agreement prior to such termination shall be subject to offset Buyer's additional costs of completing the Agreement and other damages actually incurred by Buyer as a result of Seller's default. Waiver by Buyer of any default of Seller shall not be considered to be a waiver of Buyer of any provision of this Agreement, or the waiver of any other defaults. Any failure of Buyer to insist on the performance of any term or condition of this Agreement shall not be deemed a waiver of Buyer's rights thereunder.

17. TERMINATION FOR CONVENIENCE

Buyer shall have the right to cancel for its convenience further performance of all or any separable part of this Agreement at any time by written notice to Seller. On the date of such cancellation stated in the notice, Seller shall discontinue all work pertaining to this Agreement, shall place no additional orders, and shall preserve and protect materials on-hand purchased for or committed to this Agreement, work in progress and completed work both in Seller's and in its Suppliers' plants pending Buyer's instruction, and shall dispose of same in accordance with Buyer's instructions. Buyer shall give such instruction within five (5) days of its written notice to cancel, failing which Seller may make reasonable disposition which shall be deemed to have been done in accordance with Buyer's instructions. In the event of cancellation by Buyer for convenience, Buyer shall compensate Seller upon demand for all costs and expenses already incurred or commitments made by Seller in connection with the processing, handling and fabrication of said equipment, including reasonable and necessary expenses resulting from the cancellation, as substantiated by documentation reasonably satisfactory to Buyer, plus reasonable amounts for overhead and profit on such costs and expenses, though not for anticipated profit or anticipated overhead charges. Cancellation payment to Seller or refund to Buyer, if any, shall be made promptly. Seller shall not be entitled to any loss of profits, contribution to overhead or incidental, consequential or other damages because of such cancellation. Seller shall deliver or assign all goods with all applicable warranties or dispose of goods as instructed by, or as deemed to have been instructed by Buyer prior to final payment.

18. RIGHT TO OFFSET

Buyer, without waiver or limitation of any rights or remedies of Buyer, shall be entitled from time to time to deduct from any amounts due or owing by Buyer to Seller in connection with this Agreement, or any other agreement with Seller, any and all amounts owed by Seller to Buyer.

19. ARBITRATION

The parties agree to submit all disputes between them arising out of or related to this Agreement or the breach, alleged breach or interpretation thereof to binding arbitration. Within thirty (30) days after either party has notified the other in writing that it is submitting a dispute to arbitration,

one arbitrator shall be selected under the then current rules of the American Arbitration Association (“AAA”) pertaining to commercial disputes. The arbitration shall be held in Hartford, Connecticut (unless the parties otherwise agree in writing) and shall be conducted in accordance with the Commercial Arbitration rules of the AAA except the AAA shall not have authority to make any award for damages excluded herein. The arbitration award shall be by a written decision and shall be final and binding, and enforceable by any court of competent jurisdiction.

20. CHANGES

Buyer shall have the right to make changes in the specifications and drawings for the Equipment covered by this Agreement. Buyer shall initiate such change by written direction to Seller. If Seller believes that any such change affects the price or delivery date for the goods or services, Seller shall so notify Buyer in writing, with adequate supporting documentation, within five (5) business days after an acknowledged receipt of said written direction, or a maximum of ten (10) business days total. Seller shall suspend performance of the change unless thereafter released, in writing, by Buyer to perform said change, and Buyer and Seller shall mutually agree in writing upon an equitable adjustment in the Price and/or applicable performance or delivery schedule(s) to reflect the effect of such change. Seller's request for any adjustments shall be deemed waived unless submitted in writing within ten (10) business days after Seller receives initial written direction to make such changes. To the extent possible, Seller shall not suspend performance of the unaffected portion of the Work while Buyer and Seller are in the process of making such changes and any related adjustments, or at any time thereafter unless so instructed in writing by Buyer. If released in writing by Buyer, Seller shall comply with and perform such change in accordance with the terms of this Agreement during the time Seller and Buyer require to mutually agree upon an equitable adjustment. No substitutions shall be made in this Agreement without the prior written authority of Buyer.

21. PATENT INDEMNITY

Seller shall, at its sole expense, indemnify, hold harmless and defend Buyer and its officers, employees, successors and customers from and against any suit or proceeding brought against Buyer based on a claim that the manufacture, use or sale of the Equipment or services or any part thereof, supplied under this Agreement, constitutes infringement of any patent, copyright, trademark or proprietary information rights of others, and Seller shall pay all damages and costs awarded therein against Buyer. Seller shall be promptly notified, in writing, of the suit or proceeding and shall be given adequate authority, information and assistance, at Seller's expense, for the defense of same, subject to the right of Buyer to participate at its expense and to be fully advised by Seller in advance of all actions taken. In the case that the Equipment or any part thereof are, in such suit, are held to constitute infringement or the sale or use of said goods or parts thereof are enjoined, regardless of whether such determination constitutes a final judgment, Seller shall, at its expense, either procure for Buyer the right to sell and use said Equipment or part thereof; replace the same with substantially equal but non-infringing Equipment or parts thereof; or, if approved by Buyer, remove said Equipment or parts thereof, and refund the purchase price and the transportation and installation costs thereof. The preceding shall not apply to any claim to the extent it arises from designs furnished and required by Buyer, nor shall it apply to claims that arise from the use of the Equipment in combination of with equipment or parts not supplied by Seller hereunder with other goods infringes any patents, if such process or other goods were not supplied by Seller and Seller's supplying the Equipment hereunder does not constitute contributory patent infringement.

22. GENERAL INDEMNITY

For and in consideration of the covenants of Buyer under this Agreement, including the agreement of Buyer to pay to Seller the amounts which may become due and payable under the terms of this Agreement, Seller hereby agrees to assume the risk of and to release, defend, indemnify and hold harmless Buyer and the related entities, directors, officers, employees, agents and assigns of Buyer ("Indemnities") from and against all loss, damage, liability, cost and expense (including reasonable attorney's fees) arising out of any injury or death to any person or damage to any property, including damage to or failure of the Equipment furnished hereunder or damage to other components caused by such failure, resulting from or in any way connected with the performance of this Agreement or Seller's breach of this Agreement or the Equipment furnished hereunder, regardless of whether or not such loss, damage, liability, cost or expense is caused in part by an Indemnity. Neither this Article nor any other provision of this Agreement shall be construed in any circumstances to constitute an indemnification against any loss, damage, liability, cost or expense caused solely by the negligence of such Indemnities.

23. MISCELLANEOUS

All agreements contained in this Agreement shall bind and inure to the benefit of the respective successors and assigns whether so expressed or not, except that Seller shall have no right to assign its rights or any interest herein without the prior written consent of Buyer. No amendment, modifications, termination or waiver of any provision of this Agreement will be effective unless in writing and signed by both parties, and then such waiver or consent will be effective only in the specific instance and for the specific purpose it was given. In performing its obligations, Seller is and will be deemed to be an independent contractor and not an agent or employee of Buyer. This Agreement shall be governed under the laws of the State of Connecticut without regard to that state's internal conflict of laws provisions. If any provision provided in this Agreement is or becomes invalid or unenforceable under any law of mandatory application, the Parties agree that such provision will be deemed severed and omitted from the Agreement and the remainder of this Agreement will remain in full force and effect.

Revision Date: September 13, 2017

Chart A

LATE DELIVERY LIQUIDATED DAMAGES CALCULATIONS

Below are examples for calculating Liquidated Damages based on the Price of the Equipment. The below examples of reoccurring weekly Liquidated Damage continues until Final Acceptance of the Equipment by the Buyer.

Liquidated Damages are to be paid by Seller to Buyer within thirty (30) days after receipt by Buyer of an invoice for the Liquidated Damages amount.

Example: Seller “X” is late 10 weeks on a \$1.5M project. At a 1% weekly, \$150,000 would be the amount of damages.

Example: Seller “Y” is late 6 weeks on a \$150K project. At a 1% weekly, \$9,000 would be the total amount of damages.

Capital Purchase	Cost of 1% Damages		Cost of 2% Damages		Cost of 3% Damages		Cost of 4% Damages	
\$ 10,000	1%	\$ 100	2%	\$ 200	3%	\$ 300	4%	\$ 400
\$ 20,000	1%	\$ 200	2%	\$ 400	3%	\$ 600	4%	\$ 800
\$ 30,000	1%	\$ 300	2%	\$ 600	3%	\$ 900	4%	\$ 1,200
\$ 40,000	1%	\$ 400	2%	\$ 800	3%	\$ 1,200	4%	\$ 1,600
\$ 50,000	1%	\$ 500	2%	\$ 1,000	3%	\$ 1,500	4%	\$ 2,000
\$ 60,000	1%	\$ 600	2%	\$ 1,200	3%	\$ 1,800	4%	\$ 2,400
\$ 70,000	1%	\$ 700	2%	\$ 1,400	3%	\$ 2,100	4%	\$ 2,800
\$ 80,000	1%	\$ 800	2%	\$ 1,600	3%	\$ 2,400	4%	\$ 3,200
\$ 90,000	1%	\$ 900	2%	\$ 1,800	3%	\$ 2,700	4%	\$ 3,600
\$ 100,000	1%	\$ 1,000	2%	\$ 2,000	3%	\$ 3,000	4%	\$ 4,000
\$ 150,000	1%	\$ 1,500	2%	\$ 3,000	3%	\$ 4,500	4%	\$ 6,000
\$ 200,000	1%	\$ 2,000	2%	\$ 4,000	3%	\$ 6,000	4%	\$ 8,000
\$ 250,000	1%	\$ 2,500	2%	\$ 5,000	3%	\$ 7,500	4%	\$ 10,000
\$ 300,000	1%	\$ 3,000	2%	\$ 6,000	3%	\$ 9,000	4%	\$ 12,000
\$ 350,000	1%	\$ 3,500	2%	\$ 7,000	3%	\$ 10,500	4%	\$ 14,000
\$ 400,000	1%	\$ 4,000	2%	\$ 8,000	3%	\$ 12,000	4%	\$ 16,000
\$ 450,000	1%	\$ 4,500	2%	\$ 9,000	3%	\$ 13,500	4%	\$ 18,000
\$ 500,000	1%	\$ 5,000	2%	\$ 10,000	3%	\$ 15,000	4%	\$ 20,000
\$ 550,000	1%	\$ 5,500	2%	\$ 11,000	3%	\$ 16,500	4%	\$ 22,000
\$ 600,000	1%	\$ 6,000	2%	\$ 12,000	3%	\$ 18,000	4%	\$ 24,000
\$ 650,000	1%	\$ 6,500	2%	\$ 13,000	3%	\$ 19,500	4%	\$ 26,000
\$ 700,000	1%	\$ 7,000	2%	\$ 14,000	3%	\$ 21,000	4%	\$ 28,000
\$ 750,000	1%	\$ 7,500	2%	\$ 15,000	3%	\$ 22,500	4%	\$ 30,000
\$ 800,000	1%	\$ 8,000	2%	\$ 16,000	3%	\$ 24,000	4%	\$ 32,000
\$ 850,000	1%	\$ 8,500	2%	\$ 17,000	3%	\$ 25,500	4%	\$ 34,000
\$ 900,000	1%	\$ 9,000	2%	\$ 18,000	3%	\$ 27,000	4%	\$ 36,000
\$ 950,000	1%	\$ 9,500	2%	\$ 19,000	3%	\$ 28,500	4%	\$ 38,000
\$ 1,000,000	1%	\$ 10,000	2%	\$ 20,000	3%	\$ 30,000	4%	\$ 40,000
\$ 1,500,000	1%	\$ 15,000	2%	\$ 30,000	3%	\$ 45,000	4%	\$ 60,000
\$ 2,000,000	1%	\$ 20,000	2%	\$ 40,000	3%	\$ 60,000	4%	\$ 80,000
\$ 2,500,000	1%	\$ 25,000	2%	\$ 50,000	3%	\$ 75,000	4%	\$ 100,000
\$ 3,000,000	1%	\$ 30,000	2%	\$ 60,000	3%	\$ 90,000	4%	\$ 120,000
\$ 3,500,000	1%	\$ 35,000	2%	\$ 70,000	3%	\$ 105,000	4%	\$ 140,000
\$ 4,000,000	1%	\$ 40,000	2%	\$ 80,000	3%	\$ 120,000	4%	\$ 160,000
\$ 4,500,000	1%	\$ 45,000	2%	\$ 90,000	3%	\$ 135,000	4%	\$ 180,000
\$ 5,000,000	1%	\$ 50,000	2%	\$ 100,000	3%	\$ 150,000	4%	\$ 200,000