

## SMITHCO TERMS AND CONDITIONS OF SALE

### I. GENERAL

The following Smithco Terms and Conditions of Sale (the "T&Cs"), the purchase order for the Equipment, the final technical specifications, including Smithco Engineering ("Smithco") technical clarifications and exceptions, Smithco's quotation, and all other documents agreed upon by the parties, shall constitute the complete and final agreement (the "Contract") between Smithco and the customer entering into the Contract ("Customer") for the purchase of the equipment/goods described in the Contract (the "Equipment"). The T&Cs shall control over any conflict with any other document in the Contract. Notice of objection is hereby given to any additional or different terms and conditions of sale. The laws of the state of Texas shall apply to the Contract and the parties subject themselves to the exclusive jurisdiction of the courts of Houston, Texas. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods (Vienna Sales Convention) does not apply to this contract. Smithco's express written acceptance of the Contract shall be the exclusive means by which Seller is deemed to have accepted this Contract.

### II. TERMS OF PAYMENT

Unless otherwise stated in the Contract, payment shall become due pro rata as shipments are made and all payments will be due within thirty (30) days after the date of the invoice. If shipment is delayed by Customer, invoice shall be dated on the date of readiness for shipment for payment purposes. If Smithco's manufacturing is unreasonably delayed by Customer, Customer shall pay that portion of the purchase price which is equal to the percentage of completion; the balance shall be payable in accordance with the terms as stated. In addition, if the cost of materials for the Equipment increases during a delay, Customer shall be responsible for the increase in the cost of materials.

Smithco's compensation and schedule shall be adjusted equitably in reasonable and appropriate amounts to cover increases in Smithco's costs and delays in performance as a result of any of the following: (i) basic design conditions are changed; (ii) escalation of materials and other costs including but not limited to the imposition of new or increases in existing tariffs or limitations on imports of aluminum, steel and other commodities and variations in labor and other costs and delays associated with those causes. Accordingly and any future adjustments to compensation due to these matters shall be borne by Customer; (iii) any part of Smithco's performance or facilities is delayed or disrupted by Customer or others working for Customer; and (iv) acts of god, acts of government, strikes or other concerted acts of workmen, war, sabotage, unavailability, unforeseeable severe weather or floods, changes in law or its interpretation, and any other causes beyond Smithco's control in connection with any such change, addition, or event, Smithco shall promptly submit in writing to Customer the amount by which Smithco proposes that its compensation and schedule shall be adjusted, and Customer and Smithco shall thereupon agree in writing as to the adjustment. The parties agree that, so far as reasonably possible, no additional or different work or goods shall be furnished until the amounts of the adjustments with respect thereto have been mutually agreed upon.

### III. TITLE AND RISK OF LOSS

Unless otherwise provided in the Contract: Title to the Equipment shall pass to Customer upon the earlier of full payment or upon delivery pursuant to Ex-Works (Smithco, Beasley, TX). Notwithstanding anything else contained herein to the contrary, if Customer is unable to take delivery within three (3) days after notification of readiness to deliver to the Ex-works location is sent to Customer, the Equipment will be stored at Customer's expense and risk of loss shall immediately pass to Customer.

### IV. PROPRIETARY INFORMATION

All documents, drawings, know-how, designs, or writings ("Information") of any kind or in any form provided by either party shall remain the property of the disclosing party. The parties acknowledge Information may contain trademarked, copyrighted, or otherwise proprietary and/or confidential concepts, ideas and data, all of which is and shall remain owned solely by the disclosing party. In light of these acknowledgements, each party agrees to keep confidential and treat all information provided to them from the other party as if the company itself held a confidential and proprietary interest in the Information; to obtain the disclosing party's written permission prior to any disclosure or distribution of the Information to third parties and/or prior to the incorporation of the Information into any database, network or other computerized system; and to properly identify and attribute the disclosing party's proprietary interest in the Information including all appropriate trademark and/or copyright notices, whenever Information is disclosed or distributed pursuant to this Section. The party receiving the Information shall promptly return any Information to the disclosing party upon request and the receiving party and its agents shall abide by all nondisclosure terms and other reasonable provisions required by the disclosing party as a condition of visiting the party's facility. Except to the extent that the Information may be relied upon by Customer to use and operate the Equipment for its intended purpose, nothing in this Agreement shall be construed as an implicit or explicit license by Smithco to Customer to make, use, research and develop, sell, copy, disclose, distribute, or otherwise benefit from the proprietary or confidential nature of the Information. The rights and obligations of this Section shall survive the cancellation, completion or any other termination of this agreement.

### V. WARRANTY

Smithco warrants that the Equipment delivered hereunder will be free from defects in workmanship and material and shall conform to the material specifications for the Equipment, subject to any of Smithco's technical clarifications and exceptions, for a period of one (1) year from startup of the Equipment or eighteen (18) months after notification of readiness to delivery to the Ex-Works location is sent to Customer, whichever occurs first. Smithco shall, at its expense, only be responsible for the repair or replacement of the defective portion of any Equipment, or, at Smithco's option, Smithco may refund to Customer the price paid to Smithco by Customer for the defective item(s). Smithco shall not be responsible for the removal, delivery, return, or re-installation of any repaired or replaced Equipment. For the foregoing remedy to apply, the defect must occur during the warranty period set forth above, use of defective Equipment

must be promptly discontinued, and Customer must give Smithco written notification within thirty (30) days after Customer's discovery of the defect. Smithco shall not be liable for any harm or damage to Customer as a result of Customer's delay in notifying Smithco of a warranty claim herein. Further, this warranty and remedy shall apply only if Customer properly unloads, stores, maintains, and installs the Equipment, protects the Equipment from damaging agents, and operates the Equipment in a normal and proper manner and not in excess of any applicable rating limitations or design specifications. Smithco makes no warranty whatsoever regarding resistance of materials to corrosion or erosion. The sole liability of Smithco and the exclusive remedy of Customer, whether arising under contract, tort (including negligence), strict liability or otherwise, arising out of defects in the Equipment supplied hereunder shall be the remedies set forth above. In no event shall Customer back charge any of Customer's repair costs associated with repairing the Equipment from monies owed to Smithco unless agreed to in writing by the parties. Smithco does not warrant the type of materials selected for the Equipment because such material was selected by Customer in its specifications for the Equipment without Smithco's assistance.

EXCEPT FOR THE WARRANTIES AND GUARANTEES SPECIFICALLY PROVIDED FOR IN THE CONTRACT, CUSTOMER ACKNOWLEDGES, UNDERSTANDS, AND ACCEPTS THAT: (1) THERE ARE NO EXPRESS WARRANTIES OR GUARANTEES; (2) THE WARRANTIES AND GUARANTEES IN THIS AGREEMENT ARE THE ONLY WARRANTIES AND GUARANTEES THAT WERE PART OF THE BASIS OF THE BARGAIN; AND (3) THERE ARE NO IMPLIED WARRANTIES, WARRANTIES OF MERCHANTABILITY AND NO WARRANTIES FOR FITNESS FOR A PARTICULAR PURPOSE. THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION ON THE FACE HEREOF.

#### VI. DELAY IN PERFORMANCE

Except for the payment of monies due hereunder or as otherwise set forth, neither party shall be liable for any expense, loss or damage resulting from delay or prevention of performance caused by force majeure events which are beyond the reasonable control of the party affected. Force Majeure shall also include delays as a result of a union strike or labor shortage as a result of actions by a union. In the event Smithco is delayed by reason of force majeure, the time for performance and delivery shall be extended by a commercially reasonable period of time.

#### VII. TAXES

The prices for Equipment are exclusive of any present or future federal, state, municipal or other sales or use tax or any other present or future excise tax upon the Equipment. In addition, any export or import fees assessed shall be the responsibility of the Customer. If Smithco is required by applicable law or regulation to pay or collect any tax and/or fees on the Equipment, then such tax, fees and any penalties and interest thereon shall be reimbursed to Smithco by Customer.

#### VIII. TEST OF EQUIPMENT

Any performance tests of Equipment shall be made in accordance with procedures to be agreed upon in writing between Smithco and Customer. Smithco shall be notified of and may witness any such test. All such tests shall be conducted within the warranty period. Customer shall obtain

Smithco's written permission prior to any disclosure to a third party concerning the nature or results of such tests.

#### IX. CANCELLATION AND TERMINATION

Unless provided elsewhere in the Contract, in the event of a termination of an order, Customer shall pay to Smithco:

- a. If the termination is for convenience: (1) the price in the purchase order for the actual Equipment completed, whether delivered or not (2) costs, reasonable overhead, and profit for any work in process and materials used; and (3) costs, and reasonable overhead and profit for any materials purchased and work not yet commenced under the purchase order. After such payment, Smithco will deliver to the Ex-Works location specified in the Contract, all Equipment, whether or not completed, and all materials paid for herein.
- b. If the termination is for Cause and after Smithco was given notice and a reasonable opportunity to cure and Smithco failed to cure: (1) the price for all conforming Equipment completed, whether delivered or not, and (2) all actual costs incurred by Smithco, plus reasonable overhead and profit. Cause shall be defined as prior to delivery, the Customer finds that the Equipment is not manufactured in accordance with the material requirements of the Contract, less any of Smithco's technical clarifications and exceptions.

#### X. INDEMNIFICATION

Subject to the limitations of liability and exclusions herein, Smithco agrees to defend, indemnify and hold Customer harmless from any cause of action, demand, claim liability, loss, including attorney's fees, for any injury to or death of persons (including employees of Customer) or damage to property (including Customer's) arising from the negligent manufacturing or negligent production of the Equipment subject to the Contract; and from all liability or expense arising from violations by Smithco of any applicable laws, rules and regulations concerning the manufacture, sale, price and delivery of the Equipment or services provided for herein that proximately caused Customer's damages. In the event that any Customer or any third party's actions contribute or cause any harm to the Customer or the third party, Smithco's duty of indemnification shall only be in proportion to Smithco's joint negligence, gross negligence, wrongful intentional actions, acts, or willful misconduct that caused harm to Customer or the third party. In no event shall Smithco be liable for the negligence, intentional actions, strict liability, acts, or willful misconduct of the Customer, any of its affiliates or any third parties.

#### XI. LIMITATIONS ON LIABILITY

**Notwithstanding any other provision of this Contract, neither Smithco nor its subcontractors shall be liable, whether arising under contract, tort (including negligence), strict liability or otherwise, for loss of anticipated profits, loss of business reputation or opportunity, loss by reason of plant or other facility shutdown, nonoperation or increased expense of operation, service interruptions, cost of purchased or replacement power, claims of customers, loss of use of capital or revenue, cost of money, or for any**

**special, indirect, incidental or consequential loss or damage of any nature arising at any time from any cause whatsoever. In no event shall the total liability of Smithco, regardless of form of action, arising out of the supply of Equipment or services hereunder exceed the price of the order under which the services or Equipment giving rise to liability is provided.**

**XII. DATA PRIVACY NOTICE**

For information regarding Smithco's processing of personal data, see the Chart Industries, Inc. Privacy Notice, which is available at <http://www.chartindustries.com/Terms-Conditions> under "Customer Privacy Information". Customer represents and warrants that it will provide such privacy statement to all of Customer's employees, contractors, agents, or other persons authorized to act on Customer's behalf at or before the time that any such persons interact with or provide any personal information to Smithco.

**XIII. REFUNDS, KICKBACKS, ILLEGAL PAYMENTS**

The parties mutually agree that each party is prohibited from giving any commissions, payments, gifts, kickbacks or other things of value to any director, officer, employee, or other agent of the other company or any third party in connection with this Contract. The parties agree to notify the other party of any solicitation by any of the other party's directors, officers, employees, agents or any third party. However, this section shall not be construed to prohibit legal and customary meals paid for by one of the parties during the discussion of business.

**XIV. DELIVERY**

The Equipment shall be delivered on or around the date in the Contract. Delivery shall be Ex-Works (Smithco, Beasley, TX), however, Smithco agrees to assist Customer with loading the Equipment onto Customer's carrier. In the event the Equipment is not delivered on or around the date in the Contract, Smithco shall have a commercially reasonable extension on the delivery schedule to deliver the Equipment. In the event that Smithco does not deliver after a commercially reasonable extension of time, the Customer may terminate this Contract according to Section IX herein. If Customer is unable to take delivery when the Equipment is ready for shipment, the Equipment will be stored at Customer's expense and risk of loss shall immediately pass to Customer. In the event Customer does not make the delivery arrangements for the order within three (3) business days of the delivery date, then Customer may be subject to storage fees according to Smithco's then-current standard storage fee schedule.

**XV. CHANGE ORDERS**

Customer may, at any time after issuing the purchase order until before the Equipment is delivered per the terms of the Contract, change this order. However, any change, with the exception of a cancellation, to the order shall not be recognized by Smithco until a change in the delivery schedule and price terms are agreed to in writing by both Smithco and Customer. In the event of a requested change, Smithco may stop all work on the affected portion of the Customer order until the change, schedule, and price is agreed upon and the current delivery schedule shall be adjusted for a reasonable period of time to account for the stop in work while the parties are negotiating the changes to the purchase order. If the parties do not agree on the terms of the change, the delivery schedule for the affected

portions of the purchase order shall be adjusted for a commercially reasonable period of time to allow for the stoppage in work while the parties were negotiating the change.

**XVI. MODIFICATIONS TO THE CONTRACT**

These Smithco Terms and Conditions of Sale can only be modified by a written instrument agreed to by an authorized representative of each party and such amendment must specifically state the following in a conspicuous manner: "*This amendment amends the Smithco Terms and Conditions of Sale*". All other amendments to the Contract shall be in writing and acknowledged by both parties.

**XVII. GOOD FAITH AND REASONABLENESS**

Smithco and Customer agree that the Contract, each party's obligations, and all actions under the Contract shall be held to a good faith and commercially reasonable standard.

**XVIII. IMPORT AND EXPORT**

Customer agrees to comply with all applicable national, federal, state and local laws, ordinances and regulations of the United States of America and of all other applicable anti-bribery and anti-corruption laws of non-U.S. jurisdictions, including without limitation all provisions of the United States Foreign Corrupt Practices Act and any amendments thereto (the "FCPA"). In furtherance and not in limitation of the foregoing covenants, Customer represents and covenants that it has not paid and will not, directly or indirectly, pay, offer, give, promise (or authorize such) anything of value to any official or employee or any national, state, or local government of any country, or any agency or instrumentality thereof, to any candidate for public office, to any political party, or any officer or employee thereof in violation of the FCPA or other applicable anti-bribery laws. Customer acknowledges and agrees that Smithco has the right to terminate the Agreement and any other agreement between Smithco and Customer in the event that Smithco determines, in its sole discretion exercised in good faith, that Customer has committed a violation of the FCPA or any other applicable anti-bribery or anti-corruption law or regulations. Customer shall defend, indemnify and hold Smithco harmless from any claims, suits, investigations, penalties, and fines of any kind resulting from any FCPA or other anti-bribery or anti-corruption investigation which may occur as a result of any conduct by Customer. These FCPA Compliance provisions shall survive any termination, lapse or expiration of the Agreement for a period of twenty-four (24) months. In no event shall Smithco be required to export or deliver any technical information, data or Equipment, including where such equipment is for incorporation into customer's end-item ("End Item"), if such export or delivery is then prohibited or restricted by applicable export control and sanctions laws or regulations including but not limited to those of the US, the EU, member states of the EU, the United Kingdom or the country in which the Equipment, End Item, or services to be sold will be installed, used, or performed (together "Export Control and Sanctions Rules"). Should Smithco's performance of its obligations hereunder be prohibited by Export Control or Sanctions Rules, in whole or in part, or if the exportation or importation of the Equipment be precluded because of the inability to obtain an export or import license within a reasonable time, as appropriate, then Smithco's obligations hereunder shall be terminated at Smithco's option, and Smithco shall be entitled to reasonable cancellation charges. Unless otherwise agreed in writing by Smithco, Customer accepts all responsibility for exporting and importing the Equipment and any End Item outside of the U.S., will be the exporter of record and importer

of record, and will be responsible for filing any documents, obtaining any licenses required by the U.S. or other government agencies, and paying all duties and taxes necessary for exportation and importation. Customer agrees that it will not participate directly or indirectly in the sale, resale, export, transfer or disposal of the Equipment to any entity, to the Russian Federation or to any other country in breach of Export Control and Sanctions Rules and Customer will not sell, resell, export, transfer, dispose or otherwise deal with the Equipment to any country, destination or person without first obtaining any required export license or other governmental approval, and completing such formalities as may be required by Export Control and Sanctions Rules. Customer shall (i) undertake its best efforts to ensure that the purpose of the preceding sentence is not frustrated by any third parties further down the commercial chain, including by possible resellers and (ii) set-up and maintain an adequate monitoring mechanism, to detect conduct by any third parties further down the commercial chain, including possible resellers, that would frustrate the purpose of the preceding sentence. Customer shall immediately inform Smithco about any problems in complying with this Section or applying obligations (i) and (ii) detailed above, including any relevant activities by third parties that could frustrate the purpose of this Section, and shall make available to Smithco information concerning compliance stated herein within five (5) business days of the request of such information. These provisions shall survive any termination, lapse or expiration of the Agreement.