



**PREMIER  
SOLUTIONS  
FOR MODERN  
INDUSTRY.**

## **EQUIPMENT SALES TERMS & CONDITIONS**

Chief Engineering, PLLC ("Seller") agrees to sell the Equipment and Buyer agrees to purchase the Equipment subject to the following terms and conditions:

**Payment Terms:** If required and specified, a down payment equal to 20% of the total amount for all deliverables is due upon project initiation. A project is considered initiated when a services agreement issued by Seller or a purchase order issued by the Buyer is signed by the Buyer and received by Chief Engineering, PLLC. Chief Engineering, PLLC will provide an acknowledgment to the Buyer upon receipt of a signed services agreement or purchase order to signify the project initiation. Work on project deliverables will halt if the 20% down payment is not received within 30 days. All projects will be invoiced per deliverable completion. Payment is due no later than 30 days following deliverable completion and receipt of deliverable invoice. Invoices not paid within 30 days are subject to interest at Prime Rate.

**Purchase Orders:** By submitting a purchase order to Chief Engineering PLLC for this services agreement or signing this services agreement, the customer accepts this contract as the service contract regarding the project listed and is subject to the terms, items, and conditions listed herein and no contract will override this one unless agreed upon in writing by Chief Engineering PLLC. Please address all purchase orders to:

Casey Shockey, President  
Chief Engineering, PLLC  
1901 Vinton Ave.  
Memphis, TN 38104

**Prices:** All prices are U.S.A. currency and are exclusive of federal, state or local taxes including, but not limited to, taxes on sales, receipts, gross income, occupation, use and similar taxes, and all other charges including, but not limited to, all applicable shipping and insurance charges. Wherever applicable, any tax or other charge will be added to the invoice as a separate charge to be paid by Buyer. All prices stated herein are subject to change in the event of any alterations in specifications. Prices do not include freight, transportation, insurance, shipping, storage, handling, demurrage, or similar charges unless specified otherwise on the face hereof. Prices also do not include import licenses, permits, import duties, or customs fees, all of which shall be the sole responsibility of Buyer. Fees related to final inspection of equipment or systems shall be paid by the Buyer.

**Solvency:** Buyer represents and warrants to Seller that it is and will be solvent and able to pay for the Equipment when delivered. This representation will be deemed renewed on each delivery of Equipment. Seller is relying on these representations and on all information furnished to Seller regarding the financial condition, solvency and ability to pay for the Equipment. Any material inaccuracy or misrepresentation by Buyer regarding its financial condition, solvency or ability to pay for the Equipment constitutes a material breach of this Agreement.

**Default by Buyer:** If Buyer fails to make any payment when due, or breaches any other condition, or if Buyer becomes insolvent or ceases to do business as a going concern, or if any of the Equipment is lost or destroyed, or if a petition is filed in bankruptcy or an arrangement or reorganization is filed by or against Buyer, or Buyer makes an assignment for the benefit of creditors or if property of Buyer is attached or a receiver appointed for Buyer, or whenever Seller may deem the indebtedness or collateral insecure, Buyer shall be in default. If Buyer is in default, the indebtedness described shall, at Seller's option, become immediately due and payable. The failure of Seller to take advantage of any default or breach shall not operate as a waiver on the part of Seller of its rights to do so for any subsequent default or breach. Seller's rights hereunder shall be cumulative and not alternative.

**Personal Property:** The Equipment shall remain personal property and retain its character as such whether placed on a permanent foundation or in any manner affixed or attached to any building or structure. Where Buyer is not the sole owner of the land or improvements where the Equipment is situated, Buyer shall, upon demand of Seller, furnish Seller with disclaimers, signed by all persons having an interest in the real estate, in the improvements, or any interest in the Equipment that is superior to Seller's interest.

**Risk of Loss:** Risk of loss shall pass to Buyer when each item of Equipment is delivered to the carrier. All risk of loss, injury, or destruction of the Equipment shall be borne by Buyer, and Buyer shall keep the Equipment free of all taxes, liens and encumbrances of every kind that may adversely affect Seller's interest. Buyer shall insure the Equipment for its actual cash value against the risk of fire and other perils as Seller may require, with extended coverage, under policies acceptable to Seller, with loss payable to Seller or its assigns and Buyer as their interests may appear, providing for thirty (30) days minimum written cancellation notice to Seller, and with duplicate or carbon copies of policies deposited with Seller.

**Buyer Representations:** Buyer represents, warrants and agrees: (i) it will not sell, transfer, dispose of or remove any of the Equipment from the known address until all of it is fully paid for, without the written permission of Seller, (ii) Buyer will promptly pay when due all taxes and assessments levied on the Equipment or its use and operation, and (iii) Buyer is not relying on any statement or representation by Seller regarding the Equipment that is not in writing and contained in this Agreement.

**Cancellation and Liquidated Damages:** After acceptance by Seller, Buyer may not cancel this Agreement in whole or in part without the written consent of Seller. In case of default by Buyer, at its election Seller may forthwith cancel this Agreement or any part thereof without prejudice to or waiver of any other rights or course of action open to Seller. It is understood that on cancellation of this Agreement or any part thereof, for any reason, at its election, Seller may, in addition to any other remedies granted Seller hereunder, (i) retain the down payment, or any balance thereof on hand at the time of such cancellation, (ii) if the Equipment is in Buyer's possession, repossess such Equipment, and (iii) recover from Buyer any costs and expenses, including reasonable attorneys' fees incurred by Seller in enforcing its remedies as liquidated damages.

**Scheduling; Force Majeure:** If Buyer is in default of any of its obligations under this proposal, Seller may, at its election, withhold any further performance of its obligations and duties under this proposal until such time as such default has been cured by Buyer, in which event the anticipated date of shipment as set forth herein shall be adjusted accordingly. Seller will exert reasonable efforts to adhere to the approximate shipment dates specified in this Agreement or in any amendment, but Seller shall not be responsible for any delay or variation in performance caused or contributed to, by current or future events beyond its reasonable control. Without limiting the generality of the foregoing, Seller shall not be responsible for any delay or variation in performance caused, or contributed to, by completion of orders accepted prior to the acceptance of this Agreement, delay in or absence of receipt of necessary instructions from Buyer, accepted changes in specifications, accidents, strikes, fires, floods, embargoes, civil commotion, epidemics, conditions arising from war (declared or undeclared), governmental acts or regulations, inability or failure of any manufacturer or supplier to supply Seller with goods, power or transportation and any and all like or different causes beyond Seller's control.

**Transportation and Routing:** Unless otherwise specified on the face of this Agreement, Seller may determine the transportation facilities and the routing shipments.

**Performance and Warranty:** Seller assigns to Buyer (to the extent assignable) any manufacturer's warranty and makes no additional warranty with respect to the Equipment or any of its components and materials. Seller has made no warranty, express or implied, and no representations, promises, or statements unless endorsed hereon in writing. There is no implied warranty of merchantability or of fitness for a particular purpose or of non-infringement, all such warranties being hereby expressly excluded. Engineered explosion protection systems are designed to diminish buyer's risk of an explosion and to reduce any resulting damage through use of detection, suppression, venting and/or Isolation devices. However, Chief Engineering PLLC cannot guarantee, and no warranty is made, that any explosion protection system or other goods delivered by Chief Engineering PLLC will prevent such resulting damage from occurring in any manufacturing or processing operation.

**Equipment Selection and Risk Analysis:** Buyer acknowledges that Seller has informed the Buyer of several explosion protection options and that Buyer is solely responsible for the final selection. In reaching its final selection, further, Seller has not conducted and is not presenting this equipment sales contract as a formal risk analysis of the process. Buyer shall refer to NFPA guidelines, its insurer and applicable local authorities having jurisdiction (AHJ) to determine requirements for a current expert risk analysis.

**Combustible Dust and Fire Protection:** If the materials to be handled by the equipment are combustible, the equipment within the scope of the project will require explosion protection per NFPA and OSHA regulations. Per NFPA 652, Combustible dust data must either be supplied to Chief Engineering PLLC or be tested to determine accurate combustible dust data for the dust being handled within the scope. If data is not readily available, testing can be provided and will be quoted separately. If the customer does not provide the combustible dust data, then the customer, not Chief Engineering PLLC, shall be responsible for ensuring that their system is in compliance with all NFPA and OSHA guidelines to ensure the safety of their operation. The Buyer is responsible for determining the fire and explosion protection equipment necessary for their facility and upon this agreement assures Chief Engineering, PLLC that these requirements have been met.

**Buyer's Exclusive Remedy:** Buyer's sole and exclusive remedy and seller's sole liability for breach of this agreement or for any other action or inaction by seller is expressly limited to repair or replacement of the equipment or reimbursement of the purchase price as seller shall elect in its sole discretion. Buyer assumes all risks incident to defective equipment. Without limiting the foregoing, seller shall in no event be liable for and buyer hereby waives any right to recover special, incidental or consequential damages including, but not limited to, any lost profits, damages relating to injury to or death of persons, or damages to property, whether on theories of negligence, breach of contract, breach of warranty, misrepresentation, strict liability or any other legal theory, regardless of whether the damages resulted from any general or particular requirement or need which seller knew about or had reason to know about at the time of the sale. At seller's request, buyer will send at buyer's sole expense, any allegedly defective parts to the plant of seller which manufactured them.

**Claims; Limitation of Actions:** Any claim shall be deemed waived unless Buyer gives Seller written notice of such claim promptly after delivery (in no event later than ninety (90) days after delivery) and gives Seller reasonable opportunity to investigate such claim and inspect the Equipment. Materials and supplies used by Seller in testing new, repaired or replaced Equipment shall be supplied and paid for by Buyer. Repair or replacement of defective Equipment shall be made only upon return by Buyer to Seller of all defective Equipment and Buyer's compliance with written shipping instructions from Seller. Any action or proceeding relating to this Agreement or the Equipment including, but not limited to, any action alleging negligence, breach of contract, breach of warranty, misrepresentation, strict liability or any other theory of recovery must be commenced within one (1) year after the cause of action accrued. The failure to institute action within this one (1) year period shall constitute an absolute bar to the institution of any such action or other proceeding and a waiver of all claims by the aggrieved party. A cause of action accrues upon delivery of the Equipment regardless of the aggrieved party's lack of knowledge of such cause of action.

**Indemnification:** Buyer will defend, indemnify and hold harmless seller from and against any and all claims, losses, liabilities, costs and expenses (including without limitation, attorneys' fees and expenses), on account of any injury or death of any person (including buyer's employees) or any damage to any property resulting from (a) buyer's unloading, storage, handling or use of the goods sold hereunder (except to the extent that such damages are attributable to the seller's gross negligence or willful misconduct), (b) buyer's failure to strictly comply with all of seller's applicable instructions and warnings (including without limitation any manuals delivered by seller to buyer) (c) buyer's operation of any explosion protection system prior to Seller's inspection thereof, (d) buyer or its agents' failure to adequately service or maintain the equipment, (e) buyer's failure to adequately train its employees in hazard protection and the use of the system, or (f) buyer's failure to practice reasonably good housekeeping practices in its facility and practices related to its processing activities. Further, the buyer shall protect, indemnify, defend, hold, and save seller, its officers, directors, and affiliates harmless from and against all claims, liabilities, demands, causes of action and judgments (including costs and reasonable attorney fees) arising in favor of or asserted by third parties on account of personal injury to, or death of, or on account of damage to property of such third parties in which injury, death, or damage is the result of the negligent act or omission or willful misconduct of buyer, its subcontractors, or its employees. Buyer's indemnification obligations hereunder shall survive termination of this contract.

**Disclaimer of Consequential Damages:** In no event shall seller be liable for consequential damages arising out of or in connection with this agreement, including without limitation breach of any obligation imposed on seller hereunder or in connection herewith. Consequential damages for purposes hereof shall include, without limitation, loss or use, income or profit, or losses sustained as the result of injury (including death) to any person, or loss of or damage to property (including without limitation property handled or processed by the use of the goods). Buyer shall indemnify seller against all liability, cost or expense that may be sustained by seller on account of any such loss, damage or injury.