

TERMS AND CONDITIONS OF SALE

1. DEFINITIONS: In these terms and conditions Megger will be referred to as the "Seller," the materials, goods and services to be furnished will be referred to as the "Goods," and the person or firm purchasing the Goods will be referred to as the "Buyer," and the Customer Acknowledgment or Invoice to which these Terms and Conditions of Sale are attached will be referred to as the "Agreement."

These Terms and Conditions of Sale shall supersede the terms of the Buyer's purchase order or contract in the event of contradiction or inconsistency herewith, and no other terms, agreements, or customs inconsistent herewith shall be binding upon the Seller. All orders are subject to acceptance by Seller at its principal place of business, 4271 Bronze Way, Dallas, Texas.

2. PRICES AND TERMS: (A) Domestic-Terms of payment for domestic shipments are net 30 days from the date of shipment. In the event shipment is delayed by the Buyer the terms of payment are net 30 days from the date of notification to the Buyer that equipment is ready for shipment. (B) Export-Acceptance of export sales cannot be made unless the Buyer (regardless of nationality) provides an irrevocable Letter of Credit drawn on a United States bank as specified by the Seller except where other arrangements have been accepted in writing by Seller, and payable in U.S. funds upon presentation of original invoice and Bill of Lading noting shipment from plant facility

NOTE 1: Buyer shall pay interest on all past due amounts at the lower of (a) one and one-half percent (1-1/2%) per month, or (b) the maximum nonusurious rate permitted by applicable law. Buyer agrees to pay all agency or attorney fees and court costs should it become necessary in the collection of delinquent payments.

NOTE 2: Unless otherwise agreed by Seller in writing, Buyer may not retain payment of any portion of the sales price. If Buyer disputes the accuracy of any portion of any invoice, Buyer may not withhold payment of the disputed amount, but shall promptly notify Seller specifying the amount in dispute and the reason therefor. Buyer will make timely payment of all amounts, including those in dispute. The parties will promptly attempt to resolve the dispute and, upon resolution, Seller will promptly pay any amounts due Buyer.

NOTE 3: Partial shipment and payment therefore will be allowed unless specifically excluded by the Buyer and agreed to by the Seller.

3. PAYMENT: (A) Payments are made in United States currency to Seller at the office of the corporation in Dallas County, Texas. (B) Payments of each invoice covering partial shipments shall become due in accordance with this Agreement. If Seller shall be delayed in shipment of the contract by action or inaction of the Buyer, Seller may store the Goods for Buyer's account and risk. See Paragraph No. 10. (Material Storage).

4. TAXES: Prices do not include sales, use, excise, added value, or any other direct tax of a similar nature of federal, state, county, or municipal origin, nor do prices include any such tax imposed by government units outside the United States. If Seller should be required to collect and/or pay such taxes, the Buyer shall reimburse the Seller for full amount.

5. DELIVERY: Prices are quoted Ex-Factory of Origin, unless otherwise agreed in writing, and delivery to a transportation company properly consigned, shall constitute delivery to the Buyer

6. CRATING: PASSAGE OF TITLE, AND INSPECTION: Unless otherwise specified Goods for domestic shipment will not be crated. Title to the Goods covered by this Agreement will pass to the Buyer at the time of delivery of the shipment to the transportation company, subject to the security interest therein reserved in Paragraph No. 12 hereof, and inspection of such Goods will be at destination unless otherwise specified herein.

Unless otherwise agreed in writing, Buyer and carrier are responsible for Goods lost or damaged in transit.

7. DELAYS: Seller shall not be liable for any loss, delay default or damage resulting from any cause beyond its reasonable control, including without limitation, war, governmental regulation or interference, act of God, fires, floods, accident, damage to its plants, epidemics, quarantine restrictions, strikes, lockouts, insurrection, riot, embargoes, interruption of transportation facilities, and failure of suppliers to meet delivery schedules,

8. CHANGES: Changes requested of this Agreement will be reviewed for price adjustment and will be subject to acceptance by Seller.

9. CANCELLATION: This order may be canceled only upon written request and must be with Seller's consent. Cancellation charges are calculated as a percentage of the invoice price as follows:

- 5.0% 6 weeks or more prior to confirmed ship date.
- 10.0% 4-6 weeks prior to confirmed ship date.
- 15.0% 2-4 weeks prior to confirmed ship date.
- 20.0% 2 weeks or less prior to confirmed ship date.

10. MATERIAL STORAGE: In the event Buyer is not in position to receive shipment of the Goods by the previously requested or agreed upon shipping date, Seller will not be required to hold or store such Goods for a period of more than fifteen (15) days unless a charge of 1 % of the selling price is authorized per month of storage thereafter.

11. RETURNED GOODS: Authority to return Goods (must be obtained) from and authorized official of the Seller. All return shipments must have transportation charges prepaid. Any Items returned by the Buyer for reason of his own is subject to a 20% restocking charge. Additional charges for reworking or replacement of parts will be assessed where necessary.

12. CREDIT: Seller reserves the right to require adequate security from the Buyer before continuing work whenever Seller believes the Buyer's credit is (in the Seller's opinion) impaired. It is agreed that to better secure payment of the amounts hereon, Seller shall have and retain a security interest in all Goods sold to the Buyer pursuant to this Agreement, and Buyer agrees to sign Financing Statements and other notices to establish the security interest held by Seller in accordance with the Uniform Commercial code or such other requirements for the perfection of a security interest in all such goods. The Buyer hereby agrees that this order may be filed as a financing statement pursuant to the Uniform Commercial Code. It is further agreed that until the entire purchase price has been paid, the Goods shall remain personal property and shall not become a part of the real estate or a fixture thereon and shall be subject to all statutory rights regarding personal property.

13. ASSIGNMENT: This Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns, provided that the Buyer may not assign its rights under the Agreement without prior written consent of the Seller.

14. PATENTS: Seller does not warrant that the use by the Buyer of Goods sold, or articles or materials made therefrom alone or in combination with other materials will not infringe a patent.

15. DESIGN AND DRAWINGS: All data, drawings, designs, ideas, etc. furnished by Seller shall remain property of the Seller. All information pertaining to Seller's design and drawings is proprietary, confidential and not to be disclosed, disseminated or used for any purpose except as provided by Seller.

16. LIMITATIONS: This Agreement includes and shall constitute the sole and entire agreement between the parties hereto with respect to the sale and purchase of the Goods hereunder; that no promises, agreements, or obligations other than those expressly contained and set forth herein have been made or created by either party thereto; that terms of this Agreement, shall be independent of, and independently enforced from, this Agreement, and any breach thereof shall not affect the rights, duties or obligations of the parties hereunder; and further, that this Agreement cannot and shall not be changed or modified in any particular whatsoever by any officer, employee, or representative of the Seller in any capacity, unless such change or modification shall be in writing and signed by both parties hereto. This Agreement shall not be amended in any manner by a course of dealing in contravention thereto. The provisions of the Agreement are severable, and, if any of its provisions shall be held invalid, such provisions shall not affect or impair any of the remaining provisions of this Agreement. It is hereby agreed between the parties hereto that this Agreement would have been entered into had such invalid provisions not been included herein.

17. ENFORCEMENT: In the event the Buyer is adjudged bankrupt or files a voluntary assignment for the benefit of creditors, a receiver is appointed or if it becomes necessary for the Seller to employ an attorney for the collection of the amounts due hereunder or the enforcement of their rights hereby, Buyer agrees to pay a reasonable fee of not less than fifteen percent (15%) of the amount due hereon to Seller for the legal services required.

18. WARRANTY: SELLER SHALL HAVE NO LIABILITY TO BUYER OR ANY OTHER PERSON FOR ANY CLAIM, LOSS, DAMAGE OR EXPENSE OF ANY KIND CAUSED, IN WHOLE OR IN PART, DIRECTLY OR INDIRECTLY, BY THE INADEQUACY OF THE GOODS FOR ANY PURPOSE WHETHER OR NOT KNOWN OR DISCLOSED TO SELLER, AND IT IS SPECIFICALLY AGREED AND UNDERSTOOD THAT THERE ARE NO WARRANTIES EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, MADE BY SELLER WITH RESPECT TO THE GOODS EXCEPT AS PROVIDED BY SELLER TO BUYER SPECIFICALLY IN WRITING.

19. REMEDIES: BUYER'S EXCLUSIVE REMEDY AND SELLER'S SOLE LIABILITY HEREUNDER, WHETHER AS TO GOODS DELIVERED OR FOR NON-DELIVERY OF GOODS, WHETHER RELATING TO QUANTITY, QUALITY, WEIGHT, CONDITION, LOSS OR DAMAGE AND WHETHER OR NOT BASED ON CONTRACT, NEGLIGENCE, PRODUCT LIABILITY OR OTHERWISE, SHALL BE LIMITED, A SELLER'S OPTION, TO A REFUND OF THE PURCHASE PRICE PAID FOR, OR A REPLACEMENT OF, THE PARTICULAR DELIVERY OF GOODS SHOWN TO BE OTHER THAN AS WARRANTED OR, IN THE CASE OF DEFICIENCY IN QUANTITY, AT SELLER'S OPTION, A REFUND OF THE PURCHASE PRICE PAID FOR, OR A REPLACEMENT OF, THE QUANTITY SHOWN TO BE DEFICIENT, AND FAILURE TO GIVE WRITTEN NOTICE OF SUCH A CLAIM WITHIN THIRTY (30) DAYS FROM DATE OF DELIVERY, OR THE DATE FIXED FOR DELIVERY (IN THE CASE OF NON-DELIVERY), SHALL CONSTITUTE A WAIVER BY BUYER OF ALL CLAIMS IN RESPECT OF SUCH GOODS. SELLER SHALL NOT BE LIABLE ON ANY CLAIM UNDER OR ARISING OUT OF OR FOR BREACH OF THIS AGREEMENT UNLESS ACTION THEREON SHALL BE BROUGHT AGAINST SELLER WITHIN ONE (1) YEAR FROM THE DATE OF DELIVERY OR BREACH. NO CHARGE OR EXPENSE INCIDENT TO ANY CLAIMS WILL BE ALLOWED UNLESS APPROVED BY AN AUTHORIZED REPRESENTATIVE OF THE SELLER. THE REMEDY HEREBY PROVIDED SHALL BE THE EXCLUSIVE AND SOLE REMEDY OF BUYER, AND IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR SPECIAL INCIDENTAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGE, WHETHER OR NOT CAUSED BY OR RESULTING FROM THE NEGLIGENCE OF SUCH PARTY.

20. GOVERNING LAW: The transaction contemplated hereby, and the interpretation and enforcement of this Agreement shall be governed by the internal laws of the State of Texas and the execution and delivery of this Agreement shall be deemed to be the transaction of business within Texas for the purposes of conferring jurisdiction upon courts located within such State. The parties hereto consent and agree that the District Court of Dallas County, Texas, or, at Seller's option, the United States District Court for the Northern District of Texas, Dallas Division, shall have sole and exclusive jurisdiction to hear and determine any claims or disputes between Seller and Buyer pertaining to this Agreement or to any matter arising out of or relating to this Agreement. Buyer hereby irrevocably waives any objection that Buyer may now or hereafter have to the laying of venue in such courts, including without limitation any claim based upon improper venue or forum non conveniens. Nothing in this Agreement shall be deemed or operate to preclude the enforcement by Seller of any judgment or order obtained in such forum or the taking of any action under this agreement to enforce same in any other appropriate forum or jurisdiction.

21. ARBITRATION: Any controversy or claim between or among the parties hereto including but not limited to those arising out of or relating to this Agreement or any related agreements, including any claim based on or arising from an alleged tort, shall be determined by binding arbitration in accordance with the Federal Arbitration Act (or if applicable, applicable State law), the rules of practice and procedure for the arbitration of commercial disputes of Judicial Arbitration and Mediation Services, Inc. ("J.A.M.S."), and the "Special Rules" set forth below in the event of any inconsistency, the Special Rules shall control. Judgement upon any arbitration award may be entered in any court having jurisdiction. Any party to this Agreement may bring an action, including a summary or expedited proceeding, to compel arbitration of any controversy or claim to which this Agreement applies in any court having jurisdiction over such action.

A. Special Rules: The arbitration shall be conducted in the City of Dallas, Texas and administered by J.A.M.S. who will appoint an arbitrator, if J.A.M.S. is unable or legally precluded from administering the arbitration, then the American Arbitration Association will serve. All arbitration hearings will be commenced within 90 days of the demand for arbitration; further, the arbitrator shall, only upon a showing of cause, be permitted to extend the commencement of such hearing for up to an additional 60 days.

B. Reservation of Rights: Nothing in this Agreement shall be deemed to limit the applicability of any otherwise applicable statutes of limitation or repose and any waivers contained in this Agreement; or limit the right of the Seller (a) to exercise self help remedies or (b) to foreclose against any real or personal property collateral, or (a) to obtain from a court provisional or ancillary remedies such as (but not limited to) injunctive relief, writ of possession or the appointment of a receiver. Seller may exercise such self help rights, foreclose upon such property, or obtain such provisional or ancillary remedies before, during or after the pendency or any arbitration proceeding brought pursuant to this Agreement. Neither the exercise of self help remedies nor the institution or maintenance of an action for foreclosure or provisional or ancillary remedies shall constitute a waiver of the right of any party, including the claimant in any such action, to arbitrate the merits of the controversy or claim occasioning resort to such remedies.

22. TEXAS DTPA: BUYER HEREBY WAIVES ANY RIGHTS THAT BUYER MAY HAVE UNDER THE TEXAS DECEPTIVE TRADE PRACTICES ACT AS SET OUT IN THE TEXAS BUSINESS & COMMERCE CODE SECTION 17.41 et seq. OR ANY SUCCESSOR STATUTE, TO THE FULLEST EXTENT THE BUYER MAY LAWFULLY SO DO.

23. WAIVER: Failure of the Seller to enforce any of these terms or conditions or to exercise any right accruing through the default of the Buyer shall not affect or impair the Seller's rights, if such default continues or if any subsequent default of the Buyer occurs, and such failure on the part of Seller shall not constitute a waiver of other or future defaults of the Buyer.