

AMERICAN CRANE AND HOIST CORPORATION

1234 Washington Street
Boston, MA 02118

TERMS AND CONDITIONS OF SALE

All sales by AMERICAN CRANE AND HOIST CORPORATION (the "Company") shall be made exclusively on the following terms and conditions of sale. "Products" refers to the machinery, material, equipment, apparatus, and/or product or products sold and/or manufactured by the Company.

1. Buyer's Terms and Conditions.

Company desires to provide Products to its customers promptly and efficiently. However, to negotiate individually the terms and conditions of each sales contract would substantially impair Company's ability to do so. Accordingly, Products furnished and services rendered by Company are sold only on the terms and conditions stated herein. Notwithstanding any terms and conditions on Buyer's order, Company's performance of any contract is expressly made conditional on Buyer's agreement to Company's Terms and Conditions of Sale, unless otherwise specifically agreed to in writing by Company. In the absence of such agreement, commencement of performance and/or delivery shall be for Buyer's convenience only and shall not be deemed or construed to be acceptance of Buyer's terms and conditions, or any of them. If a contract is not earlier formed by mutual agreement in writing, acceptance of any Products or accessories thereto shall be deemed acceptance of the terms and conditions stated herein.

2. Acceptance and Cancellation of Orders.

Each order for Products is subject to acceptance in writing by a duly authorized officer of Company: any written acknowledgment of receipt of an order shall not, in and of itself, constitute such acceptance. Orders accepted by Company may be canceled by Buyer only upon written consent of Company. In the event of cancellation or other withdrawal of an order for any reason, and without limiting any other remedy which Company may have as a result of such cancellation or other withdrawal, reasonable cancellation or restocking charges, which shall include all expenses then incurred and commitments made by Company, shall be paid by Buyer to Company. Special orders for items not normally stocked are non-cancelable and non-returnable.

3. Price Lists and Quotations.

All prices quoted are subject to change without notice. All quotations are made subject to the terms and conditions set forth herein. Prices in bulletins and price sheets are intended only for supplying general information and are not quotations or offers to sell on the part of the Company.

4. Company's Right to Increase Prices.

Company reserves the right to increase the selling price of any Products ordered by Buyer but not shipped from Company's place of business prior to an increase in Company's cost of such Products by Company's supplier. The selling price quoted herein shall, upon an increase in price by Company's supplier, be increased by a percentage equal to the percentage of increase in Company's cost for the Products, and Buyer agrees to pay such increased price in accordance with the terms hereof.

5. Delivery.

All prices quoted and Products shipped are F.O.B. Company's facility. Title to and risk of loss of all Products shall pass upon Company's delivery to carrier for shipment to Buyer unless otherwise agreed by Company in writing. Buyer

shall pay all freight, handling, delivery and insurance charges for shipment of Products, choice of carrier and shipping method and route shall be at the election of Company unless specifically designated by Buyer. All indicated delivery dates are estimated only. Company shall not be liable for delays in delivery or for failure to perform due to causes beyond the reasonable control of Company, which causes shall include, without limitation, acts of God, acts or omissions of Buyer or civil or military authorities, fire, strikes, epidemics, quarantine restriction, flood, earthquakes, riot, war, delays in transportation, or inability to obtain necessary labor, materials or supplies. In the event of any delay, the contractual date of delivery, if any, shall be extended for a period equal to the time lost as a consequence of such delay, without penalty to Company. Company shall be entitled to refuse or to delay shipments for failure by Buyer to pay promptly any payments due Company, whether on this or any other contract between Company and Buyer. Company shall have the right to deliver all Products at one time or in portions from time to time, unless Buyer and Company agree at the time of the order to ship an order complete with no partial shipments. Unless otherwise specified, shipments will be made by the cheapest way and except on small items, this will normally be motor freight.

6. Taxes.

Sales and use taxes payable by Buyer which are now or may hereafter be imposed by any taxing authority are not included in the sale price. If not collected at the time of payment of sales price, Buyer will hold Company harmless. Any direct or excise tax payable by Company which may hereafter be imposed by any taxing authority upon the manufacture, sale or delivery of Products for or to Buyer, or any increase in rate of any such present tax, shall be added to the sale price and if not collected at time of payment of sale price, Buyer will hold Company harmless.

7. Limited Warranty of Repair or Replacement.

The Company will repair or replace, at its option, defects in the Products developing within one (1) year from date of shipment from the factory, providing the Company receives immediate written notice of such defects upon their discovery and such claims are substantiated by the Company's inspection department. Correction of such defects by repair or replacement, F.O.B. the Company's factory, shall constitute fulfillment of this limited warranty. The return of all parts submitted for inspection under this limited warranty must be authorized by the Company and transportation prepaid by the shipper. This limited warranty will not be applicable unless the Products have been properly cared for and operated under normal conditions. The Company will not be responsible for damage resulting from improper storage or handling prior to placing the Products in service. The Company has no liability for any repairs made outside the Company's factory unless with the prior written consent of the Company.

8. Limitation of Liability. EXCEPT

FOR THE LIMITED WARRANTY OF REPAIR OR REPLACEMENT SET FORTH ABOVE, THE COMPANY DISCLAIMS ALL WARRANTIES WHATSOEVER WITH RESPECT TO THE PRODUCTS AND ACCESSORIES, AND MAKES NO WARRANTY, EXPRESSED OR IMPLIED, AND MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE (NOTWITHSTANDING ANY DISCLOSURE MADE TO THE COMPANY BY THE BUYER).

THE SOLE AND EXCLUSIVE REMEDY OF BUYER FOR ANY LIABILITY OF THE COMPANY FOR ANY CLAIM, INCLUDING LIABILITY INCURRED IN CONNECTION WITH (I) THE BREACH OF ANY WARRANTY WHATSOEVER EXPRESSED OR IMPLIED, (II) A BREACH OF CONTRACT, (III) A NEGLIGENT ACT OR ACTS (OR NEGLIGENT FAILURE TO ACT) COMMITTED BY SELLER, OR (IV) AN ACT FOR WHICH STRICT LIABILITY WILL BE IMPUTED TO THE COMPANY, IS LIMITED TO THE LIMITED WARRANTY OF REPAIR OR REPLACEMENT AS STATED ABOVE. IN NO EVENT SHALL THE COMPANY BE LIABLE FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL OR OTHER DAMAGES OR THE LIKE, INCLUDING, WITHOUT LIMITATION; DAMAGE TO GOOD WILL, LOSS OF PROFITS OR OF PRODUCTION; OR LOSS, COST OR EXPENSE OF ANY NATURE INCURRED BY BUYER OR ANY THIRD PARTY OR END-USER.

9. **Wiring.** Wiring of Products is in accordance with the Company's understanding of the provisions of the National Electrical Code. The Company shall have no responsibility for compliance with local regulations unless notified thereof prior to purchase and unless the Company accepts responsibility therefor in writing.

10. **Installation and/or Erection.** Unless otherwise stated by the Company in writing, Buyer shall be solely responsible for the erection, installation and operation of the Products, including without limitation the obtaining of all permits, licenses or certificates required for and the installation or use of such Products.

If Company agrees to erect or install the Products, the following are not included unless otherwise specified in writing by the Company: (a) the cost of insuring the load-bearing capacity of the floor and building structure upon which the installation and/or erection shall take place; (b) the cost of any necessary excavations, drainage, piling, foundations, masonry, and concrete, and any drawings for the design thereof; (c) all foundation bolts, anchor bolts and/or clips, curb angles, cover plates and/or grouting; (d) any wiring and disconnect switches between equipment conductors and power lines; (e) the cost of load testing the Products; and (f) all other costs and expenses associated with assembly, installation and operation.

The price for installation and/or erection is subject to the following conditions: (a) Buyer shall provide and pay for all necessary public inspection, licenses, and building permits. (b) The erection price is based on labor to be paid on a ONE shift straight time basis, unless otherwise stated, and does not include premium for overtime labor. If for any reason, you request overtime, second or third shift work, you agree that you will compensate us at Company's standard overtime rates. (c) The erection price is also based on the availability of immediately proximate and direct access from the area in which our equipment is

unloaded to the erection area. (d) Buyer shall clear the site selected for installing the equipment, cut and repair any floor, wall or roof opening, in accordance with Company's diagrams, requirements, or drawings and keep the site free from water, debris and other obstructions. (e) Buyer shall provide proper lighting, piping and wiring necessary for processing lighting and power, incident to erection, installation and operation of the equipment. (f) Buyer agrees to hold Company harmless against any loss or damage caused by accident, fires, theft, or negligence occurring upon the premises of Buyer, unless caused solely by the negligence of Company. (g) The erection price is based on the use of equipment as specified by Company.

11. **Paint.** All prices reflect Company's standard paint and surface preparation procedures unless otherwise specified in writing by the Company.

12. **Inspection and Acceptance of Products.** Final inspection and acceptance of the Products shall be at Buyer's facility. Buyer shall be responsible for conducting the final acceptance tests, if necessary, which tests shall be completed promptly and in no later than ten (10) days after delivery. Acceptance by Buyer shall occur upon completion of tests provided the Products are in accordance with appropriate specifications.

13. **Credit.** All contracts and orders are subject to credit approval. The Company may at any time alter or suspend credit, refuse shipment or cancel unfilled orders when, in its opinion, the financial condition of the Buyer or status of the account warrants it or when delivery is delayed by fault of the Buyer or the Buyer is delinquent in any payment. The Company shall have a lien on any tooling in its possession as security for any unpaid balances. All costs of collection including, without limitation, attorney's fees incurred by the Company in seeking payment of any overdue invoice shall be paid by Buyer.

14. **Terms of Payment.** Terms of payment are generally net 30 days from date of shipment in whole or in part. Company reserves the right to alter terms of payment in its discretion and require deposits and/or advance payment when in Company's opinion same are necessary or desirable.

15. **General.** It is agreed that any transaction arising from any quote, sale or purchase is deemed to arise in Massachusetts and that jurisdiction is exclusively conferred in the courts located in the Commonwealth of Massachusetts in the county in which Company's principal place of business is located, for the purpose of enforcing the terms and conditions hereof or any claim for breach of contract, breach of warranty or other claim.

16. **Patents, Etc. Liability.** On Apparatus made in whole or in part to Buyer's design and/or specifications, Buyer will hold Company harmless against any costs, liability or expense in any unfair competition, copyright, trade name or patent litigation whatever, arising out of the manufacture, use or sale of the Products quoted herewith. Company shall have no liability of any kind with respect to any actual or alleged infringement of any United States or foreign patent, trademark or similar rights.