

**FAIRMONT SUPPLY COMPANY
AND AFFILIATES**

TERMS AND CONDITIONS OF SALE

1. ENTIRE AGREEMENT. All purchases of products from Fairmont Supply Company or any affiliate of Fairmont Supply Company, including, but not limited to, Piping and Equipment, Inc. (sometimes referred to as P&E), Industrial Distribution Acquisition Sub, LLC (sometimes referred to as IDAS) Industrial Distribution Acquisition Sub II, LLC (sometimes referred to as IDAS II) (Fairmont Supply Company or any such affiliate referred to herein as “**Seller**”), by customer (“**Customer**”), all services performed by Seller for Customer, all rights to use equipment granted by Seller to Customer and such equipment itself (including vending machines), and all consignment of products by Seller for Customer (collectively, “**Products/Services**”) shall be subject to these standard Terms and Conditions of Sale (the “**Standard Terms**”). The Standard Terms, together with the applicable invoice for the Product/Services and any other Seller documents attached hereto or into which these terms and conditions are incorporated by reference, including any agreement executed by the parties (collectively, this “**Contract**”), constitute an offer or counteroffer by Seller to sell the Product/Services to Customer. This Contract is not an acceptance of any offer or counteroffer made by Customer, and this offer and any contract arising out of this offer are expressly conditioned on Customer’s assent to all of the terms and conditions set forth in this Contract. Seller objects to any additional or different terms or conditions contained in any request for quotation, purchase order, or other document or communication previously or hereafter provided by Customer to Seller, and Seller’s acceptance of any order shall not be construed as assent to any such terms or conditions. No such additional or different terms or conditions will be of any force or effect. This Contract will be the entire agreement between Seller and Customer on the subject matter hereof; and there are no conditions to this Contract that are not so contained or incorporated in this Contract.

2. PRICES. Unless otherwise provided in this Contract, prices quoted are effective upon receipt of a written quotation, and otherwise are subject to change by Seller without notice. Prices do not include applicable taxes, fees, duties, insurance, export, shipping or other governmental fees or charges, all of which shall be paid by Customer, either directly or by reimbursement to Seller. Any claim for tax exemption by Customer shall, if applicable, be effective only after receipt of proper exemption forms by Seller, but in no event after delivery has been made. All prices listed in Seller’s publications are intended as a source of general information only and not as an offer to sell, and all prices contained therein are subject to confirmation by formal quotation by Seller. No order shall be binding upon Seller until received and accepted by Seller in its sole discretion. Any contract(s) resulting from acceptance of any order(s) placed with Seller may only be modified or rescinded by a written document, signed by the duly authorized representatives of both parties. All prices, and amounts payable, under this Contract are in U.S. Dollars.

3. CANCELLATION. No order may be cancelled or altered by Customer except upon terms and conditions acceptable to Seller, as evidenced by Seller’s written consent. In the event of such an approved cancellation by Customer, Seller shall be entitled to payment of the full price for the Products/Services, less the amount of any expenses saved by Seller by reason of the cancellation.

4. QUOTATIONS; PRODUCT AVAILABILITY. Quotations are available on request. Seller reserves the right to correct typographic errors and to reject orders if credit is found to be unsatisfactory or for any other reason or no reason. All of the Products/Services listed in Seller’s catalog or online are not necessarily available at every customer service center.

5. FREIGHT POLICY. Delivery shall be EXW, Seller’s facility (as such shipping term is defined in *Incoterms 2010*). Shipment or delivery dates are approximate. The date of the bill of lading shall constitute conclusive evidence of the date of shipment. Partial shipment and/or transshipment shall be permitted. Title and risk of loss pass to Customer upon tender of shipment to the carrier. If Products/Services are damaged in transit, Customer must file a claim with the carrier. Seller shall not be liable for any losses or damages caused by delay in delivery, or failure to give notice of delay. In the event of the occurrence of any such delay, the scheduled date of delivery shall be automatically extended for a period equivalent to the time lost by reason of such delay. Orders are subject to a shipping and handling charge and may include fuel and other surcharges as applicable, for all of which Customer shall be responsible.

6. PAYMENT TERMS. Payment is due by Customer net thirty (30) days from date of invoice. Overdue payments on invoices shall be subject to interest at the

maximum rate permitted by law. Open accounts for purchases of \$1,000 or more are available on approved credit, subject to Seller’s sole discretion.

7. OFFSET. Customer shall pay for the Products/Services in full, without any set-off, counterclaim, recoupment or other similar rights Customer may have against Seller. If Customer is required under law to withhold or deduct any amount from the payment due to Seller, Customer shall increase the sum it pays to Seller by the amount necessary for Seller to receive an amount equal to the sum it would have received if no withholdings or deductions had been made.

8. RETURN POLICY. Except as otherwise provided, no Products/Services will be accepted for return after 30 days from date of shipment. Products/Services may be returned only with Seller’s consent by contacting Seller to obtain a returned products authorization number. Specialty or custom products may not be returned. Products/Services must be in new, salable condition and in their original packaging subject to inspection when they are received at Seller’s warehouse. Returns may be subject to a freight and restocking charge.

9. NO WARRANTY. **SELLER MAKES NO WARRANTY TO CUSTOMER UNDER THIS CONTRACT AND EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, IMPLIED OR EXPRESS, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT OR FITNESS FOR ANY PARTICULAR PURPOSE AND ANY WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE.** Seller shall assign to Customer the standard published limited warranties of the manufacturer of the Products/Services sold by Seller to Customer as in effect on the date of delivery of such Products/Services to the extent permitted by such warranties and applicable law. The remedy set forth in such warranties is Customer’s exclusive remedy for any breach of warranty or deficiency in the Products/Services furnished by Seller. All claims under such published limited warranties must be made by Customer directly to the manufacturer of the Products/Services, and not to Seller. Any description of Products/Services sold or provided by Seller, whether in writing or made orally by Seller or its employees or agents, and any samples, specifications, bulletins, catalogs, drawings, diagrams, or similar materials used in connection with Seller’s sales efforts or Customer’s orders, are for the sole purpose of identifying the Products/Services, and shall not be construed as an express warranty. Any suggestions by Seller or its employees or agents regarding application, use or suitability of the Products/Services shall not be construed as an express warranty. Seller is not responsible for Customer’s use of the Products/Services ordered by Customer from Seller.

10. LIMITATION OF LIABILITY. **SELLER SHALL NOT BE LIABLE, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE, FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING LOSS OF PROFITS, REGARDLESS OF (A) WHETHER SUCH DAMAGES WERE FORESEEABLE, AND (B) WHETHER OR NOT SELLER WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.** Seller shall not be liable to Customer for any amount with respect to any order of Products/Services that in combination with all claims by Customer against Seller related to such order of Products/Services exceeds the total price paid by Customer to Seller for such order of Products/Services. In any event, the liability of Seller to Customer, whether in contract, tort (including negligence or strict liability) or otherwise, is exclusively limited to the remedies expressly provided under the terms of this Contract, in lieu of any and all other remedies at law or in equity, and any cause of action for such liability must be brought by Customer, if at all, within one (1) year from the date the Products/Services are delivered or performed.

11. INDEMNIFICATION. Customer shall indemnify and hold harmless Seller and its officers, agents, and employees from and against any losses, damages liabilities, costs or expenses that may arise out of Customer’s acts or omissions, including, but not limited to: (a) any breach by Customer of this Contract; (b) any violation by Customer of any law or regulation; and (c) any use or resale of the Products/Services by Customer.

12. CONFIDENTIAL INFORMATION. Any and all designs, drawings, bills of materials, blueprints, plans, devices, machinery, specifications, processes, techniques, expertise, business and financial records, part numbers, plans and projections, and other similar information, items, documents and materials made

available by Seller or its affiliates to Customer or its affiliates, or otherwise acquired, obtained or developed by Customer under or in connection with this Contract, including, without limitation, the terms of this Contract (including, without limitation, the prices set forth in this Contract) (collectively, the “**Confidential Information**”) are and at all times shall remain the exclusive property of Seller. “Confidential Information” shall not include any item of information that Customer can demonstrate by documentary evidence: (a) is or has become public knowledge, whether by publication or otherwise, through no act, omission or fault of Customer or any of its employees, officers, directors, agents or affiliates, or (b) is disclosed to Customer by a third party who is in lawful, rightful possession of the information and who has the legal right to make disclosure thereof without confidentiality restrictions. Customer agrees that it shall not (i) make any use whatsoever of the Confidential Information except for the purpose(s) specified in this Contract; or (ii) disclose the Confidential Information to any third party. Customer’s obligations under this Section 12 shall remain in effect during the term of this Contract and for the three (3)-year period immediately following its termination or expiration; provided, however, that the expiration of the aforementioned period shall not modify, limit or restrict any rights of Seller or obligations of Customer under any applicable law relating to trade secrets. Customer acknowledges and agrees that money damages for any and all breaches of Customer’s obligations under this Section 12 are both incalculable and insufficient and that any such breach would irreparably harm Seller. Therefore, in the event of an actual or prospective breach of any such obligation, Seller shall be entitled to a permanent and/or preliminary injunction to prevent or remedy such breach and shall have the right to specific enforcement of this Section 12 against Customer in addition to any other remedies to which Seller may be entitled at law or in equity.

13. **APPLICABLE LAW.** This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, USA, without regard to any provisions regarding choice of law. **THE RIGHTS AND OBLIGATIONS OF THE PARTIES SHALL NOT BE GOVERNED BY THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALES OF GOODS.** Any dispute or issue between the parties arising hereunder or in connection herewith shall be commenced and prosecuted in its entirety in any state or federal court in Washington County, Pennsylvania, and each party consents to personal and subject matter jurisdiction and venue in such courts and waives and relinquishes all right to attack the suitability or convenience of such venue or forum by reason of their present or future domiciles, or by any other reason. **EACH PARTY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE RIGHT TO A TRIAL BY JURY IN ANY SUIT, ACTION OR PROCEEDING OF ANY KIND OR NATURE IN ANY COURT OR FORUM TO WHICH THEY MAY BOTH BE PARTIES, ARISING OUT OF, RELATING TO OR IN CONNECTION WITH THIS CONTRACT, THE BREACH OF THIS CONTRACT, OR WITH RESPECT TO ANY MATTER OR DISPUTE BETWEEN THEM.**

14. **CUMULATIVE REMEDIES.** Customer agrees to pay or reimburse on demand all costs, including attorneys’ fees and legal costs, incurred by Seller in connection with the enforcement of Seller’s rights in connection with the Products/Services or this Contract, including, without limitation, lien rights. Seller’s rights and remedies under this Contract are cumulative and in addition to all other rights and remedies available to Seller at law or in equity.

15. **NO ASSIGNMENT.** Customer shall not assign its rights or delegate its duties under this Contract. Any such attempted assignment or delegation shall be null and void.

16. **COMPLIANCE WITH LAWS.** Customer shall conduct its business in strict compliance with all laws and regulations. Customer shall timely obtain, effectuate and maintain in force any required permit, license, exemption, filing, registration and other authorization in respect of the use, handling, transportation, storage, import, sale or disposal of the Products/Services, required under any applicable law or regulation. Customer shall not export or re-export, directly or indirectly, the Products/Services without obtaining any required license or approval.

17. **INDEPENDENT CONTRACTORS.** The Parties understand and agree that nothing contained in this Contract shall be construed as creating a joint venture, partnership or other similar arrangement between the parties.

18. **SECURITY INTEREST.** If the Products/Services are sold on credit terms, Customer acknowledges that Seller retains a purchase money security interest in the Products/Services. To secure Customer’s obligations to Seller under this Contract or any other agreement, Customer hereby grants to Seller a security interest in all the Products/Services sold under this Contract, whether now owned

or hereafter acquired, and all products and proceeds thereof. Seller may file any financing statements and send any notices necessary or appropriate to perfect or protect such security interest.

19. **SELLER PROPERTY.** In the event that Customer shall have possession or control of equipment, products or other property owned by Seller, whether consigned or loaned to Customer or otherwise, including any vending machines, consigned products and loaned equipment (such property referred to in these Standard Terms, collectively, as the “**Seller Property**”), the following additional terms and conditions contained in this Section 19 shall apply: Customer assumes all risk of loss, damage, theft or destruction of the Seller Property, regardless of cause from and after the date on which Seller delivers the Seller Property to Customer and until the Seller Property is returned to Seller in accordance with this Contract. Customer shall store all Seller Property in such a manner as to protect it from damage or deterioration. Customer shall segregate the Seller Property from all other goods and property located at the Customer’s location approved by Seller (the “**Customer Location**”) and shall clearly identify the Seller Property as the property of Seller by conspicuous sign or placard. Customer hereby represents and warrants that the Customer Location is appropriate for, and conducive to, the storage of the Seller Property and will permit the storage thereof free from hazards and damage of any nature whatsoever. Seller shall have the right, upon reasonable notice to Customer and at reasonable times, to (a) inspect the Seller Property, (b) observe its use at the Customer Location, and (c) freely access the Customer Location for such purposes. Seller may enter the Customer Location and remove the Seller Property without notice to Customer and without liability if, in the reasonable opinion of Seller, the Seller Property is being improperly stored, used or maintained. Customer shall not remove, or permit the removal of, the Seller Property from the Customer Location without the prior written consent of Seller. Customer shall maintain the Customer Location throughout the term of this Contract in such manner so as to maintain its suitability for the storage of the Seller Property. Customer expressly permits Seller to file Uniform Commercial Code (“**UCC**”) financing statements in any appropriate filing office reflecting Seller’s ownership of the Seller Property. Customer also expressly permits Seller to make any other notification necessary to protect Seller’s interest in the Seller Property (such as those contemplated by UCC § 9-324) to any person or entity that has filed a UCC financing statement that, in Seller’s sole discretion, may evidence a conflicting interest in the Seller Property. Customer agrees to (i) maintain the Seller Property free and clear of all liens and encumbrances of any nature whatsoever and (ii) indemnify and hold harmless Seller from and against any loss or damage caused by any such liens or encumbrances placed upon any Seller Property. The Seller Property shall not become fixtures, regardless of whether the Seller Property is or may be affixed to real property. Customer may not assign, sell, transfer, or attempt to assign, sell or transfer any Seller Property to any person or entity, without Seller’s prior written consent. **SELLER IS PERMITTING CUSTOMER TO USE THE SELLER PROPERTY ON AN “AS IS, WHERE IS” AND “WITH ALL FAULTS” BASIS.** Customer shall be responsible for, shall timely pay, and shall indemnify Seller against and hold Seller harmless from, all taxes, fees, and other charges charged by any governmental or taxing agency or authority on or relating to the Seller Property, including Customer’s use of the Seller Property. Seller shall not be responsible or liable for any loss, damage, expense or claim incurred by Customer arising out of Customer’s use of, or otherwise related to, the Seller Property.

20. **MISCELLANEOUS.** If any provision of this Contract is found invalid or unenforceable by a court of competent jurisdiction, the remainder of this Contract shall continue in full force and effect. Neither party’s delay or failure in enforcing any right or remedy afforded under this Contract or by law shall prejudice or operate to waive that right or remedy or any other right or remedy which it may have available; nor shall any such failure or delay operate to waive either party’s rights to any available remedies due to a future breach of this Contract, whether of a like or different character. No amendment, modification, or waiver of the provisions of this Contract shall be valid or binding on either party unless it is in writing and signed by both of the parties. All notices, requests, demands and other communications under this Contract shall be given in writing and shall be: (a) personally delivered; or (b) sent to the parties at their respective addresses indicated in the Contract (or to such other person or address as each party shall furnish in writing in accordance with this Section 20) by registered or certified mail, return receipt requested and postage prepaid, or by private overnight courier service.

THESE STANDARD TERMS MAY BE MODIFIED, AMENDED AND UPDATED FROM TIME TO TIME AT THE DISCRETION OF SELLER UPON WRITTEN NOTICE TO CUSTOMER.

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