

TERMS AND CONDITIONS OF EQUIPMENT SALE

1. Formation of Contract. Unless the context clearly requires otherwise, as used in these Terms and Conditions (these "Terms"), the terms "*our*," "*we*," "*us*" and the like mean and refer to **Bohl Equipment Co.** and our affiliates if applicable, and the terms "*your*," "*you*" and the like mean and refer to the purchaser of the Equipment. "*Equipment*" means the unit(s) described in the attached Quotation, Purchase Order, or Invoice. "*Order*" means your written, electronic or verbal communication to purchase the Equipment. "*Agreement*" means these Terms and the Order. Our offer to sell Equipment to you is conditioned upon your agreement to the Agreement. Only the Agreement shall apply and we expressly reject any other terms proffered by you at any time whether as part of an Order or otherwise. Our delay or failure to object to any terms or conditions received from you, including your original Order, will not be a waiver of any Agreement term. Under no circumstances shall your Order or our acceptance of your Order be construed or implied to create an obligation (a) on your part to make, subsequent to the Order, any additional purchase orders for any of our Equipment, or (b) on our part to accept any such additional purchase orders for any of our products. Your Order, whether expressly indicated on your Order or otherwise, is an acceptance of the Agreement.

2. Purchase Price; Payment. You agree to pay the purchase price for the Equipment in the amount set forth on the Order. Unless otherwise set forth on the Order, payment in full is required on the date the Equipment is delivered. Credit Card Purchases are subject to a 3% surcharge. You shall not have the right to credit or set off from the purchase price any amounts which may now or hereafter be owed to you by us.

3. Taxes. Unless otherwise stated on the Order, the prices set forth on the Order are inclusive of any federal, provincial, state, local or other taxes imposed directly upon the sale of the Equipment. You agree to pay the sales tax amount set forth on the Order.

4. Delivery. We are responsible for the delivery of the Equipment to the location set forth in the Order, and you are responsible for any shipping or freight charges. The Equipment will be suitably packed, marked, and shipped in accordance with the requirements of common carriers in a manner to secure the lowest transportation cost. Shipments shall be delivered F.O.B. destination, freight collect, subject to any negotiated freight terms specified in the Order. You acknowledge and agree that all delivery times or shipment dates are approximate, and may be changed. For new Equipment purchased, the Order shall be subject to factory lead times. We will give you as much notice as is reasonably possible of such change. Time for delivery of the Equipment is not of the essence and we shall not be liable for any loss or damage you may suffer due to any changed or missed delivery times or shipment dates.

5. Title. Title to the Equipment shall pass to you upon the payment of the purchase price in full. We will retain a purchase money security interest in the Equipment until such time as the Equipment is paid for in full, notwithstanding that the Equipment has been delivered to you. You hereby authorize us to execute and file financing statements describing the Equipment to evidence our security interest, as applicable.

6. Risk of Loss. Risk of loss shall pass to you upon delivery of the Equipment at the specified location. In the event that you fail to take delivery of the Equipment tendered by us, you shall, notwithstanding anything to the contrary herein, (i) thereafter bear all risk of loss with respect to such Equipment, (ii) promptly reimburse us for any packing, un-packing, loading, un-loading, storage, protection, freight and other costs thereafter incurred by us in connection with such Equipment, and (iii) pay us, at our then current commercial billing rates, for any storage of such Equipment by us.

7. Inspection and Acceptance. You acknowledge that you have fully inspected and accept the Equipment in good condition and repair. Except as otherwise set forth herein, we shall not be liable in any event to you for any loss, delay or damage of any kind or character resulting from defects in, or inefficiency of Equipment hereby sold or from accidental breakage thereof. Notwithstanding, if the Equipment is used (rather than new) at the time of sale, we agree to make any necessary repairs to the Equipment discovered within thirty (30) days of delivery of the Equipment, provided that you notify us within thirty (30) days of delivery and provided that such damage or defect to the Equipment was not caused by you, your agents, representatives, or successors.

8. Manufacturer's Warranty. We do not manufacture the Equipment. Therefore, you must refer to the separate limited warranty documentation, if any, provided with the Equipment by the manufacturer for information on the limitation and disclaimer of certain warranties. Remedies for breach of any such warranties will be limited to those expressly set forth in such documentation. If the Equipment did not include a limited warranty from the manufacturer or licensor, you agree that you accept the Equipment "AS IS". **OTHER THAN WARRANTIES, IF ANY, AS TO THE EQUIPMENT EXPRESSLY SET FORTH IN DOCUMENTATION PROVIDED WITH THE EQUIPMENT BY THE MANUFACTURER, WE MAKE NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIM ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT OR ANY WARRANTY ARISING BY USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE. THE FOREGOING WILL NOT BE DEEMED TO LIMIT ANY DISCLAIMER OR LIMITATION OF WARRANTY SET FORTH IN THE DOCUMENTATION PROVIDED WITH THE EQUIPMENT BY THE MANUFACTURER.**

9. Indemnification. You agree to indemnify us against all loss, damage, expense and penalty arising from any action or account of any injury to person or property of any character whatsoever occasioned by the operation, hauling or transportation of any of the Equipment. Further, you shall indemnify, defend and hold us harmless from any and all damages, liabilities, costs, and expenses, including without limitation, reasonable legal fees and expenses, arising out of, under or in connection with any claim, demand, charge, action, cause of action or other proceeding relating to the conduct of your business, including without limitation, the acquisition, transfer, operation and/or use of Equipment covered hereby.

10. Limitation of Liability.

A. In General. To the fullest extent permitted by law, in no event will we be liable, whether in contract, warranty, representation, tort (including negligence or breach of statutory duty), strict liability, indemnity, contribution or otherwise, for any indirect, special, punitive, exemplary, incidental or consequential loss, damage, cost or expense of any kind whatsoever, howsoever caused, or any loss of production, cost of procurement of substitute Equipment, loss of capital, loss of software, loss of data, loss of profit, loss of revenues, contracts, business, cost of rework, loss of

goodwill or anticipated savings, wasted expenses, or wasted management time, even if we have been advised of their possibility or they are foreseeable.

B. Aggregate Limit of Liability. Our total aggregate liability on all claims, whether in contract, warranty, representation, tort (including negligence or breach of statutory duty), strict liability, indemnity, contribution, or otherwise, shall not exceed the purchase price for the Equipment.

C. Allocation of Risk. You acknowledge and agree that the allocation of risk contained in these Terms is reflected in the purchase price for the Equipment and is reasonable in all the circumstances having regard to all relevant factors, including the parties' bargaining position, and your ability to rely on your own insurance arrangements and resources to bear or recover any costs or damages incurred for which we are not liable.

11. Force Majeure. We shall be excused from performance hereunder for any period, and to the extent, that we are hindered or prevented from performing pursuant hereto, in whole or in part, as a result of delays caused by you or third parties, floods or other acts of God, war, revolution, terrorism or civil disturbance, governmental action, statute, ordinance or regulation, court order, strike or other labor dispute, fire, damage to or destruction in whole or in part of Equipment or place of manufacture. In the event of nonperformance occasioned by any of the foregoing circumstances or conditions, the time for performance shall be extended to the extent of such delay. Such nonperformance shall not be a default hereunder or a ground for termination hereof and shall not excuse you from your payment obligations hereunder or extend the time for such payment.

12. General Terms.

A. Assignment. We may assign, transfer or subcontract our rights and/or obligations under the Agreement. You may not assign, transfer or subcontract your rights or obligations, without our prior written consent. Except as otherwise set forth herein, this Agreement will inure to the benefit of the respective parties, their successors and assigns.

B. Notices. Notices required or permitted by the Agreement must be in writing and signed on behalf of the noticing party, addressed to the receiving party as specified in the Order, and sent by courier, certified mail, facsimile, personal delivery or other recognized manner of delivery. Notices will be effective on receipt by the party to whom the notice is given except where the notice is sent by facsimile, in which case it shall be deemed to have been received immediately upon transmission provided the sender receives electronic confirmation of an error-free transmission.

C. Business Relationship. In providing the Equipment to you, we have acted only as an independent contractor and under no circumstances shall we be deemed to be in any relationship with you carrying with it fiduciary or trust responsibilities, whether through partnership or otherwise. Unless otherwise specified herein, we do not undertake to perform any of your obligations, whether regulatory or contractual, or to assume any responsibility for your business or operations. No rights or benefits are hereby conferred upon any third party, including, without limitation, any of your employees, customers, business associates, creditors or affiliates.

D. Entire Agreement; Modifications and Waiver. This Agreement constitutes the entire agreement and understanding of us and you with respect to the Equipment, and supersedes all prior communications, representations, agreements, understandings, proposals, negotiations and promises relating to that subject matter, whether written or oral. Except as expressly set forth in these Terms, no modification or waiver of either the Order or this Agreement will be effective unless made in a writing signed by the party charged with having given the modification or waiver. No failure or delay by us to assert any rights or remedies arising from a breach shall be construed as a waiver or a continuing waiver of such rights and remedies, nor shall a failure or delay to assert a breach be deemed to waive that or any other breach. If any part of the Agreement is found by a court of competent jurisdiction to be invalid, unlawful or unenforceable then such part shall be severed from the remainder of the Agreement which will continue to be valid and enforceable to the fullest extent permitted by law.

E. Governing Law; Venue; Dispute Resolution. The Agreement will be governed, construed and enforced according to the laws of the State of Ohio, excluding its conflicts of law principles. The federal and state courts of the State of Ohio shall have exclusive jurisdiction to adjudicate any dispute arising out of the Order or the Agreement. You hereby expressly consent to (i) the personal jurisdiction of the courts of Ohio and (ii) service of process being effected upon you by registered mail sent to your address specified in the Order.