

**FEMCO HOLDINGS LLC
TERMS AND CONDITIONS**

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- 1) Formation of Contract: The terms and conditions set forth below shall comprise the sole terms and conditions for the sale of goods and services by the Seller, unless otherwise specifically provided or the face hereof, and shall apply to the exclusion of any inconsistent or additional terms and conditions contained in Customer's order or any other document. Any conflicting terms and conditions are specifically rejected by the Seller.
- 2) Price:
 - a) Excluded Items: This quotation does not include applicable taxes, such as city, state and federal, sales, use, excise or other similar taxes, shipping charges, or import duties or tariffs of any kind which may be levied, assessed or imposed, or any other services or work not specifically described in this quotation. Such taxes are for the Customer's account. Wherever applicable, such tax or taxes shall be added to the invoice as a separate charge to be paid by Customer, unless an appropriate tax exemption certificate is presented and accepted by Seller. Customer has the sole responsibility for securing and all import permits or other documents required at Customer's expense.
 - b) Additional Work Exclusion: The proposed price quoted shall not include repair or replacement of defective machine components which were undiscovered or unknown at the time of preparing the quotation by Seller. In the event such additional defects are discovered during the performance of repair, Seller shall provide notice to Customer of such additional work and additional cost. The cost thereof shall be added to the contract price and Customer is obligated to pay for such additional work.
 - c) Price Increase Inclusion: Components not manufactured by Seller shall be subject to any increase in price of such goods charged by suppliers of Seller.
 - d) Time and Material Price After Thirty (30) Days: Unless otherwise stated on the face hereof, the proposed price(s) shall be effective for a period of sixty (60) days following the date of this quotation. If Customer's order is received after expiration of sixty (60) days from the date hereof, are subject to change.
 - e) Cancellations Charges: If Customer submits its order and subsequently cancels the resulting contract for whatever reason, then Customer shall be responsible for the costs incurred by Seller, including shipping, disassembly and reassembly, testing and all other costs with respect to performance of work on Customer's machinery and equipment at Seller's prevailing standard rates. If Seller has entered into an agreement to purchase machinery for Customer, Customer shall be responsible for all costs incurred by Seller up to and including the total purchase price of machinery, including shipping, if Seller's agreement is not subject to cancellation. Customer shall also be charged for storage of machines and equipment remaining on Seller's premises commencing ten (10) days after machines and equipment are available for delivery.
 - f) Storage Charge: If, at any time, shipment is deferred or delayed at Customer's request, payment for the goods shall be due to Seller at the time same is ready for shipment and Customer shall store same at Customer's risk and expense and if Customer fails or refuses to promptly store same, Seller shall have the right to do so at Customer's risk and expense.
 - g) Environmental Preservation/Clean-Up: Unless specifically exempted in quote, customer will ensure that any machinery, equipment or components delivered to Seller's property for repair and/or storage has had all potential environmentally hazardous materials removed and/or drained. (i.e. oil, grease, anti-freeze, asbestos, etc.) Customer will be charged for and held responsible for any costs or damages incurred by Seller due to such materials that are discovered at any time the material is under the Seller's control.
- 3) Payment: If Customer has established credit with Seller preceding the date of this quotation, then payment shall be net cash if paid within ten (10) days of the invoice date. Payments made via credit card are subject to 1.5% processing fee. Credit as to all other Customers shall be at the discretion of Seller. Payments received after the due date may be subject to a carrying charge of one and one-half percent (1-1/2%) per month on the unpaid balance. Irrespective of established payment terms, all orders exceeding \$50,000 in value are subject to down-payment equal to 30% of the order value and due at time of order placement. Additionally, orders exceeding \$100,000 in value are subject to an additional 30% down-payment prior to delivery.
- 4) Shipping Charges and Delivery: Unless otherwise provided on the face hereof, the proposed price(s) does not include shipping charges. Cost of transporting Customer's machines and equipment to and from Seller's plant shall be at Customer's expense. Upon completion of the order, delivery shall be F.O.B. at Seller's plant. International orders are priced ex-works.
- 5) Completion Date: Seller shall expend every reasonable effort to complete the order by the estimated delivery date; however, due to the nature of the work involved, no liability shall attach or accrue to the benefit of the Customer for any delay in performance or delivery. In no event shall Seller be responsible for any delays in performance due to any cause beyond the control of Seller, including, but not limited to, fire, strike, accident, war conditions, Government regulations or restrictions, shortage in transportation, power, labor or material, freight embargo, riot or civil commotion, default of a supplier or prohibitions or events which render performance difficult or impossible.
- 6) Warranty: The goods and repair services sold pursuant to this quotation are warranted against defects in material and workmanship from the date of delivery in the following manner:
 - a) Repairs to machinery and equipment for a period of six (6) months.
 - b) Parts or components manufactured by Seller for a period of six (6) months.
 - c) Parts or components obtained by Seller from suppliers shall be subject only to the warranty provided by and enforceable against the manufacturer of such parts or components.
 - d) Remanufacture or rebuild of machinery and equipment to bring to a "like new" condition for a period of six (6) months.

The obligation with respect to the above described warranty shall be limited to repair or replacement by Seller of those repairs or parts furnished by Seller which, based upon its examination, inspection and determination, have become defective as a result of ordinary and normal use in accordance with the designed purpose and intended application of the machine or equipment, provided written notice of such defect is given by Customer within forty-eight (48) hours after such defect is first discovered. Inspection of the machine or equipment may occur at Customer's plant or at a location to be determined by Seller at its discretion. The warranty does not cover expenses incurred by Customer in reworking, repairing, or replacing such defective repairs and parts, or of supplying any missing parts, except upon written consent of Seller. In no event shall such warranty cover costs of transportation, rigging, disassembly, inspection and/or installation of the subject parts replaced or of the repaired machine or equipment. Under no circumstances shall Seller have any liability for payment of any consequential, incidental, indirect or special damages of any kind including, but not limited to, lost profit. Notwithstanding any other provision herein, the warranty stated in this paragraph, as limited herein, is the only warranty extended in connection with the goods and services sold by Seller and is in lieu of all other warranties expressed or implied, including warranties of merchantability and fitness for purpose. In no case shall warranty cover parts or components for more than 18 months from date of delivery.
- 7) Customer's Responsibility and Identification of Seller:
 - a) Maintenance, Alterations and Safety Devices: Customer shall assume and bear sole responsibility for proper maintenance of the repaired machinery and equipment and for providing adequate and sufficient safeguards, work handling tools and safety devices necessary to protect fully all personnel (including operators, helpers, repairmen, bystanders and all others who would be in the vicinity of the machinery and equipment repaired or provided by Seller) from bodily injury or death which otherwise may result from the use, operation, set up or maintenance of the machinery or equipment including all requirements for compliance with prevailing federal, state and local codes and industry accepted standards. Seller shall bear no liability for the failure of Customer to provide all such safeguards, work handling tools or safety devices Customer shall require and be responsible for requiring all persons operating the machinery and equipment including goggles and other safety devices when required and to be properly educated and trained in the operation of the machinery and equipment. Customer shall not permit anyone to alter or modify any of the machinery or equipment repaired or provided by Seller including but not limited to the removal or modification of safety devices, warning signs or signals, electrical circuitry, instruction labels, or manuals attached to or furnished with the machinery or equipment.
 - b) Indemnification by Customer: CUSTOMER AGREES TO INDEMNIFY AND HOLD SELLER, ITS AGENTS AND EMPLOYEES HARMLESS from and against any and all claims, damages, losses, expense, legal actions (including attorneys fees and costs) and liability brought against or sustained by Seller arising out of any claimed improper design, design drawings, specifications, materials, repairs or claimed inadequate or insufficient manuals, warnings, safety device, safety procedures, training or other safeguards.
- 8) Fair Labor Standards Act: We hereby certify that these goods were produced in compliance with all applicable requirements of Sections 6, 7, and 12 of the Fair Labor Standards act as amended and of regulations and orders of the United States Department of Labor issued under Section 14 thereof.
- 9) Insurance: Customer agrees to carry and maintain insurance policies covering all Customer's potential liability as provided herein. Such insurance policies shall include Worker's Compensation coverage, General Liability, including products and completed operations, coverage for bodily injury and property damage and Automobile and/or Fleet Liability coverage Certificate of insurance evidencing such coverage shall be presented to Seller upon request and shall provide and maintain insurance coverage in such amounts as determined to be sufficient and adequate to the satisfaction of the Seller.
- 10) Disclaimer of Noise Level: Unless otherwise provided in this quotation, Seller makes no representations or warranties with respect to the noise level of the equipment or machinery repaired. In the event noise level of the equipment or machinery is unacceptable following repairs made pursuant to this quotation, Seller will be pleased to analyze and submit to a separate quotation as to the repairs necessary to effectively reduce noise level.
- 11) Customer Insolvency: In the event of bankruptcy or insolvency proceedings by or against Customer, or if Customer is insolvent, whether or not such proceedings have been commenced, Seller shall have the right to discontinue all work on the order and receive full payment for all work performed and costs incurred based on the prevailing standard rates of Seller at the time such work was accomplished.
- 12) Patents: Customer shall indemnify and hold Seller, its agents and employees harmless from any claim of, or infringement or patent, copyright, trademark or other proprietary right, at common law or claim of unfair trade or of unfair competition, resulting from Customer's use, possession, sale, or delivery of the equipment or machinery, including any components thereof repaired or manufactured by Seller and sold pursuant to this quotation.
- 13) Successors and Assigns: The terms and conditions of this quotation shall inure to the benefit of and be binding upon the successors and assigns of the parties.
- 14) Limitations on Actions: Any legal action or suit against Seller in any way arising from the duties and obligations under this quotation must be commenced within one (1) year after the cause of action has accrued.
- 15) Quotation Not a Binding Offer: This quotation does not constitute a binding offer inviting acceptance but is an invitation to place an order in accordance with the terms and conditions stated herein. All orders received by Seller are subject to written acceptance by an office of Seller.
- 16) Expiration of Quotation: Unless otherwise stated on the face hereof, this quotation, with the exception of the proposed price(s), shall be effective indefinitely unless cancelled by Seller. In the event Customer submits its order on this quotation after the expiration of sixty (60) days following the date of this quotation, the price(s) shall then be on a time and material basis at Seller's standard rates.
- 17) Entire Agreement: The parties agree that there are not other agreements or warranties, terms of conditions, relating to the goods and services to be provided in accordance with this quotation except as contained herein unless otherwise agreed upon.
- 18) State Law Applicable: The sale of goods and services in accordance with this contract shall be governed in all respects by the laws of the Commonwealth of Pennsylvania.