

General Terms of Sale

Any commercial quotations, proposals, offers of sale or offers to provide services (“Quotation(s)”) by **Barloworld Handling LLC** (“Vendor”) to the customer identified in the relevant Quotation (“Purchaser”) to which these General Terms of Sale (the “General Terms”) are attached or referenced are based on the terms and conditions stated herein. Any additional terms specified in the Quotation shall have effect in conjunction with and subject to these General Terms. Unless otherwise provided in the Quotation, offers are, subject to availability, good for acceptance period of 30 days from the date hereof unless earlier rescinded by Vendor. Any order placed by Purchaser shall constitute an acceptance of the terms of the Quotation, including these General Terms. The Quotation expressly limits acceptance to the terms of the Quotation, including but not limited to these General Terms, and Vendor expressly objects to any different or additional terms in any Purchaser purchase order or other ordering or acknowledgment documentation. Except where the parties have otherwise expressly agreed in a written document signed by each party’s authorized representative (which in the case of Vendor means someone holding the position of General Counsel, CFO or President or above), these General Terms shall apply to the sale of any goods or services (including spare parts) by Vendor to Purchaser at any time on or after the date of the first contract between the parties subject to these General Terms except that the price for any such future supplies shall be Vendor’s then current list price or such other prices as may be agreed in writing by and between the parties.

1. Prices. Prices quoted by Vendor are subject to change without notice.

2. Delivery or Performance. Where a Quotation includes mutually exclusive options and Purchaser has indicated their intention, by initialing or otherwise, to purchase more than one such option, then, unless expressly agreed otherwise in a separate written agreement, the Purchaser shall be deemed to have purchased only the lowest priced mutually exclusive option. Vendor’s determination of what constitutes a ‘mutually exclusive option’ shall be final. Stated delivery or performance date is estimated only based upon Vendor’s best judgment, and Vendor shall not be responsible for deliveries or performance later than promised regardless of the cause. Delivery periods are projected from the date of receipt of an order by Vendor. If goods to be furnished by Vendor are to be manufactured specifically to fill a particular order, delivery periods will be projected from the date of Vendor’s receipt of complete manufacturing information, including necessary blueprints and specifications, Purchaser’s acceptance of said blueprints and specifications and the exchange of other information necessary for production. Vendor shall not be obliged to perform and shall be released from any and all liability if: (i) the relevant goods are no longer available at the date of Purchaser’s order; (ii) if Purchaser fails to satisfy the Vendor’s credit checks or other similar inquiries; or (iii) if the Purchaser fails to comply with its obligations under clause 13, provided that Vendor notifies Purchaser verbally, by email, in writing or by any other reasonable means.

3. Transportation. Unless otherwise expressly stated in the Quotation, prices quoted are net F.O.B. Vendor’s place of business at which the order for the goods are prepared for customer delivery and for all new goods Purchaser will also be responsible for the cost of transportation from the point of manufacture to Vendor’s place of business at which the order for the goods are prepared for customer delivery.

4. Title and Risk. Vendor’s responsibility for the goods shall cease and all risk of loss and/or damage shall become Purchaser’s upon delivery of the goods to the first carrier for shipment to Purchaser or Purchaser’s consignee, and any and all claims for shortages, deliveries, damages or non-delivery must be made by Purchaser or Purchaser’s consignee to the carrier. In no event shall Vendor be responsible for any

shortages in shipment unless notice of such shortage is given in writing to Vendor within 15 days after receipt of shipment.

5. Warranty. *For New Equipment:* Goods sold pursuant to this quotation may be subject to and covered by warranties by the third-party manufacturer thereof, details of which are available on request. HOWEVER, VENDOR MAKES NO WARRANTY EXPRESS OR IMPLIED WHETHER OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, NON-INFRINGEMENT OR OTHERWISE (EXCEPT AS TO TITLE). *Used Equipment only:* IF THE QUOTATION EXPRESSLY INCLUDES A WARRANTY FOR USED EQUIPMENT, THEN VENDOR’S SOLE LIABILITY AND PURCHASER’S EXCLUSIVE REMEDY SHALL BE FOR VENDOR, AT ITS OPTION, TO REPAIR OR REPLACE AT ITS OWN EXPENSE, WHEN RETURNED TO VENDOR AT PURCHASER’S EXPENSE, ANY SUBSTANTIVE DEFECT(S) IN MATERIALS OR WORKMANSHIP NOTIFIED TO VENDOR WITHIN THE RELEVANT WARRANTY PERIOD SPECIFIED IN THE QUOTATION (PROVIDED THAT, IN NO EVENT SHALL SUCH WARRANTY PERIOD BE GREATER THAN 90 DAYS AND, IF A SPECIFIC PERIOD IS NOT DEFINED, THEN THE PERIOD SHALL BE 30 DAYS) AND PROVIDED THAT THE EQUIPMENT IS RETURNED TO VENDOR FOR REPAIR WITHIN 30 DAYS OF EXPIRY OF THE WARRANTY PERIOD. VENDOR’S WARRANTY DOES NOT EXTEND TO ANY DEFECT, CLAIM OR DAMAGE ATTRIBUTABLE TO FAILURE TO OPERATE AND/OR MAINTAIN THE EQUIPMENT IN ACCORDANCE WITH ANY OF VENDOR’S RECOMMENDATIONS. IN NO EVENT DOES VENDOR WARRANT FITNESS FOR PURPOSE, MERCHANTABILITY OR NON-INFRINGEMENT OF ANY USED EQUIPMENT. *For Services:* IF THE QUOTATION INCLUDES SERVICES, THE VENDOR’S SOLE LIABILITY AND PURCHASER’S EXCLUSIVE REMEDY SHALL BE FOR VENDOR TO RE-PERFORM SUCH SERVICES WHICH WERE DEFECTIVE IN ANY SUBSTANTIVE RESPECT AS NOTIFIED TO VENDOR WITHIN THE RELEVANT WARRANTY PERIOD SPECIFIED IN THE QUOTATION (PROVIDED THAT, IN NO EVENT SHALL SUCH WARRANTY PERIOD BE GREATER THAN 90 DAYS AND, IF A SPECIFIC PERIOD IS NOT DEFINED, THEN THE PERIOD SHALL BE 30 DAYS). IN NO EVENT DOES VENDOR WARRANT FITNESS FOR PURPOSE, MERCHANTABILITY OR NON-INFRINGEMENT OF ANY SERVICES. *Service Packages:* SUBJECT TO THESE GENERAL TERMS, ANY REFERENCE IN A QUOTATION TO SPECIFIC VENDOR WARRANTY LEVELS OR PACKAGES SHALL BE CONSTRUED IN ACCORDANCE VENDOR’S THEN CURRENT WARRANTY PACKAGE DEFINITIONS AS MAY BE AVAILABLE AT VENDOR’S WEBSITE LOCATION AT WHICH THESE GENERAL TERMS ARE POSTED OR OTHERWISE AS MADE AVAILABLE ON REQUEST.

6. Payment. Unless otherwise expressly stated in the Quotation, all prices are net cash upon delivery to the first carrier as provided in clause 4. Invoices are payable in lawful money of the United States except when and to the extent Vendor expressly accepts a trade-in from Purchaser and assigns a value to such trade-in (“Trade-In Value”). Payment pursuant to a trade-in shall be deemed received by Vendor only upon the physical delivery of the equipment being traded-in at Vendor’s designated delivery location at Purchaser’s sole cost, expense and risk, and passage of good and valid title thereto to Vendor free and clear of all liens and encumbrances. Accounts in arrears more than 30 days will bear interest at the rate of 8% per annum; provided that if the highest lawful interest rate applicable to this transaction is less than 8% per annum, the applicable rate of interest shall be the lower rate. Notwithstanding the foregoing, the interest rate in effect for transactions (i) governed by the law of Arkansas shall be 5% per annum above the Federal Reserve Discount Rate at the time parties enter into a binding contract and (ii) governed by the law of Tennessee shall be the “applicable formula rate” as last published in the Tennessee Administrative Register or successor publication at the time the parties enter into a

binding contract. Purchaser shall not be entitled to any refunds nor to unilaterally cancel this contract. If such accounts are referred to an attorney for collection, Purchaser agrees to pay reasonable attorney's fees of Vendor. Checks or promissory notes, if accepted by Vendor, will be considered only as additional evidence of the original indebtedness and not in payment thereof. Unless otherwise precluded by law, a purchase money security interest in the goods sold and all proceeds therefrom will remain with Vendor until all obligations of Purchaser shall have been fully paid in cash and/or application of the Trade-In Value. In the event of attachment or execution being levied against the goods, the bankruptcy of Purchaser or any default by Purchaser in payments to Vendor, in addition to all other rights and remedies available to Vendor, Vendor may seize the property involved and in connection therewith shall have a right of entry to the maximum extent permitted by law.

7. Errors. Errors made in the Quotation due to incorrect mathematical computations, erroneous equipment selection or recommendation, or other errors or omissions materially affecting the Quotation are sufficient grounds for immediate and complete cancellation of the Quotation or related contract by Vendor only.

8. Force Majeure. If the furnishing of goods or services on orders accepted by Vendor is hindered or prevented by public authority or by the existence of war or other contingencies, including, but not limited to, shortage of materials, fires, labor difficulties, acts of terrorism, diseases, accidents, delays in manufacture or transportation, acts of God, embargoes, inability to ship, inability to insure against war risks or substantially increased prices or freight rates, or other causes beyond Vendor's control, the obligation to fill or complete such orders shall be excused at Vendor's option and all other obligations of Vendor hereunder shall be suspended without liability during the existence and continuance of the delay caused thereby.

9. Laws Governing. The Quotation and any contract arising therefrom and these General Terms and all orders resulting will be governed by the laws of the State of North Carolina. The Purchaser specifically consents to jurisdiction and venue in Mecklenburg County, North Carolina.

10. Rights Reserved. Vendor, for itself and for any manufacturer from which it acquires the goods, reserves the right to make changes in the design of the goods.

11. Patents. With respect to goods or parts therefor manufactured or produced in accordance with designs or design information supplied by Purchaser or its third party agents, Purchaser shall indemnify and save harmless Vendor and any manufacturer from which it acquires such goods, and their successors and assigns, against all loss, damage, liability, patent, trademark or corresponding rights related to the manufacture or sale of such goods.

12. Taxes. In addition to the prices provided herein, Purchaser shall pay all federal, state, county and municipal taxes imposed by reason of any sale or lease to which this instrument relates other than taxes upon or measured by net income of Vendor.

13. Purchaser to furnish. Following a request by Vendor, Purchaser shall promptly provide to Vendor such originals or copies, as necessary, of any export licenses, letter of credits, other evidence of funding for the relevant purchases or any other similar documents necessary for the completion of such order to Vendor's satisfaction.

14. No Waiver or Amendment. No waiver or amendment of any of the terms and conditions of this form shall be effective unless in writing and signed by an authorized signatory of Vendor which means a Vice President or above PROVIDED THAT any changes to or exclusion of clauses 14, 16 or 18 of the General Terms must be made in writing signed by Vendor's General Counsel, a President or above. No waiver of any breach of any terms or conditions of this form shall be construed as a waiver of any subsequent breach of any term or condition of the same or a different nature.

15. Assignment. The right to any monies due to or to become due hereunder may be assigned by Vendor, and Purchaser upon receiving notice of such assignment, shall make payments as directed.

16. Entire agreement. Where a Quotation has been provided, the final written expression of agreement of the parties shall be these General Terms and the printed Quotation only. If no Quotation has been provided and if there is no other agreement between the parties based on Vendor's terms and conditions which is expressed to apply to future goods or services, these General Terms shall be the final written expression of agreement. The foregoing, together with any attendant prints and specifications, shall constitute the complete and exclusive agreement between the parties. In the event of any conflict, the following descending order of priority shall apply: (i) clauses 14, 16 and 18 of these General Terms; (ii) the remaining provisions of these General Terms; and (iii) the printed Quotation and any other attendant documentation. It is expressly understood and agreed to that no promises, provisions, terms, warranties, conditions, guarantees or obligations whatsoever, either expressed or implied, other than as set forth in the Quotation and these General Terms shall be binding on either party. Vendor shall be entitled to offset from any amounts due to Purchaser under any agreement(s) or otherwise any amounts due from Purchaser to Vendor.

17. Acceptance of Services. All services shall be deemed accepted at the time of performance unless Purchaser notifies Vendor otherwise in writing within five working days of performance of the particular service.

18. Limitations and Exclusions of Liability. Notwithstanding any other provisions of these General Terms, where Purchaser is entitled to recover damages from Vendor, Purchaser agrees Vendor's maximum aggregate liability for any loss or damage howsoever arising (including misrepresentation, negligence, fundamental breach, contract, tort, strict liability or other basis of claims) in connection with this contract and/or the deliverables or services shall be limited to the amount actually paid by Purchaser for the relevant deliverables or services EXCEPT THAT Vendor's liability shall not be limited or excluded in the case(s) of death or personal injury arising from Vendor's negligence, fraud or any other liability which cannot be limited or excluded as a matter of law. In no event shall Vendor be liable for any consequential or incidental damages, direct or indirect, including, but not limited to, loss of profit, loss of revenue, business interruption, failure to realize anticipated savings, loss of or damage to goodwill, special damages, exemplary damages, punitive damages, fines, or penalties. The foregoing limitations and exclusions shall apply whether or not Vendor has been notified of their possibility and even in the event of failure of an exclusive remedy.

19. Financing and Leasing. Such transactions shall be subject to additional or other terms and conditions provided by Vendor or a third party finance supplier in connection with the financing or leasing of the goods, details of which are available upon request.

20. Maintenance Services. If the Quotation includes maintenance services: (i) Vendor's obligation to provide maintenance services shall be as defined below and limited to the specific number of trucks or other items of equipment identified in the Quotation (and, if no such quantity is specified, it shall be a single item); and (ii) the relevant maintenance services period shall commence upon physical delivery of the relevant items of equipment to Purchaser, as conclusively evidenced by Vendor's delivery documentation. Vendor reserves the right to confirm the specific equipment serial numbers for which the maintenance services have been purchased by notice in writing to Purchaser, which notification shall be binding upon Purchaser unless disputed in writing within five (5) working days of the date of Vendor's notice.

21. Severability. Any provision of these General Terms which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof. Any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

22. Cancellation. Orders placed by Purchaser shall not be cancelled without Vendor's prior written consent, and, as a condition of any such consent by Vendor, the Purchaser agrees to pay: (i) a re-stocking fee of fifteen percent (15%) of the total charges due under the relevant order(s) cancelled to cover Vendor's wasted administration and other costs and expenses ("Re-Stocking Fee"); and (ii) such additional amounts, as applicable, equal to any unavoidable costs and expenses incurred by Vendor which exceed the Re-Stocking Fee, including but not limited to manufacturer's cancellation costs and expenses. Except as may be expressly agreed by Vendor in writing, Vendor shall not be obliged to make and Purchaser shall not be entitled to any refunds of any sums due or paid to Vendor.

Full Maintenance

Section I: VENDOR'S RESPONSIBILITIES

- A. The Vendor will service and maintain the equipment identified in the Offer of Sale in proper working condition in accordance with this contract. Full service shall include the provision of parts, labor, travel time and mileage expenses related to repairs due to breakdowns and the necessary replacement of equipment components due to normal wear. The service also includes periodic maintenance inspections at regular intervals including any necessary parts such as engine oil, filters, lubricants, etc. However, Vendor shall not be responsible for repairs specifically excluded or for repairs resulting from accident or abuse as stated in Section III.
- B. Upon notification by the Purchaser of any breakdowns, the Vendor shall use reasonable endeavours to promptly repair the same, except that work done outside of the Vendor's regular business hours (8a.m. to 5p.m., Monday through Friday, excluding holidays) shall be performed only at the Purchaser's specific request. In such cases, the Purchaser shall reimburse the Vendor for any premium costs incurred, unless conditions altering the above requirements in any way are specified in the Addendum to this Agreement.
- C. Service charges for this Agreement have been calculated based on information provided by the Purchaser and data recorded in the relevant Plant Survey Report. The Survey Report has been accepted, signed and dated by the Purchaser and is attached to and made part of this Agreement. Changes in location, unit application or the nature of the Purchaser's business that results in equipment use outside the scope of the conditions recorded in the Plant Survey Report, shall, at the Vendor's option, cause a new Plant Survey to be completed and agreed to and, if applicable, the adjustment of any affected maintenance rates. A request for an extension of the term of the Agreement may, at the Vendor's option, require an adjustment of the full service rates. The full service rates are subject to increase effective each January 1st each year based on the increase in the Consumer Price Index, CPI, for the preceding 12 months.

Section II: CUSTOMER RESPONSIBILITIES

- A. The Purchaser is responsible for the normal needs of the equipment in its daily operations. These requirements include supplying all required fuel for internal combustion powered units. The Purchaser shall make a routine check of the equipment at the beginning of each shift. Purchaser is responsible for documenting this check and for adding any needed make up engine oil, radiator coolant, battery water and repairs to punctured or flat tires.

- B. The Purchaser shall promptly notify the Vendor of any needed repair(s), breakdown(s) or accident(s) involving the equipment covered. Normally, all repair work will be performed by the Vendor's assigned technicians.
- C. The Purchaser shall make the equipment available for servicing at reasonable times during the normal business day. The Purchaser shall provide without charge a suitable area, lighted, heated and well ventilated, where service and repair work may be performed. If the number of units warrants, the Purchaser shall also provide adequate, secure storage for a Vendor-owned inventory of repair parts and supplies.
- D. The Purchaser shall pay Vendor for the monthly maintenance amount and any additional billings upon receipt of invoice.

Section III: EXCLUDED ITEMS

- A. The Agreement does not include the performance of any repairs or service work other than those required as a result of the usual and ordinary operation of the equipment. The Agreement does not provide for:
 - 1) Allowing unauthorized use of equipment (i.e. non lessee use of rentals such as contractors and neighbor companies).
 - 2) Failure to release trucks for planned maintenance service (PM's).
 - 3) Disconnection or removal of any safety device, governor, hour meter or other instrumentation.
 - 4) Damage as a result of improper use of fluids or lubricants such as motor oil, hydraulic oil, transmission fluid, anti-freeze.
 - 5) Failure to maintain proper fluid levels on a daily basis or allowing internal combustion engines to run with insufficient oil or coolant.
 - 6) Operating equipment with a known service problem.
 - 7) Using attachment improperly (ex. pushing, side loading, etc.).
 - 8) Operating at excessive speeds for load and traffic conditions.
 - 9) Damage as a result of horseplay, drag racing or other unsafe acts.
 - 10) Cut or flat tires. Tires are not included in this Maintenance Agreement.
 - 11) Cut or damaged seats or cushions.
 - 12) Any and all missing parts/components.
 - 13) Pulled out wiring.
 - 14) Damaged or missing hitches.
 - 15) Damaged or bent cowling covers, doors, hoods, sheet metal or any structural damage.
 - 16) Cut or pulled hoses from any hydraulic attachments.
 - 17) Bending of steer wheels, mounts or axles resulting from overloading or other structural damage.
 - 18) Damaged paint or appearance by graffiti type markings.
 - 19) Spilling of liquids or other contaminants into electric components.
 - 20) Strapping, banding or string wrapped around wheels or bent wheels.
 - 21) Damaged unit connectors.
 - 22) Damaged gauges on battery discharge indicators (BDI's) or hour meters.
 - 23) Fork replacement due to overloading; or accelerated wear due to dragging forks on floor.
 - 24) Damage incurred due to improper battery charging or daily watering procedure.
- B. Repair and/or replacement of seats, tires or other expendable items such as quick-disconnect fittings, back-up alarms, lights and rubber facing on clamps are excluded from full maintenance services unless specifically included in the Addendum to the Agreement.

- C. The Vendor will perform such needed repairs which are excluded from the Full Maintenance Agreement, only if requested by the Purchaser. The Purchaser shall pay the Vendor its published prices for any such needed and requested repairs that are performed by the Vendor. These charges shall be in addition to the maintenance charges provided for in this Agreement.

Section IV: TERMINATION

Either party may terminate the Full Maintenance Agreement, with sixty (60) days written notice.

Periodic Maintenance

The first Periodic Maintenance will occur on the date specified in the Offer of Sale (and, if not so specified, at a date to be nominated by the Vendor) and shall continue at 30 / 60 / 90 day intervals as specified in the Offer of Sale (and, if not so specified, at 90 day intervals) for a twelve month period. The agreement will automatically renew annually unless and until terminated by notice under Section III. The full service rates are subject to increase effective each January 1st each year based on the increase in the Consumer Price Index, CPI, for the preceding 12 months.

Section I: SCHEDULED SERVICE

The Vendor agrees to complete a periodic maintenance inspection report on key unit components, based on a visual inspection, where possible, or operational checks in the case of internal components ("PM Inspection Report"). Parts and materials needed to service the equipment according to the maintenance operations outlined on the corresponding PM Inspection Report will be billed at agreed upon rate at the time service is performed. Waste oil and filters will be disposed of per EPA guidelines. The periodic maintenance service will be scheduled at a mutually agreeable time. The Purchaser shall make the equipment available for servicing at the appointed time(s). The Purchaser shall provide without charge a safe working environment where service and/or repair work may be performed.

Section II: SCHEDULED SERVICE

Any repairs required will be brought to the attention of the Purchaser. Additional repairs will only be performed upon authorization by the Purchaser. The Purchaser shall pay the Vendor the agreed upon rates for parts and labor for any such approved repairs performed by the Vendor (or in lieu of any such agreed rates, at the Vendors then current standard rates). These charges shall be in addition to the charges applicable for the Periodic Maintenance services. Additional repairs can be authorized by any employee of the Purchaser or other representative holding themselves out as having authority to provide such approvals.

Section III: TERMINATION

Either party may terminate the periodic maintenance services, with thirty (30) days notice.