

Integrated Machinery Solutions General Terms & Conditions of Sale

The terms and conditions set forth below are incorporated into all quotations and acknowledgements by reference and are an essential part thereof.

1. **Execution and Modification.** The following terms and conditions cover all of equipment manufactured by Integrated Machinery Solutions (hereinafter “IMS” or “Seller”). Agreement is binding only when signed by both parties. No modifications or additions to the Terms and Conditions will be binding unless agreed to in writing by IMS.
2. **Price.** Unless otherwise specified in this Quotation, prices exclude all taxes, duties, freight costs and related expenses, all of which shall be paid by Buyer. All prices quoted by IMS are in United States Dollars (USD). If Buyer requests any change in goods or services covered by this Quotation, Seller shall not be obligated to proceed until it agrees in writing to such change. If Seller determines that a change may increase Seller’s costs or time requirements, or may raise other issues of concern to Seller, Seller may require equitable price adjustments to address same.
3. **Taxes.** The Price is exclusive of any sales, use or privilege tax, customs duty or import, excise tax based on gross revenue or any similar tax or charge which might be levied as a result of the production, sale or shipment of any Equipment or the use of any Equipment by Buyer. Buyer agrees to pay and otherwise be fully responsible for any such taxes (except for taxes based on the net income of Seller). Any personal property taxes assessable on the Equipment after delivery shall be borne by Buyer. Seller shall have the right, but shall not be obligated, to pay any such taxes directly, in which event Buyer shall promptly reimburse Seller in the amount thereof upon presentation by Seller of evidence of payment.
4. **Payment.** Unless otherwise specified in this Quotation, payment for goods and services shall be made in immediately available U.S. funds within thirty (30) days of shipment or the date of Seller's invoice, whichever is earlier. Amounts not timely paid shall bear interest at the highest lawful rate on the unpaid amount from the due date until paid.
5. **Schedules and Cancellations.**
 - (A) ***Schedules.*** All dates or schedules specified in this Quotation are approximate and are based on Buyer’s and other parties’ timely provision of information, related work, services, application and materials for Seller to perform its obligations. At such times when failure to meet schedules is occasioned by the fault of Seller, Seller shall use its commercially reasonable efforts to remedy such failure as soon as reasonably practicable. Any use or installation of goods or services by Buyer shall create a

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waiver of all claims of delay. IMS shall not be liable for delays in manufacturing or delivery due to any event in the nature of force majeure or any cause beyond the reasonable control of IMS. Seller has the right to deliver goods at one time, at installation or partial shipments during the delivery period. Invoicing will occur as soon as goods have shipped from Seller's facility or ship point.

(B) Cancellations. This agreement may be terminated in writing by Buyer. If canceled, Buyer agrees to pay IMS upon presentation of invoices and is subject to reasonable charges based upon expenses and commitments made by IMS.

6. Limited Warranty. IMS warrants its products against defects in material and workmanship for a period of one year from the ship date.

The Limited Warranty is effective provided:

- 1) The purchaser notifies IMS in writing of the defect immediately after it becomes known to the purchaser; and
- 2) No alterations, repairs, or services have been performed by the purchaser or third parties on the product without written approval by IMS.
- 3) IMS reserves the right to choose the company responsible for performing any warranty repairs.

Any equipment or components of the product not of IMS's own manufacturing and/or specified by the purchaser is sold under only such warranty as the maker (OEM) thereof gives IMS and IMS is able to enforce, but such items are not warranted by IMS in any way. Use of products above rated capacity, misuse, misapplied, field alternations of products, damage due to lack of maintenance, or improper storage, neglect or accident are also excluded from this Limited warranty. Buyer hereby acknowledges that it has not entered into this Agreement in reliance upon any warranty or representation by any person or entity except for the warranties or representations specifically set forth herein.

7. Installation. Unless specified in the quotation, all goods shall be installed by and at the expense of the Buyer.

8. Operation of Equipment. Unless otherwise agreed upon, Buyer shall be solely responsible for operation of the Equipment. Buyer shall operate the Equipment in a reasonable competent manner in compliance with any operations manual or instructions for the Equipment. Buyer shall comply with all applicable rules, laws, and regulations in connection with operation of the Equipment.

9. Specifications. If Buyer specifies the form, measurement, features or other specifications for goods, or provides other information with respect to goods or

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services, Buyer shall secure Seller's written acceptance of such terms before such terms are incorporated into this quotation. Seller's quality assurance and other procedures, specifications and drawings as approved by the Buyer, shall be deemed for all purposes to comply with any procedures, specifications and drawings of the Buyer and to supersede any conflicting terms in this quotation.

- 10. Intellectual Property.** Any and all inventions, discoveries, developments and innovations conceived by IMS during this engagement relative to the duties under this Agreement shall be the exclusive property of IMS and Buyer assigns all right, title, and interest in the same to IMS. Any and all inventions, discoveries, developments and innovations conceived by IMS prior to the term of this Agreement and utilized by IMS in rendering duties required of the Agreement are hereby licensed to IMS for use in its operations and for an infinite duration. IMS shall be entitled to protect such invention by patent or other form of industrial property right in accordance with applicable laws.
- 11. Confidentiality.** IMS acknowledges that during the engagement IMS will have access to and become acquainted with various trade secrets, inventions, innovations, processes, information, records and specifications owned or licensed by the Buyer and/or used by the Buyer in connection with the operation of its business including, without limitation, the Buyer's business and product processes, methods, customer lists, accounts and procedures. IMS agrees that he will not disclose any of the contents or information contained in said items to any third party without approval of the Buyer. Upon written request of IMS, IMS shall immediately deliver to the Buyer all such files, records, documents, specifications, information, and other items in its possession or under its control that belong to the Buyer. IMS further agrees that it will not disclose the terms of the Agreement to any person without the prior written consent of the Buyer, and shall at all times preserve the confidential nature of its relationship to the Buyer and of the Services rendered hereunder.
- 12. Risk of loss and passage of title.** Unless otherwise specified in this Quotation, all goods to be delivered by Seller are sold ex works (as defined in Incoterms 2000, ICC Publication NO. 460) and title to such goods shall pass to Buyer at the earlier of (i) the date when Buyer obtains physical possession of such goods or part thereof, or (ii) the date such goods are loaded on a carrier at Seller's facility for delivery to Buyer. If no carrier is specified by Buyer sufficiently in advance of the required date(s) of shipment, Seller may select any mode(s) of transportation and any common carrier satisfactory to Seller and such selection shall conclusively be deemed satisfactory to Buyer. In the absence of a written agreement to the contrary, Buyer bears all risks of shipment of any goods.

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13. **Merger.** The merger or consolidation of either party into or with any other entity shall not terminate this Agreement.
14. **Indemnification.** The Buyer shall indemnify, defend and hold the Seller harmless from any and all damages, liabilities, costs, and expenses, including without limitation, reasonable attorneys' fees and expenses, arising out of, under or in connection with any claim, demand, cause of action or other proceeding relating to the conduct of the Seller's business, including without limitation, the acquisition, transfer, operation and/or use of goods and services covered by this Agreement. This Agreement is not intended to confer any rights or benefits on any third party, including, without limitation, any employee, customer, business associate, creditor or affiliate of the Company.
15. **Assignment.** The rights of the Buyer under this Agreement may not be assigned or transferred in whole or in part, by operation of law or otherwise, without the express written consent of the Seller, which consent shall not be unreasonably withheld.
16. **Binding Effect.** All of the provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, if any, successors, and assigns.
17. **Applicable Law.** The laws of the state of Texas shall govern the validity of this Agreement, the construction of its terms and the interpretation of the rights and duties of the parties hereto. Venue for any dispute shall be Tarrant County, Texas.
18. **Compliance with Laws and Regulations.** Each party shall comply in all respects with all applicable legal requirements governing the duties, obligations, and business practices of that party and shall obtain any permits or licenses necessary for its operations. Neither party shall take any action in violation of any applicable legal requirement that could result in liability being imposed on the other party.
19. **Notice.** Any and all notices, demands, or other communications required or desired to be given hereunder by any party shall be in writing and shall be validly given or made to another party if personally served, or if deposited in the United States mail, certified or registered, postage prepaid, return receipt requested. If such notice or demand is served personally, notice shall be deemed constructively made at the time of such personal service. If such notice, demand or other communication is given by mail, such notice shall be conclusively deemed given five days after deposit thereof in the United States mail addressed to the party to whom such notice, demand or other communication is to be given. If given to the Seller, then all notices shall be mailed to:

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Attn: V/P Sales and or Administration
1121 Cantrell Sansom Road
Fort Worth, TX 76131

Any party hereto may change its address for the purpose of this paragraph by written notice given in the manner provided above.

20. **Attorney's Fees.** If any legal action is brought to collect the Purchase Price hereunder, the prevailing party shall be entitled to receive its attorneys' fees and court costs in addition to any other relief it may receive.
21. **Cumulative Rights.** The rights of the parties under this Agreement are cumulative and shall not be construed as exclusive unless otherwise required by law.
22. **Waiver.** The failure of either party to enforce any provisions of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.
23. **Headings.** Section headings are for convenience only and are not intended to be a full and accurate description of the contents hereof. Such headings are not part of this Agreement and shall not be used to construe it.
24. **Entire Agreement.** This document and any exhibit attached constitute the entire understanding and agreement of the parties, and there are no other promises, conditions, understandings or other agreements, whether oral or written, relating to the subject matter of this Agreement. Any and all prior agreements, understandings, and representations are hereby terminated and canceled in their entirety and are of no further force and effect.
25. **Severability.** If any provision of this Agreement, or any portion thereof, is held to be invalid and unenforceable for any reason, the remaining provisions of this Agreement shall continue to be in full force and effect. If a court finds that any provision of this Agreement is invalid or unenforceable, but by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.