

Standard Terms and Conditions of Sale

These Terms and Conditions apply to all sales by WAB US Corp. ("**WAB**") of its equipment ("**Equipment**") and services ("**Services**") to its customers (each, a "**Buyer**"). The term "Equipment" includes both complete integrated products as well as spare parts and other items sold separately.

- TERMS OF SALE:** The binding contract between WAB and the Buyer for any purchase and sale of Equipment or Services (referred to here as the "**Agreement**") consists solely of WAB's quotation issued specifically for that sale (the "**Quotation**") as supplemented by these Terms and Conditions. If there is any conflict between the Quotation and these Terms and Conditions, the provisions of the Quotation will control. The Agreement supersedes all other agreements and understandings (both written and oral) between WAB and the Buyer with respect to that Equipment and Services and the subject matter of the Agreement. If there are any provisions in a purchase order or similar document issued by the Buyer (a "**Purchase Order**") relating to matters which are not set forth in this Agreement, or which are otherwise different from or supplemental to any provisions in this Agreement, then those provisions in the Purchase Order are not accepted by WAB and shall not have any force or effect. If there is any provision in a Purchase Order which states in substance that if there is any conflict between this Agreement and the Purchase Order the Purchase Order shall control, WAB hereby expressly rejects any such provision, and that provision shall be disregarded and unenforceable in its entirety. The Buyer's issuance of a Purchase Order that refers to the Quotation shall be deemed to be a consent and agreement to all of the provisions of this Agreement, including without limitation this paragraph.
- QUOTATIONS:** Each Quotation automatically expires sixty (60) calendar days from the date it is issued unless specially stated in the Quotation. Any verbal quotations by WAB are given only for purposes of estimating and are not binding on WAB unless confirmed in writing. Written Quotations are subject to revision in case of clerical error, whether in favor of WAB or the Buyer.
- PAYMENT TERMS:** Unless otherwise specifically agreed by WAB, all payments are due as follows: 40% of the total price is payable on the Buyer's issuance of its Purchase Order; 50% of the total purchase price is due two weeks prior to the scheduled shipment date for Equipment or two weeks prior to the scheduled date of commencement of Services; and the balance of 10% is due 30 days from the date of the airway bill or bill of lading (for Equipment) or 30 days from the date of completion of the Services. All payments shall be made in United States Dollars. Notwithstanding the foregoing, if in WAB's discretion the creditworthiness or financial position of the Buyer is questionable or uncertain, WAB may require full or partial payment of the total price prior to delivery of any Equipment or Services and/or WAB may require that the Buyer grant to WAB a security interest (lien) in the Equipment as provided in paragraph 17 below. If the Buyer fails to pay any amount when due, then in addition to all other remedies permitted by law, all such unpaid amounts shall bear interest at an annual rate of sixteen percent (16%) per annum until paid in full.
- TAXES:** In addition to the purchase price for the Equipment or Services set forth in the Quotation, the Buyer shall pay all applicable sales, use, revenue, excise or other taxes imposed on the sale of the Equipment or Services, unless at the time that the Buyer places the order the Buyer provides to WAB documentation evidencing the valid exemption of the Buyer from such taxes.

5. **SHIPMENTS:** All Equipment shall be shipped to the location stated in the Quotation. The delivery of all Equipment shall be FCA (Incoterms 2010) place of shipment (Allendale USA). This means, among other things, that the Buyer shall assume, and WAB shall not have, any risk of loss of or damage to the Equipment after the carrier takes possession of the Equipment and the Buyer shall be responsible for arranging the shipping and for all shipping costs. If as an accommodation to the Buyer WAB arranges the shipment, then WAB shall prepay freight charges for such delivery and bill Buyer for the applicable delivery and handling charges. Equipment will be packaged in accordance with standard commercial practices for domestic shipment.
6. **DELIVERY:** All shipment or delivery timetables set forth in the Quotation shall commence from the date stated in the Quotation. Delay in receipt by WAB of key technical information or drawings or any changes made by the Buyer may extend any agreed upon shipping or delivery date and/or effect the applicable price (as provided in paragraph 8, below). The quoted shipment date is the date that the Equipment leaves WAB's facility and is specifically not the date that the Equipment is scheduled to be received by the Buyer. Delivery dates furnished by WAB represent the best estimates of the date on which deliveries will be made, and WAB will not incur any liability for any delay in delivery for any reason. Any delay in the delivery of any installment shall not relieve the Buyer of its obligation to accept the remaining installments.
7. **INSPECTION:** CLAIMS AGAINST WAB FOR SHORTAGE OR ERRORS IN ANY EQUIPMENT MUST BE MADE IN WRITING BY THE BUYER WITHIN FIFTEEN (15) DAYS AFTER RECEIPT OF THAT EQUIPMENT AT THE LOCATION STATED IN THE QUOTATION. FAILURE TO MAKE A TIMELY CLAIM SHALL CONSTITUTE ACCEPTANCE OF THE EQUIPMENT AND A WAIVER OF ANY CLAIM BY THE BUYER FOR ANY SHORTAGE OR ERROR.
8. **CHANGES:** This Agreement may not be changed except by a change order or other writing executed by both WAB and the Buyer. Should the Buyer require any changes to be made, that request must be made in writing. If WAB agrees to any such changes, the Buyer shall pay WAB for all changes made and expenses incurred by WAB for such changes. Changes may result in a delayed delivery schedule. Notwithstanding the foregoing, WAB reserves the right, without prior approval from or notice to the Buyer, to make changes to the Equipment (a) which do not affect the physical or functional interchangeability or performance of the Equipment; (b) as required for purposes of safety or regulatory compliance; or (c) to satisfy the specifications for the Equipment.
9. **CANCELLATION: HOLDS: CHANGES:** Unless otherwise agreed by WAB in WAB's sole discretion (and on such terms and conditions as may be required by WAB), the Buyer shall not have any right to cancel, decrease, delay or hold all or any part of any order or any shipment. Notwithstanding the foregoing, WAB reserves the right to cancel all or any part of any order or shipment without liability if the Buyer fails to make any payment as required. In the event that the Buyer fails to make payment as required and as a result WAB cancels any order or shipment, then in addition to all other remedies that may be available to WAB, WAB may retain all amounts which have then already been paid by the Buyer to WAB. In particular, if this Agreement relates to Equipment other than spare parts, Purchaser acknowledges that this Agreement relates to customized equipment that will be constructed specifically and exclusively for the Buyer on a made-to-order basis and is not suitable for advance manufacture for stock or inventory and that cancellation will result in unrecoverable expenses for WAB that are extremely difficult, if not impossible, to determine. Under those circumstances, the Buyer agrees the amounts that are so withheld by WAB are reasonable and acceptable to the Buyer.

10. **RETURNS:** Unless otherwise agreed by WAB in WAB's sole discretion or except as otherwise provided below in connection with a warranty claim, the Buyer shall not have any right to return all or any Equipment to WAB. If WAB does agree (in its sole discretion) to accept any return, that return shall be made on such terms and conditions as may be required by WAB.

11. **WARRANTIES:** (a) Base Warranties. WAB warrants that the Equipment (1) conforms to all of the Specifications for the Equipment, (2) is free from defects in material and workmanship, and (3) unless otherwise specifically agreed by WAB and the Buyer, is new and unused. For these purposes, the term "**Specifications**", when used with respect to any Equipment, means all specifications set forth in the Quotation for that Equipment; the Specifications may include (for example) specifications relating to materials, dimensions, product performance, packaging, marking or labeling. Seller warrants that the Services shall be provided in a proper and diligent manner in accordance with the standards applicable to similar services rendered by technical engineering staff. The foregoing warranties (which are referred to as the "**Base Warranties**") do not extend to damage or wear or other circumstances caused by misuse, abuse, negligence, accident, corrosion, modification by the Buyer, faulty installation (except to the extent that such installation is part of the Services), the Buyer's utilization of its own products or materials, or tampering in a manner that impairs the normal operation of the Equipment or utilization of the Services. In addition, the Buyer specifically acknowledges that while the Base Warranties apply to components of the Equipment that are items that are utilized and expended during normal operation of the Equipment, such as screens, discs, cylinders, seals, beads, wear rings, and other components that are in direct contact with the Buyer's product that is processed by the Equipment, those expendable items by their nature and function may have a useful life that is shorter than the applicable warranty period and the Base Warranties do not, and are not intended to, assure that expendable items will be functional for the full warranty period.

(b) IP Warranty. Seller warrants that the Seller's Equipment and the Services in the form in which they are delivered to the Buyer do not infringe any patent, trademark, trade name, copyright or registered design rights owned by any third party in the United States, Mexico or Canada. The foregoing warranty is referred to as the "**IP Warranty**"; the Base Warranties and the IP Warranties are collectively referred to as the "**Warranties**". The IP Warranty does not apply to any infringement which is due to WAB having followed a design or instruction provided by the Buyer or which is caused by or arises from the combination, association or utilization of WAB's Equipment or Services with articles or materials not supplied by WAB.

(c) Beneficiaries of Warranties. The foregoing Warranties run in favor of, and may be enforced by, the Buyer and any other end user that acquires the Equipment from the Buyer (either directly or indirectly). **THE FOREGOING WARRANTIES MAY NOT BE ENFORCED BY ANY OTHER PARTY, AND NO OTHER PARTY SHALL HAVE ANY RIGHT TO MAKE ANY CLAIM WITH RESPECT TO ANY OF THOSE WARRANTIES.**

(d) No Other Warranties. **THE FOREGOING WARRANTIES ARE THE SOLE AND EXCLUSIVE WARRANTIES RELATING TO THE EQUIPMENT AND THE SERVICES.** Except as provided in paragraphs 11 (a) and (b) above, **WAB IS NOT MAKING, AND THE BUYER IS NOT RELYING ON, ANY OTHER REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO THE EQUIPMENT OR THE SERVICES, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE, OR ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE.** For the avoidance of doubt, if any end user of the Equipment or Services who has the right to enforce

any of the Warranties (as provided in paragraph 11(c) above) purchases any Equipment from a distributor, reseller or any other third party and that distributor, reseller or other third party provides any other or additional warranties or warranty remedies to that end user, WAB is NOT responsible for any of those other or additional warranties and that end user shall NOT have any right to enforce any of those other or additional warranties or warranty remedies against WAB.

12. **WARRANTY REMEDIES:** (a) Warranty Period. The Warranties shall remain in effect for a period of twelve (12) months after delivery of Equipment to the Buyer or the completion of the Services, as the case may be. The warranties and the remedies for any breach of warranty for any Equipment that is repaired or replaced under the Warranties will be the same as for the original Equipment, except that the twelve (12) month warranty period for repaired or replaced Equipment shall begin on the date of shipment of that Equipment from WAB's facility.

(b) Notice of Warranty Claim. If at any time during the warranty period the Buyer believes that any Equipment or Services do not comply with any of the Warranties, the Buyer shall promptly notify WAB. If the Buyer does not provide that notice within the warranty period, the Buyer shall not have any right to claim that such Equipment or Services do not comply with the Warranties. The Buyer shall inspect the Equipment and Services promptly after delivery or completion (as the case may be) and shall promptly notify WAB of any alleged breach of any Warranties or any errors relating to the delivery of the Products or the Services, provided that any failure to so inspect shall not in any way affect the Warranties.

(c) Remedies – Base Warranties. if within the warranty period the Buyer notifies WAB that any Equipment or Services do not comply with any of the Base Warranties and if in fact there is any breach of the Base Warranties, then WAB shall, at WAB's election and expense, either repair, replace or otherwise correct the Equipment or Services, including (if necessary) having the Equipment shipped to WAB and then returning the repaired, replaced or corrected Equipment back to the Buyer (at WAB's expense). If after a reasonable period of time WAB does not repair, replace or correct the Equipment or Services so that they comply with the Base Warranties, WAB shall refund the full purchase price of the Equipment or Services (as the case may be) to the Buyer and the Buyer shall deliver the Equipment back to WAB.

(d) Remedies – IP Warranty. In the event that any third party makes any claim (including the commencement of any legal action) against the Buyer, WAB or any other party alleging in substance a breach of the IP Warranty, then WAB shall have the right in its discretion either (1) to take action which will secure the right of the Buyer to continue to utilize the Equipment and the Services (as the case may be), at no additional cost to the Buyer, or (2) to modify the Equipment or Services in order to eliminate the basis for such an action or claim, at no cost to the Buyer, provided that such Equipment or Services, as so modified, will continue to conform to the Specifications, or (3) if neither (1) nor (2) is commercially reasonable or practicable, refund the full purchase price of the Equipment or Services (as the case may be), without further liability of WAB.

(e) Exclusive Remedies. **The remedies set forth in this paragraph 12 (Warranty Remedies) are the SOLE AND EXCLUSIVE remedies for any breach of any of the Warranties or any other claim, however characterized, that any Equipment or Services are defective.**

13. **LIMITATION OF LIABILITY: IN NO EVENT SHALL EITHER WAB OR THE BUYER BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL**

DAMAGES (INCLUDING WITHOUT LIMITATION LOST PROFITS OR LOST BUSINESS OPPORTUNITY) THAT THE OTHER PARTY MAY INCUR BY REASON OF ITS HAVING ENTERED INTO OR RELIED ON THIS AGREEMENT, OR ARISING OUT OF THE PERFORMANCE OR BREACH OF THIS AGREEMENT, EVEN IF THE PARTY AGAINST WHOM A CLAIM IS MADE WAS ADVISED OR KNEW OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATION SHALL APPLY REGARDLESS OF THE FORM OF THE CLAIM IN WHICH SUCH LIABILITY MAY BE ASSERTED, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE.

14. **INDEMNITY BY BUYER:** The Buyer shall indemnify, defend and hold harmless WAB from all losses, costs, claims, damages, liabilities and expenses of any kind whatsoever (including without limitation judgments, fines, amounts paid in settlement, and reasonable attorney's fees and expenses) that WAB may incur or suffer as a result of or arising out of the Buyer's use or operation of the Equipment or Services (for example, any liabilities arising out of the sale of products manufactured by the Buyer utilizing the Equipment or any personal injury resulting from the Buyer's operation of that Equipment), except to the extent that such losses, costs, etc. were caused by a breach of the Warranties. In addition, if the Equipment is modified by the Buyer after sale by WAB, the Buyer shall indemnify, defend and hold WAB harmless from and against all liability and expenses as a result of or arising from damage to property or injury or death of any person arising out of or attributable to those modifications.

15. **PROPRIETARY INFORMATION:** As part of the commercial arrangements relating to the Equipment or Services, the Buyer may disclose some of its proprietary information to WAB (including the design and specifications of Buyer's own products and its customer requirements) and WAB may disclose some of its proprietary information to the Buyer (including WAB's specifications, drawings, component sourcing, designs, software documentation, manuals, models and procedures). Each of the parties agrees that the proprietary information received from the other party shall be held in strict confidence by the receiving party with at least the same degree of care and safeguards as are applied to the receiving party's own proprietary information. Without limiting the foregoing, such proprietary information shall not be duplicated or disclosed to others and shall not be used for any reason without the written permission of the disclosing party other than for the purpose of the purchase and sale of the Equipment and Services. Moreover, the receiving party shall not have any license or other rights in or to the disclosing party's proprietary information except for the purpose of performing its contractual obligations with respect to the Equipment and Services. The foregoing obligations shall not apply to any information which is in or comes into the public domain without violation of the foregoing obligations, or is received lawfully by the receiving party from a third party who has the unrestricted right to disclose that proprietary information, or which is developed by the receiving party independently and without benefit of any information received from the disclosing party.

16. **NO IP RIGHTS:** The Buyer specifically acknowledges that with respect to the purchase of Equipment the Buyer is acquiring rights only in the physical equipment, and the Buyer is not acquiring any ownership of any intellectual property rights that are incorporated into or embodied in that Equipment, including any patents, trademarks, trade names, copyrights, registered design rights, trade secrets or know-how. In addition, the Buyer specifically acknowledges that any computer software that is included within the Equipment may be owned either by WAB, by an affiliate of WAB or by a third party, and in each case the Buyer is acquiring only a non-exclusive license to use that software in connection with the Equipment; the scope of that license is set forth in the applicable license agreement(s), a copy of which is provided by WAB to the Buyer (including any license

arrangements set forth in the Quotation) relating to that software. The Buyer shall comply with all such license agreement(s). The Buyer shall not use, reproduce or copy the software for use on any other equipment or provide access to it by any third parties without the express written permission of WAB or the applicable licensor, except to the extent explicitly permitted by the applicable license agreement. The Buyer recognizes that the software and related documentation represents the intellectual property of WAB or the applicable licensor, and the Buyer is required reasonably to protect the security of the software and related documentation. Modification to the software without WAB's or other licensor's express written permission is not allowed and will void any related warranty obligations. The Buyer shall not, and shall not attempt to, reverse engineer, decompile or otherwise discover intellectual property, whether patentable, patented or non-patented, trade secrets, secret processes or other confidential information embodied or contained in the Equipment or such software.

17. **SECURITY AGREEMENT:** If a portion of the purchase price of the Equipment is to be paid after the delivery of that Equipment to the Buyer, then in WAB's discretion, prior to (and as a condition to) the delivery of the Equipment to the Buyer, the Buyer shall execute and deliver to WAB a standard form security agreement pursuant to which the Buyer grants to WAB a first position purchase money security interest in the Equipment. In addition, under those circumstances, WAB may file a UCC-1 financing statement to perfect WAB's security interest in the Equipment. That security agreement will provide (among other things) that if the Buyer fails to pay to WAB the balance of the purchase price of the Equipment, then WAB may re-take possession of the Equipment and sell the Equipment at a foreclosure sale.

18. **FORCE MAJEURE:** No failure or omission by either WAB or the Buyer in the performance of any obligation under the Agreement (other than the Buyer's obligation to pay the amounts due to WAB under this Agreement) shall be deemed a breach of the Agreement, nor shall it create any liability, if the same arises from any cause or causes beyond the control of the affected party, including but not limited to any act of God; acts or omissions of any government; any rules, regulation, or orders issued by any governmental authority or by any officer, department, agency or instrumentality hereof; fire; storm; flood; earthquake; accident; war; rebellion; insurrection; terrorist attack; riot; invasion; any suspension, interruption, failure or error in the operation or use of the Internet or any components of the Internet; strikes; and lockouts.

19. **ARBITRATION:** If there is any controversy, claim or dispute arising out of the Agreement, the Equipment or the Services, including any breach or alleged breach of the Agreement (a "**Claim**"), that Claim shall be resolved exclusively by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association which are then in effect. Three arbitrators shall conduct the arbitration in Morristown, New Jersey. The arbitrators must be knowledgeable or experienced in matters involving mechanical equipment. The costs of arbitration shall be borne as assessed by the arbitrator(s), except that each party shall pay the fees and expenses of its own legal counsel. Judgment on the award(s) rendered by the arbitrators may be entered in any court having applicable jurisdiction, and execution of that award may be had in any court of competent jurisdiction or application may be made to such court for a judicial acceptance of the award and an order of enforcement.

20. **MISCELLANEOUS:** (a) The Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey.

(b) This Agreement and the rights and obligations of the parties may not be assigned or transferred, in whole or in part, by either party without the prior written consent of the other party, except that the Warranties may be enforced as provided in paragraph 11(c) above.

(c) The Buyer specifically acknowledges that the Buyer has full responsibility and liability under this Agreement, even if the Buyer is acting as an agent for an end user or other principal, and even if that end user or principal has been disclosed to WAB.