

SUPERIOR PLANT RENTALS, LLC TERMS AND CONDITIONS OF SALE

1. **ACCEPTANCE OF TERMS AND CONDITIONS:** All sales of equipment (hereinafter, with all replacements, additions, and accessories referred to as the “Equipment”) by Superior Plant Rentals, LLC (“Company”) are expressly conditioned upon the acceptance by the party purchasing the Equipment (“Buyer”) of these terms and conditions (“Terms”). The rights of the Buyer and the Company shall be governed by these Terms and any corresponding Buyer’s purchase order (“Order”). The Buyer’s acceptance of these Terms shall be made by either (a) the Buyer providing an Order to the Company or (b) the Buyer’s receipt of any Equipment, whichever occurs first. No Orders shall be binding upon the Company until accepted in writing by an authorized official of the Company. Any Order shall be subject to these Terms. No inconsistent terms or conditions in the Buyer’s Order, other documents, or other communication will be binding upon the Company unless specifically agreed to in writing. Failure of the Company to object to provisions contained in any Buyer’s Order, other documents, or other communication shall not be construed as a waiver of these Terms, nor an acceptance of any such provisions. Further, no course of dealing between the Company and the Buyer can change these Terms unless specifically agreed to in writing by the Company. These Terms, any quotation provided by the Company, acknowledgment or invoice, and all documents incorporated by specific reference constitute the complete agreement governing the sale of the Equipment.
2. **DELIVERY:** The Company shall endeavor to have the Equipment available for delivery on the date requested by the Buyer; however, a delivery date cannot be guaranteed. The Company will not be liable for any damage, loss, or claims for a later date of delivery regardless of the duration of the delay. Further, the Buyer may not cancel the Order due to a later delivery date.

Upon the Buyer’s receipt of the Equipment, the Buyer shall report to the carrier and the Company any discrepancies, deficiencies, and defects reasonably observable by proper inspection. The Buyer’s sole remedy shall be to decline the Equipment as provided in this Agreement. The Company shall replace the Equipment with conforming Equipment if the discrepancies, deficiencies, and defects are due to the Company.

3. **DELIVERY COST:** Unless otherwise specified and agreed, all Equipment is shipped FOB from the Company’s facility to a delivery point specified by the Buyer. Delivery of the Equipment to the FOB point shall constitute delivery to the Buyer.

The Company may make a single delivery or may make multiple deliveries in installments. Each delivery installment will be separately invoiced, and the Buyer shall remit payment within thirty (30) days of the invoice date. Delay in the delivery of any installment does not relieve the Buyer of its obligation for payment of invoices and acceptance of all remaining delivery installments.

If the Buyer requests a delay in the date of delivery, the Company may invoice based on the originally scheduled delivery date. The Buyer’s payment obligation shall remain unchanged, and the Buyer shall remit payment within thirty (30) days of invoice date.

If the Equipment is not shipped within fifteen (15) days after notification to the Buyer that the Equipment is ready for shipping, the Company may store such Equipment at the Buyer’s risk in a warehouse or yard or at the Company’s premises. The Buyer shall pay all handling, transportation, and storage costs associated with such storage. All freight is to the account of the Buyer.

4. **QUOTATIONS:** Quotations are only valid in writing and for sixty (60) days from the date of the quotation. All quotations are subject to change or withdrawal without prior notice to the Buyer. Quotations are made subject to approval of the Buyer's credit. The Company may refuse an Order and has no obligation to supply Equipment unless the Company issues an Order acknowledgement.
5. **RETURNS:** Approval for the return of any defective Equipment must be obtained from the Company within ninety (90) days of the delivery date and prior to such return. Returned Equipment must be securely packaged and shipped to the Company without damage except the claimed defect. All freight is to the account of the Buyer.
6. **RISK OF LOSS:** Risk of damage to or loss of the Equipment shall pass to the Buyer upon delivery. The Buyer will not receive title of the Equipment and agrees that the Company retains the title, all lien rights, and claims against the Equipment until the Company has received full payment of the invoices for the Equipment.
7. **MODIFICATION AND CANCELLATION:** Accepted Orders are not subject to change or cancellation except with the Company's written consent. The Buyer shall be responsible for any costs and expenses incurred at the time of the Company's receipt of notice of modification or cancellation up to the full amount of the Order.

The Company may at any time furnish suitable substitutes for materials that are unobtainable, and further reserves the right to modify, change, or replace Equipment without notice or penalty.

8. **CREDIT APPROVAL:** Shipments of Equipment are subject to approval by the Company's credit department. If, in the Company's sole judgment, the Buyer's financial condition is or becomes unsatisfactory, then the Company may, without prejudice to any of its other remedies (a) defer or decline to make any shipments except upon receipt of satisfactory security or cash payments upon the Company's acceptance of an Order and/or (b) terminate any or all of the Buyer's Orders.
9. **TERMS OF PAYMENT:** All prices are quoted, and payments must be received, in U.S. Dollars. All prices are subject to change without notice unless otherwise specified by the Company. The price of Equipment on order but unshipped may be adjusted by the Company to the price in effect at the time of shipment. Quoted prices are, however, firm for the number of days designated on the quotation. Buyer shall pay all invoices within thirty (30) days of the invoice date. Interest will be charged on overdue invoices at the rate of one and a half percent (1.5%) per month or at the maximum rate allowable by law.

The Buyer's inspection rights herein will not affect the payment terms. Under no circumstances will the Buyer have a right of set-off.

If the Buyer fails to make any payment as required, the Buyer agrees to reimburse the Company for all associated costs incurred by the Company for collection including reasonable attorney fees and court costs.

If the Buyer fails to remit any payment as required herein or the Company receives information that the Buyer may be insolvent or otherwise unable to pay for the Equipment, the Company may demand full or partial payment in advance before proceeding with performance of its obligations or cancel any orders at its option without prejudice to other lawful remedies.

10. Taxes and Other Charges: The Buyer's Orders are subject to all applicable sales taxes unless the Buyer files a valid exemption certificate with Company when the Order is placed and valid for the place of delivery. In addition to the purchase price and sales tax, Buyer shall pay all other taxes, interest, fees, or charges of any nature whatsoever imposed by any governmental authority. Buyer will reimburse Company for payment of taxes and other charges due by the Buyer under these Terms.
11. Product Warranties: Company warrants that the Equipment manufactured by it will (i) conform to Company's written specifications and descriptions and (ii) be free from substantial defects in design, materials, and workmanship for a period of nine (9) months from date of shipment to the original Buyer or six (6) months from the date of placing in service by the Buyer, whichever date is earlier.

During this period, if any Equipment is proved to the Company's satisfaction to be defective, the Company will, at the Company's sole and absolute discretion, and as the Company's sole warranty liability and the Buyer's sole remedy, repair, replace, or credit the Buyer's account for any Equipment that fails to conform to the warranties, provided that (i) the Company is notified in writing within ten (10) days following discovery of such failure with a detailed explanation of any alleged deficiencies; (ii) the Company is given a reasonable opportunity to investigate all claims; and (iii) the Company's examination of such Equipment confirms the alleged deficiencies and that the deficiencies were not caused by accident, misuse, neglect, improper use, unauthorized alteration, repair, or improper testing.

Shipping cost of the alleged defective equipment to the Company is to the Buyer's account. However, if the Company agrees that the Equipment is defective, then pursuant to this warranty, the Company will reimburse the Buyer its shipping cost to return the Equipment to the Company.

The Warranty against defects does not apply to (1) consumable components or ordinary wear items and (2) use of the Equipment with equipment, components, or parts not specified or supplied by the Company or contemplated under the Equipment documentation.

12. Use of Equipment: The Buyer acknowledges that before placing the Equipment in service that the Equipment will be operated in a normal and customary manner. The Buyer shall cause its employees, representatives, and agents to read, understand, and adhere to all operating instructions and safety warnings prior to any use of the Equipment. The Buyer represents and warrants that; (i) all necessary steps will be taken to ensure that the Equipment will be operated in a safe manner, without risk and properly used; (ii) the Buyer's employees, representatives, agents, and persons who operate the Equipment are familiar and experienced in the careful and safe operation of the Equipment and are knowledgeable of the processes, procedures, and techniques necessary to operate the Equipment in a safe and workmanlike manner; and (iii) the Buyer shall comply with all federal, state, and local laws, ordinances, and regulations pertaining to possession, use, or maintenance of the Equipment.

The Buyer is solely responsible for determining the appropriate general use or application of the Equipment and the use of the Equipment in a particular setting or work environment. The Buyer will undertake a comprehensive analysis to confirm the Equipment is safe and suitable for the Buyer's intended or particular use, and any and all risk that the Equipment may not be safe and suitable for the Buyer's intended or particular use or application.

When applicable, the Company is relying solely on all measurements and specifications provided or agreed to by the Buyer and the Company. The Company is not responsible or liable for any errors relating to such measurements and specifications. Any suggestions by the Company or the Company's agents regarding use, safety, application, or suitability of the Equipment shall not be construed as an express warranty. If the Buyer intends to resell or lease the Equipment to a third party, this warranty is limited to the Buyer and will not extend to third parties.

The Company makes no warranties or representations related to any third-party goods, components, and equipment. To the extent permitted, the Company shall assign to the Buyer any warranties the Company receives from third party manufacturers of goods, components, and equipment.

The limited warranties and remedies provided are conditioned upon the proper transportation, storage, installation, use, operation, and maintenance of the Equipment and any failure to do so which damages the Equipment will void this warranty. This limited warranty does not cover defects arising from wear and tear of the Equipment. Any modification or alteration of any Equipment by a party other than the Company shall void all warranty obligations of the Company with respect to such Equipment and its related components. The Buyer acknowledges that the Company prohibits any modification or alteration of any Equipment to any extent, no matter how minor, as doing so could result in a complete failure of the Equipment while in use causing severe property damages and bodily injuries including death.

THIS WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, AND THE COMPANY EXPRESSLY DISCLAIMS AND EXCLUDES ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, OR ANY INFRINGEMENT OF THIRD-PARTY RIGHTS, OR ANY OTHER WARRANTY ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE.

- 13. Limitation of Liability:** The Buyer acknowledges that the price of the Equipment is predicated upon the enforceability of these Terms including without limitation the following limitation of liability, as well as the "Indemnification" in paragraph fourteen (14) below, that the price would be substantially higher if the Company could not limit its liability as herein provided, and that the Buyer accepts this limitation of liability and Indemnification in exchange for the lower price.

THE COMPANY SHALL NOT BE LIABLE TO THE BUYER FOR ANY CLAIM, WHETHER IT BE BROUGHT BY LAWSUIT OR OTHERWISE AND WHETHER BASED IN CONTRACT, WARRANTY, INDEMNITY, TORT (INCLUDING NEGLIGENCE OF COMPANY), STRICT LIABILITY OR ALTERNATIVE TORT REMEDIES OR ANY OTHER THEORY OF LAW OR EQUITY, FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING BUT NOT LIMITED TO DAMAGE TO OR CAUSED BY THE EQUIPMENT, LOSS OF PROFITS OR REVENUE, LOSS OF USE OF THE BUYER'S PROPERTY, PLANT, EQUIPMENT, OR SYSTEM, DOWNTIME COSTS OR CLAIMS OF ANY NATURE OF THE BUYER'S CUSTOMERS. THE BUYER ACKNOWLEDGES THAT THE BUYER'S SOLE AND EXCLUSIVE REMEDY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT SHALL BE IN ACCORDANCE WITH THESE TERMS AND THAT THE COMPANY'S TOTAL AGGREGATE LIABILITY TO THE BUYER SHALL NOT EXCEED THE PURCHASE PRICE PAID BY THE BUYER FOR THE SPECIFIC EQUIPMENT FROM WHICH ANY CLAIM OR DAMAGES MAY ARISE.

14. Indemnification: THE BUYER SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE COMPANY, ITS MEMBERS, ITS AND THEIR OFFICERS, EMPLOYEES, AGENTS, SUCCESSORS, AND ASSIGNS FROM AND AGAINST ANY AND ALL LIABILITIES, LOSSES, DAMAGES, COSTS, FINES, AND EXPENSES (INCLUDING ATTORNEYS' FEES AND DISBURSEMENTS) ARISING FROM, BASED UPON, RELATED TO, OR IN ANY WAY CONNECTED WITH ANY ALLEGATION, CLAIM, ACTION, CAUSE OF ACTION, PROCEEDING OR SUIT FOR THE DEATH OR INJURY OF ANY PERSON(S) OR DAMAGE OR DESTRUCTION OF ANY PROPERTY, ARISING OUT OF, RELATING TO, OR IN ANY WAY CONNECTED WITH THE EQUIPMENT SOLD BY THE COMPANY TO THE BUYER INCLUDING, BUT NOT LIMITED TO, THE USE, TESTING, SALE, LEASE, DISTRIBUTION, OR OTHER MATTER OF TRANSFER BY OR TO ANYONE AND WHETHER CAUSED BY THE SOLE OR PARTIAL FAULT, NEGLIGENCE OF THE COMPANY, OR A BREACH OF THE DUTY OF STRICT LIABILITY OF THE COMPANY. THE BUYER'S DUTY TO DEFEND, REIMBURSE, INDEMNIFY, AND HOLD THE COMPANY HARMLESS SHALL INCLUDE WITHOUT LIMITATION THE COMPANY'S PERSONNEL-RELATED COSTS.
15. Attorneys' Fees: The Buyer is responsible to the Company for all attorney's fees and costs the Company may incur in enforcing any of these Terms, or in connection with the successful defense or settlement of any claim or demand made by the Buyer under these Terms or a claim by a third party which would be subject to the "Indemnification" above.
16. Governing Law and Dispute Resolution: Any dispute arising out of or related to the Agreement will be governed by and construed according to the laws of the state of Texas and litigated exclusively in a state or federal court located in Harris County, Texas. The parties hereto expressly release and waive any and all rights to a jury trial and consent to have any dispute heard solely by a court of competent jurisdiction. If either party commences litigation or mutually agreed upon alternative dispute resolution concerning any provision of the Agreement, the prevailing party is entitled, in addition to the relief granted, to a reasonable sum for their attorney's fees in such litigation or mutually agreed upon alternative dispute resolution, provided that if each party prevails in part, such fees will be allocated in the manner as the court or arbitrator determines to be equitable in view of the relative merits and amounts of the parties' claims.
17. Severability: Each term and condition is separate, and if any term, covenant, condition, or provision hereof is illegal, invalid, or unenforceable for any reason, such illegality, invalidity, or unenforceability shall not affect the legality, validity, and enforceability of the remaining Terms, covenant, condition, or provision.
18. Technical Information; Intellectual Property: Other than a limited right to use the Equipment as intended in accordance with the sale hereunder, no rights or licenses of any kind are granted by Company with respect to Intellectual Property. The Company does not waive any rights in any Intellectual Property whether presently owned or hereafter acquired. The Buyer has no interest in and shall make no claim with respect to any of the Intellectual Property. The Buyer agrees not to reverse engineer any of the Equipment or the technology embodied therein.
19. Trademarks: The Buyer shall not use, directly or indirectly, in whole or in part, the Company's name, or any other trademark or trade name that is now or may hereafter be owned by the Company ("Trademarks") as part of the Buyer's corporate or business name, or in any way in connection with the Buyer's business, except in a manner and to the extent authorized herein or otherwise approved by the Company in writing. Buyer shall not infringe upon, harm, or contest the validity of any Trademarks.

20. Confidential Information: All information furnished or made available by the Company to the Buyer in connection with the subject matter hereof shall be held in confidence by the Buyer. The Buyer agrees not to use (directly or indirectly), or disclose to others, such information without the Company's prior written consent. The obligations in this section will not apply to any information that; (a) at the time of disclosure was or thereafter becomes generally available to the public by publication or otherwise through no breach by the Buyer of any obligation herein; (b) the Buyer can show by written records was in the Buyer's possession prior to disclosure by the Company; or (c) is legally made available to the Buyer by or through a third party having no direct or indirect confidentiality obligation to the Company with respect to such information.
21. Manuals, Brochures, Instructions: Any and all operating manuals, instructions, brochures, warnings, or the like concerning the Equipment are supplied as an aid to the Buyer and are not represented to be accurate, complete, or sufficient.
22. Force Majeure: The Company shall not be liable for any loss or damage arising from the Company's failure to perform in a timely manner when its failure results from events beyond its reasonable control (an event of "Force Majeure"), including acts of God, epidemics, acts of war whether declared or undeclared, blockades, equipment failures, power failures, labor disputes (whether of the Company's employees or the employees of others), riots, insurrections, civil disturbances, raw material shortages, material increases in costs of raw materials, fires, floods, storms, explosions, non-performance by third parties, or any other occurrence or loss beyond the reasonable control of the Company. In the event of Force Majeure, the time for performance will extend for such time as reasonably necessary to enable the Company to perform.
23. Assignment: No assignment of any rights or interest or delegation of any obligation of the Buyer under the Agreement or any Order may be made without the Company's prior written consent.
24. Survival: Any Terms which, by their nature, extend beyond the termination or expiration of any sale of Equipment, will remain in effect until fulfilled.
25. Waiver: If the Company fails to insist upon strict compliance with these Terms, the Company's actions will not constitute a waiver of the Buyer's default or any other existing or future default or affect the Company's legal remedies.