
TERMS AND CONDITIONS OF PURCHASE

"Buyer" means "Montana Instruments Corporation", a Delaware limited liability company, or its applicable division purchasing any Product. "Product" means the products, equipment, components, parts, material, items and/or services described in Buyer's applicable purchase order. "Seller" means the entity from which Buyer is purchasing the Product.

1. Terms of Agreement; Acceptance.

The purchase order (the "PO") that Buyer in any manner transmits to Seller, together with these terms and conditions of purchase, and any attachments, exhibits, specifications, drawings, instructions and other information provided by Buyer or approved by Buyer in writing, whether physically attached to the PO or incorporated by reference (collectively this "Purchase Agreement"), constitutes the entire and exclusive agreement between Buyer and Seller with respect to the subject matter of this Purchase Agreement. Buyer's transmission of the PO to Seller constitutes Buyer's offer to purchase Products from Seller. Seller's commencement of work on the Products, issuance of an order acknowledgement, shipping of the Products, or issuance of an invoice, whichever occurs first, will be deemed an effective mode of acceptance of Buyer's offer to purchase in accordance with the Purchase Agreement. Seller's acceptance of Buyer's offer to purchase from Seller is limited to the acceptance of the express terms and conditions of this Purchase Agreement. ANY WRITTEN OR ORAL TERMS AND CONDITIONS OR OTHER PROVISIONS DIFFERENT FROM OR IN ADDITION TO THIS PURCHASE AGREEMENT, WHETHER CONTAINED IN ANY QUOTATION, PROPOSAL, ORDER ACKNOWLEDGEMENT, TERMS AND CONDITIONS OF SALE, INVOICE OR IN ANY OTHER PRIOR OR LATER COMMUNICATION FROM SELLER TO BUYER (INCLUDING IF THIS PURCHASE ORDER IS DEEMED AN ACCEPTANCE OF AN OFFER OF SELLER) ARE OBJECTED TO AND REJECTED, WILL BE DEEMED A MATERIAL ALTERATION OF THE TERMS AND CONDITIONS OF THIS PURCHASE AGREEMENT AND WILL NOT BE BINDING, UNLESS CONTAINED IN A WRITING THAT IS SIGNED BY DULY AUTHORIZED REPRESENTATIVES OF BUYER AND SELLER AND THAT EXPRESSLY REFERS TO THIS PURCHASE AGREEMENT.

2. Pricing; Payment. The prices specified in this Purchase Agreement must be in US Dollars or as otherwise agreed upon in writing, are not subject to increase, and must be complete. No additional charges may be added to the stated price, including charges for packaging, shipping, labeling, custom duties, taxes, insurance, storage or any other charges. Any applicable taxes must appear as separate line items (product taxes and labor taxes will be separated when applicable) on Seller's invoice. Payment for Products will be net 60 (sixty) days payable by ACH bank to bank payment from the date of Buyer's receipt of an accurate invoice. Seller's invoices or PO must include Seller's Federal Employer Identification Number (FEIN), date and number of Buyer's order, the date, place, and quantity of each delivery, and other information reasonably requested by Buyer. If Seller ships Products in installments and these installments are not specified by Buyer, payment will be due following receipt of the final installment. This Purchase Agreement considers the documentation set out in Section 5, **Manuals; Instructions**, as an integral part of the Product. Buyer's payment for a Product does not constitute acceptance of the Product.

3. Time; Delivery; Liquidated Damages. (a) Time is of the essence of this Purchase Agreement. Seller shall acknowledge the delivery date within one business day from the date the PO is issued. Seller must promptly notify Buyer of any actual or anticipated delay of delivery and take all reasonable steps to avoid or end the delay without additional cost to Buyer. Unless otherwise specified in writing by Buyer: (i) shipping terms are Delivered At Place (DAP; Incoterms 2020) Buyer's named point of destination, with title and risk of loss passing to Buyer at such point of destination; (ii) deliveries must be made at the times and of the quantities specified by Buyer on the face of the order; and (iii) Seller may not make shipments in advance of the times specified by Buyer. If necessary to meet the delivery schedule, Buyer may order expedited shipping in place of scheduled routing. In this event, Seller will inform Buyer and

Buyer will issue a PO change, any excess transportation costs will be paid by Seller.

(b) Seller will make reasonable attempts to preemptively inform Buyer of a late delivery. In the event that Seller fails to deliver a Product in accordance with the delivery schedule and in full conformance with all the requirements of this Purchase Agreement, Seller shall, in addition to all of Buyer's other rights and remedies available under this Purchase Agreement or at law or in equity, pay to Buyer as liquidated damages (and not as a penalty), (i) one percent (1%) of the purchase order price of such Product for each of the first three (3) weeks of delay and (ii) two percent (2%) of the purchase order price of such Product for each additional week of delay, up to a maximum aggregate amount of fifteen percent (15%). Buyer reserves the right to cancel orders beyond 2 weeks delay. Such liquidated damages shall be immediately payable by Seller upon Buyer's demand. Buyer may, at its option, deduct such liquidated damages from payments due by Buyer to Seller.

4. Product Specifications. All Products must be in full conformity with the written specifications that Buyer provides to Seller or that Buyer approves in writing, or to the extent Buyer does not provide written specifications to Seller, or does not approve specifications in writing, the specifications for the Product will fully conform with Seller's published specifications (including with respect to dimensions, capacities, and standards stated or illustrated in catalogues) and with all Product samples approved by Buyer in writing. If deviations are noted, they must be approved in writing in advance of delivery.

5. Manuals; Instructions. Not later than at the time of delivery of the Products, Seller will at its expense supply all manuals, instructions, drawings, as built drawings, final drawings, and other information relating to the Products that are necessary to enable Buyer or a third party to install, use, repair, apply Product warranty, and maintain the Products.

6. Changes. Buyer may make changes in drawings, designs, specifications, materials, packaging, time and place of delivery, and method of transportation. If any change causes a material increase or decrease in the cost or the time required for performance, Buyer will make an equitable adjustment. Seller agrees to accept any changes subject to this Section. The right to an adjustment will be deemed waived unless asserted by Seller within 30 days after the change is requested. Seller may not make any change with respect to any drawings, designs, specifications, materials, packaging, time and place of delivery or method of transportation of any Product unless agreed in writing by Buyer.

7. Inspections; Rejections.

(a) All Products covered by this Purchase Agreement will be received subject to Buyer's right of inspection, count, testing and rejection. Such right will be extended to Buyer's customers. Seller will maintain an inspection and testing system with respect to the Products. In the event Buyer does not specify standards to be used for the inspection and testing, or if Buyer and Seller do not agree on the standards to be used, Seller will nevertheless inspect and test the Products in accordance with the industry standard of companies maintaining testing and inspection systems with respect to products equivalent to the Products. Seller will keep all records of testing and inspection for at least two years after delivery of the Products, or longer if required by law. At Buyer's request, Seller will provide copies of the inspection and testing documentation.

(b) If applicable, upon reasonable notice from Buyer, Seller will either at Seller's or Buyer's facility cooperate with Buyer in connection with acceptance testing of any prototype, pre-series (or pilot batch) Products, and on samples of regular production Products. This acceptance testing will be performed in accordance with standards agreed upon by the parties. In the event the parties are unable to agree, acceptance testing will be performed in accordance with the industry standard of companies conducting acceptance testing with respect to products equivalent to the Products.

(c) Seller will give Buyer reasonable access to the facilities where Seller performs work pursuant to this Purchase Agreement. Access will be for the purpose of inspecting and testing

Products or reviewing Seller's performance of inspection and testing or otherwise assessing Seller's conformance with Buyer's specifications, work quality, and with Seller's obligations under this Purchase Agreement. Neither Seller's nor Buyer's inspection and testing of Products constitutes acceptance of the Products. Buyer's failure to inspect does not constitute a waiver of any of its rights or remedies, or relieve Seller of any of its obligations.

(d) If any Product is found to be defective, or otherwise not in conformity with the requirements or any applicable specifications of this Purchase Agreement, at Seller's expense, Buyer may, at its option and sole discretion, and in addition to any other rights and remedies Buyer may have: (i) reject and return the Products in which case credit will be issued by Seller; (ii) require Seller to inspect the Products and remove and replace non-conforming Products with Products that conform to this Purchase Agreement; (iii) upon notice to Seller, take any action necessary to cure all defects or bring the Products into conformity with the requirements of this Purchase Agreement; or (iv) with respect to non-conforming services, reject the service and require Seller to re-perform any defective portion of the services.

8. Origin of Products. In connection with each delivery, Seller will indicate the country of origin of the Products. At Buyer's request, Seller will provide Buyer with all necessary proof pertaining to country of origin of (such as country of origin certificates).

9. Force Majeure. Neither Buyer nor Seller is responsible for failing to perform under this Purchase Agreement where the failure or delay is attributable to any act of God or of the public enemy, war, fire, flood, embargo, quarantine, epidemic, acts of governmental authority or other causes similar to the foregoing, beyond the reasonable control of the party so affected. The party seeking to avail itself of any of these excuses must promptly notify the other party of the reasons for the failure or delay, and must exert commercially reasonable efforts to avoid further delay.

10. Termination for Default. By written notice to Seller specifying the effective date (which may be immediate), Buyer may terminate this Purchase Agreement in whole or in part, or the purchase of any quantity of Products, without further compensation to Seller (other than payments due for delivered conforming Products) in the event: (a) Seller fails to complete or deliver any Product when required; (b) Seller is otherwise in breach of any material term of this Purchase Agreement; (c) Buyer determines any of Seller's representations, warranties, or covenants in this Purchase Agreement to be untrue; (d) Seller ceases to conduct its operations in the normal course of business; or (e) any proceeding under any insolvency or bankruptcy laws is brought by or against Seller, a receiver for Seller is appointed or applied for, or an assignment is made by Seller for the benefit of creditors; or (f) a violation of the Atlas Copco Business Code of Practice. Upon receipt of a notice of termination, Seller will immediately: (i) cease work as directed in the notice; (ii) place no further subcontracts or orders for materials or services, except to the extent necessary to complete the continued portion of the order; and (iii) cancel all subcontracts to the extent they relate to terminated work. Upon termination, Seller will provide Buyer with all completed work and work in progress, including all designs, drawings, specifications, and other documentation and material required or produced in connection with the work. In the event of termination for default, Buyer will have all rights and remedies available to it at law and in equity, including those under the Uniform Commercial Code.

11. Suspension; Termination for Convenience. By written notice to Seller specifying the effective date, Buyer may either suspend or terminate this Purchase Agreement for convenience in whole or in part. In the event of termination, Buyer and Seller will negotiate reasonable termination costs consistent with the cost of materials and labor incurred (and not otherwise mitigated) on ordered Products prior to the date of Buyer's termination notice, provided Seller takes all action reasonably necessary to mitigate those costs. Seller will notify Buyer of Seller's actual cost of material and labor incurred within 15 (fifteen) business days after termination. Subject to the foregoing, Buyer's liability due to termination for convenience is limited to reasonable and actual termination costs, which shall not exceed the price of such

Products or services stated in the purchase order.

12. Tools; Dies. Any tools, jigs, dies, molds, models or similar material supplied or paid for by Buyer will be and remain Buyer's property, may be used only in connection with fulfilling Buyer's orders, and will be held by Seller for Buyer unless directed otherwise. Seller will account for the items and keep them in good working condition, insured against theft and loss, and free of any encumbrances without expense to Buyer. Buyer will have the right to inspect any such Buyer's property at Seller's facility on such date(s) and time(s) that are acceptable to both parties. In addition, upon Buyer's reasonable prior notice, Seller will return the property to Buyer, packaged and in good condition.

13. Intellectual Property. Seller acknowledges that Buyer's patents, trademarks, copyrights, and any other form of intellectual property that Buyer provides to Seller are Buyer's exclusive property and Seller disclaims all rights in same. Where payment is made to Seller by Buyer for development of any product, part or design, Seller agrees to disclose and on request to assign to Buyer each invention, property right, confidential process or know-how, and any other form of intellectual property related thereto and Seller will disclaim all rights in same. All drawings, designs, materials, information and data furnished by Buyer (and all intellectual property and other rights resulting from the PO pursuant to the foregoing sentence) are Buyer's exclusive property, will be used by Seller only for Buyer's work, will be deemed Buyer's proprietary information, and will be returned promptly at Buyer's request.

(b) Seller will defend, indemnify and hold Buyer and its affiliates and parents and their directors, officers, and employees harmless from and against any suits, liabilities, losses, damages, claims, causes of actions, and expenses (including reasonable attorneys' fees) arising out of or related to any third party's claim that manufacture, use, or sale of any Product constitutes infringement of any third party's patent, copyright, trademark or other form of intellectual property. In the event that a Product or part of a Product is held to constitute infringement, or the sale or use of the Product or part are enjoined, regardless of whether the determination constitutes a final judgment, Seller will, at its expense, either procure for Buyer the right to sell and use the Product or part, or replace them with a substantially equal but non-infringing Product or part. Seller's indemnification obligation does not apply to the extent that any infringement is determined to be the result of Seller's compliance with designs furnished by Buyer.

14. Proprietary Information. Seller will keep confidential all information disclosed to Seller by Buyer (or any of Buyer's affiliates) in connection with this Purchase Order ("Proprietary Information") and will disclose Proprietary Information only to those of its employees as will be directly concerned with performance under this PO. Seller agrees that it will not disclose Proprietary Information to any other person or entity without the express, prior written consent of Buyer set forth in a writing that is signed by duly authorized representatives of Buyer and Seller. Seller will protect the confidentiality of Proprietary Information with the same degree of care with which it protects its own proprietary information, but with no less than reasonable care, and will return all copies (in any medium recorded) of Proprietary Information to Buyer immediately upon written request. The parties agree that Proprietary Information shall be considered commercial secrets qualified for protection under applicable law. Notwithstanding the foregoing, Seller may disclose Proprietary Information that must be disclosed to any government, any agency or department thereof, or any stock

exchange to the extent required by law, provided Seller shall immediately notify Buyer of such requirement and the terms thereof prior to such disclosure so that an Buyer may seek an appropriate protective agreement or order prior to the disclosure. Proprietary Information does not include information that (i) is publicly available at the time of Buyer's disclosure; (ii) became publicly available through no act or failure to act on the part of Seller; (iii) is independently developed by Seller without using any of Buyer's Proprietary Information; or (iv) is required to be disclosed by any applicable court order, state rule or regulation of any court of competent jurisdiction or federal rule or regulation of any court of competent jurisdiction. The foregoing obligations will survive termination of this Purchase Agreement and will remain binding on Seller,

its respective affiliates, successors and assigns forever.

15. No Publicity. Seller will not make (whether verbally or on any webpage or in hard-copy material or otherwise) any announcement or statement, or release any information concerning, any order of Buyer or with respect to the fact that Seller and Buyer engage in business, to any third party except as required by applicable Law, without Buyer's prior written consent set, by an executive Vice President or higher, forth in a writing that is signed by duly authorized representatives of Buyer and Seller.

16. Warranties. (a) Seller warrants that all Products will be: (i) new, of merchantable quality, and free from defects in workmanship, materials and design (except to the extent the design is developed by Buyer and is furnished by Buyer to Seller); (ii) in full conformity with the written specifications that Buyer provides to Seller or that Buyer approves in writing, or to the extent Buyer does not provide written specifications to Seller, or does not approve specifications in writing, the specifications for the Product will fully conform with Seller's published specifications (including with respect to dimensions, capacities, and standards stated or illustrated in catalogues) and with all Product samples approved by Buyer; (iii) free of any encumbrance of any third party and conveyed to Buyer with clear title; and (iv) Seller warrants that all services will be performed in accordance with no less than the standards of care and diligence normally practiced by persons in the industry performing similar services.

(b) The above warranties, except for warranties of title and against third party encumbrances, will be in effect for a period of 18 months from the date that Buyer delivers the Product (whether or not integrated into another product sold by Buyer) to Buyer's customer, provided, however, that Buyer delivers such Product to Buyer's customer within 6 months after Buyer receives the Product from Seller. If Buyer delivers the Product to Buyer's customer after 6 months of Buyer receiving the Product from Seller, Seller's above warranties will be in effect for 18 months from the date that Seller delivers the Product to Buyer. Seller's warranty on services will be in effect for 12 months after performance of such services. Notwithstanding the foregoing, if Seller provides a longer warranty than the warranty period set forth above, then such longer warranty period shall apply to the Products sold hereunder.

(c) If any Product fails to conform to any of the above warranties, at Buyer's option and at Seller's expense (including but not limited to all transportation costs and all other costs), Seller will: (i) replace or repair the nonconforming Product; (ii) with respect to a Products that Buyer physically integrates into any product that Buyer sells to a customer, Seller will allow Buyer, as an alternative to Buyer's other options hereunder, to repair the Product at Buyer's or the customer's facility, in which case Seller will reimburse Buyer for the costs incurred by Buyer in connection with the repair; (iii) with respect to services, re-perform all services necessary to correct any nonconformity; or (iv) refund the purchase price of the nonconforming Product and any related costs incurred by Buyer. Any replacement part for a Product is subject to the above warranties and warranty period, provided that the warranty period for any replacement part will not extend beyond the original warranty period of the Product. If Seller does not replace, repair or re-perform, as applicable, within a reasonable time after notice, Buyer or a third party authorized by Buyer may do so at Seller's expense.

These warranties will survive acceptance and payment and will run to Buyer, its customers, and their successors and assigns, and are not to be deemed to be exclusive, but are in addition to Buyer's other rights under the terms of this Purchase Agreement, or at law or equity.

17. Compliance with Laws. In performing under this Purchase Agreement, each party will comply with all applicable federal, state, municipal, or local laws, rules, regulations, orders, decisions and permits of any relevant jurisdiction, including but not limited with respect to any applicable law pertaining to employment, safety, health, and environmental compliance.

18. Indemnification. Seller will defend, indemnify and hold Buyer and Buyer's affiliates and their respective shareholders, directors, officers, and employees harmless from and against any

suits, liabilities, losses, damages, claims, causes of actions, and expenses of any kind (including reasonable attorneys' fees) related to any third party claims against Buyer to the extent arising out of (a) any personal injury, illness,

death, or property damage that allegedly or actually is caused by or arises out of any defect in workmanship, material or design (except to the extent the design is developed by Buyer and is furnished by Buyer to Seller) of any Product; (b) any breach by Seller of Seller's warranties set forth in this Purchase Agreement; and/or (c) any negligent act or omission by Seller, its employees, subcontractors, or agents in connection with or arising out of the performance of this Purchase Agreement.

19. Hazardous Materials; MSDS Sheets. To the extent that any Products delivered by Seller contain hazardous materials, Seller will provide all relevant information (including with respect to Material Safety Data Sheets and labeling information) pursuant to applicable law and regulations.

20. Insurance. In the event that Seller's employees or agents enter any premises of Buyer, or any premises of Buyer's customers, in connection with this Purchase Agreement, Seller will maintain at a minimum comprehensive general liability insurance for bodily injury and property damage coverage with limits of at least \$1,000,000 per occurrence, and all Workers' Compensation insurance as required by law. At Buyer's reasonable request, Seller will provide copies of certificates evidencing the foregoing insurance coverage.

21. Set-Off. Buyer shall have the right, at all times, to set off any amounts owing from Seller to Buyer against any amount payable at any time by Buyer to Seller.

22. Assignment; Sub-contracting. No part of this Purchase Agreement may be assigned or sub-contracted without prior written consent set forth in a writing that is signed by authorized representatives of Buyer and Seller.

23. Dispute Resolution. (a) All disputes and controversies directly or indirectly arising out of or in connection with this Purchase Agreement or its subject matter ("Disputes") will be resolved finally and conclusively in accordance with this section, which will be the sole and exclusive procedure for the resolution of any Dispute.

(b) The parties will attempt in good faith to resolve any Dispute promptly by negotiation. If the matter has not been resolved within sixty (60) days after a party's request for negotiation, either party may initiate arbitration as provided herein. Any Dispute, which has not been resolved as provided above, will, at the request of either party, be finally settled by arbitration in accordance with the Rules and Procedures of the American Arbitration Association, by an independent and impartial arbitrator. The validity of this arbitration provision, the conduct of the arbitration, any challenge to or enforcement of any arbitral award or order, or any other question of arbitration law or procedure will be governed exclusively by the Federal Arbitration Act (9 U.S.C. sections 1-16); however, the award can be modified or vacated on grounds cited in the Federal Arbitration Act or if the arbitration panel's findings of facts are not supported by substantial evidence or the conclusions of law are erroneous under the laws of the State of South Carolina. The place of arbitration will be South Carolina. Federal and state courts located in South Carolina will have exclusive jurisdiction over any action brought to enforce this arbitration provision, and each party irrevocably submits to the jurisdiction of those courts for that purpose. Notwithstanding the foregoing sentence, either party may apply to any court of competent jurisdiction, wherever situated, for enforcement of any judgment on an arbitral award.

(c) Except as time barred under any applicable statute of limitation of lesser duration, any claim by either party will be time-barred unless the asserting party commences an arbitration proceeding with respect to such claim within two years after the cause of action has accrued.

(d) Notwithstanding any other provision of this Purchase Agreement, the parties expressly agree that each party will have the right to apply to any state or federal court in South Carolina, or any other court that would otherwise have jurisdiction, for provisional or interim measures, including in connection with protection of intellectual property and/or proprietary information.

24. NO CONSEQUENTIAL DAMAGES. NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT OR CONSEQUENTIAL, OR PUNITIVE DAMAGES OF ANY KIND FROM ANY CAUSE ARISING OUT OF THIS PURCHASE AGREEMENT OR THE SALE, SERVICE, INSTALLATION, USE OR INABILITY TO USE ANY PRODUCT, EQUIPMENT OR SERVICE, INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS, GOODWILL OR BUSINESS INTERRUPTION, WHETHER OR NOT FORESEEABLE.

25. Miscellaneous. (a) Independent Contractors: Nothing in connection with this Purchase Agreement is intended to (and nothing does) create any joint venture, partnership, agency or similar relationship between Buyer and Seller, other than a buyer and seller relationship. Seller is not, and it is not authorized to represent itself as, an agent or representative of Buyer for any purposes. (b) Waiver: Either party's failure to insist in any one or more instance upon the full performance by the other party of any term, covenant, obligation, covenant or condition imposed on it by this Purchase Agreement will not be construed as a

waiver of any right available to either party with respect to that nonperformance. (c) Governing Law: This Purchase Agreement is governed exclusively by the laws of the State of South Carolina, without regard to its conflicts of laws principles that would have a contrary result. The United Nations Convention on the International Sale of Goods does not apply to this Purchase Agreement. (d) Invalidity: If any provision of this Purchase Agreement is held void or unenforceable, that provision or portion will be void and the remainder of this Purchase Agreement will remain in full force and effect. In the event that either the scope or the restrictive period applicable to any covenant relating to any confidentiality obligations under this Purchase Agreement is deemed to be unreasonable in any court proceeding, the scope and/or restrictive period shall be reduced to equal the maximum scope and/or restrictive period allowable under the circumstances. (e) Captions: All headings and numbering in these terms and conditions are for convenience of reference only. (f) Survival: The provisions of this Purchase Agreement that by their nature are intended to survive expiration or termination of this Purchase Agreement, including but not limited to the provisions pertaining to intellectual property, confidentiality, warranties, and indemnification will survive expiration or termination of this Purchase Agreement. (g) Entire Agreement: This Purchase Agreement constitutes the entire and exclusive agreement between Buyer and Seller with respect to the subject matter of this Purchase Agreement. No prior written or prior contemporaneous oral promises, representations, or agreements shall be binding. No course of prior dealing between the parties and no usage of the trade is relevant to determine the meaning of this Purchase Agreement. (h) Binding on Successors: The provisions of this Purchase Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties, but this provision shall in no way alter the restriction hereon in connection with assignment and sub-contracting by Seller. (i) Amendment: This Purchase Agreement will not (and cannot) be amended, changed, or otherwise modified, unless such amendment, change, or modification is in writing in a subsequent written agreement that specifically refers to this Purchase Agreement, specifically states how it amends, changes or modifies this Purchase Agreement, and is signed by authorized representatives of both parties.

Montana Instruments Corporation

Seller

Signature: _____

Signature: _____

Printed name: _____

Printed name: _____

Title: _____

Title: _____

Date: _____

Date: _____