

**TERMS & CONDITIONS of SALE**

**1. PARTIES.** "Seller" refers to CRANE 1 SERVICES, INC. "Buyer" refers to the purchaser identified on the face hereof or in any other agreement between the parties.

**2. TERMS AND ACCEPTANCE OF ORDER.** All services performed ("Services") and all orders and sales of goods supplied by Seller ("Goods") shall be subject to these terms and conditions.

**ACCEPTANCE BY BUYER IS EXPRESSLY LIMITED TO THE TERMS AND CONDITIONS CONTAINED HEREIN AND ON THE FACE HEREOF AND ANY INFORMATION OR DOCUMENTS EXPRESSLY INCORPORATED BY REFERENCE. SELLER HEREBY OBJECTS TO ANY CONTRARY, DIFFERENT OR ADDITIONAL TERMS OR CONDITIONS THAT MAY NOW OR IN THE FUTURE APPEAR ON BUYER'S ACKNOWLEDGMENT OR OTHER FORMS, OR ANY ALTERATIONS IN THE TERMS AND CONDITIONS OF THIS AGREEMENT, UNLESS EXPRESSLY AGREED TO IN WRITING BY SELLER. IF BUYER HAS PREVIOUSLY MADE SELLER AN OFFER WITH RESPECT TO THE SERVICES OR GOODS, THIS AGREEMENT OR ANY OTHER ACKNOWLEDGMENT OR CONFIRMATION BY SELLER SHALL NOT OPERATE AS AN ACCEPTANCE OF BUYER'S OFFER, BUT RATHER SHALL BE DEEMED TO BE A COUNTEROFFER.**

If Seller's terms are not acceptable, Buyer shall immediately notify Seller of its objections and Buyer's failure to so object and its delivery of an acknowledgment or acceptance of the Goods and/or the performance of the Services, whichever occurs first, shall constitute Buyer's consent to the terms hereof. Any reference to Buyer's order or other communication is for convenience only and not an incorporation of the terms thereof unless expressly stated. In the event of any conflict between the terms set forth herein and the face hereof, the latter shall control.

**3. QUOTATION.** Prices, payment terms, and dates of delivery referenced in Seller's quotations or offers are for informational purposes only and shall not be binding on Seller unless and until Seller has confirmed in writing its acceptance of an order placed by Buyer in accordance with such quotation or offer. Seller reserves the right to increase the price of the Goods stated in its quotation or order to reflect any subsequent increase in the cost of material or labor in the manufacture or delivery of such Goods. Quotations or offers terminate if not accepted by the Buyer within thirty (30) days.

**4. PRICING, RISKS AND TRANSPORTATION.** Seller reserves the rights to increase the price of the Goods or Services stated in its quotation or order to reflect any subsequent increase in the cost of materials or labor in the manufacture or delivery of such Goods or Services. The Goods shall be shipped F.O.B. Seller's plant. Unless expressly stated in writing, prices quoted do not include any additional costs, including, but not limited to, carriage and delivery costs, insurance, taxes, and costs associated with the importation/exportation of the Goods, which are the sole responsibility and expense of Buyer. In the event that Seller expressly assumes in the quotation or order any costs associated with the delivery, shipment, or importation/exportation of the Goods purchased by Buyer, the burden of any subsequent increase in these costs shall be borne by Buyer. Regardless of whether Seller assumes any of the aforementioned costs, all risk of damage, loss or theft shall be borne by Buyer. Buyer shall notify Seller in complete detail as to shipping and delivery methods, dates and places. Should Buyer's delivery instructions be erroneous or inadequate, Seller shall have the right to designate the method and route of shipment, freight collect, and to insure, at Buyer's expense with an insurer selected by Seller, the full value of the Goods to be shipped. Seller may, at its election, deliver the Goods in one or more installments. All such installments shall be separately invoiced and paid for when due without regard to subsequent or prior deliveries.

If Goods that are ready for shipment are to be held back on instructions of Buyer, or if a shipment cannot be effected for reasons beyond Seller's control, the Goods will be stored at Buyer's expense and risk at prevailing storage rates. If Seller does not have the necessary storage space at its plant, Seller is entitled to store the Goods elsewhere at Buyer's expense and risk.

**5. TERMS OF PAYMENT.** Unless otherwise stated, payment terms for all Services performed or purchases of Goods are net thirty (30) days of invoice date. Payment is to be made in the specified currency, with all associated bank charges to be paid by Buyer. Buyer's obligation to pay does not cease until the full contract price has been remitted to and is at the free disposal of Seller at the specified location. Payments shall be made as stipulated without any deductions, including, but not limited to, deductions for discounts, expenses or taxes of any kind, or for any alleged damages or claims arising under this agreement or any other agreement between the parties unless expressly agreed to in writing by Seller. In the event that Buyer shall fail to pay any part of the purchase price when due, Seller may, at its option, defer further shipments or cancel the unshipped balance. Seller reserves the right, prior to making any shipments, to require from Buyer satisfactory security for performance of Buyer's obligations. Interest shall be assessed, at a rate determined by Seller (in an amount equal to or greater than Seller's cost of borrowing), to any portion of payment not made in accordance with the terms of this agreement. Payment of such interest does not relieve Buyer of its obligations under this agreement. Collection of past due accounts may be transferred to Seller's attorneys and all legal expenses/costs associated with collection of past due accounts are payable by Buyer.

**6. DELIVERY; DELAY.** Any indicated date of delivery is only an approximate delivery date and will not be binding unless expressly agreed to in writing by Seller. While Seller will attempt to meet any agreed delivery date, it shall not be liable for delays in manufacture or delivery of Goods or performance of Services due to any event beyond Seller's or its affiliates' or subcontractors' reasonable control, including, but not limited to: *force majeure*, fires, floods, riots, strikes, labor disputes, freight embargoes, transportation delays, shortage of labor, inability to secure fuel, materials, supplies, equipment, or power on account of shortages thereof, or governmental import, export or transit suspensions or restrictions. Delivery of Goods and/or performance of Services shall also be delayed if Buyer fails to timely perform its obligations under this or any other agreement between the parties or if Buyer fails to submit or later modifies information necessary for the manufacture of the Goods or performance of the Services. Delay in delivery of Goods or performance of Services does not entitle Buyer to cancel this or any other agreement between the parties or to claim damages directly or indirectly attributable to such delay unless: (a) Buyer establishes that the delay was within the control and due to the fault of Seller, (b) Buyer suffered damages as a result of such delay, and (c) Seller has expressly agreed in writing that Buyer is entitled to cancel this or any other agreement between the parties or to claim such damages, as applicable. If Buyer requests a delay in delivery and Seller consents thereto in writing, Buyer shall pay reasonable storage charges plus Seller's cost for handling and repainting or reconditioning due to weather exposure. Seller shall still have the right to render its normal invoice to Buyer as if the Goods had been in fact shipped in accordance with original schedule(s). If Buyer requests a delay in erection and/or installation when included in the contract, and Seller consents thereto in writing, Buyer shall pay for erection costs to that date and any additional cost resulting from such delay.

**7. INSPECTION OF GOODS.** Buyer shall, or Buyer shall instruct its agent or recipient of the Goods, to inspect the Goods or Services promptly upon receipt and/or completion of applicable Services by Seller. All claims for alleged defects in the Goods or Services resulting from their failure to conform to the warranty provided in this agreement, subject to the terms herein, and any right of rejection or revocation of acceptance are waived if (a) Buyer, its agent or recipient of the Goods, fails to give Seller notice of any claim within ten (10) days after tender of delivery of the Goods or rendering of Services, or (b) Buyer, its agent or recipient of the Goods, has used the Goods or done any other act inconsistent with rejection or revocation of acceptance (except for reasonable tests and inspection quantities). All claims whatsoever by Buyer (including claims of shortages), excepting only those provided under the warranty provisions of this agreement, must be asserted within said ten (10) day period for each partial performance. There shall be no revocation of acceptance. Rejection may only be for defects substantially impairing the value of Goods or Services and the Buyer's sole and exclusive remedy for lesser defects shall be those provided for under the warranty provisions of this agreement.

**8. CANCELLATION/CHANGES.** Buyer may not rescind this agreement or any other agreement between the parties, or change or cancel an order, unless expressly agreed to in writing by Seller. If Buyer makes a written request of cancellation on an entire order, or any portion thereof, and Seller agrees in writing to such request, Buyer shall then be responsible for payment to Seller of the following cancellation charges: (i) reimbursement of all material & labor expenses (including overhead costs) incurred or committed to by the date the cancellation request is received; (ii) Seller's anticipated profit on the entire order or cancelled portion thereof; (iii) any and all incidental and consequential damages; and, (iv) if a cancellation request is received more than thirty (30) days after date of order acceptance, a minimum cancellation charge of 25% of the entire order price or the cancelled portion thereof. For purposes of this provision, requests for suspension of manufacture or delivery shall be treated the same as cancellation. Cancellation charges shall be due and payable upon Seller's making of its invoice for the same.

**9. LIMITED WARRANTY; DISCLAIMERS; LIMITATION OF LIABILITY AND REMEDIES.** Seller warrants to Buyer that the Services performed by Seller are free from defects in workmanship for a period of one year from date of performance. **Exclusions: SELLER MAKES NO WARRANTIES WITH RESPECT TO GOODS.** Buyer shall be entitled to only those warranties (if any) provided by the manufacturers of such Goods, to the extent such warranties are assignable to Buyer. Seller shall provide all reasonably available information to Buyer regarding any such manufacturer warranties. **THE FOREGOING WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARISING BY LAW OR CUSTOM, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ALL OF WHICH ARE HEREBY EXPRESSLY DISCLAIMED.** Immediately upon discovery, Buyer shall give Seller written notice of any alleged defects in the workmanship of the Services. Seller shall be given reasonable opportunity to inspect any such alleged defects in the workmanship of the Services. Provided that inspection by Seller verifies the alleged defects in the workmanship of the Services, **BUYER'S SOLE AND EXCLUSIVE REMEDY PURSUANT TO ANY CLAIM AGAINST SELLER OF ANY KIND ARISING OUT OF OR CONNECTED WITH THE SERVICES PROVIDED BY SELLER, INCLUDING, BUT NOT LIMITED TO, A CLAIM IN CONTRACT, NEGLIGENCE OR TORT (INCLUDING, STRICT LIABILITY), SHALL BE, AT SELLER'S OPTION, THE PROPER PERFORMANCE OF CONTRACTED SERVICES OR A CREDIT OF ALL OR A PORTION OF THE PRICE PAID FOR THE SERVICES.** This provision is a material factor in Seller's agreement to provide the Services and Goods at the price specified. Any accommodation to Buyer by Seller, whether for sales policy reasons or otherwise, shall not be taken to establish any liability of Seller inconsistent herewith. **NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, SELLER WILL NOT UNDER ANY CIRCUMSTANCES BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, REVENUE OR BUSINESS), ATTORNEYS' FEES, OR CLAIMS ARISING OUT OF THIRD PARTY ACTIONS, REGARDLESS OF WHETHER SUCH THIRD PARTY ACTIONS, OR ANY OTHER CLAIMS, LOSSES, OR DAMAGES, WERE REASONABLY FORESEEABLE TO BUYER OR SELLER, RESULTING FROM OR IN ANY WAY RELATED TO SELLER'S PROVIDING THE SERVICES OR GOODS, WHETHER FOR INJURIES TO PERSON, PROPERTY OR OTHERWISE.**

**10. SITE LABOR & SITE SERVICES.** In the event that Seller has been engaged to provide labor or other services such as installation, start-up, inspections and or repairs to existing equipment at the request of Buyer; Seller shall be given free and clear access to the worksite to most efficiently complete required site work at Buyer's designated work site. Buyer shall provide suitable power supply(s) for operation and connection of the equipment that Seller has been requested to service. No warranty shall exist when a malfunction occurs to a piece of equipment where the cause of malfunction is outside the specific scope labor service or repairs proposed or provided. Buyer shall have no right of warranty for repair of malfunctions discovered upon operation of equipment subsequent to an inspection service.

**11. SECURITY INTEREST.** Unless and until all Goods and Services are fully paid for, Buyer hereby grants Seller a security interest in any Goods to secure the unpaid balance of the price and all other obligations of Buyer to Seller however arising. Buyer authorizes Seller to file all necessary financing statements and other similar documents required to perfect the security interest granted herein and irrevocably grants Seller a power of attorney to execute any documents on behalf of Buyer relating thereto.

**12. INDEMNIFICATION BY BUYER.** Buyer shall indemnify and hold harmless, and upon request by Seller, shall defend Seller, its officers, directors, owners, agents, and employees, against any and all claims, liability, loss or damage, including attorney's fees, arising out of any personal injury or death or damage to or loss or destruction of property of Buyer, its personnel or third parties arising out of, connected with or incidental to Seller's provision of Goods or Services, whether or not said claims or actions are founded upon the negligence or alleged negligence of Seller; provided, however, this indemnity shall not apply where such personal injury or death or damage to or loss or destruction of property is caused by the gross negligence or willful misconduct of Seller.

**13. DEFAULT.** If Buyer defaults in performing any of its obligations to Seller under this agreement, or any other agreements between the parties, Seller may, at its option and without incurring any liability thereby, elect to cancel this agreement and/or to cancel any or all other agreements with Buyer, and pursue all available legal and equitable remedies.

**14. INSOLVENCY.** If Buyer shall be insolvent or cease doing business or be the subject of any proceedings under any bankruptcy, insolvency, or reorganization statute or law, such act shall, at the option of Seller, be deemed a default under this agreement, and Seller may elect to cease performing and cancel this agreement with respect to any Services not yet performed and any Goods not delivered or received prior to the election, and pursue all available legal and equitable remedies.

**15. GOVERNING LAW; JURISDICTION.** Any controversy arising out of or related to this agreement shall be construed and governed by the laws of the State of Ohio, including Article 2 of the Uniform Commercial Code as codified in Ohio Revised Code Chapter 1302, regardless of the laws that might be applicable under principles of conflicts of law. Any action arising from or related to this agreement for the sale of goods shall be instituted and litigated in any federal or state court located in Montgomery County, Ohio. The parties hereby irrevocably consent to the jurisdiction of the courts of Montgomery County, Ohio.

**16. NOTICES.** Any required notices shall be delivered by hand or sent by courier, facsimile, express mail (or its equivalent), or postage prepaid certified or registered mail at the addresses provided on the face hereof (or as otherwise provided by one party to the other), and shall be deemed effective on the earlier of five (5) business days after having been sent or the date of actual receipt. Either party may change its address for notice by giving written notice to the other party of the change.

**17. MISCELLANEOUS.** These terms and conditions set forth the entire understanding and agreement of the parties in respect of the subject matter hereof. No provisions shall be waived, changed, terminated, or rescinded, except by a writing signed by the parties. No waiver of any breach of any provision of this agreement shall constitute a waiver of any similar or dissimilar provision prior to any subsequent breach or shall constitute an amendment or modification of this agreement. If any provision of this agreement shall be held to be unenforceable or inapplicable, such holding shall not affect the enforceability of any other provision of this agreement. No contract for the purchase of Goods from Seller or the performance of Services by Seller may be assigned by Buyer without the prior written consent of Seller. The provisions of this agreement otherwise shall bind and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.