

STANDARD TERMS AND CONDITIONS OF SALE

1.) GENERAL.

These terms and conditions of sale supersede all printed terms and conditions on the purchase order form, if any, of the purchaser specified ("Customer") and all other inconsistent terms submitted by Customer prior to acceptance by **Prime Equipment Group, LLC** ("Manufacturer") of the Customer's order and may not be varied unless agreed to in writing by a duly authorized representative of Manufacturer. Failure of Manufacturer to object to the provisions contained in any order or other writing of Customer shall not be construed as a waiver of these terms and conditions of sale or any of them nor an acceptance of any terms and conditions of Customer. Except only as otherwise agreed in writing by a duly authorized representative of Manufacturer, the sale of the products and the provision of services as set forth in these terms and conditions of sale ("Products") are governed only by these standard terms and conditions of sale. Customer shall be deemed to have accepted these terms and conditions of sale if Customer expressly agrees in writing or accepts any shipment of Products to which these terms and conditions relate subsequent to receipt of these terms and conditions of sale. No sales or other independent representatives of Manufacturer shall have any authority to vary these terms and conditions of sale in any respect or to agree to any additional terms or conditions.

2.) PRICES.

Manufacturer's sale of Products is made according to the applicable price schedule or other price quotation of Manufacturer as from time to time in effect as confirmed by acceptance by Manufacturer of Customer's orders. Prices quoted are EXW Manufacturer's plant or such other place specified by Manufacturer. All prices quotations issued by Manufacturer are for a period of thirty (30) days unless otherwise indicated therein by Manufacturer. EXCEPT ONLY AS OTHERWISE SPECIFIED IN THIS SECTION, PRICES ARE SUBJECT TO CHANGE WITHOUT NOTICE. Price quotations based on estimated or projected quantities are subject to increase in the event that actual quantities purchased during this specified period are less than the estimated or projected quantities. Manufacturer's prices do not include any applicable sales, use or other taxes and the amount of any such taxes which Manufacturer may be required to pay or collect may be added to each invoice or separately invoiced by Manufacturer to Customer.

3.) PAYMENT.

Each shipment shall be considered a separate transaction and payment shall be made accordingly. Unless otherwise stipulated in writing by Manufacturer, payment for Products shall be made on the basis of net cash, initial 50% of total at time of order, additional 40% prior to shipment and final 10% upon receipt. If in the judgment of Manufacturer, the financial condition of the Customer at any time does not justify the making of any shipment on the terms specified herein, Manufacturer may make a shipment only on a C.O.D. or cash in advance basis, suspend performance or revoke the acceptance of Customer's order. Shipments not made pending payment by Customer shall be held at the risk and expense of the Customer. Payments not made when due are subject to interest at a rate of 1.5 percent (1.5%) per month on past due amounts, not to exceed the maximum rate allowed by law, until outstanding amounts are paid in full.

4.) DELIVERY.

Title and risk of loss shall pass to the Customer, EXW Manufacturer's plant or such other point of delivery of the Products by Manufacturer to the common carrier. Notwithstanding any request by Customer, Manufacturer may, without incurring any liability, exercise its own discretion in the method of shipment and the carrier.

5.) LIMITED WARRANTY.

Products purchased from Manufacturer are warranted only by the Manufacturer's warranty that the Product provided herein is of their standard quality and operable and that the Product will be free from defects in workmanship and material. The warranty period, for Product sold by Manufacturer and not expressly made subject to a different warranty, is one hundred twenty (120) days from date of receipt by Customer. There is no insurance against or warranty of any type for production loss due to late or damaged product shipments. The Manufacturer makes no express or implied statutory warranties other than as expressly set forth herein.

Manufacturer shall for a period of one hundred twenty (120) days from the date any of Product sold hereunder is received by Customer, repair or replace at its option, free of charge and F.O.B. point of manufacture, any nonconforming or defective parts or Product that upon inspection by Manufacturer, are deemed to be nonconforming or defective. Manufacturer shall, however, only be required to repair or replace such parts or Products if Customer (i) owned the nonconforming or defective parts or Product continuously from the original date of delivery, (ii) stored and maintained such parts and Product in accordance with Manufacturer's recommendations and standard industry practices and (iii) notified Manufacturer in writing of any nonconformance or defective parts or Product within fifteen (15) days following the date the nonconformity or defect became reasonably apparent. Further the obligations of Manufacturer hereunder do not apply to the repair or replacement of Products within the aforementioned warranty period for (a) misuse, negligence or accident, (b) normal maintenance services, (c) normal replacement of service items in connection with such service, (d) normal deterioration due to wear and tear, (e) use of non-manufacturer (OEM) replacement parts. The remedy provided in this Warranty shall be the sole and exclusive remedy of Customer in the event of defective or nonconforming parts or Product, and shall be void if the Product has been altered in any manner or has been moved from its original location without the written approval of the Manufacturer. The repair or replacement of any parts or Products under the foregoing provision does not extend the warranty beyond the warranty period described above. All electric motors, controls and other electrical services and their component parts, hydraulic motors, controls and other hydraulic services and their component parts, pneumatic controls, pneumatic services and other pneumatic components, bearings, gearboxes etc. are not included within this Warranty; the warranty with respect to these parts being limited to the manufacturer of these parts, a copy of which may be obtained from Manufacturer upon request. Customer will be responsible for the shipping/packaging costs associated with the safe and expedient return of warranted parts. The Warranty can only be claimed if genuine Manufacturer spare parts are used for repairs and maintenance of the Product.

MANUFACTURER'S UNDERTAKINGS AS CONTAINED IN THIS WARRANTY AS SPECIFIED ABOVE SHALL BE IN LIEU OF ANY OTHER WARRANTY OR WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. IN ADDITION, IT IS EXPRESSLY AGREED BETWEEN THE PARTIES THAT THE MANUFACTURER HAS NOT

MADE ANY REPRESENTATIONS OR WARRANTY AND THERE IS NO AGREEMENT THAT THE PRODUCT PURCHASED HEREUNDER WILL MEET ANY PARTICULAR STANDARD UNLESS CUSTOMER HAS SUPPLIED MANUFACTURER WITH WRITTEN SPECIFICATIONS OF THE PRODUCT AND THE MANUFACTURER HAS AGREED IN WRITING THAT THE PRODUCT WILL MEET SPECIFIC STANDARDS SPECIFIED BY THE CUSTOMER. CUSTOMER UNDERSTANDS AND ACKNOWLEDGES THAT THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE TERMS HEREOF UNLESS OTHERWISE NOTED IN PURCHASE AGREEMENT. NO CLAIM OF ANY KIND, INCLUDING, BUT NOT LIMITED TO CLAIMS OF NEGLIGENCE AND BREACH OF CONTRACT, WHETHER AS TO PRODUCT DELIVERED OR SERVICES RENDERED OR FOR NON-DELIVERY OF PRODUCT OR NON-PERFORMANCE OF SERVICES SHALL BE GREATER THAN THE PURCHASE PRICE OF THE PRODUCT OR SERVICES IN RESPECT OF WHICH THE CLAIM IS MADE. WITHOUT LIMITING THE FOREGOING, MANUFACTURER'S LIABILITY HEREUNDER SHALL, UNDER NO CIRCUMSTANCES, EXCEED THE PURCHASE PRICE SET FORTH IN THIS QUOTATION. MANUFACTURER SHALL, IN NO EVENT, BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT OR SPECIAL DAMAGES, LOSS OF BUSINESS PROFIT, PERSONAL INJURY, BUSINESS INTERRUPTION AND LOSS OF BUSINESS, EVEN IF MANUFACTURER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND ANY CLAIM BY CUSTOMER TO SUCH DAMAGES, WHETHER BASED ON TORT, CONTRACT OR OTHERWISE IS HEREBY EXPRESSLY WAIVED AND EXCLUDED.

6.) INDEMNIFICATION.

Without limiting Manufacturer's obligations as provided herein to repair or replace defective parts and to indemnify Customer with respect to patent infringement claims, each party shall indemnify, defend, and hold harmless the other party, from and against any claims, suits, or actions made by third parties for personal injury or property damage ("Loss") to the extent that such Loss was caused by the indemnifying party or its agents, subcontractors, or affiliates.

7.) DELIVERIES; LIMITATION OF LIABILITY.

Manufacturer will use its best efforts to fill Customer's orders in a timely manner. It is understood, however, that lead time requirements and delivery dates will vary according to manufacturing and other conditions and that all delivery dates are estimates until all engineering approval forms (EAF) and related approval documentation have been signed and returned by the Customer. Manufacturer may affect or delay the delivery date of any shipment based on Customer's request for work outside the accepted terms of original purchase agreement. Delay in delivery of any shipment shall not relieve Customer of its obligations to accept such shipment or any shipment. UNDER NO CIRCUMSTANCES SHALL MANUFACTURER BE LIABLE TO CUSTOMER OR ANY OTHER PERSON FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES BASED UPON LOST GOODWILL, LOST SALES OR PROFITS, WORK STOPPAGE, CONTRACTOR DELAYS, PRODUCT FAILURE, IMPAIRMENT OF OTHER GOODS OR OTHERWISE AND WHETHER ARISING OUT OF BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE OR OTHERWISE.

8.) FORCE MAJEURE.

Manufacturer shall not be liable for damages as a result of any delay or failure of delivery due to any cause beyond Manufacturer's control, including, without limitation, acts of God, act of Customer or any of its representatives, strike, ordinance, regulation, order or other governmental action, fire, accident, strike, slowdown, riot, terrorism, war, delay in transportation or inability to obtain necessary labor, materials, fuel or manufacturing locations. In the event of any such delay, the date of delivery shall be extended for a period equal to the time lost by reason of delay and, such delay is caused by act of Customer or any of its representatives, Manufacturer shall be reimbursed for any additional costs arising from such delay.

9.) CANCELLATION.

Customer's wrongful non-acceptance nor acceptance of Products or cancellation or repudiation of the order (all referred to as "Cancellation" in this provision), shall entitle Manufacturer to recover the following:

1. Manufacturer's costs and other commitments incurred to the date of Cancellation;
2. Incidental damages incurred due to such Cancellation; and
3. The profit Manufacturer would have received from full performance of this Agreement.

10.) REGULATORY LAWS AND STANDARDS.

Manufacturer makes no promise or representation that the Products shall conform to any federal, state or local laws, ordinances, regulations, codes or standards, except as particularly specified and agreed upon in writing by a duly authorized representative of Manufacturer. Prices do not include the cost or any inspections or permits unless otherwise stated in the formal quotation.

11.) CHANGES AND DRAWINGS.

Customer agrees that Manufacturer shall at its expense defend, or at its option settle, any claim, suit or proceeding brought against Customer on the issue of infringement of any United States patent or copyright in connection with any Product supplied by Manufacturer to Customer in accordance with these terms and conditions of sale. Manufacturer agrees to pay, subject to the limitations hereinafter set forth in this paragraph, any final judgment entered against Customer on such issue in any such claim, suit or proceeding defended by Manufacturer. Manufacturer's obligations contained in this paragraph shall be subject to the condition that Customer notifies Manufacturer in writing of any such claim, suit or proceeding promptly after Customer shall have received notice or obtains knowledge hereof and, at Customer's expense, provides Manufacturer with full information and assistance as requested by Manufacturer in such defense. Manufacturer reserves the right in the event of any such claim, suit or proceeding to modify or replace any affected Product to eliminate the alleged infringement, to obtain an appropriate license, or to give Customer a full refund of the price of the affected Products in lieu of any other obligation or responsibility hereunder. Manufacturer shall have no liability for any infringement arising out of (i) the combination of any Product with any other product whether or not furnished to Customer by Manufacturer, (ii) the modification of any Product unless such modification was made by Manufacturer, or (iii) any information, data service or application assistance furnished to Customer by Manufacturer. Manufacturer shall not be liable for any costs or expenses incurred without Manufacturer's written authorization. The foregoing shall be the entire responsibility of Manufacturer and the sole remedy of Customer with respect to any alleged intellectual property rights infringement or violation in connection with any Product, and Manufacturer shall in no event be liable for loss of or for any incidental, indirect or consequential damages, whether in contract or in tort, by virtue of any such infringement or violation. No

sale of Products hereunder shall be deemed by implication, estoppel or otherwise to constitute a license or other grant to Customer of any proprietary or patent rights of Manufacturer, except to the extent required by law.

12.) PROPRIETARY RIGHTS.

a. No Assignment of Rights. Nothing contained in this Agreement shall be construed as an assignment or grant to Customer of any right or title to the trade secrets, copyrights, patents or other intellectual property rights associated with the Products or for any other related information or data supplied by Manufacturer or its licensors.

b. Confidential Information. Customer agrees that the Work, its design and process-know-how, instructions on usage, and any other related information or data supplied by Manufacturer (the "Information") constitute valuable trade secrets and proprietary information of Manufacturer or its vendors or subcontractors. Customer agrees that it shall hold the Information in confidence and secrecy. Customer shall not use the Products or the Information except as expressly authorized by this Agreement or except to operate and maintain the Goods supplied or serviced hereunder. Further, Customer shall not disclose the Work provided hereunder or Information to any party other than its employees or agents who need to use it in order to operate or maintain the Goods supplied or serviced hereunder. Information does not include information which (a) is already in the receiving party's possession at the time of receipt from the disclosing party; (b) is or later becomes public through no fault of the receiving party; (c) is lawfully received from a third party having no obligation of confidentiality to the disclosing party; (d) is required by law to be disclosed; or (e) is independently developed by the receiving party who did not have access to the Confidential Information.

13.) PRODUCT LIABILITY INSURANCE.

Manufacturer and Customer represent that it has liability insurance coverage, in sufficient and adequate amounts, to support the indemnification obligations set forth in this Agreement.

14.) GOVERNING LAW, SEVERABILITY.

The sale of Products by Manufacturer to Customer shall be governed by the laws of state of Ohio. If any provision of these terms or conditions of sale shall be judged by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such adjudication shall not affect or modify any other provision of these terms of sale and the effect thereof shall be confined to the provision as to which such adjudication is made.

15.) EXPORT LICENSES.

The Products are being sold to Customer in the United States. Any exporting of Products shall be by Customer not Manufacturer. Accordingly, Customer shall be responsible for, at its own risk and expense, any necessary export license or permit and any other approval or documentation which may be required for or in connection with the export of any Products.

16.) INDEPENDENT CONTRACTORS.

Manufacturer and Customer are independent contractors, and the relationship created hereby shall be deemed to be that. No third-party beneficiary is intended by these terms and conditions of sale.

17.) NON-WAIVER OF COMPLIANCE.

No failure by Manufacturer to enforce at any time any provision of these terms and conditions of sale shall be construed as a waiver of Manufacturer's right to act or to enforce each and every such term and condition.

18.) NON-ASSIGNMENT.

Customer may not assign any of the rights or interests under these terms and conditions of sale without the prior written consent of Manufacturer. Any attempted assignment shall be void and be grounds for immediate termination of any obligation to Customer with respect to the sale of the Products set forth in these terms and conditions of sale. Manufacturer may also terminate any obligation to Customer with respect to the sale of the Products set forth in these terms and conditions of sale immediately by notice to Customer if:

- (a) Customer shall fail to make any payment on the due date or to accept delivery of any shipment; or
- (b) Customer shall make any assignment for the benefit of creditors; or
- (c) Customer shall admit in writing its inability to pay its debts as they mature; or
- (d) A trustee or receiver of all or a substantial part of Customer's assets shall be appointed by any court; or
- (e) Any bankruptcy or reorganization proceeding shall be instituted by or against Customer; or
- (f) Customer becomes insolvent or unable to pay its debts as they mature; or
- (g) Manufacturer has reasonable grounds for insecurity with respect to Customer's performance of its obligations to Manufacturer, and Customer fails to provide to Manufacturer adequate assurance of Customer performance within 30 days of Manufacturer's demand for such assurance.

Manufacturer may also terminate any such obligation to Customer on 30 days' notice for any failure of Customer to comply with any of its obligations contained in these terms and conditions of sale, provided that such failure shall not have been corrected during such 30-day period.

19.) AMENDMENTS.

These terms and conditions of sale contain the terms and conditions governing the sale of the Product as set forth in these terms and conditions of sale and may not be modified or amended except by an agreement duly executed by the parties.

20.) HEADINGS.

The headings contained in these terms and conditions of sale are included for mere convenience of reference and shall not affect the language included herein.

21.) DISPUTE RESOLUTION.

This Agreement is set forth in the English language. In the event of any dispute arising under this Agreement, the English language will govern the interpretation, meaning and intent of this Agreement. If there is any dispute, or difference arising out of, or relating to this Agreement or the breach thereof, the parties shall use their best endeavors to settle such dispute, or difference, by consulting and negotiating with each other, in good faith and understanding of their mutual interests, to reach a just and equitable resolution which is satisfactory to the parties. If the parties cannot resolve such dispute, or difference, up to the level of each party's Division Manager or President within ninety (90) days after a party's initial notice of the dispute the parties shall be free to litigate their differences in accordance with this Agreement. This clause shall not preclude the parties from bringing an action in any court of competent jurisdiction for injunctive relief or other provisional remedy to which they are entitled.