

## TERMS AND CONDITIONS OF SALE OF USED EQUIPMENT

- 1. DELIVERY.** Unless otherwise indicated on the front side of this invoice, all equipment is sold "AS IS" "WHERE IS". Seller shall have no liability whatsoever for loss or damage due to late delivery or non-delivery of the equipment subject to this invoice. Furthermore, if Seller's performance of this sale is, in whole or in part, prevented or hindered by any cause whatsoever, Seller shall have the right to cancel, without any liability on its part, the entire or any portion or portions of this order so affected.
- 2. DISCLAIMER OR WARRANTIES.** PURCHASER IS AWARE THAT ALL EQUIPMENT IS USED EQUIPMENT AND IS SOLD "AS IS". SELLER DISCLAIMS AND PURCHASER WAIVES AND RELEASES SELLER FROM ANY AND ALL REPRESENTATIONS AND WARRANTIES, EITHER EXPRESSED OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING WITHOUT LIMITATION (a) THE DESIGN, CONDITION, AVAILABILITY, OPERATION, MERCHANTABILITY OR FITNESS FOR USE OF THE EQUIPMENT; (b) THE FITNESS OF THE EQUIPMENT FOR ANY PARTICULAR USE OR PURPOSE OF PURCHASER; AND (c) THE CONFORMITY OF THE EQUIPMENT TO THE SPECIFICATIONS REQUIRED BY ANY COUNTRY OR POLITICAL SUBDIVISION WITHIN WHICH THE EQUIPMENT MAY BE USED. PURCHASER ACKNOWLEDGES AND AGREES THAT SELLER SHALL HAVE NO LIABILITY TO PURCHASER FOR ANY CLAIM, LOSS OR DAMAGE CAUSED OR ALLEGED TO HAVE BEEN CAUSED DIRECTLY, INDIRECTLY, INCIDENTALLY OR CONSEQUENTIALLY BY THE EQUIPMENT, OR BY ANY INADEQUACY THEREOF OR DEFICIENCY OR DEFECT THEREIN, OR BY ANY INCIDENT WHATSOEVER IN CONNECTION THEREWITH WHETHER ARISING IN STRICT LIABILITY OR OTHERWISE.
- 3. TAXES.** Purchaser agrees to assume exclusive liability for and to pay, indemnify and hold Seller harmless from all sales or use taxes, transfer, title and registration fees, VAT, domestication, personal property taxes or other taxes, tolls, levies, imposts, duties or governmental charges imposed in connection with the sale of equipment covered by this invoice, or any services rendered by Seller in connection with this invoice, including any penalties, fines or interest thereon.
- 4. CONSEQUENTIAL DAMAGES.** UNDER NO CIRCUMSTANCES SHALL SELLER BE LIABLE HEREUNDER FOR ANY LOST PROFITS OR FOR SPECIAL CONSEQUENTIAL OR EXEMPLARY DAMAGES, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- 5. REMEDIES.** The remedies reserved to Seller herein shall be cumulative and in addition to any other or further remedies provided by law.
- 6. WAIVER.** Seller's failure to insist on performance of any of the terms and conditions of this invoice, or Seller's waiver of any breach, shall not act as a waiver of any other term or condition or any subsequent breach.
- 7. ASSIGNMENT.** Purchaser may not assign this Agreement nor any of its rights or obligations herein without Seller's prior written consent, which consent may be withheld for any reason.
- 8. JURISDICTION AND LAW.** Seller and Purchaser agree that any claim or controversy, directly or indirectly arising out of or relating to this sale, may be litigated in the state or federal courts located in the State of New York, and Seller and Purchaser hereby consent to be subject to the jurisdiction of such courts. Seller and Purchaser agree that service of process upon the other may be made by mailing a copy (by registered or certified mail) postage prepaid, addressed to the respondent Party at the address shown above. Service shall be complete seven days after such process has been mailed to the respondent Party. Nothing herein shall affect the right of either Party to serve legal process in any other manner permitted by law or affect the right of either Party to bring any action or proceeding against the other Party or its property in the courts of any other jurisdiction. This Agreement shall be construed and interpreted according to the laws of the State of New York.
- 9. ENTIRE AGREEMENT.** It is understood and agreed that this invoice embodies the complete understanding of Purchaser and Seller relative to this sale and that the terms and conditions of this invoice may not be revised or modified in any way except by a written instrument specifically purporting to do so signed by the Purchaser and Seller.
- 10. MARKING AND ID PLATES.** Purchaser will promptly remove all ownership markings and identification plates. Purchaser will, defend at its own expense and indemnify and hold harmless Seller, its agent, employees and indemnities from and against any and all claims, losses, damages, liabilities, demands, actions, costs, expenses and fees (including attorneys' fees) arising out of, or in connection with, the sale of the Equipment to Purchaser or any subsequent use, operation or disposition of the Equipment.
- 11. PAYMENT.** Title to equipment will be transferred to Purchaser on date of pickup of equipment. Payment terms are listed on the front page of this invoice. Overdue payments will be subject to a service charge equal to the lesser of 2% per month or the highest legal rate.
- 12. PICKUP OF EQUIPMENT.** Equipment must be picked up within **15 days** of the date of release confirmation of the Equipment to Purchaser. Otherwise, Seller may cancel the sale or charge Purchaser storage.

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