

## TERMS AND CONDITIONS

1. This invoice applies to all purchases by Buyer (as referenced on invoice, quote or email) from Air Tech Sales, Inc., (hereafter referenced as "Seller"). The terms in this invoice supersede and control any additional terms governing this transaction, including without limitation Buyer's purchase order except that any credit application with Seller and/or personal guarantees shall continue in full force and effect unless specifically revoked in writing. The terms set forth herein, on Buyer's credit application (if any) with Seller and on any invoices presented to the Buyer are the entire agreement between the parties ("Seller's Terms and Conditions").
2. If Buyer's account balance remains unpaid 45 days following the date of the purchase, Seller, at its sole discretion, may determine the account to be in default and may immediately cease extending further credit to Buyer.
3. When reasonable grounds for insecurity arise with respect to Buyer's ability to pay, Seller may in writing demand adequate assurance of due performance. Buyer's failure to provide such assurance of due performance as is adequate under the circumstances of the particular case within five (5) calendar days of the demand is a default under this Agreement. Adequate assurances may include providing a bond or bonds, in the Seller's sole discretion.
4. In the event of default, Seller shall have no obligation to deliver or order materials subject to an outstanding purchase order unless and until Seller receives payment in full for those materials and all outstanding balances. Seller may apply the payments made by Buyer in any manner that Seller in its sole discretion, deems appropriate, including application of payment to service charges first, and then principal.
5. Seller may change the terms of this agreement, including the rate of service charge, at any time upon 30 days notice of such change. Seller may cancel Buyer's account at any time without notice, and with or without cause. In such event, Buyer agrees to immediately pay the outstanding balance.
6. In the event Seller incurs any legal fees in connection with collecting monies due, Seller shall be entitled to recover its attorney's fees, expert's fees, costs of suit and/or collection agency fees. If more than one person or entity signs this application, it is understood and agreed that all entities and persons are jointly and severally liable for payment. In the event legal action is commenced to enforce any of the terms of the invoice or obligations created herein, the legal action shall be commenced in Placer County.
7. Seller may make inquiry of any source considered, in Seller's sole discretion, necessary to substantiate statements in this Application, and Seller is further authorized to answer requests for credit information on Buyer's account from others. Buyer shall furnish additional financial information at Seller's request. Buyer authorizes any of the bank or trade references listed in this application to provide Seller with any and all information, which, in Seller's sole discretion, is deemed necessary or desirable to assist Seller's determination of extending credit or making sales to Buyer. Seller, Seller's agent, representative, employee or assignee, is hereby authorized to obtain credit reports or any other information on Buyer, its principals, and Guarantor from whatever credit bureau it deems reliable.
8. In the event Buyer believes or has reason to believe that Seller has provided materials, equipment, or other products which are damaged or are in any way incorrect or unsuitable ("defective"), Buyer shall provide Seller with written notice of the same within twenty-four hours of discovery of the defect, or when Buyer should have discovered the defect.
9. **EXCLUSION AND LIMITATION OF WARRANTIES.** Seller's liability for defective equipment shall be limited to any warranty provided by the manufacturer. **THE EXPRESS WARRANTY CONTAINED HEREIN IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.** Buyer waives all warranties, express or implied, except for those furnished by the manufacturer who furnished the material to seller. In no event shall Seller's liability exceed 250% of the amount paid to seller for providing such materials. The Parties acknowledge and agree that the foregoing sentence is an express, negotiated agreement allocating and limiting liability in accordance with applicable law, including without limitation, section 2782.5 of the Civil Code.
10. **WAIVER OF CONSEQUENTIAL DAMAGES AND LIMITATION OF REMEDIES.** By accepting shipment, Buyer waives any and all special or consequential damages arising out of or any way related to all purchases by Buyer from Seller. Buyer specifically waives any and all damages for delay, including reimbursement of liquidated damages that may be imposed on Buyer.
11. This credit application and agreement shall continue in full force and effect until such time as Seller shall receive from Buyer a written notice of revocation signed by Buyer's authorized personnel. Buyer's delivery of notice or revocation shall in no way relieve Buyer from any liability or for any indebtedness incurred prior to Seller's actual receipt of such notice. To the extent that materials or products furnished by Seller are intended by Buyer to be incorporated into a construction work of improvement, Buyer shall fully and promptly furnish to Seller any and all project information necessary for Seller to perfect any actual or potential mechanic's liens, stop notice or bond rights.
12. Seller's Terms and Conditions shall apply to all equipment and/or materials furnished to Buyer by Seller. To the extent that a current or subsequent Purchase Order expressly incorporates by reference the terms of any contract documents, the terms set forth herein shall amend and modify the Purchase Order and any contract documents and shall supersede and control any conflicting language in the Purchase Order or any of the contract documents. Terms in a subsequent Purchase Order that are inconsistent with Seller's Terms and Conditions shall apply if and only if the specific inconsistent terms have been initialed by a Seller's authorized representative. Seller hereby expressly rejects any terms in the contract documents or in the Purchase Order that are inconsistent with the terms of Seller's Terms and Conditions. Seller's obligations, if any, to supply equipment and/or materials on credit are expressly made conditional on Buyer's assent to the terms of Seller's Terms and Conditions.
13. Buyer shall assign to Seller any and all mechanic's lien, stop notice, bond claims or rights that Buyer has or may have with respect to the project under the Mechanic's Lien, and/or Bond Laws pertaining to public or private construction, or against contract proceeds or retainages payable to Buyer with respect to such project. In no event shall the assignment release Buyer of the underlying obligation to pay Seller the entire debt owed to Seller. Further, Buyer's assignment to Seller of the claims or rights as discussed in this paragraph is in addition to any other security given to Seller or that Seller may have received from Buyer. Buyer shall hold all payments received in connection with materials furnished to it by Seller in trust for Seller.
14. Any and all returned items are subject to a minimum 25% restocking charge. A copy of the invoice must accompany returned goods. There will be no return on special order material. All claims for shortages must be noted on delivery tickets and reported within five days after receipt of the order. All returns must be in resalable condition. No returns will be accepted on custom manufactured equipment.
15. To the fullest extent allowed by law, Buyer agrees to indemnify, defend and hold Seller harmless from any claims, demands, liabilities, damages, causes of action, expenses, including attorneys' and expert's fees ("claims") arising out of or in connection with any of the materials, supplies or equipment provided by Seller, notwithstanding any active or passive negligence on the part of Seller. This indemnification shall not apply to claims directly resulting from Seller's sole negligence or willful misconduct of Seller.
16. Buyer further acknowledges that in the event Seller agrees to offer extension of credit to Buyer and Guarantors on the terms and conditions contained herein, the credit is extended based on Seller's reliance on the information and financial representations made herein by Buyer and the Guarantors. Buyer shall immediately inform Seller in writing of any changes of information contained herein.
17. The facsimile signature of either party to this Credit Application and Guaranty, if applicable, or any other document passing between the parties, shall have the same force and effect as an original signature.