

TERMS AND CONDITIONS OF SALES AND SERVICE

- 1. Agreement.** Unless otherwise agreed in a written document signed by a vice president of Quinn Company (“Quinn”), these Terms and Conditions of Sales and Service (“Terms”) govern the purchase of goods (including, but not limited to, new and used equipment, trucks, attachments, components, technology, and parts) (“Goods”) and services (“Services”) from Quinn by any individual or entity that purchases such Goods or Services from Quinn (“Client”). The placing of an order with Quinn, the completion of an online transaction with Quinn, Client’s acceptance of any quote, proposal, or other document issued by Quinn with respect to the Goods or Services, or the receipt or acceptance of Goods or Services by Client, constitutes Client’s acceptance of these Terms exactly as written. Quinn hereby rejects the terms of any purchase order or other document submitted by Client unless the document is signed by a vice president of Quinn. The supply of Goods or Services by Quinn to Client shall not constitute acceptance by Quinn of the terms of any purchase order or other document submitted by Client.
- 2. Order and Delivery of Goods or Services.** All orders for Goods and/or Services are subject to credit approval and final acceptance by Quinn (through the issuance of an Order Confirmation) in its sole discretion. After Quinn receives Client’s order, Client will receive an email that confirms receipt of Client’s order and includes details relating to Client’s order (the “Order Confirmation”). Final acceptance of Client’s order will not take place unless and until Client has received the Order Confirmation. Client shall have no right to cancel purchase orders for Goods once a purchase order is issued to Quinn, nor shall Client have the right to cancel an online purchase once the order is placed. Some parts may be returnable to Quinn in accordance with Quinn’s then current parts return policy (<https://www.quinncompany.com/legal-notices/>, Parts Return Policy link). Client acknowledges that estimated delivery dates for Goods are estimates only; actual delivery dates depend on a variety of factors, including, but not limited to, the production schedules of manufacturers. Quinn will use commercially reasonable efforts to meet estimated delivery dates and shall keep Client advised of the status of its delivery, but Quinn shall have no liability for any loss associated with delay in the delivery of Goods. In addition, Quinn shall have no liability for any delay in performance of Services or delivery of Goods caused by any circumstances beyond its reasonable control, including, but not limited to, delays caused by acts of God, acts of war or terrorism, fire or other casualty, storms or adverse weather, epidemics, strikes, labor shortages or disturbances, shortages of materials, restraints or delays affecting carriers, manufacturer delays, theft or vandalism, transport and handling accidents, or revisions to laws, regulations, or government requirements.
- 3. Pricing.** Unless otherwise specified by Quinn, the price for new parts shall be Quinn’s list price for such parts on the date the parts are ordered as shown on the website; the price for a new machine shall be Quinn’s list price for such machine on the date the machine ships from the factory; and the labor rates for Services shall be Quinn’s standard labor rates for the applicable type of Service (filed rates, shop rates, mine rates, or specialty rates, as applicable) in effect at the time the Services are performed. Pricing for future orders is subject to change without notice. Client will promptly pay the Quinn any taxes that Quinn is required to collect with respect to the purchase of Goods and/or Services, including, but not limited to, value added, personal property, sales, use and similar taxes (“Taxes”). For any Taxes from which Client claims exemption, Client shall provide Quinn with properly completed exemption certificates and any documentation needed to validate the exemption prior to the purchase of the applicable Goods

and/or Services. If Client fails to provide an appropriate exemption certificate and support documentation, as determined by Quinn, Client will remain liable for all such Taxes and will indemnify Quinn for any liability related to the same. Title to purchased Goods shall pass to Client upon payment in full for the Goods. Risk of loss for purchased Goods is FOB Quinn's site, unless purchased Goods are shipped to Client directly from the manufacturer, in which case risk of loss is FOB factory. Any claims for shortages, damages, or delays in shipping must be made by Client directly to the carrier.

4. Payment Terms. For Client with an open credit account with Quinn who are purchasing pursuant to such open credit account, machine sales payments are due Net 10, and all other payments are due Net 30. For Clients who do not have an open credit account with Quinn, payment is due either in advance or upon delivery of Goods or completion of Services. For Clients who are purchasing Goods or Services online, payment may be made by credit card at the time of purchase or as otherwise specified by Quinn from time to time. Quinn may, in its sole discretion, at any time: (a) revoke credit; (b) modify terms and conditions of credit; (c) require payment in advance; and/or (d) withhold Goods, completed Services, or scheduled Services until receipt of payment. If Client fails to pay for Goods and/or Services as and when due, Client shall pay a late charge of 1.5% of the invoice balance each month until charges are paid in full, and Client shall pay Quinn all reasonable attorneys' fees and collection costs incurred by Quinn. In addition to any other right of set-off or recoupment Quinn has under applicable law, Client agrees that, with respect to any amounts due from Client or Client's affiliates to Quinn or Quinn's affiliates, Quinn and its affiliates may set-off such amounts against any amounts owing to Client or Client's affiliates. If Client requests customization of equipment, Client agrees to pay all parts and labor costs Quinn incurs in customizing the equipment, regardless of whether Client completes the purchase of the customized equipment. Client must pick up its equipment from Quinn's facility within two (2) business days after notification from Quinn of completion of Services. If Client's equipment is not picked up within two (2) business days after such notification, Client will be liable for storage charges of up to \$300.00 per day from the date of completion of Services until Client's equipment is picked up. To the extent permitted by applicable law, including, but not limited to California Civil Code § 3052, Quinn may sell Client's equipment if such equipment remains in Client's possession after thirty (30) days and any amounts owed remain unpaid.
5. Warranties.
 - a. New Goods. If Client is purchasing new Goods from Quinn, Client acknowledges that (i) Quinn is not the manufacturer of the Goods; (ii) if the Goods include a manufacturer's warranty, Quinn will pass through to Client the manufacturer's warranty to the extent permitted by the terms of such warranty; and (iii) the manufacturer's warranty will be subject to all conditions, exclusions, and exclusive remedies set forth therein. In certain circumstances, Client may have the option of purchasing an equipment protection plan or extended service coverage (each, and "Extended Protection Product"); if such an Extended Protection Product is available and is purchased by Client at the time of sale, the Extended Protection Product will be subject to all conditions and exclusions included in such Extended Protection Product.
 - b. Used Goods. If Client is purchasing used Goods from Quinn, Client acknowledges that the only warranties with respect to such used Goods are those warranties, if any, expressly set forth in the bill of sale signed by Quinn.

- c. Services. If Client is purchasing Services from Quinn, Quinn warrants that its Services will be completed in a good and workmanlike manner, with such service warranty extending for a period of ninety (90) days from completion of the original Services. In the event of a breach of the foregoing service warranty, Quinn shall, in its sole discretion, either (a) use commercially reasonable efforts to cure such breach; or (b) credit or refund the price of any defective Services. **The foregoing remedies shall be Client's sole and exclusive remedies for any breach of Quinn's service warranty.** If Quinn performs a repair pursuant to its service warranty, the warranty period remains ninety (90) days from completion of the original Services; the ninety (90) day service warranty period does not start over with the repair. If the replacement parts used by Quinn in connection with the provision of Services include a manufacturer's warranty, Quinn will pass such warranty through to Client to the extent permitted by the terms of the manufacturer's warranty. Quinn's service warranty will be voided in the event of any of the following: misuse or abuse of Goods by Client, subsequent repairs performed by Client or vendors other than Quinn, use beyond ordinary wear and tear, failure to maintain and operate Goods in accordance with the maintenance and operations manual of the manufacturer (including, but not limited to, use of fluids that do not meet the manufacturer's standards or failure to maintain fluid levels recommended by the manufacturer) or damage due to theft, vandalism, or casualty.
- d. **WARRANTY DISCLAIMER**. **Except for the express warranties set forth in this Section 5, Quinn makes no warranty, express or implied, oral or written, with respect to any Goods or Services, including, but not limited to, any warranties of merchantability, fitness for a particular purpose, or title, whether arising by law, course of dealing, usage or trade, or otherwise. To the maximum extent permitted by law, all such warranties are hereby disclaimed by Quinn and waived by Client. Notwithstanding anything herein to the contrary, Quinn makes no representations and warranties related to, and none of the warranties set forth in this Section 5 shall apply to, fire suppression systems or the installation, remove, maintenance, or servicing of the same.**
6. Indemnification. Each party agrees to defend, indemnify, and hold harmless the other party for, from, and against any third party claims related to the Goods or Services to the extent such third party claims (including, but not limited to, claims related to the death or injury of any person(s) or damage to or destruction of any real or personal property) are caused by the indemnifying party's grossly negligent or more culpable acts or omissions, subject to the limitations set forth in Section 7 below. To the fullest extent permitted by law, Client agrees to defend, indemnify, and hold harmless Quinn, its affiliates and subsidiaries, and all of their respective owners, directors, officers, managers, employees, agents, and representatives from, from, and against any and all liabilities, claims, actions, suits, damages, losses, and expenses (including, but not limited to, reasonable attorneys' fees, expert witness fees, costs and expenses) that are caused by, arising from, or related in any way to fire suppression systems (including, but not limited to, losses related to the death or injury of any person(s) or damage to or destruction of any real or personal property).
7. Liability Limitation. In no event shall either party be liable, whether based in contract, warranty, indemnity, tort, strict liability, or any other theory of law or equity, for any special, incidental,

indirect, punitive, exemplary or consequential damages, including, but not limited to, lost profits, loss of use of property or equipment, downtime, loss of third party contracts, or lost production, regardless of whether or not such party was advised of the possibility of such damages. In addition, Quinn's maximum aggregate liability (whether in contract, warranty, indemnity, tort, strict liability, or any other theory of law or equity) for damages or loss, howsoever arising or caused, shall in no event exceed the amount Client paid to Quinn for the Goods or Services to which the liability relates. The parties recognize that the pricing associated with Goods and Services reflects this allocation of risk and is the basis of the bargain between the parties. The foregoing limitations shall be valid and enforceable, notwithstanding any alleged failure of essential purpose of the limited remedies set forth herein.

8. Privacy Statement. Client consents to the collection, use, retention, and disclosure of information by Quinn and its parent, subsidiary, and affiliated entities (collectively, "Quinn Entities") in accordance with Quinn's Privacy Statement, which is posted at <https://www.quinncompany.com/privacy-policy/> (as such statement may be revised from time to time), and agrees that such information may be accessed by the Quinn Entities and their partners and manufacturers with a legitimate business reason to access it, as well as third parties who may process such information on their behalf.
9. Product Information. If Caterpillar equipment that is purchased, owned, or rented by Client is equipped with Product Link or other equipment monitoring technology, data concerning the equipment, its condition and its operation ("Telematics Information") is being transmitted to Caterpillar, its affiliates, the Quinn Entities and/or other Caterpillar dealers to better serve Client and to improve Caterpillar products and services. Telematics Information being transmitted may include machine serial numbers, machine location, and other machine data including, but not limited to, fault codes, emissions data, fuel usage, service meter hours, software and hardware version numbers, and installed attachments. The Telematics Information will be collected, used, retained, and disclosed in accordance with the Caterpillar Data Governance Statement, which is posted at <https://www.caterpillar.com/en/legal-notice/data-governance-statement.html> (as such statement may be revised from time to time) ("Statement"). Client consents to the collection, use, retention, and disclosure of the Telematics Information in accordance with the Statement and agrees that the Telematics Information may be accessed by Caterpillar, its partners, its affiliates, its subsidiaries, the Quinn Entities, and/or other dealers with a legitimate business reason to access it, as well as third parties who may process the Telematics Information on their behalf. As set forth in the Statement, Caterpillar may use Telematics Information in combination with information about Client. Client further acknowledges and agrees that Telematics Information may be made available to subsequent owners of equipment. If Client does not want Telematics Information transmitted as described above, Client can request documentation to opt out of the transmission of such information by send an email to info@quinncompany.com.
10. Choice of Law; Waiver of Jury Trial. These Terms shall be governed by and construed in accordance with the laws of the State of California without giving effect to conflict of law provisions. The parties agree that exclusive jurisdiction and venue for any proceeding at law or in equity will be in the state or federal courts located in Los Angeles County, California. **Each party knowingly, voluntarily, irrevocably, and unconditionally waives its right to a jury trial of any claim or cause of action based on or arising out of the purchase of Goods or Services from**

Quinn (including, but not limited to, contract, tort, breach of duty, and all other common law and statutory claims). Each party (a) understands that this is a waiver of an important legal right, and (b) acknowledges having had a reasonable opportunity to discuss this waiver and its effects with legal counsel.

11. General Provisions. Client may not assign Client's rights or obligations hereunder without Quinn's prior written consent, and any such attempted assignment will be void. No amendment or modification of these Terms shall be effective unless it is set forth in a written document signed by a vice president of Quinn. If any provision in these Terms is found to be invalid, unlawful or unenforceable, the remaining provisions in these Terms shall remain in full force and effect. A party's waiver of any breach will not constitute a waiver of any different or subsequent breach. No employment, agency, joint venture, or similar arrangement is created or intended between Client and Quinn. Any rule of construction requiring that ambiguities be resolved against the drafting party shall not apply to the interpretation of these Terms. Quinn retains ownership of all records relating to Goods and Services provided to Client ("Records") and may disclose the Records pursuant to a court order or in the event disclosure of the Records becomes part of Quinn's defense in a legal matter. Quinn is an EEO/Affirmative Action Employer. Client warrants that the invoiced Goods or Services will be used for business or agricultural purposes and not for personal, family or household purposes.

When operated in California, any on-road heavy-duty diesel vehicle, alternative-diesel vehicle, off-road diesel vehicle, or portable diesel engine may be subject to the California Air Resources Board's Regulation to Reduce Particulate Matter and Criteria Pollutant Emissions from In-Use Heavy-Duty Diesel Vehicles, In-Use Off-Road Diesel Vehicle Regulation, or Airborne Toxic Control Measure For Diesel Particulate Matter From Portable Engines Rated At 50 Horsepower And Greater. It therefore could be subject to retrofit, exhaust retrofit, or accelerated turnover requirements to reduce emissions of air pollutants. For more information, please visit the California Air Resources Board websites at <https://www.arb.ca.gov/dieseltruck>, <https://www.arb.ca.gov/msprog/ordiesel/ordiesel.htm>, or <https://www.arb.ca.gov/portable/portable.htm>.