

CUSTOMER: Juan Ayala, Habitat Group, 786-577-4394, jayala@habitatgroup.com
ADDRESS: Smart Brickell Café, 239 SW 9th Street, Miami, FL 33130
DESCRIPTION: Cibes A5000
DATE: 12/13/23

1. Definition

1.1 In these Conditions, unless the context otherwise requires the following expressions shall have the following meanings:

"COMPANY"	means CIBES LIFT US INC. , a Delaware corporation with an address at :3040 N. 29th Ave, Hollywood, FL 33020 ;
"CONDITIONS"	means the standard terms and conditions of sale set out in this document and any other terms and conditions specified by the Company on its Quotation or acknowledgement of order;
"CONTRACT"	means any contract for the supply of the Goods and/or the provision of Services by the Company to the Customer incorporating these Conditions;
"CUSTOMER"	means the individual, firm, company, or other party with whom the Company contracts;
"GOODS"	means the goods and/or materials which the Company has agreed to supply under the Contract;
"INTELLECTUAL PROPERTY RIGHTS"	means any and all trademarks, rights in design, get up, trade, business or domain names, copyrights, future copyrights, patents, rights in databases (whether registered or not), and any applications to register or rights to apply for registration of any of the foregoing, rights in inventions, know-how, trade secrets, and other confidential information and all other intellectual property rights of a similar or corresponding nature which may now or in the future subsist in any part of the world;
"MASTERBOARD"	the control panel required for operation of Goods which are platform lifts;
"PREMISES"	the premises at which the Company agrees to perform any Services or where the Company is not providing Services, the premises at which any Goods are to be installed;
"PRICE"	means the price of the Goods and/or Services as set out in clause 6 below;
"QUOTATION"	the quotation issued by the Company to the Customer in connection with the supply of the Goods and/or Services;
"SERVICES"	those services which the Company has agreed to provide under the Contract as set out in Clause 4;
"WRITING"	includes telex, cable, facsimile transmission, email and comparable means of communication.

- 1.2 Any reference in these Conditions to a statute or any provision of a statute shall unless the context otherwise requires, be construed as a reference to that statute or statutory provision as from time to time amended, re-enacted, consolidated, modified, replaced or extended.
- 1.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.
- 1.4 References to clauses are to clauses of these Conditions, unless stated otherwise.
- 1.5 In these Conditions, references to the masculine include the feminine and the neuter and to the singular include the plural and vice versa as the context admits or requires.

2. Contract Terms, Variations and Representations

- 2.1 The Contract shall be subject to these Conditions and except as provided in clause 2.3 no representative or agent of the Company has authority to agree to any terms or make any representations inconsistent with them or to enter into a Contract except on the basis of these Conditions.
- 2.2 Unless otherwise agreed in writing pursuant to clause 2.3, the Contract will be subject to these Conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Customer purports to apply under any purchase order, confirmation of order, specification or pre-contract negotiations) or any inconsistent terms implied by law or trade custom, practice or course of dealing.
- 2.3 These Conditions apply to all of the Company's sales and any variation to these Conditions (including in respect of the Goods and/or Services to be supplied) and any representations about the Goods and/or the Services shall have no effect unless expressly agreed in writing by an authorized signatory of the Company. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract. Nothing in this condition shall exclude or limit the Company's liability for fraudulent misrepresentation.
- 2.4 For the avoidance of doubt, where the Company has not given a written acknowledgement of the Customer's order these Conditions will nonetheless apply to the Contract.

3. Quotations

- 3.1 No order in pursuance of any Quotation or otherwise shall be binding on the Company unless and until such order is made in writing and made by post or by facsimile and is accepted by the Company pursuant to clause 3.4.
- 3.2 Any Quotation given by the Company relating to the price of the Goods and/or Services and the time or period for delivery of the Goods and/or Services or otherwise is based on the relevant conditions and information known to the Company at the time and the condition of the Premises at the time, on the assumption that all drawings, plans and specifications as approved by the Customer are correct and does not constitute an offer. Unless previously withdrawn or otherwise agreed in writing, any Quotation shall be valid for a period of thirty (30) days, or if different, for the period stated in the Quotation. For the avoidance of doubt, the quotation executed by the customer and the company shall form the basis of the order. Should the Customer vary its order at any time the Company hereby reserves the right to **issue a new Quotation which shall take precedence over any previous Quotations.** If an order has already been placed with the factory, then the Company reserves the right to charge the customer all costs associated with these requested changes, in addition to the costs associated with their previous order.
- 3.3 No order which has been accepted by the Company may be cancelled by the Customer except with the agreement in Writing of the Company. Maximum liability of the Customer shall be the cost of the lift.
- 3.4 Each order for Goods and/or Services by the Customer shall be deemed to be an offer by the Customer to purchase Goods and/or Services on these Conditions. No order placed by the Customer shall be deemed to be accepted by the Company until a written acknowledgement of order is issued by the Company or (if earlier) the Company delivers the Goods and/or Services to the Customer.
- 3.5 The quantity and description of the Goods and/or Services and any specification for them shall be as set out in the Quotation or in the acceptance of order issued by the Company and the Customer shall ensure that the terms of its order and any applicable specification are complete and accurate.
- 3.6 Except when incorporated in the Quotation by specific reference, all representations specifications, drawings, particulars of weight, shapes, descriptions, illustrations, prices and other advertising material contained in the Company's catalogues or brochures or website or otherwise are issued or published for the sole purpose of giving an approximate idea of the Goods and/or the Services described in them and will not form a representation or be part of the Contract. Any typographical, clerical or other error or omission in any such materials or in sales literature, Quotation, price list, acceptance of offer, invoice or other document or information issued by the Company shall be subject to correction without any liability on the part of the Company. Furthermore, the Company reserves the right to correct any clerical or typographical errors made by its employees, its sub-contractors, or agents at any time.
- 3.7 **Without prejudice to clauses 2.1 and 2.3 any advice or recommendation given by the Company, its employees, its sub-contractors or agents to the Customer or its employees, its sub-contractors or agents as to the storage, application, installation, use or repair of the Goods which is not**

confirmed in Writing by the Company is followed or acted upon entirely at the Customer's own risk, and accordingly the Company shall not be liable for any such advice or recommendation which is not so confirmed.

- 3.8 Unless otherwise agreed in Writing by the Company, the Customer may not vary its order and/or specification for Goods and/or Services and the Customer shall be responsible for ensuring that the Goods and/or Services required are acceptable for their purposes.

4. Services

- 4.1 The Services to be provided by the Company under this Contract (if requested by the Customer) are as follows:
- 4.1.1 the installation of the Goods and the carrying out of all work done in or in connection with the testing, delivery, erection, modification, or repair of Goods in accordance with the Contract; and
- 4.1.2 any other works set out in Schedule 1 of these Conditions (if any).
- 4.2 Where the Contract provides for Services to be performed by the Company, the Company will supply the necessary supervisory personnel, skilled and unskilled labor and hand tools for the performance of the Services as specified in the Quotation.
- 4.3 For the avoidance of doubt, the Services shall not include the provision of advice (including in relation to any planning permission requirements) or services or the installation of any goods or carrying out of any work in, or in connection with, the design, manufacture, development, production, processing, treatment, testing, delivery, erection, repair or servicing of any goods in relation to structural matters or electro-mechanical matters in respect of the Premises. For the avoidance of doubt the Services shall not include any work required for the recessing of floors or the provision or creation of supporting walls for the Goods. In respect of such services, the Customer shall be responsible for procuring the services of the relevant specialist for such work and shall be responsible for indemnifying the Company for any proceedings, costs, losses, expenses, liabilities, injury, death or damages arising from the provision of services from such person or persons. Company shall review that the location is suitable for the installation of the goods and agree that the facilities meet the requirements for the installation of the Goods. Customer is responsible for confirming the structural integrity of the site and its ability to support the forces and weights depicted in the drawings provided by the Company.
- 4.4 The Customer acknowledges that the Company does not have expertise in assessing the suitability and structural soundness of the Premises in respect of the Goods and/or Services to be provided pursuant to these Conditions. Company will make sure that the premises are suitable for the goods being sold to customer prior to the installation of the Goods, and customer will confirm structural support as outlined in section 4.3. Prior to the commencement of the provision of Goods and/or Services pursuant to these Conditions, the Customer shall therefore:
- 4.4.1 at its own cost and at the direction of the company, prepare and maintain the Premises for the supply of the Services, including but not limited to the installation of the Goods, and shall comply with any requirements set out by the Company in any specifications, plans or drawings issued by the Company;
- 4.4.2 ensure the provision of access to electricity and other relevant services required for installation of the Goods;
- 4.4.3 be responsible for identifying, monitoring, removing and disposing of any hazardous materials from the Premises and obtaining and maintaining all necessary consents, licenses, permits, building regulations approval and surveys required for the delivery and installation of the Goods and/or performance of the Services, in accordance with all applicable laws, before and during the supply of the Services at those Premises;
- 4.4.4 ensure that the Premises are in a suitable condition and structurally sound
- 4.5 The Company shall use all reasonable endeavors to observe all health and safety rules and regulations and any other reasonable security requirements that apply at any of the Premises and that have been communicated to it, provided that it shall not be liable under this Contract if as a result of such observation it is in breach of any of its obligations under this Contract.
- 4.6 In respect of the Services, the Customer shall comply with all relevant legislation in relation to the Services, the installation of the Company's Goods, the use of the Goods in so far as any necessary licenses, consents and legislation relate to the Customer's Premises, staff and equipment and in all cases on or before the commencement date of the provision of the Services.
- 4.7 The Company will install the Goods in a workmanship manner. Similarly, the Company will supply the Goods working in good order and the quality expected of the product.

5. Specifications, Instruction or Design

- 5.1 If the Goods are to be made or the Services are performed by the Company in accordance with a specification, instruction or design submitted by the Customer or any third party on behalf of the Customer then:
- 5.1.1 the suitability, accuracy, and completeness of any terms of any order, the specification, instruction or design will be the Customer's responsibility.
- 5.2 The Company reserves the right to make any changes in the specification of the Goods and/or Services which are required to conform with any applicable statutory law or requirements or, where the Goods and/or Services are to be supplied to the Company's specification, which do not materially affect their quality or performance and the Company may charge the Customer extra for such changes, provided however that the Company shall seek Customer's prior approval for such extra charges.
- 5.3 The Customer shall supply details of briefs and specifications and any necessary information relating to the Goods and/or Services in reasonable time to enable the Company to complete design development and production in respect of the Goods and/or Services within the time period estimated by the Company pursuant to clause 8.4.
- 5.4 Where appropriate detailed plans and drawings and/or prototypes of the Goods and/or Services will be issued for the Customer's approval after the receipt of the Customer's brief and/or specifications.
- 5.5 Any plans, drawings, and/or prototypes, descriptions, illustrations, dimensions, or particulars submitted by the Company to the Customer pursuant to clause 5.4 are approximate only and are only issued for the sole purpose of giving an approximate idea of the Goods and/or Services described in them. They must not be taken as binding in detail and the Company will not be liable for any error or omission.
- 5.6 Any drawing, photographic material of any description, catalogue, literature, leaflets, blueprints, Quotations and all or any other documents produced for the purpose of producing the Goods and/or providing the Services and all Intellectual Property Rights therein shall remain the exclusive property of the Company and shall not be copied or otherwise reproduced by the Customer without first obtaining the consent of the Company in Writing.

6. Price of the Goods

- 6.1 Without prejudice to clause 3.2 the price of the Goods and/or the Services shall be the Company's quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price which has been agreed between the parties prior to formation of the Contract and for which the Company invoices the Customer in accordance with clause 7.1 of these Conditions.
- 6.2 Price quoted is out the door and all-inclusive of any sales tax, duties, and all costs or charges in relation to insurance of the Goods whilst on the Premises.

7. Terms of Payment

- 7.1 Except as otherwise agreed in Writing between the Customer and the Company, the Company shall be entitled to invoice the Customer immediately for the Goods and/or Services on the date of or at any time after the Customer places its order and the Company will be permitted to submit invoices for the Goods and/or Services and payment shall be made by the Customer in one lump sum (on the date specified by the Company in writing) or in the following installments, at the Company's sole discretion:
- 7.1.1 30% of the Price on the date on which the Customer places its order;
- 7.1.2 60% of the Price shall be payable prior to the equipment leaving the factory;
- 7.1.3 the remainder 10% upon completion of the installation of the Goods and customer's acceptance of the installation.
- 7.2 Except for Goods which are lift parts for which payment of the total price shall be made on delivery, where the Company does not specify dates for payment, or whether payment may be by installments, the Customer shall pay the total price in one lump sum and in any event (where applicable) any charges under clause 8.5.1 within thirty (30) days from the date of the Company's invoice. The time for payment of the Price shall be of the essence of the Contract.
- 7.3 No payment shall be deemed to have been received until the Company has received cleared funds from the Customer.
- 7.4 If the Customer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to:
- 7.4.1 suspend any future performance of the Contract (including any delivery of the Goods) or any other Contract with the Customer;
- 7.4.2 appropriate any payment made by the Customer to such of the Goods and/or Services (or the goods and/or services supplied under any other contract between the Customer and the Company) as the Company may think fit (notwithstanding any purported appropriation by the Customer); and
- 7.4.3 charge the Customer interest (both before and after any judgment) on the amount unpaid, at the highest rate authorized under applicable law or at the

rate of eighteen percent (18%) per annum (whichever is the higher) until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

- 7.5 The Customer shall make all payments due under the Contract without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Customer has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Customer.
- 7.6 The Customer may withhold final payment if the lift does not pass final inspection or lift is defective. If Customer finds that the lift is defective, Customer reserves the right to provide Company with a reasonable punch list within seven (7) days of final inspection to be cured by the Company in a timely manner. All payments are due upon completion of punch list items.
- 7.7 The Customer will pay to the Company any extra costs (including without limitation, storage costs for any Goods) that the Company will incur as a result of the variation delay or suspension of work arising from any act or omission of the Customer's or any other contractor employed by the Customer, or by any other circumstances for which the Company is not responsible.

8. Delivery

- 8.1 Unless otherwise agreed in writing by the Company, delivery of the Goods shall take place at an address stated on the Quotation, or acknowledgement of order and by the mode of delivery and the carrier specified by the Company. The Customer shall be deemed to have taken delivery of the Goods when the Goods are made available at the Customer at the Premises.
- 8.2 The customer will need to provide storage that is adjacent to the installation site, dry, climate-controlled, and covered from the elements. If the Customer cannot meet these requirements, Customer must advise the Company so that a plan of action is developed to meet the storage needs of the product.
- 8.3 Where the Company provides Services the Customer undertakes to provide at its expense vehicular access at the place of delivery which is suitable for use as specified by the Company and is safe, clear, flat and unobstructed from the delivery offloading point to the area of installation and that delivery can be effected by normal doors without the use of window tackle or other specialized equipment except as specified by the Company ("Clear Access"). The Company reserves the right to charge the Customer extra if such Clear Access is not provided to the Company's sole satisfaction.
- 8.4 Any dates quoted or specified by the Company for delivery of the Goods and/or performance of the Services are approximate only and time for delivery and/or performance shall not be of the essence or be made of the essence by notice. If no dates for delivery and/or performance are so specified, delivery will be within a commercially reasonable time subject to clause 12.1. The Goods may be delivered by and/or the Service may be performed by the Company in advance of the quoted delivery/installation date upon giving reasonable notice to the Customer.
- 8.5 **Subject to the other provisions of these Conditions, the Company will not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss,) costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods or the performance of the Services (even if caused by the Company's negligence), nor will any delay entitle the Customer to terminate or rescind the Contract unless such delay exceeds 90 days and is caused by negligence from the company.**
- 8.6 Where the Company only sells Goods which are lift parts, if the Company delivers to the Customer a quantity of Goods of up to 5% more or less than the quantity ordered, the Customer shall not be entitled to object to or reject the Goods or any of them by reason of the surplus or shortfall and shall pay for such Goods at the pro rata Contract rate.
- 8.7 Where the Company only sells Goods which are lift parts, the Customer will take delivery of the Goods within seven (7) days of the Company giving it notice that the Goods are ready for delivery.
- 8.8 If for any reason the Customer fails to take or will not accept delivery of the Goods when they are ready for delivery, or the Company is unable to deliver the Goods on time because the Customer has not provided appropriate instructions, documents, Clear Access, licenses or authorizations then without prejudice to any other right or remedy available to the Company:
- 8.8.1 the Company may store the Goods until actual delivery whereupon the Customer will be liable for all related costs and expenses (including without limitation storage and insurance) and the Company will be entitled to invoice the Customer for such costs and expenses monthly in arrears;
- 8.8.2 except where clause 8.8.4 applies, the risk in the Goods will pass to the Customer (including for loss or damage caused by the Company's negligence) at the point when delivery would have taken place if the Customer had taken delivery and complied with its obligations in this Agreement;
- 8.8.3 except where clause 8.8.4 applies, the Goods will be deemed to have been delivered;
- 8.8.4 the Company may sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Customer for the excess over the price under the Contract or charge the Customer for any shortfall below the price under the Contract.
- 8.9 In the absence of prior written agreement between the Company and the Customer the Company shall be allowed Clear Access to the Premises to perform the Services and the Customer shall provide the Company without charge and within a reasonable time with all information available to it relating to the Services and/or Premises and shall give such assistance and at its own expense provide such facilities at the Premises including but not limited to the provision of access, light, electricity, security, and other services as shall reasonably be required by the Company to enable it to exercise its obligations under the Contract.

9. Non-Delivery and Short Delivery

- 9.1 The quantity of any consignment of Goods as recorded by the Company upon dispatch from the Company's place of business shall be conclusive evidence of the quantity received by the Customer on delivery unless the Customer can provide conclusive evidence proving the contrary.
- 9.2 The Company shall not be liable for any loss of Goods or damage in transit (where the Company agrees to deliver the Goods to the Customer's place of business at the Company's risk) or for non-delivery or short delivery of the Goods or non-performance of the Services (even if caused by the Company's negligence) unless written notice is given to the Company within 30 days of the date when the Goods would in the ordinary course of events have been received or the Services performed.
- 9.3 **Any liability of the Company arising pursuant to clause 9.2 shall be limited to replacing or, at the Company's discretion, repairing the Goods and/or delivering the Goods and where applicable performing the Services within a reasonable time and/or issuing a credit note at the pro-rata Contract rate against any invoice raised for such Goods and/or Services.**

10. Risk and Title

- 10.1 The risk of damage to or loss of the Goods shall pass to the Customer:
- 10.1.1 on delivery; or
- 10.1.2 the date on which the Customer defaults (which expression shall have the meaning set forth in clause 10.2); or
- 10.1.3 the date on which the Goods being ready for delivery, delivery or performance of the Contract is postponed at the Customer's request; whichever shall first occur.
- 10.2 For the purpose of clause 10.1.2 "defaults" shall mean if the Customer fails to take delivery of the Goods on the due date or fails to provide an address for delivery of the Goods as required or fails to provide Clear Access or fails to allow or make arrangement for the Services to be performed on the due date.
- 10.3 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, ownership of the Goods shall not pass to the Customer until the Company has received in full (in cash or cleared funds) payment in full of the price of the Goods and all other goods agreed to be sold by the Company to the Customer and Services performed.
- 10.4 Until such time as ownership of the Goods has passed to the Customer, the Customer must:
- 10.4.1 hold the Goods on a fiduciary basis as the Company's bailee;
- 10.4.2 keep the Goods, at no cost to the Company, separate from all other goods of the Customer or any third party and properly stored, protected and insured in such a way that they remain readily identifiable as the Company's property;
- 10.4.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods;
- 10.4.4 maintain the Goods in satisfactory condition insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company and on request the Customer shall produce the policy of insurance to the Company; and
- 10.4.5 hold the proceeds of the insurance referred to in clause 10.4.4 on trust for the Company and not mix them with any other money, nor pay the proceeds into an overdrawn bank account.
- 10.5 The Customer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Company, but if the Customer does so all moneys owing by the Customer to the Company shall (without prejudice to any other right or remedy of the Company) forthwith become due and payable.
- 10.6 The Customer's right to possession of the Goods shall terminate immediately if:

- 10.6.1 the Customer (i) becomes insolvent, (ii) is generally unable to pay, (iii) fails to pay its debts as they become due, (iv) files or has filed against it a petition for voluntary or involuntary bankruptcy or pursuant to any other insolvency law, which proceeding is not discharged within thirty (30) days after such filing, (v) makes or seeks to make a general assignment for the benefit of its creditors, (vi) applies for, or consents to, the appointment of a trustee, receiver or custodian for a substantial part of its property, or (vii) if Customer is an entity, is being dissolved; or
- 10.6.2 the Customer suffers or allows any execution, whether legal or equitable, to be levied on his property or obtained against him, or fails to observe or perform any of his obligations under the Contract or any other contract between the Company and the Customer; or
- 10.6.3 the Customer encumbers or in any way charges any of the Goods; or
- 10.6.4 On the occurrence of a Default Event (as detailed in clause 17.3 below).
- 10.7 Changes to Drawings: Once drawings are approved, if manufacturing has already commenced, changes will not be allowed unless paid for as an additional charge to be determined dependent upon the changes. If the materials are not yet being manufactured, there will be a fee of \$500.00 to make changes to approved drawings. Lead-times will be affected based on these changes.

11. Warranties and Liability

- 11.1 The Company warrants for a period of twenty-four (24) months for indoor lifts and twelve (12) months for outdoor lifts from the date of delivery of the Goods and/or performance of the Services and, where both are being provided, if this is not simultaneous, whichever is the later, that, subject to the other provisions of these Conditions, upon delivery or performance, as appropriate:
- 11.1.1 The Goods will be of satisfactory quality within the meaning of the Uniform Commercial Code; and
- 11.1.2 The Goods and/or Services comply in all material respects with the specification for such Goods and/or Services.
- 11.2 Subject to the other provisions of these Conditions, the Company warrants that the Services will be performed with commercially accepted standards of care and skill.
- 11.3 The Company shall not be liable for breach of any of the warranties in clauses 11.1 and 11.2 unless:
- 11.3.1 the Customer gives written notice (whether or not delivery is refused by the Customer) to the Company of the defect (and if the defect is as a result of damage in transit and if the Company has any liability) to the carrier within seven (7) days of delivery or performance or (where the defect was not apparent on reasonable inspection) within seven (7) days after discovery of the defect but in any event no later than the expiration date of the warranty period set out in clause 11.2 above; and
- 11.3.2 the Company is given a reasonable opportunity after receiving the notice of examining such Goods and/or Services which are defective and for this purpose the Customer shall provide authority for the Company's representatives or agents to enter on to its premises to inspect any defective Goods and Services within fourteen (14) days of a request being made by the Company.
- 11.4 The Company shall not be liable for a breach of any of the warranties in clauses 11.1 and 11.2 and shall be under no liability under any other warranty, condition or guarantee if:
- 11.4.1 any defect in the Goods and/or Services arises from any drawing, design, instructions or specification supplied by the Customer;
- 11.4.2 any defect arises from Acts of God (including but not limited to water damage, power spikes/brownouts, weather events, etc.), willful damage, negligence, or abnormal working conditions or because of a failure by a third party to install Goods correctly (where the Customer is purchasing only Goods) or because the Customer has used the Goods inappropriately (including exceeding any loads limits) or has failed to follow the Company's instructions (written), including but not limited to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice;
- 11.4.3 the Customer has failed to pass on to the end user or a third party engaged to install the Goods, the Company's instructions (written) and the end user or a third party engaged to install the Goods, has failed to follow, the Company's instructions, including but not limited to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice;
- 11.4.4 any defect arises from, as a result of, or as a consequence of the general condition or any defect in the structure of the Premises or any premises or structures on which the Goods are affixed;
- 11.4.5 the total price for the Goods and/or the Services has not been paid by the due date for payment;
- 11.4.6 the Customer makes any further use of such Goods after giving notice under clause 11.4;
- 11.4.7 the Customer and/or third party on its behalf misuses, alters, process or repairs such Goods and/or Services without the written consent of the Company.
- 11.5 Subject to clauses 11.4 and 11.5, if any of the Goods and/or Services do not conform with any of the warranties in clauses 11.2 and 11.3 the Company shall at its option either repair or replace the Goods and/or re-perform the Services (or the defective part) free of charge or, at the Company's sole discretion, refund the Customer the price of such Goods and/or Services at the pro rata Contract rate.
- 11.6 If the Company complies with clause 11.6 it shall have no further liability for a breach of any of the warranties set forth in clauses 11.2 and 11.3 in respect of such Goods and/or Services.
- 11.7 Any Goods replaced shall belong to the Company and any repaired or replacement Goods shall be guaranteed on these Conditions for the unexpired portion of the 12 month or 24-month warranty period referred to in clause 11.2.
- 11.8 No warranty is given as to the length of working life of the Goods nor that they will be suitable for any specific purpose or conditions, notwithstanding that such purposes and conditions have been made known to the Company. For the avoidance of doubt, no warranty is given as to the suitability of the Goods for carriage of goods, materials, equipment, furniture, or other such similar items.

12. **Final Acceptance Inspection:** If the final acceptance inspection is not approved by the AHJ's inspector due to any reason other than the Company's contracted scope of work, the customer is responsible for the cost of hiring the inspector and paying the Company's billing rate on a time and material basis to have the product re-inspected.

13. Limitation of Liability

- 13.1 Subject to clauses 3.7, 4, 5, 8, 9 and 11, the following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:
- 13.1.1 any breach of these Conditions or the Contract;
- 13.1.2 any use made or resale by the Customer of any of the Goods or Services, or of any product incorporating any of the Goods; and
- 13.1.3 any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.
- 13.2 EXCEPT AS EXPRESSLY PROVIDED IN THESE CONDITIONS, ALL WARRANTIES, CONDITIONS AND OTHER TERMS IMPLIED BY STATUTE OR COMMON LAW, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTY OF MERCHANTABILITY, ARE, TO THE FULLEST EXTENT PERMITTED BY LAW, EXCLUDED FROM THE CONTRACT.
- THE CUSTOMER'S ATTENTION IS IN PARTICULAR DRAWN TO THE PROVISIONS OF CLAUSE 13.3**
- 13.3 Subject to and without prejudice to clauses 3.7, 4.3, 8.5, 9.3, 11.1, 11.2, 11.6, 11.6 and 13.1:
- 13.3.1 the Company's total liability in contract, tort (including negligence or breach of statutory duty or where the Goods and/or Services breach, infringe or make unauthorized use of third party rights), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of the Contract shall not exceed the price of the Goods delivered and/or Services performed under this Contract; and
- 13.3.2 the Company shall not be liable to the Customer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract for any loss of profits or for any indirect, special or consequential loss or damage (whether for loss of business, depletion of goodwill or otherwise), costs or expenses or other claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the supply of the Goods and/or Services (including any delay in supplying or any failure to supply the Goods and/or the Services in accordance with the Contract or at all) or the use or resale of the Goods by the Customer; and
- 13.3.3 the Company accepts no responsibility or liability where the Goods and/or Services cannot be provided as a result of any intentional act or omission of the Customer and in such event the Customer shall still be liable to pay the Company for the Goods and/or Services as if the same had been duly delivered and/or performed.

14. Indemnity

- 14.1 The Customer shall indemnify and hold the Company harmless against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation, and all interest, penalties and legal and other reasonable professional costs and expenses) (each a "Claim") suffered or incurred by the Company arising out of or in connection with:
- 14.1.1 Any claim made against the Company by a third party arising out of, or in connection with, the provision of the Services or the supply of the Goods, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of this Contract by the Customer, its employees, agents, subcontractors or other third parties engaged to provide installation or repair services in connection with the Goods.
- 14.1.2 Any claim made against the Company by a third party for death, personal injury or damage to property arising out of, or in connection with, defective Goods or the installation or repair of the Goods, to the extent that the defect in the Goods or defective installation or repair of the Goods, is attributable to the acts or omissions of the Customer, its employees, agents, subcontractors or other third parties engaged to provide installation or repair services in connection with the Goods.

15. Force Majeure

- 15.1 The Company reserves the right to defer the date of delivery or to cancel the contract or reduce the volume of the Goods and/or Services ordered by the Customer and shall not be liable to the Customer or be deemed to be in breach of the Contract if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Company including, without limitation, acts of God, act of the public enemy, governmental actions, war or national emergency, blockades, protests, riot, insurrections, civil commotion, fire, explosion, flood, epidemic, landslides, lightning, earthquakes, storms, hurricane, washouts, lockouts, strikes or other labor disputes, (whether or not related to either party's workforce) or industrial disturbances, restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials or late delivery or performance or non-delivery or non-performance by suppliers or subcontractors, import or export regulations or embargos, power failure or breakdown in machinery and acts, restrictions, regulations, bylaws, prohibitions or measures of any kind on the part of any governmental, or local authority; provided that, if the event in question continues for a continuous period in excess of six (6) months, the Customer shall be entitled to terminate the Contract upon written notice to the Company.

16. Intellectual Property

- 16.1 In the absence of contrary written agreement between the Customer and the Company, as between the Customer and the Company, all the Intellectual Property Rights in the Goods, the Services and in any drawings, software (except for Goods, drawings and/or software owned by any third party) or other documentation or materials supplied by the Company to the Customer, shall vest in and remain vested in the Company.
- 16.2 The Customer acknowledges that all Intellectual Property Rights in any drawings, specifications, documents and materials are and will remain the property of the Company (except for drawings, specifications, documents and materials owned by any third party) and that the Customer shall not acquire any title, right or interest in any such Intellectual Property Rights.
- 16.3 The Company shall have no liability in respect of any claims and actions against the Customer for infringement of any Intellectual Property Rights arising from the use of Goods, where any such infringement is due to:
- 16.3.1 the Company having followed a design or instruction or any other document or information furnished or given by the Customer; or
- 16.3.2 the use of or installation of such Goods in a manner or for a purpose or in a country not specified or disclosed to the Company in writing prior to the Contract being made; or
- 16.3.3 any infringement which is due to the use of such Goods in association or combination with any other article not supplied by the Company.
- 16.4 The Customer on its part represents and warrants to the Company that any design, or instruction or any other document or information furnished or given by the Customer shall not be such as will cause the Company to infringe any Intellectual Property Rights of a third party in the execution of the Customer's order. The Customer agrees to indemnify, hold the Company harmless and keep it indemnified at all times against all costs, claims, damages or expenses incurred by the Company, including attorney's fees and costs, or for which the Company may become liable, with respect to any claim that any Intellectual Property Rights of a third party have been infringed.

17. Availability of Materials, Licenses, etc.

If the performance and execution of the Contract requires the Company to have any permit or license from any government or other authority or third party, the order will be conditional on such permit or license being acquired. The Customer will use its best endeavors to assist the Company to obtain such a license and/or permit.

18. Termination

- 18.1 For the purposes of this clause a "Default Event" shall mean any such event described in clause 17.3.
- 18.2 If there shall be a Default Event, the Company may, within a reasonable time thereafter, defer or cancel any further deliveries of the Goods and/or provision of the Services, stop any Goods in transit and treat the Contract of which these Conditions form part as terminated but without prejudice to its rights to the full Price for the Goods delivered and the Services performed and damages for any loss suffered in consequence of such termination. Where the Goods have been delivered and the Services performed but not paid for, the Price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.
- 18.3 A Default Event shall be any of the following:
- 18.3.1 failure by the Customer to make any payment when it becomes due;
- 18.3.2 the Customer commits a material breach of any terms and conditions of the Contract and if such breach is not remediable or is remediable and the Customer fails to remedy that breach within seven (7) days after being notified in Writing to do so;
- 18.3.3 any circumstances where the Customer's right to possession of Goods would terminate as set out in clause 10.7 above; or
- 18.4 All rights and obligations of the parties shall cease to have effect immediately upon termination of the Contract except that termination shall not affect: the accrued rights and obligations of the parties at the date of termination.

19. Assignment and Sub-contracting

- 19.1 The Customer shall not be entitled to assign or sub-contract the Contract or any part of it without the prior written consent of the Company.
- 19.2 The Company may assign, transfer or sub-contract the Contract or any part of it to any person, firm or company with the exception of the provision of the Goods.
- 19.3 Where the Company agrees to provide the Goods and/or Services, the Company reserves the right to employ a sub-contractor of its choice for that purpose at any time.

20. Data Protection

- 20.1 The Customer acknowledges and agrees that details of the Customer's name, address and payment records may be submitted to a credit reference agency, banks, credit insurers and other responsible organizations outside the Company's business and personal data will be processed by or on behalf of the Company in connection with the Goods and Services.

21. Confidentiality and the Company's Property

- 21.1 The Customer shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Customer by the Company, its employees, agents or sub-contractors and any other confidential information concerning the Company's business or its products which the Customer may obtain. The Customer shall restrict disclosure of such confidential material to such of its employees, agents or sub-contractors as need to know the same for the purpose of discharging the Customer's obligations to the Company, and shall ensure that such employees, agents or sub-contractors are subject to obligations of confidentiality corresponding to those which bind the Customer.
- 21.2 All materials, equipment and tools, drawings, specifications and data supplied by the Company to the Customer shall, at all times, be and remain the exclusive property of the Company, but shall be held by the Customer in safe custody at its own risk and maintained and kept in good condition by the Customer until returned to the Company, and shall not be disposed of or used other than in accordance with the Company's written instructions or authorization.
- 21.3 This clause 20 shall survive termination of the Contract.

22. General

- 22.1 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.
- 22.2 Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract will not be construed as a waiver of any of its rights under the Contract.
- 22.3 The captions in these Conditions are solely for convenience of reference and shall be given no effect in the construction or interpretation of these Conditions.
- 22.4 No waiver by the Company of any breach of, or any default under, any provision of the Contract by the Customer shall be considered or be deemed as a waiver of any subsequent breach or default of the same and will in no way affect the other terms of the Contract.
- 22.5 If, for any reason, any provision of these Conditions, or any other conditions or other terms which may be agreed in Writing between the Company and the Customer, is held invalid, such invalidity shall not affect any other provision of these Conditions and the Conditions shall otherwise remain in full force and effect.
- 22.6 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by the laws of the State of Florida and the parties submit to the exclusive jurisdiction of the courts of Broward County, Florida.

23. Communications

- 23.1 All communications between the parties about the Contract must be in writing and delivered by hand or sent by overnight courier or sent by electronic transmission:
 - 23.1.1 in case of communications to the Company, to its principal office address or such changed address as shall be notified to the Customer by the Company; or
 - 23.1.2 in the case of communications to the Customer, to the principal office address of the Customer (if it is a company) or, in any other case, to any address of the Customer set out in any document which forms part of the Contract or such other address as shall be notified to the Company by the Customer.
- 23.2 Communications shall be deemed to have been received:
 - 23.2.1 if sent by overnight courier, the day (excluding Saturdays, Sundays and legal holidays) after posting;
 - 23.2.2 if delivered by hand, on the day of delivery;
 - 23.2.3 if sent by electronic transmission on a working day prior to 4 p.m. at the time of transmission and otherwise on the next working day.
- 23.3 Communications addressed to the Company shall be marked for the attention of the Managing Director.

24. Waiver of Jury Trial

24.1 **THE PARTIES HEREBY AGREE NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVE ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THESE CONDITIONS OR THE CONTRACT, THE NON-DISCLOSURE AGREEMENT OR THE OTHER AGREEMENTS OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY THE PARTIES, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO TRIAL BY JURY WOULD OTHERWISE ACCRUE. THE PARTIES ARE HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY EACH PARTY.**

25. Special Provisions/Clarifications:

- 25.1 Job site must be prepared as per specifications shown in drawings provided by Cibes
- 25.2 Provide power as per drawings and analog phone line to location specified in drawings
- 25.3 Drawings to be sent upon request or approval of this proposal
- 25.4 Elevator permit (if applicable) & final inspection included in this proposal

One (1) Cibes A5000

Purchase Price: \$64,993.00

Payment Schedule:

- 50% at Signature of Contract**
- 40% Prior to Equipment Leaving Factory**
- 10% at Completion**

Due Date	Payment %	\$ Amount	\$ Remaining
Prior to Manufacturing	50%	\$ 32,496.50	\$ 32,496.50
Prior to Shipping of Equipment	40%	\$ 25,997.20	\$ 6,499.30
Upon Completion	10%	\$ 6,499.30	\$ -

This quote is based upon this proposal document and all of its provisions, terms, and specifications included or attached hereto, and shall, when accepted by you and an approved representative of Cibes Lift USA, constitute the entire contract between both parties. This document will become effective upon signature of both parties.



CIBES LIFT US INC.
TERMS AND CONDITIONS OF SALE OF GOODS AND SERVICES
REFERENCE: QUOTE #DB85376 ("Attachment A")

We appreciate the opportunity to provide you with our quote for this project and look forward to working with you.

Sincerely,

Sean Paxson

Sean Paxson
Sales Executive
754-332-3740
sean.paxson@accessliftsfl.com

<p>Customer: By: _____ (Signature of Authorized Representative) _____ (Printed or Typed Name) Date: _____</p>	<p>Access Lifts Manager Approval: By: _____ Rafael Soares Title: Managing Director Date: _____</p>
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This agreement will not go under full force and effect until dully executed by all parties detailed above.

Quote DB85376

2023-12-12
Access Lifts Florida Inc.
135 Weston Road
Suite 330
Weston, FL33326
USA

Your reference

Lindsay Waldron

LWALDRON@CIBESYMMETRY.COM
120823-C02

We thank you for your request and have the pleasure to quote a lift.

Site reference: SMART BRICKELL CAFE - R0 ACCESS LIFTS - FL - S PAXSON

Model	Cibes A5000	
Drive System	Screw driven	
Control devices	Hold to run	
Rated Load	400 kg	
Speed	0,15 m/sec	
Electrical Connection	Freq. 1x230/240V 50-60Hz 16A Soft	
Platform size	39.3" x 49.88"	1000 x 1267 mm
Stops	2	
Number of doors	2	
Number of gates	0	
Pit	1.9" or 1-3/4"	50 mm
Travel Height	147" or 12'-1/4"	3734 mm
Shaft height above top landing	7'-4"	2250 mm
Indoor/Outdoor	Indoor	
EcoSilent	Yes	

Door 1

In landing	1 - green label
Door side	Side C
Model	A10 left hinged
Door Width (mm)	900 mm
Door Height (mm)	2000 side C
Automatic Doors	Door closer
Locking Solution	Tag reader with reset function
Call button panel	White
Level indicator	No level indicator
Location Call Button	At door
Door glazing	Standard clear glass

Door 2

In landing	2 - black label
Door side	Side A
Model	A10 right hinged
Door Width (mm)	900 mm
Door Height (mm)	2000 side A
Automatic Doors	Door closer
Locking Solution	No locking solution
Call button panel	White
Level indicator	No level indicator
Location Call Button	At door
Door glazing	Standard clear glass

Colour

Shaft (inside and outside)	FactoryWhite near RAL 9016 GU30 STD
Door finish	RAL 9016 GU 30 Traffic White STD
Shaft corner profiles	Natural anodized aluminium STD
The platform is delivered in	RAL 9006 GU 70 Silver STD
The finish of the glass panels are	Natural anodized aluminium STD

Platform

The L-shaped platform is surrounded with pressure sensible safety edges for increased safety.

Communication	Safeline Mx3
Platform floor	Black Altro Pitch VM2020P (STD)
Level indicator on platform	No level indicator
Options Platform	Cover plate under platform

Shaft

Shaft panels	Lift shaft with steel panels. Corner profiles and frames in aluminium.
Shaft in glass	The glazed part of the lift shaft is made of safety toughened laminated glass. The shaft is glazed according to the attached drawing.
Screen print	Screen print - black
Shaft Ceiling	Ceiling with LED lights
Options shaft	Shaft pit plate Panels side D Machine roof cover Panels in line Finishing profiles kit Powder coated bottom frame Rivet cover profiles side B

Glass

Section	Number	Height	Start	Stop
A1	4	904 mm	0 mm	3616 mm
B1	6	904 mm	0 mm	5424 mm
B2	1	550 mm	5424 mm	5974 mm
C1	1	462 mm	2250 mm	2712 mm
C2	3	904 mm	2712 mm	5424 mm
C3	1	550 mm	5424 mm	5974 mm
D1	6	904 mm	0 mm	5424 mm
D2	1	550 mm	5424 mm	5974 mm

Options

Automatic shaft light
Auto LED on platform
Doors and guides in boxes
Touch up paint door
Touch up paint shaft
Imperial