

CONTRACT #510-Q69-001

This Contract confirms the mutual agreement dated December 21, 2015 between:

EXA S.A.
Plaza AXA, Local 206
2 y 3 calle, 9ave SO, El Benque
San Pedro Sula, Honduras

Hereinafter referred to as the "Buyer" and

Carrier Transicold Division
Carrier Corporation
Carrier Parkway
Post Office Box 4805
Syracuse, New York 13221

Hereinafter referred to as the "Seller"

1. Equipment to be Furnished by Seller

The Buyer agrees to purchase from the Seller the total quantity of twelve (12) Carrier Transicold Model 69UG15-068S-05 gensets per Seller's specification dated June 10, 2011 attached hereto and made a part hereof.

2. Price

Unit Price: \$ 12,340.00 U.S.D.
Total Price: \$148,080.00 U.S.D.

Above prices are CIP (INCOTERMS 2010) Puerto Cortes, Honduras. Taxes and duty (if any) are for Buyer's account.

3. Shipment

Seller will ship gensets, upon confirmed receipt of funds, as follows:

<u>Quantity</u>	<u>On or Before</u>
12	<u>Week Ending</u>
	02/19/2016

4. Excusable Delays

In the event Seller is delayed in manufacturing, shipping or delivery by causes beyond the control and without the fault or negligence of Seller, including but not restricted to acts of God, acts of a public enemy, acts of government, acts of terrorism, fires, floods, epidemics, quarantine restrictions, freight embargoes, supplier delays, strikes, or labor difficulties, and the Seller within ten (10) days of the beginning of any such delay agrees to notify the Buyer in writing of the causes of such delay then the Seller shall be entitled to an extension of the time equivalent to the duration of any such delay and a reasonable time in which to recover from said delay to resume production.

5. Terms of Payment

Payment shall be made by the Buyer prior to shipment.

Payment is to be wire transferred to:

JPMORGAN CHASE BANK
New York, NY USA
ABA #021000021
Swift #CHASUS33
for CARRIER TRANSICOLD Account #910-2-630978

6. Warranty

Seller's Manufacturer's Warranty and Limitation of Liability, Form 62-10185 Rev. D, is attached hereto and made part of this Contract. The warranties stated therein constitute the only warranties, express or implied, that Seller gives to Buyer.

7. Law

This Agreement shall be deemed to be made under and shall be subject to the laws of the state of New York in all respects including the validity, construction and performance thereof excluding its choice of law provisions.

8. Alterations to the Contract

Any modification of the terms, conditions and specifications contained in this Contract must be agreed in writing between the two parties and signed by an individual in each organization who has the authority to legally bind the party. No alterations, changes or amendments shall be relied upon by either party until such written document has been duly executed by both parties.

9. Patent Indemnification

Seller shall indemnify the Buyer against liability for infringement of any patent, trademark, copyright or any other intellectual property rights arising out of the manufacture or sale of any of Seller's products furnished, and hold the Buyer harmless in respect of any such infringement and/or of any direct damages arising therefrom, provided that the Buyer shall promptly notify Seller of any such claim and give Seller the opportunity to defend against such claim. With respect to any claimed infringement, Seller shall have the right to: (a) assume the defense or settle the claim at its discretion, (b) modify the product so as to make it non-infringing, or (c) take such other action as it deems reasonably necessary or appropriate in respect of the claim. Seller shall not be liable for consequential damages resulting from any claimed or actual infringement.

10. Cancellation

It is understood and agreed that should Buyer cancel this Contract before completion, either directly or indirectly, then Buyer shall pay Seller all out-of-pocket costs, expenses and reasonable indirect costs incurred by Seller as of the date of cancellation

and for all such costs after the termination date incurred by Seller to complete whatever is necessary to cope with cancellation.

11. Limitation of Liability

Notwithstanding any other provision of this Contract, in no event shall Seller be liable for any indirect, incidental or consequential damages.

12. Complete Agreement.

It is understood and agreed that this Agreement, including Exhibit "A", Exhibit "B" and the equipment specifications, embodies the complete understanding and agreement of the parties hereto and contains all the representations, warranties, promises, understandings and agreements by them made and that the parties shall not be affected by any representation, warranties, promises, understandings, terms and conditions or agreements pertaining to the subject matter hereof nor by any subsequent revision or modification unless reduced to writing and signed by both parties hereto. In the event of a conflict between Exhibit "A" and the terms of this Agreement, the latter will govern.

IN WITNESS WHEREOF, this Contract has been entered into effective the date and year first above written.

FOR AND ON BEHALF OF
EXA S.A.

FOR AND ON BEHALF OF
CARRIER TRANSICOLD DIVISION
CARRIER CORPORATION

WITNESS:

WITNESS:



EXHIBIT A
CARRIER TRANSICOLD
CONTAINER SALES GROUP
TERMS AND CONDITIONS OF SALE

1. **Entire Agreement.** Unless otherwise agreed in a writing signed by authorized representatives of both Buyer and Seller, the sole terms on which the sale of the goods described herein are made shall be the Seller terms of sale contained herein, and any different or additional terms proposed by Buyer (including those contained in Buyer's purchase order) are excluded, all previous or contemporaneous, oral or written, statements are superseded, and Buyer's acceptance of the goods shall be deemed acceptance of these Seller terms of sale (the "Agreement"). No valid waiver of any term hereof at any time shall be deemed a waiver of any other term at such time or any other time. No change, modification, amendment or waiver of any of the terms hereof shall be binding upon the parties unless made in writing and duly executed by both parties hereto.

2. **Payment and Taxes.** Unless stated otherwise, prices are stated in U.S. dollars, are subject to change without notice, and do not include taxes or duties of any kind. Payment shall be made net 30 days from date of invoice. Seller reserves the right to require cash payment or other alternative method of payment prior to shipment or completion of work if Seller determines, in its sole discretion, that Buyer's financial condition at any time does not justify continuance of the net 30 days payment term. If payment is not timely made, Seller shall have the right to charge interest on the unpaid balance, which shall accrue from the due date at a rate, which is the lesser of 2% per month, or the maximum legal rate. Buyer shall indemnify Seller against any and all expenses of collection arising from Buyer's non-payment.

3. **Shipping & Risk of Loss.** Unless designated otherwise, goods are sold FCA (INCOTERMS 2010) Seller's facility. Title and risk of loss to any of the goods shall pass to Buyer upon Seller's tender of the goods to the carrier at Seller's facility. If Buyer fails to reject any goods in writing, within five (5) days of its receipt of those goods, Buyer shall be irrevocably deemed to have inspected and accepted the goods. Seller shall have the right to ship any portion of the goods included in this Agreement as a partial shipment.

4. **Warranty.** Seller warrants the goods in accordance with the terms of Seller's applicable written manufacturer's warranty, if any. Where such a written manufacturer's warranty exists, Seller's obligation to repair or replace as stated in that warranty during the warranty period shall be Buyer's exclusive remedy and that written manufacturer's warranty IS GIVEN IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

5. **Limitation of Liability.** Seller's liability and Buyer's sole remedy under this Agreement shall be limited to repair or replacement (at Seller's option and cost) of the defective or non-functioning good or part thereof. In no event shall Seller's maximum liability under this Agreement, regardless of cause, exceed the total amount paid by Buyer to Seller for the goods pursuant to this Agreement. Under no circumstances shall Seller be liable for any indirect, incidental, special, consequential, exemplary or punitive damages of any kind, including but not limited to loss of revenue, loss of use of equipment, facilities or property, or economic damages, whether in contract, tort (including negligence), warranty or otherwise, notwithstanding any indemnity or other provision to the contrary, and regardless of whether Buyer had been advised of the possibility of such damages.

6. **Changes.** Goods in addition to, or different from, those stated herein, and changes in drawings or specifications, shall be subject to Seller's written approval and the terms of this Agreement and shall entitle Seller to an adjustment in the Agreement price and schedule.

7. **Cancellation & Returns.** Buyer may cancel this Agreement only with Seller's prior written consent, and upon payment of reasonable cancellation charges. Such charges shall take into account costs and expenses incurred, and purchases or contract commitments made by Seller and all other losses due to the cancellation including a reasonable profit. No goods will be accepted for return without Seller's prior written authorization. Returned goods may be subject to a restocking charge. Special order and non-stock goods cannot be returned.

8. **Confidentiality.** Buyer shall protect and maintain in confidence this Agreement and all information contained in this Agreement along with all current price lists and discount schedules, parts sales, service, repair and installation literature, materials and documents and any other data or information furnished by Seller which may be or is considered by Seller to be of a proprietary nature.

9. **Excusable Delay.** Unless specifically agreed in writing, shipment dates quoted are estimates, and Seller does not guarantee a particular date for shipment or delivery of the goods. Seller shall not be deemed to be in default nor shall Seller be liable for any losses, damages, or penalties occasioned by late performance, nor for any deviations in performance due to or on account of delays in the delivery of the goods or in the performance of any other act to be performed by the Seller under this order due to any cause to the extent it is beyond Seller's reasonable control and not occasioned by Seller's fault or negligence, including but not limited to fires, strikes, labor disputes, supplier delays, governmental actions, acts of terrorism, or acts of nature. In case of such delay, deliveries shall be resumed when delays have ceased to exist.

10. **Compliance with Laws.** By entering into this Agreement, the parties agree to comply with all applicable laws, regulations, rules and guidelines, including but not limited to those dealing with bribery and the export, re-export, or transfer of goods, software and technology. The failure of a party to abide by the obligations of this section will be deemed a material breach permitting the other Party to terminate this Agreement immediately by written notice to the defaulting party without prejudice to any other remedies that may be available to it.

11. Government Sales. The components, equipment and services provided by Seller are "commercial items" as defined in Section 2.101 of the Federal Acquisition Regulations ("FAR"), and the prices of such components, equipment and services are based on Seller's commercial pricing policies and practices (which do not consider any special requirements of U.S. Government cost principles, FAR Part 31, or any similar procurement regulations). As such, Seller will not agree to provide or certify cost or pricing data, nor will Seller agree to comply with the Cost Accounting Standards (CAS). In addition, no federal government procurement regulations, such as FARs or DFARs, shall apply to this Agreement except those regulations expressly accepted in writing by Seller.

12. Export Controls. Buyer acknowledges that the goods and/or services (and any related data) provided hereunder are subject to the laws and regulations of the United States that govern exports and other international trade controls that may restrict transfers of such items to other countries and parties. Buyer and its employees and agents shall not export, reexport, supply or release such items contrary to the laws and regulations of the United States and other countries relating to export trade, or to any country, entity or other party which is ineligible to receive such items under U.S. laws and regulations, including regulations of the U.S. Department of Commerce or the U.S. Department of the Treasury.

13. Assignment. Buyer shall not assign or in any way dispose of its rights or obligations under this Agreement without Seller's consent in writing, which may be withheld in Seller's sole discretion. Seller may assign its rights or obligations under this Agreement to any affiliate of Seller or United Technologies Corporation in its sole discretion.

14. Claims. Any suits arising from the performance or nonperformance of this Agreement, whether based upon contract, negligence, strict liability or otherwise shall be brought within one (1) year from the date the claim arose.

15. Software License. (a) If Buyer receives any software from Seller with or embedded in a product sold under this Agreement ("Software"), the Software is licensed, not sold, and the use of the Software will be governed by the end user license agreement provided with the product or Software ("EULA"). If a EULA is not provided with the product or Software, then conditioned upon Buyer's compliance with this Agreement (including the limitations set forth below) Seller grants Buyer a personal, non-transferable, non-exclusive, non-sublicensable, limited license to, in accordance with any instructions and documentation provided by Seller: (i) use Software that is embedded within the product solely on that product; and (ii) install Software that is provided with (but not embedded within) the product on a single computer or device for use solely with that product. Buyer acknowledges that the Software is, and may contain, the intellectual property of Seller and that Seller owns all right, title and interest in and to the Software. Seller reserves all rights to the Software except for the rights granted in the EULA or this Provision.

(b) Buyer will not permit or authorize any third party to: (i) disassemble, decipher, decompile, reverse engineer or otherwise attempt to access source code of the Software, except as expressly permitted by applicable law notwithstanding this limitation; (ii) copy, reproduce, modify or create derivative works of the Software; (iii) remove any embedded Software from any product or work around any technical limitations in the Software; (iv) remove any proprietary notices or labels related to the Software that are in the Software or on the product or any packaging; and (v) distribute, rent, lease, lend, transfer, sublicense, disclose or otherwise provide the Software to any third party, except as set forth in the following sentence. If a Buyer is permitted under this Agreement to resell a product containing embedded Software, Buyer may transfer the Software embedded in the product to a third party, provided that prior to the transfer of the product the third party agrees in writing to abide by all the terms of this Provision.

(c) Unless otherwise indicated in a EULA or other agreement between the parties, Seller provides the Software as-is and without warranty.

16. Buyer consents and agrees that Seller may, from time to time, publicize Seller projects with Buyer, including the value of such projects, in all forms and media for advertising, trade, and any other lawful purposes. In no event will these materials include competitively sensitive information, nor shall Seller engage in advertising practices which convey, or are reasonably calculated to convey, a false impression of sponsorship, approval or endorsement of any product or service.

17. Choice of Law. This Agreement and any sales or other transactions arising hereunder or related hereto shall be governed by, and construed in accordance with, the laws of the State of New York (excluding its conflicts of law provisions). The provisions of the U.N. Convention on Contracts for the International Sales of Goods shall not be applicable. A determination that any provision of this Agreement is ineffective or unenforceable shall not impair the enforceability of other provisions contained herein.

EXHIBIT "B" EXPORT ENGINES

Environmental Protection Agency ("EPA") emission regulations authorize Carrier Transicold to make non-Tier 4 final engines/equipment for export only, subject to the requirements set forth in 40 C.F.R. section 1068.230. (As a general matter, that section applies to products that EPA regulates under 40 C.F.R. Part 1039).

Carrier Transicold is manufacturing a number of Transport Refrigeration Unit Generator Set Units ("TRU Gensets") which will be equipped with prior-tier, or Tier 4 interim ("Tier4i") engines marked for export. Because they will be marked for export only, the TRU Gensets built with Tier4i export engines cannot be used in the U.S.

To comply with 40 C.F.R. 1068.230(a), the TRU Gensets equipped with Tier4i export engines must be exported from the U.S. and cannot be used in a country that has standards identical to the U.S. EPA Tier4 emission regulations. In addition, TRU Gensets equipped with Tier4i export engines cannot be imported back into the U.S.

Exported engines must be labeled in accordance with 40 C.F.R. 1068.230(c) and (d). TRU Gensets built with these Tier4i export engines will be marked for use only outside the U.S. with the following label: **"THIS EQUIPMENT IS SOLELY FOR EXPORT AND IS THEREFORE EXEMPT UNDER 40 CFR 1068.230 FROM U.S. EMISSION STANDARDS AND RELATED REQUIREMENTS."**

Note that the U.S. EPA (and Carrier Transicold under this Agreement) reserves the right to modify applicable labeling requirements and to set additional "reasonable conditions" to ensure that exempt engines/equipment will not be placed into service in the U.S.

Buyer expressly represents to Carrier Transicold that i) TRU Gensets built with Tier4i export engines are being exported out of the U.S. and that such exports are to a country that does not have identical emission standards to the U.S. and ii) that the TRU Gensets equipped with Tier4i export engines will not be re-imported back into the U.S.

If the Buyer takes delivery of the TRU Gensets equipped with Tier4i export engines, at a U.S. port, then the Buyer will provide bill of lading documentation, or any other documentation requested by Carrier Transicold, which sufficiently demonstrates that the TRU Gensets built with Tier4i export engines are being exported and that such exports are to a country that does not have diesel emission standards identical to the U.S. EPA Tier 4 emissions regulations.

Buyer shall indemnify, defend and hold harmless Carrier Transicold, its officers, directors, agents and employees from and against any and all liabilities, claims, losses, costs, damages or expenses, including attorney fees, arising either directly or indirectly from Buyer's failure to comply with the requirements of this Exhibit or U.S. law including EPA emission regulations.



TRANSICOLD.

Carrier Transport Refrigeration & Air Conditioning
Carrier Corporation
Syracuse, New York 13221

MANUFACTURER'S WARRANTY

GENERATOR SETS MODELS UG & RG

TWO YEAR WARRANTY (LABOR AND MATERIAL)

Within two years after the date of shipment from the manufacturer's plant or twenty-seven months from the manufactured date, whichever comes first, Carrier Transicold Division, Carrier Corporation ("Carrier Transicold") through designated Container Service Centers will, at Carrier Transicold's option, repair or replace, with a new or remanufactured part, any parts or components of the products identified above which UNDER NORMAL USE AND SERVICE malfunction as a result of defects in material or workmanship. Contact Carrier Transicold for a current list of Container Service Centers designated to administer warranty.

In the event warranty repairs are not performed by a designated container service center, such warranty repair claims will be administered through Carrier Transicold's Syracuse Warranty Department. Claimant will be reimbursed labor expense at the rate of thirty-six (36) U.S. dollars per hour times the allowable time for the applicable repair, as indicated in Carrier Transicold's Warranty Labor Allowance Schedule, or for the actual labor expense, whichever is less. Labor expense reimbursement is for work performed at a repair facility during normal working hours only. Parts will be reimbursed at Carrier Transicold's current list price, less the applicable discount from the parts depot in the local geographic area, plus 5% for handling. If requested by claimant, replacement parts will be shipped to claimant F.A.S. (INCOTERMS 2010) Continental U.S.A. port by surface shipment or F.A.S. (INCOTERMS 2010) nearest port of embarkation from Carrier Transicold parts depots outside Continental U.S.A.

This warranty does not include consumable or maintenance items. Consumable and maintenance items include, but are not necessarily restricted to the following: engine oil, grease and lubricants, fuel, filters and filter elements, injector nozzles, glow plugs, cleaning materials, belts, fuses, light bulbs, refrigerant gases, oils, driers, shock mounts and batteries (batteries are warranted by the battery manufacturer).

In the event warranty repairs are affected outside the boundaries of the United States of America, Carrier Transicold is not responsible for any duties, taxes or associated charges as may be applicable in accordance with the regulations of the country where such warranty repair is performed.

This warranty does not apply to any equipment which in Carrier Transicold's sole judgement has been subject to misuse, negligence in handling or accident, operated contrary to manufacturer's printed instructions or has been so repaired or altered as to adversely affect its operational integrity.

THE FOREGOING WARRANTIES ARE EXPRESSLY GIVEN IN LIEU OF ANY OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WHICH ARE HEREBY DISCLAIMED.

LIMITATION OF LIABILITY

Carrier Transicold and its affiliates **SHALL NOT BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES. THE BUYER'S SOLE AND EXCLUSIVE REMEDY AND CARRIER TRANSICOLD'S AND ITS AFFILIATES SOLE AND EXCLUSIVE LIABILITY, WHETHER FOUNDED IN STATUTE, CONTRACT, TORT (INCLUDING STRICT LIABILITY AND NEGLIGENCE) OR ANY OTHER THEORY OF LIABILITY, SHALL BE LIMITED TO THE REPAIR OR REPLACEMENT OF PARTS OR COMPONENTS IDENTIFIED ABOVE SUBJECT TO THE LIMITATIONS HEREIN.**