

Hammel Scale Inc Field Service Terms and Conditions

As used herein, "the Company" is understood to mean Hammel Scale, Inc.

The following terms and conditions shall apply to all service performed for Buyer, including Call Service and Contract Service. Call Service is all field service not performed under an existing contract. The Buyer understands that the terms and conditions set forth below shall be controlling, and any additional and/or inconsistent terms and conditions set forth in any acknowledgment, purchase order, or acceptance documents requested from and/or provided by the Buyer shall be of no force or effect.

1. **RATES/PRICES** - Rates to be charged for services to be performed are those set forth in the Company's published and currently issued price lists. Rates/prices for services not covered under contract shall be those in effect at time of providing services. Prices for billable parts shall be those in effect at the time of installation in Buyer's equipment. Quoted rates/prices do not include any applicable taxes, and any such taxes shall be billable to the Buyer as separate items.
2. **PAYMENT TERMS** - Except as otherwise specified herein, terms are net cash. In addition, the Company shall be under no responsibility to send a service representative to the Buyer's facility should the balance owed to the Company be more than thirty (30) days past due. In the event that Company initiates any legal proceedings to collect any amount owed by Buyer, the Buyer agrees to pay all of Company's reasonable legal fees and expenses.
3. **WARRANTIES** -
 - A. **SERVICE** - The Company warrants that the service shall be performed in a workmanlike manner in conformity with standard industry practice. Excluding Call Service, should any nonconformity be detected within 30 days after the work is completed and prompt notification thereof is made by the Buyer in writing to the Company, the Company will supply the necessary service, direction or consultation to correct the nonconformity. Call Service will be warranted for 48 hours. (There are no other warranties, express or implied).
 - B. **PARTS** If any part provided by the Company shall prove defective in material and/or workmanship within ninety (90) days from the installation date or twelve (12) months from the shipment date, whichever date is earlier, the Buyer shall immediately notify the Company in writing of such defect. Should any such parts be found defective during the first 30 days after installation, the Company at its option will refund the purchase price or modify, repair or supply a replacement part, including labor and travel, free of charge to the Buyer. For the remainder of the warranty period, the Company will refund the purchase price or modify, repair or supply a replacement part, provided Buyer agrees to pay reasonable labor, travel time and expenses to and from a service location authorized by the Company. The Company shall have the option to have the part returned to it, F.O.B. its factory, or to make such adjustment at the point of installation. The Company shall accept no responsibility if such part has been improperly operated or maintained or if the Buyer has permitted any unauthorized modifications, adjustments and/or repairs to the part. Parts not manufactured by the Company shall be covered by the warranty of the manufacturer or supplier thereof.

C. GENERAL THE COMPANY MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE OR ANY OTHER EXPRESS OR IMPLIED WARRANTY. The foregoing service and parts warranties shall be the Company's sole and exclusive obligations and the Buyer's sole and exclusive remedies for any action, whether in breach of contract, warranty, negligence or otherwise.

4. **INSURANCE** -The Company maintains the following insurance coverage:
 - A. Workers' Compensation and Employer's Liability.
 - B. Comprehensive general liability (including contractual liability, products, and completed operations).
 - C. Automobile liability (including owned, hired and non-owned automobiles).
5. **GATE PASSES** - The Company's field service representatives are neither required nor authorized to sign gate passes or similar documents of Buyers howsoever characterized that include conditions which in any way impose liabilities inconsistent with the limitation of liability stated herein or otherwise modify the undertakings of the Company under these terms and conditions.
6. **LIENS** - The Company does hereby represent and warrant that as of this date hereof no liens of third parties are in existence relative to the parts/services to be provided hereunder. Additionally, the Company represents that it will use its best efforts to discharge and satisfy any such liens should they arise subsequent to the date hereof. Nothing herein shall be construed so as to limit the right of the Company to file any liens, as appropriate, against the Buyer.
7. **INDEMNITY** - The Company agrees to indemnify the Buyer and hold it harmless from and against any direct loss suffered and any liability to third parties whenever such loss or liability is directly due to bodily injury (including death) to any person or direct damage to any property occurring in the course of and caused by the negligent act or omission of the Company in the performance of any work on the premises of Buyer. This indemnity shall include legal fees and settlements of claim or suit reasonable under the circumstances.
8. **REGULATORY LAWS AND/OR STANDARDS** - The performance of the parties hereto is subject to the applicable laws of the United States or Canada, depending on the location of the performance of service. The Company takes reasonable steps to keep its products in conformity with various nationally recognized standards and such regulations which may affect its products. However, the Buyer recognizes that Company's products are utilized in many regulated applications and that from time to time standards and regulations are in conflict with each other.

Standard Terms and Conditions, Field Service . The Company makes no promise or representation that its product will conform to any federal, provincial, state or local laws, ordinances, regulations, codes or standards except as particularly specified and agreed upon for compliance in writing as a part of the contract between Buyer and the Company. The Company prices do not include the cost of any related inspections or permits or inspection fees.

9. **DISCLAIMER OF DAMAGES** - IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY TYPE OF SPECIAL, CONSEQUENTIAL, INCIDENTAL OR PENAL DAMAGES, WHETHER SUCH DAMAGES ARISE OUT OF OR ARE A RESULT OF BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE; such damages shall include but not be limited to loss of profits or revenues, loss of use of the equipment or associated equipment, cost of substitute equipment, facilities, down time costs, increased construction costs or claims of Buyers customers or contractors for such damages. Buyer agrees that in the event of a transfer,

assignment, or lease of the equipment sold hereunder that Buyer shall secure for the Company the protection afforded to it in this paragraph.

10. **LIMITATION OF LIABILITY** - The Company shall not be liable for any loss, claim, expense or damage caused by, contributed to by or arising out of the acts or omissions of Buyer or third parties, whether negligent or otherwise. In no event shall the Company's liability for any cause of action whatsoever exceed the cost of the item giving rise to the claim, whether based in contract, warranty, indemnity, or tort (including negligence). Any suit arising hereunder must be commenced within one (1) year from the date in which the cause of action accrues. Except as provided in Article 7, the Company shall not indemnify any party.
11. **NO RESPONSIBILITY FOR GRATUITOUS INFORMATION OR ASSISTANCE** - If Company provides Buyer with assistance or advice that concerns any parts, products, service supplied hereunder or any system or equipment in which any such part, product, service may be installed and which is not required pursuant hereto, the furnishing of such assistance or advice shall not subject Company to any liability, whether in contract, warranty, tort (including negligence) or otherwise.
12. **INTERPRETATION** - In the event that any term or condition set forth herein is ultimately determined to be in contravention of or invalid under any applicable laws, then any such term or condition shall be modified to the extent necessary so that it is enforceable and if not so modifiable to be deleted here from, and the remaining terms and conditions as set forth herein shall remain in full force and effect.
13. **SCOPE** - Except as otherwise specified, Company shall furnish service during regularly scheduled working hours of 8:00 A.M. to 4:30 P.M., Monday through Friday. Service after regular weekday hours and on Saturdays, Sundays, and holidays shall be provided at prevailing overtime rates.
14. **FORCE MAJEURE** - The Company shall not be responsible or liable for any delay to service the Buyers equipment, or provide replacement parts therefore, if such delay or failure is caused by any act of God, fire, flood, explosion, war, insurrection, riot, embargo, action, statute, ordinance, regulation or order of any government agency, shortage of labor, material, fuel, supplies or transportation, strike or other labor dispute, or any cause, contingency, or occurrence of any nature, whether or not similar to those herein before specified, beyond the Company's control, which prevents, hinders, or interferes with the performance of said services or the supplying of said parts.
15. **CONTRACT** - This Contract is meant to assist the Buyer in optimizing the performance of the covered equipment during its useful life. Factors such as machine cycles, sanitation, humidity and operator practices can affect the equipments performance and useful life. If such factors are present or if Buyer has misused, abused or been negligent in its operation of the equipment, the Company shall so notify the Buyer that the cost of any necessary repairs must be paid by the Buyer.
16. **LOCATION OF EQUIPMENT** - Except as otherwise agreed to by the Company, any maintenance or repairs performed under contract shall be done at the equipment location specified herein. The Company must be notified of any location changes or cancellations of listed equipment by the Buyer.
17. **TERM OF CONTRACT** - The contract shall be effective on the date executed by Buyer and a Company Service Manager, and shall continue in effect for the length of time specified in the contract. If, however, the Company determines that it is unable to maintain the equipment at the rates specified in the contract due to misuse, abuse, machine cycles, age or operation of the equipment, the contract may be canceled immediately at Company's option. In the event the equipment requires major repairs, Buyer shall pay for the cost of same as indicated on the Company's itemized estimate of repairs. If the Buyer fails to accept such repairs or issue a purchase order for same within thirty (30) days of

the Company's estimate, the contract will immediately terminate. Buyers equipment shall thereafter only be serviced on a time and materials basis.

This contract supersedes any outstanding Company equipment maintenance agreement pertaining to the same equipment and constitutes the entire agreement between the parties with respect to the maintenance of the equipment listed herein. Either party can terminate this contract with 30 days written notice to the other party. This contract shall not be varied except in writing executed by both Company and Buyer.

18. CANCELLATION CHARGES - If this contract is canceled or terminated prior to its scheduled expiration date, Buyer is subject to pay Company a cancellation charge of 10% of the contract balance. If the cancellation is due to Buyers replacement of its existing equipment with new Company equipment, the cancellation charges will be waived.
19. ASSIGNMENT - This contract is not assignable by the Buyer without the prior written consent of the Company.