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**BARRON EQUIPMENT COMPANY, INC.
TERMS AND CONDITIONS OF SALE**

1. Applicability.

(a) These terms and conditions of sale (these "**Terms**") are the only terms which govern the sale of the equipment (including ancillary services provided) ("**Equipment**") by Barron Equipment Company, Inc. ("**Barron**") to [NAME OF BUYER] ("**Buyer**"). Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the Equipment covered hereby, the terms and conditions of said contract shall prevail to the extent they are inconsistent with these Terms.

(b) The accompanying sales confirmation (the "**Sales Confirmation**") and these Terms (collectively, this "**Agreement**") comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms prevail over any of Buyer's general terms and conditions of purchase regardless whether or when Buyer has submitted its purchase order or such terms. Fulfillment of Buyer's order does not constitute acceptance of any of Buyer's terms and conditions and does not serve to modify or amend these Terms.

2. Title and Risk of Loss. Title and risk of loss or damage shall pass to Buyer upon tender of delivery F.O.B. Shipping Point. All shipments are fully insured for the benefit, and at the expense, of Buyer. In the event of loss or damage in transit, Buyer's payment obligations will not be affected.

3. Delivery. All delivery dates are approximate. Barron will deliver in one shipment when possible, but reserves the right to make delivery in installments, if necessary. Delivery dates shall be interpreted as estimated and in no event shall dates be construed as falling within the meaning of "time is of the essence."

4. Amendment and Modification. These Terms may only be amended or modified in a writing which specifically states that it amends these Terms and is signed by an authorized representative of each party.

5. Inspection and Rejection of Nonconforming Equipment.

(a) Buyer shall inspect the Equipment within two (2) days of receipt or the completion of installation ("**Inspection Period**"). Buyer will be deemed to have accepted the Equipment unless it notifies Barron in writing of any Nonconforming Equipment during the Inspection Period and furnishes such written evidence or other documentation as required by Barron. "**Nonconforming Equipment**" means only the following: (i) product shipped is different than identified in Buyer's purchase order; or (ii) product's label or packaging incorrectly identifies its contents.

(b) If Buyer timely notifies Barron of any Nonconforming Equipment, Barron shall, in its sole discretion, (i) replace such Nonconforming Equipment with conforming Equipment, or (ii) credit or refund the Price for such Nonconforming Equipment, together with any reasonable shipping and handling expenses incurred by Buyer in connection therewith. Buyer shall ship, at its expense and risk of loss, the Nonconforming Equipment to Barron's facility. If Barron exercises its option to replace Nonconforming Equipment, Barron shall, after receiving Buyer's shipment of Nonconforming Equipment, ship to Buyer, at Buyer's expense and risk of loss, the replaced Equipment to the Delivery Point.

(c) Buyer acknowledges and agrees that the remedies set forth in Section 5(b) are Buyer's exclusive remedies for the delivery of Nonconforming Equipment.

6. Price. All prices are subject to change in the event of untimely payment by Buyer.

7. Payment Terms. Payment is due: (a) net 15 days from the date of invoice of the Equipment. Accounts 30 days or more past due shall accrue interest at the rate of 18% or, if less, the maximum rate permitted by law. Deposits are non-refundable. Buyer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Barron.

8. Limited Warranty.

(a) If Barron installs the Equipment, Barron warrants to Buyer that its installation services conform to manufacturer recommendation and industry standards for a period of one (1) year from completion of installation. Barron makes no other warranty with respect to the Equipment.

(b) The Equipment manufacturer (not Barron) warrants that the Equipment sold hereunder shall be free from defects in material or workmanship as stated in the manufacturer's standard warranty. The manufacturer's warranty comprises the sole and entire warranty pertaining to the Equipment provided by Barron. For avoidance of doubt, **BARRON MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD PARTY EQUIPMENT, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (c) WARRANTY OF TITLE; OR (d) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.**

Barron hereby assigns to Buyer any warranty claims Barron has against the manufacturer as to the Equipment sold to Buyer. A copy of the manufacturer's written warranty, if any, is usually furnished prior to, or with, delivery of the Equipment being purchased by Buyer; however, if Buyer has not received such a copy of a written warranty from the manufacturer, upon receipt of Buyer's specific request for such a copy, Barron will obtain a copy of the manufacturer's written warranty, if any, and forward a copy of said written warranty, if any, to Buyer.

(c) Barron shall not be liable for a breach of the warranty set forth in Section 8(a) unless: (i) Buyer gives written notice of the installation defect, reasonably described, to Barron within ten (10) days of the time when Buyer discovers or ought to have discovered the defect; (ii) Barron is given a reasonable opportunity after receiving the notice to examine such Equipment; and (iii) Barron reasonably verifies Buyer's claim that the installation of Equipment was improper.

(d) Barron shall not be liable for a breach of the warranty set forth in Section 8(a) if: (i) Buyer makes any further use of such Equipment after giving such notice; (ii) the defect arises because Buyer failed to follow Barron's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Equipment; or (iii) Buyer alters or repairs such Equipment without the prior written consent of Barron.

(e) Subject to Section 8(c) and Section 8(d) above, with respect to any such Equipment during the Warranty Period, Barron shall, in its sole discretion, either: (i) repair or replace such Equipment (or the defective part) or (ii) credit or refund the price of such Equipment at the pro rata contract rate provided that, if Barron so requests, Buyer shall, at Barron's expense, return such Equipment to Barron.

(f) **THE REMEDIES SET FORTH IN SECTION 8(E) SHALL BE THE BUYER'S SOLE AND EXCLUSIVE REMEDY AND BARRON'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN SECTION 8(A).**

9. Returns. Returns will be accepted only after Barron's permission has been obtained in advance. Return of items normally stocked by Barron will be subject to restocking charges. Return of special items or items not normally stocked by Barron will be commensurate with terms given by the



manufacturer, with possible administrative charges. Non-standard items not returnable to the manufacturer will not be returnable to Barron. Credit will be based on invoiced price, not including freight charges.

10. Limitation of Liability.

(a) **IN NO EVENT SHALL BARRON BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO ANY BREACH OF THESE TERMS, WHETHER OR NOT THE POSSIBILITY OF SUCH DAMAGES HAS BEEN DISCLOSED IN ADVANCE BY BUYER OR COULD HAVE BEEN REASONABLY FORESEEN BY BUYER, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.**

(b) **IN NO EVENT SHALL BARRON'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO BARRON FOR THE EQUIPMENT SOLD HEREUNDER.**

11. Proprietary Rights. The purchase and sale of the Equipment hereunder to Buyer shall in no way be deemed to confer upon Buyer any right, interest or license in any patents, patent applications, designs, copyrights, trademarks, service marks, trade names or other intellectual property rights Barron may have covering the Equipment. Barron hereby reserves all such rights. Buyer warrants that it will not, and will not permit or assist any other person or entity to, divulge, disclose, or in any way distribute or make use of such intellectual property, and that it will not, and will not engage, permit or assist any other person or entity to, modify, reverse engineer or manufacture any such products.

12. Compliance with Laws. Buyer shall comply with all applicable laws, regulations and ordinances. Buyer shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under this Agreement. Buyer shall comply with all export and import laws of all countries involved in the sale of the Equipment under this Agreement or any resale of the Equipment by Buyer. Buyer assumes all responsibility for shipments of Equipment requiring any government import clearance. Barron may terminate this Agreement if any governmental authority imposes antidumping or countervailing duties or any other penalties on Equipment.

13. Termination. In addition to any remedies that may be provided under these Terms, Barron may terminate this Agreement with immediate effect upon written notice to Buyer, if Buyer: (i) fails to pay any amount when due under this Agreement [and such failure continues for ten (10) days after Buyer's receipt of written notice of nonpayment]; (ii) has not otherwise performed or complied with any of these Terms, in whole or in part; or (iii) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

14. Waiver. No waiver by Barron of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Barron. No failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Agreement operates or may be construed as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

15. Force Majeure. Barron shall not be liable or responsible to Buyer, nor be deemed to have defaulted or breached this Agreement, for any failure or

delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Barron including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lock-outs, strikes or other labor disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage.

16. Assignment. Buyer shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Barron. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Buyer of any of its obligations under this Agreement.

17. Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

18. No Third-Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.

19. Governing Law. The laws of the State of Iowa (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Agreement, including, without limitation, its validity, interpretation, construction, performance, and enforcement. The provisions of the United Nations Convention on Contracts for the International Sale of Goods do not apply to this Agreement.

20. Venue. The parties consent to the exclusive jurisdiction of, and venue in, any federal or state court of competent jurisdiction located in Scott County, Iowa for the purposes of adjudicating any matter arising out of or relating to this Agreement. Litigation or legal proceedings which arise out of or relate to this Agreement are to be conducted before a judge and not a jury.

21. Notices. All notices, request, consents, claims, demands, waivers and other communications hereunder (each, a "Notice") shall be in writing and addressed to the parties at the addresses set forth on the face of the Sales Confirmation or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.

22. Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

23. Survival. Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of this order including, but not limited to, the following provisions: Compliance with Laws, Governing Law, Venue and Survival.