



SALES TERMS AND CONDITIONS

- 1. ENTIRE AGREEMENT, MODIFICATIONS** – The terms, conditions and specifications contained in this agreement (“Terms”) constitute the entire agreement between the parties for the provision of goods by Airvac, Inc. (“SELLER”) at any time. No change in, addition to, or waiver of the Terms will be a binding obligation on SELLER unless approved in writing by its authorized representative. SELLER’S receipt, acknowledgement and/or acceptance of CUSTOMER’S purchase order form will not modify these Terms or become part of SELLER’S agreement to the extent it contradicts these Terms. SELLER is a material supplier and is not a party to CUSTOMER’S agreement with owner or others. CUSTOMER agrees to pay SELLER without reference to CUSTOMER’S contract with owner or others. It is understood the CUSTOMER has the ultimate obligation to pay SELLER on the terms and within the time period set forth herein, regardless of CUSTOMER’S payment status from the owner or others. If any provision of this agreement is held to be invalid or enforceable, the balance of this agreement will remain in force.
- 2. TITLE AND RISK OF LOSS** – TITLE of the goods herein described shall pass to CUSTOMER upon full payment of said goods and any prior outstanding debt. RISK OF LOSS passes to CUSTOMER upon delivery of the goods to the carrier or appointed person at SELLER’s facility. Such title to and risk of loss of said goods will not pass to CUSTOMER in any other way, notwithstanding any agreement to the contrary, including, but not limited to, any agreement to pay freight, express or other transportation or insurance charges.
- 3. PAYMENT AND PRICES** – SELLER may, at its option, require CUSTOMER to pay for all goods at the time the order is placed or require CUSTOMER to obtain an irrevocable letter of credit in favor of SELLER from an issuer acceptable to SELLER. In the event SELLER does not require advance payment or require such letter of credit, payment by CUSTOMER will become due thirty (30) days from the date of SELLER’S invoice covering a particular shipment. No retainage or other deductions shall be made from such payments. In the event of failure by CUSTOMER to make any payment when due, SELLER may decline to make further shipments until such default is cured. SELLER may elect to continue to make shipments despite the continuance of such default, however such election by SELLER will in no way constitute a waiver of such default nor affect SELLER’S legal remedies thereof. CUSTOMER assumes full responsibility, including reporting and payment, of all taxes, however designated, or other governmental charges arising out of, levied or based upon, or in connection with the sale of the goods herein described, including state and local privilege, sales and use, or excise taxes based on gross revenue or any taxes or amount in lieu hereof paid or payable by SELLER in respect of the foregoing. In no event will any charges for engineering services imply a conveyance of any design and/or manufacturing rights as to the goods, unless such conveyance is expressly set forth in a separate written agreement signed by authorized representatives of both parties. In the event that CUSTOMER falls behind in payment, SELLER, without prejudice to any other right or remedy available to SELLER, shall, at its sole discretion, be entitled to: (i) terminate the order and/or suspend any further deliveries to CUSTOMER and/or (ii) charge the CUSTOMER interest on any unpaid portion of the purchase price at twelve percent (12%) per annum. Furthermore, the defaulting CUSTOMER shall bear all costs arising in connection with the recovery of the invoiced sums outstanding, including costs of reminders and seeking information, collection expenses, and reasonable attorney’s fees.
- 4. SECURITY INTEREST** – CUSTOMER hereby grants to SELLER a purchase money security interest in all goods purchased by CUSTOMER from SELLER until CUSTOMER has paid for such goods in full. CUSTOMER hereby authorizes SELLER to file UCC-1 financing statements in accordance with applicable law to perfect its security interest granted herein.
- 5. WARRANTIES** – (A) Provided that CUSTOMER subjects the goods only to operating conditions specified by CUSTOMER at the time the order is placed, and operates the goods in accordance with SELLER’S written operating instructions, SELLER warrants the goods to be free of defects in material and workmanship for a period of

 - one (1) year for VACUUM STATION & OTHER EQUIPMENT and
 - two (2) years for AIRVAC VALVES, VALVE PITS & MANUFACTURED ITEMS

The term VACUUM STATION & OTHER EQUIPMENT “Warranty Period” shall mean the earlier of (i) 18 months following delivery of the Goods in question or (ii) the first anniversary from the date the vacuum system is placed in service (defined as successful station start-up completed by AIRVAC).

The term AIRVAC VALVES, VALVE PITS & MANUFACTURED ITEMS “Warranty Period” shall mean the earlier of (i) 30 months following delivery of the Goods in question or (ii) the second anniversary from the date the vacuum system is placed into service (defined as successful station start-up completed by AIRVAC).

The above warranty does not apply to: (i) used goods or goods that have been repaired or refurbished; (ii) goods that have been modified or subjected to improper handling, storage, installation, operation or maintenance by CUSTOMER, including use of unauthorized replacement or spare parts; (iii) component parts not manufactured by SELLER; (iv) normal wear and tear; and (vi) models or samples furnished to CUSTOMER as illustrations only of general properties of equipment. This warranty is subject to the CUSTOMER, upon SELLER's request, returning the defective part to SELLER for inspection at CUSTOMER'S cost, and freight prepaid. (B) If prior to the end of the Warranty Period any goods sold and delivered by SELLER to CUSTOMER fail to conform to the warranty set forth above, SELLER shall, at its sole discretion and as CUSTOMER's sole and exclusive remedy, repair or replace the defective part. All parts repaired or replaced hereunder shall be repaired or replaced at SELLER'S facilities. In the case that (field) services are rendered by SELLER in connection with the goods sold or the installation of a vacuum sewer project, SELLER'S warranty only applies to the products and equipment sold and supplied. SELLER does not warrant or provide any guarantees for the planning, construction and installation of the system.

- 6. LIMITATION OF LIABILITY** – NOTWITHSTANDING ANY OTHER PROVISION OF THESE TERMS, CUSTOMER EXPRESSLY AGREES THAT NEITHER SELLER ITS SUPPLIERS WILL UNDER ANY CIRCUMSTANCES BE LIABLE UNDER ANY THEORY OF RECOVERY, WHETHER BASED IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), UNDER WARRANTY, OR OTHERWISE, FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL LOSS OR DAMAGE OR PUNITIVE DAMAGES WHATSOEVER; DAMAGE TO OR LOSS OF PROPERTY OR EQUIPMENT; LOSS OF PROFITS OR REVENUE; LOSS OF POWER; LOSS OF USE OF CUSTOMER'S MATERIAL OR EQUIPMENT; LOSS OF INFORMATION AND DATA; LOSS OF INTEREST; INCREASED COSTS OF ANY KIND, INCLUDING BUT NOT LIMITED TO CAPITAL COST; BUSINESS INTERRUPTION; OR CLAIMS OF CUSTOMERS OF CUSTOMER. CUSTOMER EXPRESSLY AGREES THAT THE REMEDIES PROVIDED IT HEREIN ARE EXCLUSIVE AND THAT UNDER NO CIRCUMSTANCES SHALL THE TOTAL AGGREGATE LIABILITY OF SELLER UNDER ANY THEORY OF RECOVERY, WHETHER BASED IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), UNDER WARRANTY, OR OTHERWISE, EXCEED THE LESSER OF ONE MILLION DOLLARS (\$1,000,000) OR THE TOTAL PRICE PAID TO SELLER UNDER THESE TERMS. THE WAIVERS AND DISCLAIMERS OF LIABILITY, RELEASES FROM LIABILITY, AND LIMITATIONS ON LIABILITY EXPRESSED IN THIS ARTICLE & - LIMITATION OF LIABILITY, SHALL EXTEND TO THE PARTNERS, PRINCIPALS, SHAREHOLDERS, DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS OF SELLER AND ITS AFFILIATES, SUCCESSORS, OR ASSIGNS. ALL LIABILITY OF SELLER AND ITS SUPPLIERS UNDER THESE TERMS SHALL TERMINATE NO LATER THAN TWELVE (12) MONTHS AFTER THE EXPIRATION OF THE WARRANTY PERIOD. THE PROVISIONS OF THIS ARTICLE & - LIMITATION OF LIABILITY, SHALL PREVAIL OVER ANY CONFLICTING OR INCONSISTENT PROVISIONS SET FORTH ELSEWHERE.
- 7. CATASTROPHIC LOSSES** – Notwithstanding anything to the contrary contained herein, CUSTOMER hereby agrees to assume the liability for the following specified types of losses or events: (1) reservoir or underground damage, including loss of any mineral substance, or water or the wellbore itself; (2) control of a wild well, underground or above the surface; and (3) pollution, including clean-up and control of the pollutant or contamination.
- 8. CLAIMS** – Within twenty (20) days after tender of delivery to or receipt by CUSTOMER of any shipment and before any part of such goods (except for reasonable test and inspection quantities) has been changed from its original condition, CUSTOMER will inform SELLER in writing if said goods are found defective in any respect. Failure to so inform SELLER or use of said goods (except for reasonable test and inspection quantities) will be conclusive that SELLER has satisfactorily performed. In the event that CUSTOMER wishes to return received goods after 30 days of receipt of goods, and in the absence of any fault on the part of the SELLER (e.g., due to defective goods or the delivery of parts not ordered), the SELLER reserves the right to charge a restocking fee of 20% for all parts returned.
- 9. MODIFICATION** – CUSTOMER may request changes within the scope of the initial order and, if accepted by SELLER, the price, performance, schedule and other pertinent provisions of the order will be adjusted by mutual agreement of the parties prior to implementation of the change. Expenses incurred by SELLER due to (i) delays, other than delays which are deemed to be within the reasonable control of SELLER, and (ii) changes in applicable laws and requirements after the date of the offer submitted by SELLER, as applicable, will be treated as changes to the scope of work and the scope of the order will be adjusted as set forth in the previous paragraph.
- 10. PROPRIETARY INFORMATION** – SELLER may have a proprietary interest in the information, goods, and technology supplied, as well as in the manner of performance of the work, including but not limited to the know-how, processes, methods and techniques employed by SELLER in connection therewith. CUSTOMER will keep in confidence and will not disclose any information related to such proprietary interest, other than to CUSTOMER's employees, without the prior written permission of SELLER or use any such information for other than the purpose for which it is supplied. CUSTOMER shall indemnify and hold SELLER harmless from and against any loss, damage or liability arising or resulting from non-compliance with the provisions of this Article 10:

- 11. TERMINATION** – Any order may be terminated immediately by SELLER if CUSTOMER is unable to meet its financial obligations as they come due or in the case of proceedings of bankruptcy against the CUSTOMER. CUSTOMER may terminate the order upon thirty (30) days prior written notice to SELLER and payment of full compensation of the goods supplied and work performed to date plus additional markups for overhead and profit.
- 12. FORCE MAJEURE** – SELLER will not be liable for any loss or damage of any nature whatsoever incurred or suffered as a result of any failures or delays in performance due to any cause or circumstances beyond its control, including but not limited to any failures or delays in performance caused by any strikes, lockouts, or labor disputes, fires, acts of God or the public enemy, riots, incendiaries, interference by civil or military authorities, compliance with laws or with the orders or policies of any governmental authority, delays in transit or delivery on the part of the transportation companies or communication facilities, or failures of sources of materials. In the event of a shortage of goods, SELLER reserves the right to allocate available goods among all of its customers in its own discretion.
- 13. EXPORT OR IMPORT LICENSE** – CUSTOMER will procure at its expense any export or import licenses required for any of the material included in the Quotation. For any goods being exported from the United States, CUSTOMER agrees to comply fully with all applicable economic sanctions and export control laws and regulations. CUSTOMER shall not – directly or indirectly – sell, provide, export, re-export, transfer, divert, loan, lease, consign, or otherwise dispose of any equipment, product, services, software, source code, technical data, or technology received from SELLER to or via any person, entity, or destination, or for any activity or end-use restricted by laws or regulations of the United States or any other applicable jurisdiction (including nuclear, missile, chemical or biological weapons proliferation, military, or money laundering activities) without obtaining all required government authorizations. CUSTOMER recognizes and agrees to comply with SELLER's policy to not support the use of its products for any operations in any country so prohibited under the export laws and regulations of the United States. As may be requested by SELLER, CUSTOMER shall provide SELLER with the relevant end-use, end-user and country of end-use information with respect to the goods, software or technology to be supplied hereunder. Based on and in reliance on such information, SELLER will supply such goods, software or materials in compliance with applicable law including that of the United States of America. SELLER cautions and CUSTOMER acknowledges that any change in end-use, end-user or country of end-use (including a shipment between countries other than the United States of America may be restricted or prohibited by applicable law, whether it is of the United States of America or other country.
- 14. ANTI-CORRUPTION** – CUSTOMER represents and warrants that it and all of its affiliates and agents shall act in accordance with the principles described in the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, signed in Paris on December 17, 1997, as amended (“the Convention”), and the Convention's Commentaries (collectively “the OECD Principles”), and shall comply with all applicable laws implementing the OECD Principles (including the U.S. Foreign Corrupt Practices Act of 1977, as amended), as well as any applicable local laws related to anti-corruption, anti-kickbacks, and anti-money laundering.
- 15. DEFINITIONS** – “CUSTOMER” means the person or company to whom the quotation is submitted. The "Quotation" means techno-commercial offer to which these terms and conditions are attached.
- 16. QUOTATION** – The Quotation is subject to withdrawal or variation by SELLER, at any time prior to acceptance in writing by CUSTOMER.
- 17. PRICES AND VARIATION** – Unless otherwise stated in writing, the quoted prices are net, in U.S. Dollars based upon labor and material cost at the date of Quotation. The Quotation is for supply of goods to be provided by SELLER for the CUSTOMER or purchased from another manufacturer. The prices quoted are calculated on the basis of the prices charged by the SELLER, the rate of exchange, duty, freight, insurance, clearance, and other similar charges, as applicable, ruling at the date of Quotation and any increase therein shall be to the account of the CUSTOMER. The prices quoted for the goods manufactured by SELLER are subject to rise and fall for variation in the cost of labor, material, or overhauls after the due date of quotation, unless otherwise specified in writing.
- 18. DISPUTE RESOLUTION** – The laws of the State of Minnesota shall govern the validity, construction, interpretation, and effect of the transaction, without regard to its choice of law rules. The parties irrevocably consent to the personal jurisdiction of the state and federal courts of the State of Minnesota for any and all disputes arising out of or in connection with this agreement and expressly waive any defense of forum non convenience.
- 19. ALTERATION** – The above terms and conditions may be modified by the SELLER from time to time in writing and such variations shall be binding on the CUSTOMER for any subsequent orders.