

Diversified Machine Systems, LLC Terms and Conditions for Sale of Products and Services

NOTICE: Sale of any Products or Services is expressly conditioned on Customer's assent to these Terms and Conditions. Any acceptance of Seller's offer is expressly limited to acceptance of these Terms and Conditions and Seller expressly objects to any additional or different terms proposed by Customer. No document shall modify these Terms and Conditions even if signed by Seller's representative. Any order to perform work and Seller's performance of work shall constitute Customer's assent to these Terms and Conditions.

1. Subject of the Contract:

The Contract (as that term is defined in Article 2 below) shall be the conclusive agreement between the Customer and the Seller with regard to the Machinery supplied under it and with regard to all specifications and customizations (if any) of the Machinery, including without limitation the materials that may be used with the Machinery. The Customer shall not be entitled to any specifications or customizations of the Machinery that are not set forth in the Contract.

2. Definitions.

"Contract" means the purchase order or other offer sent by Customer and accepted by Seller in writing, for the sale of Products or Services, together with these Terms and Conditions, Seller's final quotation, the agreed scope(s) of work, the Payment Terms Addendum, and Seller's order acknowledgment.

"Customer" means the entity to which Seller is providing Goods and/or services under the Contract.

"Goods" and "Machinery" mean the equipment, parts, materials, supplies, software, and other Goods Seller has agreed to supply to Customer under the Contract.

"Seller" means Diversified Machine Systems, LLC ("DMS"), a Colorado limited liability company.

"Terms and Conditions" means these "Diversified Machine Systems, LLC Terms and Conditions for Sale of Products and Services", including any relevant contractual documents pursuant to Article 37.

3. Acceptance of Customer Offers:

No order shall be a commitment of DMS until written acceptance thereof has been sent to the Customer by Seller or Goods have been shipped, and such acceptance shall be subject to all of the provisions of both these Terms and Conditions and DMS's acknowledgment, if any.

The Seller may deposit any monies received from Customer, pending a determination of whether DMS will accept Customer's offer, and such act shall not constitute acceptance. If Seller rejects Customer's offer, then Seller shall remit, without interest, all such monies.

4. Acceptance of Machinery:

Unless Customer gives prior notice to the Seller in writing, including without limitation for nonconformity of the Goods, Customer shall be deemed to have effected final acceptance of the Machinery, upon the earliest of: (i) Customer's use of the Machinery for any purpose other than conducting acceptance testing, (ii) three (3) days following installation of the Machinery, or (iii) thirty (30) days following delivery of the Machinery if installation was delayed at Customer's request or was necessary because the installation site was not prepared for installation.

Any rejection of the Machinery must be made in writing and delivered to Seller prior to final acceptance and must include: documentation as reasonably requested by the Seller, as well as one of the following permitted reasons for rejection: (i) the Goods shipped are different than identified in Customer's purchase order; or (ii) the Goods' label or packaging incorrectly identifies its contents.

If Customer timely notifies Seller of any nonconforming Goods for a permitted reason set forth above, Seller shall, in its sole discretion, (i) replace such nonconforming Goods with conforming Goods, via three (3) day ground shipping, or (ii) credit or refund the purchase price for such nonconforming Goods, together with any reasonable shipping and handling expenses incurred by Customer in connection therewith. Customer shall ship, at its expense and risk of loss, the nonconforming Goods to Seller's facility.

5. Modifications And Special Orders:

Modifications to the Machinery that are requested by Customer after Customer executes the Contract shall be deemed to be accepted by Seller only upon Seller's issuance of a written confirmation of its acceptance. Customer shall pay all additional charges and expenses of Seller in connection with such modifications before Seller begins to implement such modifications. Modifications may affect the Shipping Date.

If requested by Seller, Customer will send a sample of the material used by Customer at the time of the order. Failure to do so relieves Seller of liability for proper functioning of the Machinery in connection with such material.

At any time prior to delivery, Seller may modify the Machinery, provided such modification does not materially adversely affect the Machinery's compliance with the specifications set forth in the Price Quotation and does not materially adversely affect the form, fitness, functions, safety, reliability, performance, and/or maintainability of the Machinery. If Seller intends to modify the Machinery, then Seller shall notify Customer in writing, explaining the changes, the reasons therefor, and the consequences thereof.

6. **Preparation For Delivery:** Upon receipt by the Seller of the Down Payment and a copy of the Contract and its attachments signed by the Customer, the Machinery will be prepared for shipment from DMS, Colorado Springs, Colorado. After work on the Machinery has begun, the Down Payment shall be nonrefundable. The Customer will be notified of the approximate shipping date, however Seller does not promise a delivery date.

The Machinery will be shipped to the Customer upon receipt by the Seller of the Shipment Payment, which shall be nonrefundable once the machine has been shipped, and will be delivered to the Customer's dock (as specified by the Customer). All shipping costs, customs duty, clearance costs and insurance, with the exception of the GST government tax for machines being delivered to Canada, shall be paid by the Seller unless otherwise specified. Delivery of all Goods shall be EXW Seller's factory (Incoterms, 2020) unless otherwise specified by the Seller. The Seller may, at its option, ship all of the Goods at one time or in portions from time to time. The Seller will attempt to ship Goods for delivery on or about the times it informs the Customer, although failure to do so will not invalidate the Contract. In the absence of instructions from the Customer, the Seller shall have absolute discretion as to the mode and routing of shipments.

Customer, at Customer's sole expense, shall make all necessary arrangements, subject to Seller's approval, to unload the Machinery and any component part thereof pursuant to Seller's instructions and using professional riggers, the performance of which shall be the responsibility of Customer. Seller may ship early. Seller is not obligated to ship the Machinery until Seller has received the Down Payment and the Second Payment.

If Customer requests a delay in the Shipping Date or fails to take delivery, Customer shall pay Seller for costs incurred by Seller because of such delay or failure, including but not limited to transportation to an offsite facility, warehousing, storage, and insurance.

If Customer requests that the Shipping Date be delayed by more than thirty (30) days, then Seller may: (i) terminate the Contract, (ii) retain any amounts previously received on account of the Goods up to the maximum of the Down Payment, which Customer agrees is reasonable and just compensation for Seller's damages and not a penalty, (iii) sell the Machinery to another party, and (iv) charge Customer for further damages, if applicable.

7. **Title and Claims:** Risk of loss of the Machinery shall pass from Seller to Customer when Seller puts and holds the Machinery or any component part thereof at Customer's disposition and gives Customer notice thereof. Seller shall bear all risk of loss or damage in transit and shall be responsible to file claims with any carrier for damage occurring during shipment.

Title shall not pass to the Customer until delivery of the Goods and receipt by the Seller of the Final Payment. Responsibility for and expense of preparing and filing claims against carriers for loss or damage to the Goods in transit shall be the Customer's, unless the delivery point for the Goods is something other than Seller's facility.

The Seller disclaims all responsibility and liability for any foundation preparation necessary for the Goods supplied under this contract, which shall be the sole responsibility of Customer.

8. **Grant Of Security Interest:** Customer grants a security interest to the Seller in the Goods (including but not limited to parts and materials that are supplied by the Seller after the initial installation of the machine) that are the subject of this contract to secure the payment and performance of Customer's obligations as set forth herein in the "Payment Terms" as well as all other obligations, including but not limited to obligations to pay for subsequently provided parts, maintenance, and service. Customer authorizes the Seller to file a financing statement describing that collateral and perfecting the Seller's security interest. The parties agree that the security interest granted is a purchase money security interest. The security interest granted secures all of Customer's obligations under the Terms and Conditions of the machine and any other obligations of Customer to the Seller and shall remain in effect until all of said obligations are paid in full. The Seller shall have all the rights of a secured creditor provided by the Uniform Commercial Code as it is in effect in Colorado. This section does not apply to machines sold to customers located in Canada or Mexico.

The Customer hereby constitutes and appoints the Seller as the Customer's true and lawful attorney with full power of substitution for the Customer in the Customer's name, place and stead for the purposes of (a) executing from time to time, in the Customer's name, one or more financing statements and amendments to financing statements to perfect, and to continue perfection of, the security interest granted by these Terms and Conditions; and (b) otherwise carrying out the provisions of these Terms and Conditions and taking any action and executing any instrument that the Seller may deem necessary or advisable to accomplish the purposes hereof, which appointment is irrevocable and coupled with an interest. The Seller agrees that it shall have no right to exercise such power for the purposes described in subclause (b) of this paragraph unless an event of default shall have occurred and is continuing.

9. **Testing:** DMS may choose to undertake testing of the Machinery in its sole discretion. SHOULD DMS ELECT NOT TO TEST THE MACHINERY, DMS DISCLAIMS ANY RESPONSIBILITY ARISING FROM SUCH LACK OF TESTING.

10. **Installation, Training, And Service:** Machine installation and the training of the Customer's personnel will be accomplished as set forth in the Confirmation. **The Customer's employees who operate the Seller's machinery and use the telephone assistance service must have attended the Seller's training programs.** For service requests, certified maintenance training is required. For applications questions, certified basic training and applications training are required. On-site service will be provided by the Seller's employees during the warranty period described in Article 17 below according to the terms and conditions contained in that paragraph. After the expiration of the warranty period, the Seller will provide on-site maintenance and service upon receiving the Customer's written request for such maintenance and service, which request will describe in reasonable detail the nature of the maintenance or

service requested, the location of the machine, the expected duration of the maintenance or service visit, and the agreement by the Customer to pay to the Seller its reasonable and customary costs (including but not limited to payment of the compensation of the Seller's employees who will perform the maintenance or service) for providing such maintenance or service. In addition, the Customer may enter into a preventive maintenance contract, a form of which has been provided to the Customer, that will provide for on-site preventive maintenance visits by the Seller's personnel. Any such preventive maintenance contract shall be considered made as a part of the Terms and Conditions applicable to Customer. In all cases, whether before or after the expiration of the warranty period, maintenance or service will be provided only by the Seller's employees who are appropriately certified to perform work on the specialized equipment in question. All such employees will be paid exclusively by the Seller and no such employees will receive remuneration or reimbursements directly from the Customer.

Prior to delivery of Goods to Customer, Customer must prepare an appropriate installation space that is safe, dry, cool, clean, has adequate foundations to support the machinery, and is otherwise adequate for the installation and proper functioning of the machinery: The installation space shall meet the specifications set forth in the Price Quotation by DMS. The installation and operational space for the machinery must be safe for the Seller's workers and its own.

Before Seller's technicians depart for Customer's site, Customer must provide written confirmation to Seller that the site preparations specified in the Price Quotation have been completed. If installation is delayed because the installation site is not ready, then Seller will be entitled to delay the installation until its technicians are available.

Customer's technicians shall be made available for the training agreed upon by the parties after installation. Customer shall only use technicians that have been trained by Seller to operate or carry out repairs upon prior approval by Seller on the machinery.

11. Standard Software Conditions: Software packages supplied by DMS, Colorado Springs, Colorado, shall be supplied with the following conditions:

All software programs and the accompanying documentation are proprietary products of DMS (or C.M.S. S.p.A, as applicable) and are protected by United States and international copyright laws and international treaty provisions.

The Customer acknowledges and agrees that it does not own the software, and that DMS (or C.M.S. S.p.A, as applicable) remains the sole owner of the software.

Subject to Customer's compliance with its payment obligations hereunder, and its performance of all other obligations pursuant to the contract and these Terms and Conditions, DMS (or C.M.S. S.p.A, as applicable) grants the Customer a non-exclusive, non-transferable, license to use the software supplied (if any) and the related documentation, without the right to sublicense. No other rights express or implied in connection with such intellectual property rights are granted. The license is further restricted to the following use:

Except as otherwise stated specifically in writing, the Customer's right to use the software supplied shall be limited to installing the software onto a single computer, file server, or equivalent in accordance with the instructions provided to the Customer, executing the software after installation, and making a single archive copy in the form provided for backup purposes if the Customer reproduces and places DMS's copyright notice on any backup copy of the software, if applicable.

Customer may not incorporate any portion of the software into other programs or compile any portion of it in combination with other programs, or otherwise copy (except to exercise rights granted), modify, create derivative works of, distribute, assign any rights to, or license the software in whole or in part. All software used in any machinery is the property of Customer or its software suppliers and is protected by United States and international copyright laws.

Customer agrees not to modify, copy, reverse engineer, or provide the software to third parties without Seller's written consent. Notwithstanding any language in these Terms and Conditions to the contrary, Seller makes no representations, warranties, or indemnities regarding the software included with the Machinery.

12. Intellectual Property:

(a) Customer acknowledges and agrees that DMS (and/or SCM Group) is the owner of all intellectual property rights to the Goods. Customer acknowledges and agrees that DMS (and/or SCM Group) retain(s) exclusive ownership of its existing intellectual property rights as of the date hereof, and does not transfer to the Customer any of its intellectual property rights other than any license that may be expressly granted in these Terms and Conditions, which shall be limited to the express terms of such license.

(b) Customer agrees that it will not:

- Try to reverse engineer DMS hardware or software.
- Use or disclose to any party any of DMS (and SCM Group)'s trade secrets, or otherwise infringe on any of DMS's intellectual property rights.
- Reproduce, prepare derivative works, distribute, publicly perform, display any of DMS (and SCM Group)'s data, information, or processes related to the Goods or the services.
- Try to interfere with DMS (and SCM Group)'s hardware, or any ancillary services provided.
- Use any hardware or software intended to damage or interfere with the proper working of the DMS (and SCM Group)'s Goods or system or of any DMS (and SCM Group)'s services.

13. Terms of Payment:

The payment terms for the Goods shall be those set forth in the Contract, or in any event agreed in writing by the Parties, in addition to the following terms.

Customer will pay all amounts to Seller when due. Customer's payment of all amounts due will be secured by a first-priority security interest in the Goods that Customer conveys and grants to Seller. Seller will have all rights of a secured party under Colorado law regarding the Goods, and Customer will execute and file any documents to perfect and preserve Seller's security interest in the Goods.

Invoices not paid within 30 days after Seller's invoice will be subject to interest of 1.5% per month on any overdue unpaid balance.

Seller may require full or partial payment in advance, without prejudice to Seller's rights at law, if, in its opinion, the financial condition of Customer does not justify the terms of payment specified, including should Customer commence voluntary bankruptcy or similar proceedings; consent to, fail or contest in a timely and appropriate manner to any involuntary bankruptcy or similar proceedings; become insolvent; or admit its inability to pay its debts.

Seller reserves the right to make changes to Seller's Payment Terms, policies, website, and these Terms and Conditions at any time. The version of the Terms and Conditions that is current at the moment of execution of the Contract shall apply to that Contract.

14. Taxes: The Purchase Price does not include any federal, state, provincial, or local property tax, license, privilege, sales, use, excise, gross receipts, value added, or other taxes that may now or hereafter be applicable to, measured by, or imposed upon, or with respect to, any transaction, any property, (including without limitation its sale, its value, or its use), or any services related to the Contract (the "Taxes"). Customer agrees to reimburse the Seller for any Taxes that the Seller is required to pay relating to or arising out of the transactions contemplated in the contract. If the parties agree that any person or entity other than the Seller will remit any of the Taxes to the proper authority, then Customer shall indemnify and hold the Seller harmless from any liability arising out of such Taxes, as well as any interest or penalties related thereto. Any applicable State or Local Sales or Use Tax (the "Sales Tax") will be added to a final invoice that includes the Final Payment. The Seller will collect and remit the Sales Tax when required to do so, unless either the Customer or Financing Company furnishes a valid resale/exemption certificate to the Seller relieving the Seller of the requirement to collect and remit the Sales Tax. If the certificate furnished to the Seller is held invalid, then the party that furnished such certificate to the Seller shall pay the Sales Tax (plus all applicable penalties and interest at the rate of the lesser of 1½ percent per month or the maximum rate permitted by law) not collected as a result of relying on such invalid certificate. The sum of the Purchase Price and all other amounts due and payable to the Seller pursuant to the Contract, including but not limited to Taxes and Sales Taxes, shall be referred to as the "Full Purchase Price".

15. LIMITATION OF LIABILITY: IN NO EVENT SHALL SELLER BE LIABLE TO CUSTOMER OR ANY THIRD PARTY, TO THE MAXIMUM EXTENT PERMITTED BY LAW, FOR ANY LOSS OF USE, REVENUE OR PROFIT, OR BUSINESS INTERRUPTION, OR LOSS OF DATA OR DIMINUTION IN VALUE, OR LOSS OF OR UNAUTHORIZED ACCESS TO INFORMATION, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE (ALL OF THE FOREGOING, THE "LIABILITIES"). THE FOREGOING ARE EXPRESSLY EXCLUDED FROM THE WARRANTY, AS WELL AS THE RIGHT TO TERMINATE THE AGREEMENT. IN NO EVENT SHALL SELLER'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 THE SELLER FOR THE GOODS SOLD HEREUNDER.

BY WAY OF PARTIAL DEROGATION FROM THE FOREGOING, IT IS FURTHER AGREED THAT IN ANY EVENT OF NON-PERFORMANCE OR BREACH BY SELLER OF ITS OBLIGATIONS UNDER THE CONTRACT OR THESE TERMS AND CONDITIONS (INCLUDING WITHOUT LIMITATION DELIVERY TERMS), ITS CONTRACTUAL MAXIMUM LIABILITY SHALL NOT EXCEED AN AMOUNT EQUAL TO 6% OF THE PURCHASE PRICE OF THE CONTRACT, WHICH SHALL CONSTITUTE THE MAXIMUM AMOUNT OF DAMAGES FOR WHICH SELLER MAY BE LIABLE UNDER THE AGREEMENT IN SUCH EVENT. The foregoing shall not apply with respect to an infringement of intellectual property rights.

Should any Goods (including without limitation software), or any portion thereof, become the subject of a claim of I.P. infringement, Seller may at its option (a) procure for Customer the right to continue using the Goods, or applicable portion thereof, (b) modify or replace it in whole or in part to make it non-infringing, or (c) failing (a) or (b), take back infringing Goods and refund the price received by Seller attributable to the infringing Products or Services. The previous sentence states Seller's exclusive liability for intellectual property infringement by Goods.

The Customer shall be solely responsible for ensuring that the products manufactured with the machinery supplied by the Seller shall be compliant with all laws including without limitation regarding safety.

It shall be the exclusive responsibility of the Customer to verify that the machinery supplied pursuant to the Contract conforms with the applicable laws and regulations in the country of use. The Customer agrees to take all measures necessary to obtain such conformity, and the Customer shall defend, indemnify and hold harmless the Seller with regard to any liability deriving from breach of Customer's obligations hereunder.

16. Limitation of Legal Action. NO ACTION, REGARDLESS OF FORM ARISING OUT OF THE TRANSACTIONS UNDER THE CONTRACT MAY BE BROUGHT BY CUSTOMER MORE THAN TWENTY-FOUR (24) MONTHS AFTER THE GOODS HAVE BEEN DELIVERED.

17. WARRANTY: The sole warranty given by the Seller with respect to the Goods, and Customer's sole remedy under this agreement, shall be the following. Subject to the Customer's remittance to the Seller of all payments for the Goods required under the contract at the time of the discovery of the defect, the Seller, for a period of 12 months from the date of delivery of the Goods to the customer or 12 months from the date of installation, whichever occurs first, warrants its Goods to be free from defects in material and workmanship. The Seller's obligation under this warranty is limited to repair or replacement (with new or refurbished parts) or payment of the reasonable cost of the defective part or good (machinery), in all cases, in the Seller's sole discretion. Notwithstanding the foregoing, the warranty shall not apply after 2500 working hours of the Goods. By way of partial derivation from the warranty period, replacement spare parts and accessories installed pursuant to this warranty shall be subject to warranty for a period of ninety (90) days from installation or delivery to the customer, whichever occurs first.

Notwithstanding the foregoing, warranty repair, replacement or re-performance of a service by Seller shall not extend or renew the applicable warranty period.

WRITTEN NOTICE MUST BE DELIVERED TO THE SELLER WITHIN EIGHT (8) DAYS OF DISCOVERY OF A DEFECT FOR THE ABOVE WARRANTY TO APPLY TO SUCH GOODS, AND THE NOTICE MUST EXPLICITLY REQUEST ASSISTANCE PURSUANT TO THE WARRANTY, OTHERWISE NO WARRANTY SHALL BE APPLICABLE WITH RESPECT TO THE GOODS.

Customer shall bear the costs of access for the Seller's remedial warranty efforts (including removal and replacement of systems, structures or other parts of buyer's facility), de-installation, decontamination, and re-installation.

The existence of a defect shall be conclusively determined by DMS (or C.M.S. S.p.A., as applicable). Without prejudice to the foregoing, Customer shall obtain Seller's agreement on the specifications of any tests it plans to conduct to determine (in a non-conclusive manner) whether a non-conformance or defect exists. Exchange parts shall be shipped by DMS D.D.P. (Incoterms, 2020) at Customer unless otherwise indicated in writing by Customer.

The warranty is conditioned upon (i) proper storage, installation, use, operation, and maintenance of the Goods, (ii) proper use of electricity within the acceptable range as instructed by seller in writing, (iii) the customer keeping accurate and complete records of operation and maintenance during the warranty period and providing seller access to those records, (iv) modification, repair of the Goods, or technical intervention with respect to the Goods only as authorized by the Seller in writing, (v) the installation of parts only from the Seller (or CMS S.p.A.), (vi) the Goods remaining in the original installation location (except for Seller's prior written consent), (vii) the absence of an error(s) in the assembly or set-up or adjustments made by customer's personnel during the installation, (viii) the absence of defects caused by anyone or anything other than the seller, (ix) the Goods being promptly turned off when problems of functioning are present, (x) the conformity of the Goods delivered to the good identified in the contract and the suitability of the Goods for customer's intended use, and (xi) the Customer ceasing to make any further use of the Goods after giving notice of the defect, and failure to meet any such conditions renders the warranty null and void. The Seller is not responsible for normal wear and tear.

THE WARRANTIES PROVIDED IN THIS ARTICLE 17 ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES, CONDITIONS AND GUARANTEES WHETHER WRITTEN, ORAL, IMPLIED (INCLUDING WITHOUT LIMITATION IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE), OR STATUTORY. NO IMPLIED OR STATUTORY WARRANTY, OR WARRANTY OR CONDITION OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE APPLIES.

The Seller neither assumes nor authorizes any person to assume for it, any other liability in connection with the sale of the Goods.

Regardless of the type of bearing lubrication method included with the Machinery, automatic or manual, the Customer is responsible for routine inspection of all bearings and guide surfaces on the Machinery in order to ensure that adequate lubrication is being applied. Damage to

Machinery components due to inadequate lubrication will not be covered under this warranty.

For repair or installation work of modest difficulty in the estimation of the Seller, the Customer shall provide maintenance professionals which shall follow instructions of the Seller. For relatively difficult repair or installation work in the estimation of the Seller, said work shall be carried out by the Seller and the client shall pay the travel and board and lodging costs for the Seller's technicians after the first ninety (90) days.

The Customer may choose to pay the difference between the straight time hourly rate and the overtime hourly rate in situations it deems necessary. The Customer may request a copy of the current Seller's service department's hourly rates.

The Customer must install a grounding rod as close to the electrical cabinet as possible to provide an earth ground for the machine. Failure to install the grounding rod invalidates the warranty until it is installed (without prejudice to the warranty period set forth above). The Customer must supply the required voltage, as informed by Seller in writing, within a range of plus five (+5%) to minus five (-5%) percent. Without prejudice to the conditions of the warranty set forth above, failure to supply the specified voltage invalidates the warranty until the voltage is supplied in the specified range.

If Customer has not already returned defective parts, it shall return all defective parts to DMS in Colorado Springs, Colorado within two (2) weeks of receipt by the Customer of replacement parts. The Customer is responsible for returning any defective parts according to the Seller's instructions. If a defective part is not returned, Customer will be invoiced for the cost of the replacement part.

Customer agrees that it shall have no right to reject or revoke acceptance of the Goods once they have been delivered. Should the manufacturer give a warranty to the Goods, it shall not be deemed to be the warranty of the Seller.

The warranty described in this Article 17, including the warranty support to be provided by DMS, is applicable only to the Customer of the Seller that has paid the Seller directly for the Goods under the Contract and the warranty shall not apply to any other person.

It is understood and agreed that any extensions of warranty whatsoever must be made in writing in a specific warranty certificate, and that no course of dealing or communication shall extend the warranty unless set forth in writing in a specific warranty certificate, even if the Seller elects to provide assistance or support that exceeds the period and terms of the warranty.

DMS AND CMS S.p.A. EXPRESSLY DISCLAIM ALL IMPLIED AND STATUTORY WARRANTIES, AND WARRANTY OR CONDITION OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ALL OTHER WARRANTIES WITH RESPECT TO THE GOODS.

18. Remote Access and Disactivation: THE CUSTOMER HEREBY GRANTS REMOTE ACCESS TO THE GOODS TO DMS AND CMS S.p.A. AT ALL TIMES. WHERE PERMITTED BY APPLICABLE LAW, THE CUSTOMER AGREES THAT SELLER MAY REMOTELY INHIBIT CUSTOMER'S USE OF THE GOODS (INCLUDING WITHOUT LIMITATION THE SOFTWARE) SHOULD CUSTOMER FAIL TO TIMELY MAKE EACH AND EVERY PAYMENT OWED UNDER THE

CONTRACT. Time is of the essence with respect to all payments due to Customer under the Contract.

- 19. Release and Indemnification:** TO THE FULLEST EXTENT PERMITTED BY LAW, CUSTOMER INDEMNIFIES, RELEASES, HOLDS SELLER AND ITS AFFILIATED ENTITIES, THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS (“SELLER ENTITIES”), HARMLESS AND AT SELLER’S REQUEST, DEFENDS SELLER ENTITIES (WITH COUNSEL APPROVED BY SELLER), FROM AND AGAINST ALL LIABILITIES, CLAIMS, LOSSES, DAMAGES, AND EXPENSES (INCLUDING ATTORNEY’S AND/OR LEGAL FEES AND EXPENSES) HOWEVER ARISING OR INCURRED, RELATED TO ANY INCIDENT, DAMAGE TO PROPERTY, INJURY OR DEATH OF, ANY PERSON, CONTAMINATION OR ALLEGED CONTAMINATION, OR VIOLATION OF LAW OR REGULATION CAUSED BY OR CONNECTED WITH THE (a) USE, POSSESSION OR CONTROL OF THE GOODS OR SERVICES SUBJECT SET FORTH IN THIS AGREEMENT OR (b) BREACH OF THIS CONTRACT, WHETHER OR NOT CAUSED IN PART BY THE ACTIVE OR PASSIVE NEGLIGENCE OR OTHER FAULT OF ANY PARTY INDEMNIFIED HEREIN AND ANY OF THE FOREGOING ARISING OR IMPOSED IN ACCORDANCE WITH THE DOCTRINE OF STRICT OR ABSOLUTE LIABILITY. CUSTOMER ALSO AGREES TO WAIVE ITS WORKERS’ COMPENSATION IMMUNITY, TO THE EXTENT APPLICABLE. CUSTOMER’S INDEMNITY OBLIGATIONS SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS CONTRACT. All of Customer’s indemnification obligations under this paragraph shall be joint and several.
- 20. Indemnity:** Customer (as an “Indemnifying Party”) shall indemnify Seller (as an “Indemnified Party”) from and against claims brought by a third party, on account of personal injury or damage to the third party’s tangible property, to the extent caused by the negligence of the Customer in connection with this Contract.
- 21. Customer’s Responsibility:** The Customer shall pay all personal property, sales, excise, use and other taxes applicable to the sale, purchase, storage, erection, use or ownership of Goods covered hereby. For machines being delivered to Canada, the Customer is responsible for the GST government tax that must be paid by the Customer according to Canadian law. It is expressly agreed that the Seller is not responsible for any payments of GST for machines being delivered to Canada. The Customer is also responsible for all items that are identified in the Confirmation as being the Customer’s responsibility.
- 22. Insurance:** Until payment in full has been received by Seller, Customer shall secure from a reputable insurance company an insurance policy to specifically insure the Machinery against “all risks,” subject to normal exclusions, and secure a Lender Loss Payable rider or clause naming the Seller as an additional insured, from the time the risk of loss passes to Customer, which includes, but is not limited to unloading and installation of the Machinery. If all amounts payable by Customer to the Seller are not paid in full to the Seller after installation, Customer shall continue to insure the Machinery pursuant to this Section until all amounts payable to the Seller are paid in full. The amount of such insurance shall be no less than the Full Purchase Price, with loss first payable to the Seller as the Seller’s interest may appear. Evidence of such insurance, satisfactory to the Seller, shall be submitted by Customer prior to shipment, or the Seller may, at the Seller’s option, procure such insurance at Customer’s expense plus interest in the amount of the lesser of 1½ percent per month or the maximum interest permitted by law.
- 23. Customer’s Obligation To Collaborate:** The Customer shall be obligated to collaborate with precision to provide accurate information, indications, instructions, and specifications (per the attachments to these Terms and Conditions and other documents included in the Contract, and other documents that Seller may provide Customer from time to time) to define the specifications of the machinery to be purchased pursuant to the Contract within the timeframe specified by Seller. The Customer shall be responsible for any inaccuracies or omissions in information to be provided to Seller, and shall be responsible for confirming the suitability of the machinery for Customer’s purposes according to the standard specifications of the machinery and standard use prior to execution of the Contract as well as according to any particular conditions of the Customer that may affect safety or suitability of the machinery.
- In the event that the Customer does not return the checklists and forms or other information requested in the timeframe specified and the Seller’s service technicians are not able to begin the installation and/or carry out training in accordance with that timeframe, the Customer will be charged \$75.00 USD per hour for the waiting time incurred. In the event that the information supplied to the Seller by the Customer on the checklists and forms is not correct, delays and additional costs may result. Additionally, if the waiting time exceeds eight hours, the installation and/or training will need to be rescheduled with the Seller and the additional costs for rescheduling the installation and/or training will be invoiced to the Customer.
- 24. Objections: CUSTOMER WAIVES ALL OBJECTIONS TO FITNESS OF THE MACHINERY FOR A PARTICULAR PURPOSE OR INTENDED USE, AND WITH REGARD TO SPECIFICATIONS AND CUSTOMIZATIONS OF THE MACHINERY THAT ARE NOT SET FORTH IN THE CONTRACT, INCLUDING WITHOUT LIMITATION THE MACHINERY’S FITNESS FOR USE WITH A PARTICULAR MATERIAL.**
- 25. Confidentiality:** The Customer agrees not to share any prices of the Goods nor technical information regarding the Machinery without previous written consent of the Seller, including without limitation technical documentation, designs, specifications, manuals, formulae and correspondence.
- 26. Seller’s Representatives And Employees:** During the course of performing this contract DMS will provide representatives and/or employees in various capacities to assist the Customer. By entering into this

contract the Customer agrees that Customer will not solicit or offer employment to DMS representatives and/or employees during or for a period of twelve (12) months following the provision of support of any machine for which DMS is responsible to support either during the warranty period or after the warranty period without the written consent and permission of the Seller.

27. Seller's Rights Upon Default: (a) Customer shall be deemed to be in default of the Contract if any one or more of the following occur: (i) Customer refuses or communicates an intent to refuse acceptance of delivery of the Machinery; (ii) Customer fails to make any payment in cash when due if the acquisition is a Purchase; (iii) Customer breaches the Financing Agreement if the acquisition is a Financing; (iv) Customer breaches any other agreement with either Seller or, if the acquisition is a Financing, with the Financing the Seller; (v) Seller, at Seller's option, deems itself insecure; or (vi) Customer breaches any provision of these Terms and Conditions or other documents constituting the Contract.

(b) If Customer is deemed to be in default pursuant to Article 27 Section (a)(i) above, Customer acknowledges that the Machinery is built pursuant to custom and unique specifications based upon Customer's specific needs, which are established in the Price Quotation, and the Machinery cannot easily be resold in the market to a third party if Customer breaches the Contract. Accordingly, due to the custom nature of the Machinery, Customer acknowledges that if Customer breaches Section 27(a)(i) above, Seller's damages would be difficult to prove and Customer agrees that the amount of forty percent (40%) of the Purchase Price ("Damages") shall constitute liquidated damages as a fair and reasonable estimate of Seller's partial loss and shall not constitute a penalty, payable immediately upon demand to Seller. Seller may retain any amounts received from Customer pursuant to the Contract, including but not limited to the Down Payment and Second Payment, as payment for the Damages, and shall refund to Customer any amounts received from Customer pursuant to the Contract in excess of the Damages, if any.

(c) In the event that the Customer fails to make any payment required by the Contract or to timely pay for parts or service furnished later, the Seller shall have all rights provided by law or in equity. In addition to any other relief available to it, the Seller shall be entitled to reimbursement for all of its costs and expenses, including its reasonable attorney's fees, in enforcing its rights under the security agreement granted herein, and enforcing its right to payment.

(d) Upon Customer's failure to comply with any of its obligations set forth in these Terms and Conditions or any other contractual document related to the sale of the Goods by Seller, Customer may retain payments made prior to default as liquidated damages, without prejudice to the Seller's rights to other damages, regardless of the party in actual possession of the machinery.

28. Customer's Remedies for Default: The sole remedy available under the Contract, including without limitation for breach of Contract, shall be those expressly set forth in the Contract and contained in the warranty set forth herein. Article 17 (Warranty) provides the exclusive remedies for all claims based on failure of or defect in products or services, regardless of when the failure or defect arises, and whether a claim, however described, is based on contract, warranty, indemnity, tort/extra-contractual liability (including negligence), strict liability or otherwise.

29. Force Majeure: (a) Force majeure shall mean any act or event which is unforeseeable, beyond the parties' will or control and in respect of which a remedy may not be found in a timely manner (such as, for example, acts of war, even if undeclared, embargo, riot, insurrection, fire, sabotage, natural disaster, epidemics – including but not limited to coronavirus Covid-19 –, acts or provisions of government authorities, inability to procure raw materials, equipment, fuel, energy, components, labour or transport). (b) Upon the occurrence of any event of force majeure which prevents either party hereto from fulfilling its obligations hereunder, then the time for the party so affected to fulfil its obligations shall be automatically extended for a period corresponding to the duration of the event of force majeure, without any damages (including liquidated damages) being payable by said party, save for the Customer's obligation to pay the amounts due by way of the price, in respect of which the contractually agreed due dates shall remain in full force and effect. (c) In any event, the parties shall take all measures within their power to ensure the reinstatement, within the shortest possible time, of the performance of the obligations which have been delayed as a result of the event of force majeure. (d) Should the parties hereto be unable to carry out their obligations in accordance with the time schedule provided hereunder for a period of 6 months or more as a result of an event of force majeure, then the parties shall meet as soon as possible in order to examine the impact of such events on the terms of the Contract, in particular, on the prices and on the delivery schedule, and they shall come to an agreement as regards the terms and conditions for the continuance of their respective obligations. (e) With specific regard to the Covid-19 coronavirus epidemic or other epidemic, if the Contract is signed when such epidemic is already causing delays in one of the parties' business activities and/or a suspension in whole or in part of such activities (or it is foreseeable that it will cause them), the provisions of Article 29 (Force Majeure) Sections (b), (c), and (d) above will still apply, it being hereby agreed to deem the above-mentioned situation in any event as force majeure, although not unforeseeable at – and not supervening in respect of – the time when the Contract was signed.

30. Supervision of Set-Up: The Seller may provide a technician of its own selection, to be paid by the Seller as part of the installation, to supervise the rigging/crane placement of the machine. The Customer is responsible for selection and paying of its own riggers. In providing a technician to supervise the setting up and placement of the machine, the Seller accepts no responsibility for material and equipment provided by the Customer or for the acts of persons selected and paid by the Customer.

31. Compliance With Codes: The design and construction of the machine are based on internationally accepted standards. If the Customer discovers that the design or construction is not in compliance with any national, state or provincial, or local codes in effect at the time the machine is delivered to the Customer, the Customer shall bring the noncompliance to the attention of Seller, upon which notification Seller will work with the Customer to resolve such noncompliance in a timely manner. Seller will provide the Customer with an estimate of the cost and time for the changes to be made after the problem has been studied.

32. Reservation of Rights: No failure of the Seller to insist upon or compel compliance by the Customer with any of the terms, provisions, or conditions of these Terms and Conditions or other documents constituting the Contract shall be construed as a waiver by the Seller of its right to insist

upon compliance therewith in the future. All waivers of any provision of these Terms and Conditions or any other term of the Contract must be made in writing by an officer of the Seller, and a waiver of a term of these Terms and Conditions or of another document constituting the Contract does not constitute a future waiver of that provision of the Contract or of any other. For the avoidance of doubt, Seller's course of conduct after delivery of the machinery shall in no way constitute modification of the Terms and Conditions or other provisions of the Contract or waiver of any of its terms.

33. Modification and Termination: This contract cannot be unilaterally modified or rescinded or terminated by Customer. With regard to Seller, in addition to any remedies that may be provided under these Terms and Conditions, Seller may terminate the Contract with immediate effect upon written notice to Customer, if Customer: (i) fails to pay any amount when due under the Contract; (ii) has not otherwise performed or complied with any of these Terms and Conditions, in whole or in part; or (iii) becomes insolvent, files a petition for bankruptcy, receivership, reorganization or assignment for the benefit of creditors. Seller may terminate this Agreement if any governmental authority imposes antidumping or countervailing duties or any other penalties on Goods or components of the Goods.

34. Arbitration:

IF THE PARTIES ARE UNABLE TO RESOLVE ANY DISPUTE AMONG THEMSELVES, ALL DISPUTES ARISING OUT OF, IN CONNECTION WITH, OR RELATING TO THESE TERMS AND CONDITIONS OR THE UNDERLYING CONTRACT OR SUPPLY OF GOODS BETWEEN THE PARTIES MUST BE RESOLVED BY ARBITRATION BEFORE A SINGLE ARBITRATOR, OR, AT THE ELECTION OF ANY PARTY, THREE NEUTRAL ARBITRATORS, APPOINTED IN ACCORDANCE WITH THE AAA RULES. Such arbitration shall be conducted in Colorado, by the American Arbitration Association ("AAA") and in accordance with the commercial rules of the AAA, as from time to time amended, and applying Colorado law where applicable. The decision of the arbitrator shall be in writing, shall be signed by the arbitrator, and shall include findings of fact and a statement regarding the reasons for the arbitrator's decision. Judgment upon the award rendered by the arbitrator(s) may be entered by any court having jurisdiction thereof. The arbitrator(s) may award damages and/or permanent injunctive relief, but in no event shall the arbitrator(s) have the authority to award any punitive or exemplary damages, nor incidental, indirect or consequential damages, including damages for lost profits. Notwithstanding the foregoing, a party may apply to a court of competent jurisdiction for (i) relief in the form of a temporary restraining order or preliminary injunction, or other provisional remedy pending final determination of a claim through arbitration in accordance with this paragraph, and for (ii) all matters relating to intellectual property rights (including without limitation to enjoin infringement or misuse of intellectual property rights). At the request of any party, the arbitrators, attorneys, parties to the arbitration, witnesses, experts, court reporters, or other persons present at the arbitration shall agree in writing to maintain the strict confidentiality of the arbitration proceedings.

35. Governing Law: These Terms and Conditions, all documents comprising the Contract, and all matters arising out of or relating to this Agreement, shall be governed by and construed under the laws of the State of Colorado without consideration of its conflict of laws provisions to the extent that those principles or rules would require or permit the application of the laws of any jurisdiction other than those of the state of Colorado. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. Without prejudice to Article 34 above (Arbitration), any action arising out of this contract that is permitted to be brought before a court (per the Arbitration clause in Article 34 above) may be brought only in a state court sitting in El Paso County, Colorado, or a federal court sitting in the city and county of Denver, Colorado. The Customer consents that such courts have personal jurisdiction over the Customer with respect to any such action.

36. Entire Agreement: These Terms and Conditions, any attachments referred to herein, and the other documents constituting the Contract are intended as a complete and exclusive statement of the terms of the contract between the Seller and the Customer. There are no representations, warranties, promises, covenants, or undertakings, orally or otherwise, other than those expressly set forth in the documents described herein and in these Terms and Conditions. In the event of conflict between the provisions of these Terms and Conditions and any term set forth in the contract, these Terms and Conditions shall prevail unless the Customer and an executive of Seller expressly specify otherwise in a signed writing.

37. Internet of Things

If Seller provides services to connect the Goods to the Internet of Things, the IoT (Internet of Things) contractual standards of the Seller shall apply. All of the foregoing are incorporated into these Terms and Conditions by this reference. If there is any conflict between these "Terms and Conditions" and the terms of any contractual document incorporated pursuant to this Article 37, the terms of said contractual document shall take precedence with respect to the applicable scope.

38. Severability: If any of the provisions of these Terms and Conditions or other documents comprising the Contract shall be determined to be unenforceable by a court of competent jurisdiction, then such provision shall be deemed separate and severable from all other provisions of these Terms and Conditions or the respective document of the Contract, and all of the remaining provisions of these Terms and Conditions or the respective document of the Contract shall continue in full force and effect. If any provision or part of these Terms and Conditions or other documents comprising the Contract is stricken in accordance with the provisions of this section, then the stricken provision shall be replaced, to the extent possible, with a legal, enforceable, and valid provision that is as similar in tenor to the stricken provision as is legally possible.

39. Binding Effect: This contract shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns.

40. Notices. All notices, request, consents, claims, demands, waivers and other communications hereunder 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.

41. Assignment: The rights and liabilities of the parties to these Terms and Conditions and the Contract shall inure to the benefit of, and be binding upon, their respective successors and assigns, although neither these Terms and Conditions nor the rights or obligations of Customer under the Contract shall be assignable or transferable, either in whole or in part, without the prior written consent of the Seller (which consent can be granted or withheld in its sole discretion). Seller may assign or novate its rights and obligations under the Contract, in whole or in part, to

any of its affiliates or may assign any of its accounts receivable under this Contract to any party without Customer's consent. Customer agrees to execute any documents that may be necessary to complete Seller's assignment or novation. Seller may subcontract portions of the work, so long as Seller remains responsible for it. The delegation or assignment by Customer of any or all of its rights or obligations under the Contract without Seller's prior written consent (which consent shall not be unreasonably withheld) shall be void.

42. Paragraph Headings: The section headings contained in this contract are inserted for convenience only and shall not affect in any way the meaning or interpretation of this contract.

[THE PARTIES' SIGNATURES APPEAR ON THE NEXT PAGE]

Accepted and agreed to by,

DMS

Signature: _____

Printed Name: Federico Laschet

Title: Chief Executive Officer

Date: _____

DMS Name

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Customer:

Company Name _____

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Discovery Form —

To be returned with the signed Confirmation of Order.

Company Profile

Diversified Machine Systems, LLC
1068 Elkton Drive
Colorado Springs, CO 80907
Ph. () Fax ()

***Required fields to be filled out**

*Company's Legal Name _____

*Billing Address _____ City _____ State _____ Zip _____

*Shipping Address _____ City _____ State _____ Zip _____

*Key Contact Person: Name _____ Title _____

*Phone _____ *Fax _____ *Acct Payable E-mail _____

*Type of Business _____ *Date Established _____

*Type of Entity: Proprietorship _____ Partnership _____ Corporation _____ Other _____

*If Incorporated: State of incorporation _____ Year of incorporation _____

*Federal Tax ID number _____

*Signature _____ Title _____ Date _____

<u>Key Management Members and Owners</u>	<u>Titles</u>	<u>Percentage Ownership</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Confidential Credit Application and Security Agreement

By checking this box, it will indicate to DMS, LLC not to verify your credit history. In so doing, your account will be created as PREPAY.

GRANT OF SECURITY INTEREST: If Diversified Machine Systems, LLC grants credit to our Company, in consideration of the granting of such credit, the Company hereby grants a security interest to Diversified Machine Systems, LLC in all parts or equipment sold by Diversified Machine Systems, LLC to the Company in order to secure the timely performance of the Company's obligation of payment to Diversified Machine Systems, LLC for such parts and/or equipment. We hereby authorize Diversified Machine Systems, LLC to file a UCC Financing Statement perfecting Diversified Machine Systems, LLC's purchase money security interest. This Agreement cannot be modified in any way except by a subsequent written agreement which specifically refers to this Confidential Credit Application and Security Agreement which is signed by Diversified Machine Systems, LLC's authorized officer or agent.

The above information is provided for the purpose of extending credit to our company. To the best of our knowledge and belief, the information is accurate and may be relied upon in making your credit decision. We authorize our bank and suppliers to furnish you any information necessary to complete your evaluation of our credit history.

*Signature _____ Title _____ Date _____

