



CARMEUSE SYSTEMS, INC.

GENERAL TERMS OF SALE FOR PARTS



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- 1. Scope.** These General Terms of Sale ("Terms") govern the purchase and sale of the equipment and related services, if any (collectively, "Equipment"), referred to in Seller's sales contract, purchase order, quotation, proposal, or acknowledgment, as the case may be ("Seller's Documentation"). Whether these Terms are included in an offer or an acceptance by Seller, such offer or acceptance is conditioned on Purchaser's assent to these Terms. Seller rejects all additional or different terms in any of Purchaser's forms or documents, and such additional or different terms shall not be valid or binding upon Seller under any circumstances, unless specifically adopted and approved in writing by Seller. The failure of Seller to respond shall be deemed a denial of any such additional or different terms. No representative of Seller has the authority to make any representations or promises about the Equipment or the Terms herein that differ from these Terms.
- 2. Price & Payment.** Purchaser shall pay Seller the full purchase price as set forth in Seller's Documentation. All prices and payments are in CDN Dollars (unless specified elsewhere). Where applicable, payments shall become due upon notification to the Purchaser by the Seller that completion of a stage of production of the Equipment, as provided Seller's Documentation, has been achieved. Pro rata payment is also due for partial shipments. Unless Seller's Documentation provides otherwise, freight, storage, insurance and all taxes, customs duties or other governmental charges relating to the Equipment shall be paid by Purchaser. If Seller is required to pay any such charges, Purchaser shall immediately reimburse Seller. If shipment is delayed by Purchaser, the date the shipment is ready shall be deemed to be the shipment date for payment purposes. All payments are due within 30 days after receipt of invoice. Purchaser shall be charged the lower of 1.5% interest per month or the maximum legal rate on all amounts not received by the due date and shall pay all of Seller's reasonable costs (including attorneys' fees) of collecting amounts due but unpaid. All orders are subject to credit approval.
- 3. Delivery.** Delivery of the Equipment shall be in material compliance with the schedule in Seller's Documentation, and may include partial shipments. Unless Seller's Documentation provides otherwise, Delivery terms are F.O.B. Seller's facility. All shipping terms per Incoterms 2010. Unless otherwise provided, packing of the Equipment shall be in accordance with Seller's normal standards.
- 4. Ownership of Materials.** All devices, designs (including drawings, plans and specifications), estimates, prices, notes, electronic data and other documents or information prepared or disclosed by Seller, and all related intellectual property rights, shall remain Seller's property. Seller grants Purchaser a non-exclusive, non-transferable license to use any such material solely for Purchaser's use of the Equipment as intended (see the proposal and/or specifications), specifically installing, operating, maintaining and repairing the Equipment. Purchaser shall not disclose any such material to third parties without Seller's prior written consent.
- 5. Changes.** Seller shall not implement any changes in the scope of work described in Seller's Documentation unless Purchaser and Seller agree in writing to the details of the change and any resulting price, schedule or other contractual modifications. This includes any changes necessitated by a change in applicable law occurring after the effective date of any contract including these Terms.
- 6. Warranty.** Subject to the terms of this Section 6 and Section 10, Seller warrants to Purchaser that the Equipment shall materially conform to the description in Seller's Documentation and shall be new and free from defects in material and workmanship. **The foregoing warranty, and any additional warranty expressly incorporated into the parties' contract, are exclusive and in lieu of any warranty of merchantability, fitness for particular purpose, or any warranty, express or implied. All other warranties are hereby disclaimed.** The foregoing warranty shall not apply to any Equipment that is specified or otherwise demanded by Purchaser and is not manufactured or selected by Seller, as to which (i) Seller hereby assigns to Purchaser, to the extent assignable, any warranties made to Seller and (ii) Seller shall have no other liability to Purchaser under warranty, tort or any other legal theory. The remedies set forth below with respect to any breach of warranty are exclusive and in lieu of all other liabilities and obligations of Seller with respect to the Equipment. If Purchaser gives Seller prompt written notice of breach of this warranty within one year from Delivery (the "Warranty Period"), Seller shall, at its sole option and as Purchaser's sole remedy, adjust, repair or replace the item or any affected part of the Equipment, or refund the purchase price. The Equipment shall be deemed accepted and any claim for breach of this warranty shall be deemed waived, unless Purchaser notifies Seller of its claim within one year from Delivery of the Equipment, time being of the essence. Purchaser specifically agrees that it shall assume all responsibility and expense for removal, reinstallation and freight in connection with the foregoing. If Seller determines that any claimed breach is not, in fact, covered by this warranty, Purchaser shall pay Seller its then customary charges for any repair or replacement made by Seller. Seller's warranty is conditioned on Purchaser's (a) operating and maintaining the Equipment in accordance with Seller's Documentation and instructions, (b) not making any unauthorized repairs or alterations, and (c) not being in default of any payment obligation to Seller. Seller's warranty does not cover damage caused by chemical action or abrasive material, accident, wear and tear, consumables, misuse, neglect, or improper installation (unless installed by Seller). Seller does not

accept any liability for charges for repairs or replacements made without authority or for any contingent liability of any kind. The foregoing warranty and conditions shall extend to replacement parts furnished by the Seller hereunder, except that the warranty on such replacement parts shall be limited in scope and expiration to the warranty on the original Equipment.

7. **Indemnity.** Seller shall indemnify, defend and hold Purchaser harmless from any claim, cause of action or liability incurred by Purchaser as a result of third party claims for personal injury, death or damage to tangible property, to the extent caused by Seller's negligence. Seller shall have the sole authority to direct the defense of and settle any indemnified claim. Seller's indemnification is conditioned on Purchaser (a) promptly, within the Warranty Period, notifying Seller of any claim, and (b) providing reasonable cooperation in the defense of any claim.
8. **Force Majeure.** Neither Seller nor Purchaser shall have any liability for any breach (except for breach of payment obligations) caused by extreme weather or other act of God, strike or other labor shortage or disturbance, fire, accident, war or civil disturbance, delay of carriers, failure of normal sources of supply, act of government or any other cause beyond such party's reasonable control. If the delay arising under this section is more than 180 days, either party has the right to terminate the Agreement and the parties' respective obligations shall be equitably adjusted.
9. **Cancellation.** If Purchaser cancels or suspends its order for any reason other than Seller's breach, Purchaser shall promptly pay Seller for work performed prior to cancellation or suspension and any other direct costs plus overhead incurred by Seller as a result of such cancellation or suspension.
10. **Limitation of Liability.** Neither Seller nor Purchaser shall be liable for any consequential, incidental, special, punitive, revenue or profit, loss of use, or other indirect damages. Seller's cumulative, aggregate liability arising at any time for the sale or use of specific Equipment shall not exceed the purchase price paid for that Equipment, as set forth in the purchase order or similar confirmation document. These limitations apply whether the liability is based on contract, warranty, tort, indemnity, strict liability or any other legal theory.
11. **Title.** Title to the Equipment and risk of loss or damage shall pass to Purchaser at the designed delivery point, except that a security interest in the Equipment, proceeds and any replacement shall remain with Seller until full payment of the purchase price, and any additional amounts, have been paid to Seller.
12. **Miscellaneous.** These Terms, together with any quotation, purchase order, contract or acknowledgement issued or signed by the Seller, comprise the complete and exclusive statement of the agreement between the parties (the "Agreement") and supersede all prior agreements (whether oral or written), all other communications between the parties, and any terms contained in Purchaser's documents unless separately signed by Seller. No part of the Agreement may be changed or cancelled except by a written document signed by Seller and Purchaser. No course of dealing or performance, usage of trade or failure to enforce any term shall be used to modify the Agreement. If any of these Terms is unenforceable, such Term shall be limited only to the extent necessary to make it enforceable, and all other Terms shall remain in full force and effect. Purchaser may not assign or permit any other transfer of the Agreement without Seller's prior written consent. No rights shall be granted to any other person, by virtue of the Agreement, and there shall be no third party beneficiaries hereof. The Agreement shall be governed by the laws of the Province of Ontario, and jurisdiction and venue of any dispute arising under these Terms shall be vested in courts sitting in such Province.