

## NexTier Completion Solutions Sales Order Standard Terms & Conditions

THESE TERMS AND CONDITIONS APPLY TO ALL SALES OF GOODS BY C&J SPEC-RENT SERVICES, INC. d/b/a NEXTIER COMPLETION SOLUTIONS ("SELLER"). SELLER'S ACCEPTANCE OF BUYER'S ORDER IS EXPRESSLY CONDITIONED ON BUYER'S ASSENT TO THE TERMS AND CONDITIONS OF THE QUOTATION PROVIDED BY SELLER, IF ANY, THESE TERMS AND CONDITIONS, AND ANY SPECIFICATIONS OR OTHER TERMS ATTACHED HERETO, IF ANY (COLLECTIVELY, THIS "CONTRACT"). IF BUYER DOES NOT ASSENT TO THE TERMS OF THIS CONTRACT, PLEASE CANCEL THIS ORDER IMMEDIATELY SO THAT SELLER DOES NOT PROCESS THIS ORDER. NOTWITHSTANDING ANY ORAL OR WRITTEN STATEMENT MADE BY BUYER, SELLER'S ACCEPTANCE OF BUYER'S ORDER DOES NOT IN ANY WAY WHATSOEVER CONSTITUTE ACCEPTANCE OF BUYER'S TERMS AND CONDITIONS, AND BUYER'S TERMS AND CONDITIONS ARE NOT A PART OF THE CONTRACT BETWEEN BUYER AND SELLER UNLESS AN AUTHORIZED OFFICIAL OF SELLER EXPRESSLY AGREES IN WRITING TO ACCEPT SUCH TERMS AND CONDITIONS OR ANY PART THEREOF.

1. **ACCEPTANCE OF ORDERS:** All orders submitted by BUYER (each an "Order") are subject to SELLER's prior credit approval. No Order shall be binding on SELLER until accepted in writing by an authorized official of SELLER. SELLER is under no obligation to accept any Order from BUYER.

2. **TAXES:** Prices do not include sales, use, excise, value-added, or other similar taxes, duties, charges, or fees (or any related fines, penalties, or interest) (collectively, "Taxes"), now or hereafter enacted, applicable to the goods sold or this transaction; any such Taxes will be added by SELLER to the sales price where SELLER is required by law to collect the same, and will be paid by BUYER unless BUYER provides SELLER with a proper tax-exemption certificate.

3. **TITLE AND DELIVERY:** Unless otherwise specified on the Order, goods are delivered EX WORKS (INCOTERMS 2010) SELLER's plant. Title and risk of loss pass to BUYER on delivery. SELLER may deliver the goods in installments. Shipping dates are approximate only. Claims for shortages must be made in writing within ten (10) days of BUYER's receipt of shipment, or BUYER is deemed to have waived such claims.

4. **TERMS AND METHOD OF PAYMENT:** Where SELLER has extended credit to BUYER, terms of payment shall be Net 30 days or as stated on quotation, from the date of invoice. The amount of credit or terms of payment may be changed or credit withdrawn by SELLER at any time. If the goods are delivered in installments, BUYER shall pay for each installment in accordance with the terms of payment hereof. Payment shall be made for the goods without regard to whether BUYER has made or may make any inspection of the goods. If shipments are delayed by BUYER, payments are due from the date when SELLER is prepared to make delivery. Goods held for BUYER, shall be held at BUYER's sole risk and expense. Unless otherwise agreed in writing by an authorized official of SELLER, if BUYER delays shipment of any standard good by more than ten (10) days, SELLER may cancel the Order and assess BUYER a ten percent (10%) restocking charge. Goods held for more than thirty (30) days may incur reasonable storage charges. All amounts due shall be paid in US Dollars directly to SELLER as directed by SELLER on its invoice or otherwise as specified in a written notice. In the event of a bonafide dispute of SELLER's invoice amount, BUYER shall deduct the disputed portion and remit the balance with a detailed written explanation of such dispute. Delinquent invoices are subject to a monthly service charge of the lower of 18% per annum or highest % allowed by law, which shall be added to the invoice amount. Notwithstanding anything herein to the contrary, if BUYER fails to fulfill the terms of payment, SELLER may defer further shipments, or may, at its option, cancel the unshipped balance. SELLER reserves the right, prior to making any shipment, to require from BUYER satisfactory security for performance of BUYER's obligations.

5. **CANCELLATION OR RESCHEDULING:** BUYER may request changes, including rescheduling or canceling, of all or a portion of an Order for a standard good. SELLER reserves the right to reject any change or cancellation to an Order for a standard good requested by BUYER or to accept such and assess a fifteen percent (15%) restocking fee. Changes, rescheduling, or cancellation of custom Orders must be submitted in writing at least twenty (20) days prior to the ship date and must be preapproved in writing by an authorized official of SELLER. SELLER reserves the right to reject any change or cancellation of a custom Order. Any change or cancellation of a custom Order accepted by SELLER will be subject to a change or cancellation fee equal to the estimated cost and loss, including SELLER's time and materials, to SELLER associated with such custom Order.

6. **CONTINGENCIES:** SELLER shall be excused from performance and shall not be liable for any delay in delivery or for non-delivery, in whole or in part, caused by the occurrence of any contingency beyond its reasonable control, including, but not limited to, war (whether an actual declaration thereof is made or not); sabotage; insurrection; riot or other act of civil disobedience; act of public enemy; failure or delay in transportation; act of government or any agency or subdivision thereof affecting the terms of this Contract, prohibiting or penalizing SELLER's performance, or otherwise; judicial action; labor dispute; accident; fire; explosion; flood; storm or other acts of God; shortage of labor, fuel, raw material or machinery; or technical or yield failure. If any such contingencies occur, SELLER may equitably allocate production and deliveries among SELLER's customers.

7. **SUBSTITUTIONS AND MODIFICATIONS OF GOODS:** SELLER may modify the specifications of goods designed by SELLER and substitute goods manufactured to such modified specifications for those specified herein provided such goods conform to this Contract.

8. **WARRANTIES:** SELLER, except as otherwise hereinafter provided, warrants goods manufactured by SELLER will be free from material defects in workmanship and materials and that such goods will conform to SELLER's specifications for a period of one (1) year from date of shipment. SELLER also warrants that at the time of delivery, SELLER has title to the goods free and clear of any and all liens and encumbrances. SELLER makes no warranty as to: (i) goods not manufactured by SELLER, provided that to the extent permitted by SELLER's contract with its supplier, SELLER shall assign to BUYER any rights SELLER may have under any warranty of the supplier thereof; (ii) SELLER's rendering of technical advice or service in connection with BUYER'S order of the goods furnished hereunder; or (iii) misuse, improper handling, use outside the proper performance parameters for the Goods. **EXCEPT AS PROVIDED ABOVE, SELLER MAKES NO WARRANTIES, TERMS OR CONDITIONS OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, ABOUT THE GOODS, OR THE SUITABILITY, LEGALITY OR ACCURACY OF INFORMATION, OR GOODS PROVIDED BY SELLER. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, SELLER EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES, TERMS OR CONDITIONS OF SATISFACTORY QUALITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. THESE WARRANTIES ARE THE ONLY WARRANTIES MADE BY SELLER AND CAN BE AMENDED ONLY BY A WRITTEN INSTRUMENT SIGNED BY AN AUTHORIZED REPRESENTATIVE OF SELLER.**

9. **PATENT AND COPYRIGHT INDEMNITY:**

A. SELLER shall defend any suit or proceeding brought against BUYER which is based on a claim that any goods manufactured by SELLER and supplied hereunder constitute infringement of any U.S. patent, copyright or trade secret of a third party, and SELLER shall pay all damages and loss, finally awarded against BUYER associated with such infringement provided that SELLER is promptly informed of and furnished a copy of each communication, notice or other action relating to the alleged infringement and is given authority, information, and assistance (at SELLER's expense) necessary to defend or settle said suit or proceeding. SELLER shall not be obligated to defend or be liable for loss or damage if the infringement arises out of (i) compliance with BUYER's designs or specifications; (ii) goods that are modified without SELLER's prior written authorization; or (iii) use of goods manufactured or supplied by SELLER in combination with other goods.

B. If SELLER determines or believes that any good manufactured and supplied by SELLER to BUYER may be subject to any claim that it infringes any US patent, copyright, or trade secret, SELLER will, at its option and at its expense, (I) procure for BUYER the right to use such good, or (II) to replace such good with a non-infringing substitute otherwise complying substantially with the specifications, or (III) refund the purchase price and the transportation costs of such good.

C. If the infringement by BUYER is alleged prior to completion of delivery of the goods under this Contract, SELLER may decline to make further shipments without being in breach of this Contract, and provided SELLER has not been enjoined from selling said goods to BUYER, SELLER may, at its option, agree to supply said goods to BUYER at BUYER'S request, whereupon BUYER shall release and shall indemnify, and hold harmless SELLER and its directors, officers, employees, contractors (of any tier), agents and representatives, successors and assigns (collectively, "SELLER Group") from and against any and all actions, claims, costs (including without limitation, costs of investigation, litigation, and court costs), damages, demands, fines, interest, judgments, liabilities, losses, penalties,

proceedings, suits (including appeal), and expenses (including, without limitation, reasonable attorneys' fees) (collectively, "Claims") brought by or on behalf of any person or entity arising out of or in connection with any allegation, in whole or in part, that the goods or technical data associated therewith infringe the third party's patent, copyright or trade secrets.

D. The sale by SELLER of the goods ordered hereunder does not grant to, convey, nor confer upon BUYER or BUYER'S customers, nor upon anyone claiming under BUYER, a license, express or implied, under any patent or other intellectual property rights of SELLER covering or relating to any combination, machine, or process in which said items might be or are used.

THE FOREGOING STATES THE SOLE AND EXCLUSIVE LIABILITY OF THE PARTIES HERETO FOR PATENT, COPYRIGHT, OR TRADE SECRET INFRINGEMENT AND IS IN LIEU OF ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, IN REGARD THERETO.

### 10. REMEDIES AND DAMAGES:

A. If SELLER breaches its warranties as contained in paragraph 8 herein, SELLER's sole and exclusive liability shall be (at SELLER's option) to replace or credit BUYER'S account for any such goods which are returned by BUYER during the applicable warranty period provided that (I) SELLER is promptly notified in writing upon discovery by BUYER that such goods failed to conform to the warranty standards described in Section 8 with a detailed explanation of any alleged deficiencies, (II) such goods are returned to SELLER, FOB SELLER'S plant from which goods were shipped, and (III) SELLER'S EXAMINATION OF SUCH GOODS SHALL DISCLOSE THAT SUCH ALLEGED DEFICIENCIES ACTUALLY EXIST AND WERE NOT CAUSED BY ACCIDENT, MISUSE, NEGLIGENCE, ALTERATION, IMPROPER HANDLING AND IMPROPER STORAGE; If such goods fail to conform to the warranty, SELLER shall reimburse BUYER for the transportation charges paid by BUYER for such goods. If SELLER elects to replace such goods, SELLER shall have a reasonable time to replace such goods. WRITTEN AUTHORIZATION (an "RMA") MUST BE OBTAINED FROM SELLER PRIOR TO THE RETURN OF ANY MATERIAL FOR ANY REASON WHATSOEVER. Goods returned to SELLER without an RMA number will be returned to BUYER at BUYER'S cost and expense.

B. **BUYER AGREES THAT REGARDLESS OF THE CLAIM OR OTHER FORM IN WHICH ANY LEGAL OR EQUITABLE ACTION MAY BE BROUGHT BY BUYER AGAINST SELLER GROUP THAT NO MEMBER OF THE SELLER GROUP SHALL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, REVENUE, PROMOTIONAL EXPENSES, INJURY TO REPUTATION, OR LOSS OF CUSTOMERS. BUYER'S recovery from SELLER Group or any of them for any claim in any way arising from or related to the goods or this Contract shall not in the aggregate exceed the lesser of (i) the quoted sales price for the goods or (ii) the amount actually paid to SELLER by BUYER for the goods irrespective of the nature of the claim, whether in contract, tort, warranty, strict liability, product liability or otherwise and whether arising in whole or in part from the negligence of the SELLER Group.**

11. **INDEMNIFICATION:** BUYER HEREBY ASSUMES AND AGREES TO INDEMNIFY, DEFEND, PROTECT, SAVE, KEEP, AND HOLD HARMLESS SELLER GROUP FROM AND AGAINST ANY AND ALL LOSSES, DAMAGES, INJURIES, CLAIMS, CAUSES OF ACTION, LIABILITIES, DEMANDS AND EXPENSES (INCLUDING ATTORNEY FEES AND OTHER LEGAL EXPENSES) OF WHATSOEVER KIND AND NATURE, FOR INJURY TO, OR ILLNESS OR DEATH OF ANY PERSON AND FOR ALL DAMAGE TO, LOSS OR DESTRUCTION OF PROPERTY (COLLECTIVELY "LOSSES"), RELATING TO, CONNECTED WITH IN ANYWAY, ARISING OUT OF, OR ON ACCOUNT OF THE GOODS PURCHASED HEREUNDER, INCLUDING, WITHOUT LIMITATION, ANY SUCH LOSSES CAUSED OR OCCASIONED BY ANY NEGLIGENT ACT OR OMISSION OF ANY MEMBER OF THE SELLER GROUP. The foregoing indemnity is a material part of this transaction, supported by and in consideration of a reduction in the purchase price and is intended to apply notwithstanding the joint or concurrent negligence of any member of the Seller Group.

12. **RESALE:** BUYER represents and warrants to SELLER that it will only resell the goods to a third party subject to, at a minimum, the following indemnification clause, or terms substantially similar thereto:

"BUYER AGREES TO UNCONDITIONALLY RELEASE, PROTECT, DEFEND, INDEMNIFY, AND HOLD THE SELLER OF THESE PRODUCTS, ITS EMPLOYEES, OFFICERS, AGENTS, AFFILIATES, SUBSIDIARIES, AND ANY THIRD PARTY MANUFACTURER AND SUPPLIER OF THE PRODUCTS HARMLESS FROM AND AGAINST ALL DEMANDS, CLAIMS, SUITS, CAUSES OF ACTION, COSTS, EXPENSES, AND DAMAGES OF EVERY KIND AND CHARACTER, WITHOUT LIMIT AND WITHOUT REGARD TO THE CAUSE OR CAUSES THEREOF, INCLUDING WITHOUT LIMITATION, BREACH OF CONTRACT, BREACH OF WARRANTY, DECEPTIVE TRADE PRACTICE, NEGLIGENCE, PRODUCT LIABILITY AND STRICT LIABILITY IN TORT, BROUGHT BY OR ON BEHALF OF BUYER OR ANY THIRD PARTY(IES) ALLEGING DAMAGES OR INJURIES, EITHER TO PERSONS OR PROPERTY OR BOTH, OF BUYER OR ANY THIRD PARTY(IES) THAT ARISE OUT OF OR RELATE TO THE USE OF OR MISUSE OF THE PRODUCT, INCLUDING, BUT NOT LIMITED TO, ANY USE OR MISUSE OF THE PRODUCT BY BUYER'S OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, AFFILIATES, SUBSIDIARIES, OR ANY OTHER PERSON OR ENTITY TO WHOM THE ITEM HAS BEEN SUBSEQUENTLY SOLD OR TRANSFERRED."

SELLER shall be a third party beneficiary of such indemnification, with the power to enforce all of the terms and conditions of such against BUYER's customer for such goods.

13. **TERMINATION AND CANCELLATION:** Unless otherwise agreed in writing, if in the SELLER'S judgment, BUYER'S financial condition does not justify the terms of payment specified herein, SELLER may cancel this Contract unless BUYER shall immediately pay for all goods which have been delivered and pay in advance for all goods to be delivered.

14. **NON-WAIVER OF DEFAULT; ENFORCEABILITY:** In the event of any default by BUYER, SELLER may decline to make further shipments. If SELLER elects to continue to make shipments, SELLER'S action shall not constitute a waiver of any future default by BUYER or in any way affect SELLER'S legal remedies for any such default. If any provision of this Contract is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of this Contract, and this Contract shall be construed as if such invalid or unenforceable provision were omitted.

15. **APPLICABLE LAW:** The validity, performance, and construction of this Contract shall be governed by the laws of the State of Texas (excluding its conflict of laws rules which would refer to and apply the substantive laws of another jurisdiction). Any suit or proceeding hereunder shall be brought exclusively in state or federal courts located in Harris County, Texas. Each party consents to the personal jurisdiction of the state and federal courts of said county and waives any objection that such courts are an inconvenient forum. The 1980 U.N. Convention on Contracts for the International Sale of Goods shall not govern the rights and obligations of the Parties under this Contract.

16. **TECHNICAL DATA:** Unless otherwise agreed to, BUYER shall not obtain any rights in SELLER'S technical data, including without limitation all detailed part drawings and manufacturing processes.

17. **CONFIDENTIALITY:** Except as otherwise provided in this Contract, BUYER agrees that any and all information associated with the goods (including but not limited to SELLER'S technical data) or the SELLER that is not otherwise publicly available ("Confidential Information") that is disclosed to or received by BUYER (i) shall be treated as SELLER'S confidential, proprietary, and trade secret information (with SELLER reserving all rights to its Confidential Information); (ii) shall be held by BUYER in strict confidence, (iii) shall be used by BUYER only for purposes of this Contract, and (iv) that no Confidential Information, including without limitation the provisions of this Contract, shall be

disclosed by BUYER without the prior written consent of SELLER. BUYER shall safeguard Confidential Information with at least the same degree of care (which shall always be at least a reasonable amount of care) that it uses to safeguard its own confidential, proprietary, and trade secret information.

18. **ASSIGNMENT:** This Contract shall be binding upon and inure to the benefit of the parties and the successors and assigns of the entire business and goodwill of either SELLER or BUYER or of that part of the business of either used in the performance of this Contract, but shall not be otherwise assignable. Any assignment made by either party in contravention of this Section shall be null and void for all purposes. There are no third party beneficiaries to this Contract.

19. **INDEPENDENT CONTRACTOR:** SELLER, in providing the goods hereunder, is acting as an independent contractor and does not undertake by any Order or otherwise to perform any obligation of BUYER, or to assume any liability for BUYER's business or operations.

20. **MODIFICATION:** This Contract constitutes the entire agreement between the parties relating to the sale of goods described on the Order and supersedes all previous communications, representations, or agreements, either oral or written, with respect to the subject matter hereof, and no representations or statements of any kind made by any representative of SELLER, which are not stated herein, or upon the Order shall be binding upon SELLER unless made in writing and signed by a duly authorized representative of SELLER. No course of dealing or usage of trade or course of performance shall be relevant to explain or supplement any term expressed in this Contract.