

## The Manitowoc Company, Inc. International Terms and Conditions of Purchase

**ACCEPTANCE OF TERMS AND CONDITIONS WITHOUT CHANGES; ENTIRE AGREEMENT.** This Purchase Order (the 'Order'), including the terms and conditions contained herein, is the complete and final agreement between The Manitowoc Company, Inc. and its subsidiary companies ('Manitowoc') and the supplier ('Seller') of the goods and/or services identified on the Order. Acceptance by Seller of this Order is required on the attached acknowledgement copy, which must be signed and returned within 15 business days of the Order date. However, any conduct by Seller recognizing the existence of an agreement (including without limitation shipment) shall also be deemed an acceptance without exception to the terms of this Order. Additional or different terms already or hereafter proposed by Seller, whether in a quotation, acknowledgment, invoice or otherwise, are rejected and shall not apply. No change to this order shall be binding unless agreed to in a writing signed by Manitowoc.

**CHANGES.** Manitowoc may at any time make changes in drawings, designs, specifications, materials, packaging, time and place of delivery, method of transportation, quantities or other terms of this Order, which changes shall be immediately implemented by Seller. If any such change causes an increase or decrease in the cost, or the time required for performance, an equitable adjustment shall be made and this Order shall be accordingly modified in writing. Seller shall not change either the location where the goods are produced or the method of producing the goods without providing Manitowoc with prior written notice of such changes.

**SUB-ORDERS; SUBCONTRACTING.** Seller may not delegate its obligations under or assign this Order. Seller must obtain Manitowoc's approval of any subcontractor or sub-supplier ('Sub'). Any such Sub must be listed and clearly identified on the face of this Order. All Subs shall be bound by these Terms and Conditions of Purchase and Seller shall be liable for all acts or omissions of such Subs as if performed by Seller itself.

**PRICES; TAXES.** Prices specified in this Order may not be changed without the written approval of Manitowoc. Unless otherwise specified on the face of this Order, the prices herein include: (i) all transportation charges to the destination specified on the face of this Order including without limitation packing, packaging, freight charges, drayage and insurance; and (ii) all national, federal, state and local taxes including without limitation sales and use taxes, value added, customs duties and fees of every kind and nature. No extra charges of any kind will be allowed unless specifically agreed to in writing by Manitowoc.

**PAYMENT; INVOICING.** Unless otherwise specified on the face of this Order, terms of payment are net 90 days after the later of (i) delivery of goods, receipt of a certificate of completion of work, or receipt of invoice, less any applicable retention or set-offs which Manitowoc may have against Seller's accounts. If this Order permits progress payments, Seller shall certify in writing the performance of the applicable payment milestones and Seller's granting of a security interest in the work or goods to Manitowoc to the extent of such payment. Seller's sole remedy for late payment is to charge interest at the rate of .10 % (one tenth of one percent) per month from the date of late payment.

**PACKAGING AND SHIPPING.** All packages shall be clearly marked with Manitowoc's Purchase Order and identification numbers, appropriate description of the goods, manufacturing date codes, part numbers and quantity of items contained in each package. A copy of the packing slip shall also be mailed directly to Manitowoc. Packaging shall be in accordance with good commercial practices. No additional charges of any kind, including charges for boxing, packaging, cartage or other extras shall be added unless specified on the face of this Order. Seller shall not make partial shipments or deviate from Manitowoc's shipping instructions without its prior written consent.

**DELIVERY; COMPLETION OF SERVICES.** Seller shall strictly comply with delivery instructions (including the delivery schedule) contained on the front of this Order. Time is of the essence with respect to Supplier's obligations hereunder. Unless otherwise stated, goods shall be delivered FOB destination designated by Manitowoc. If delivery of items or rendering of services is not completed by the specified delivery date, Manitowoc reserves the right, in addition to its other rights, to return goods and/or terminate all or part of this Order and charge Seller with all costs, expenses and damages associated with such return or termination. If Manitowoc believes that Seller is failing to competently and timely perform services specified herein with all necessary means and diligence, Manitowoc may by written notice require Seller to employ more or different personnel or to take other measures to expedite completion of the services in accordance with the delivery schedule. If Seller fails to effectively expedite the services, Manitowoc may, in addition to any other remedies, employ any other means to complete the services, and Seller shall reimburse Manitowoc for such additional costs and expenses as it incurs. Manitowoc may delay delivery and/or acceptance for causes beyond its control.

**INSPECTION AND ACCEPTANCE.** Manitowoc shall have the right of inspection, testing, approval and acceptance within a reasonable time after arrival of the goods at their destination or completion of services. However, inspection, testing or acceptance shall not relieve Seller of its warranty or other obligations hereunder. If inspection discloses that some or all of a shipment of goods received are not in accordance with Manitowoc's specifications, Manitowoc may at its option and at Seller's expense: (i) return the entire shipment and cancel any unshipped portion of this Order, in which event Seller shall immediately ship sufficient quantities of conforming goods; (ii) seek cover and Seller shall reimburse Manitowoc for all of its costs; or (iii) accept goods subject to an equitable adjustment in the price. If services are not in accordance with Manitowoc's specifications, Seller shall at Manitowoc's option: (x) repair, remedy or re-perform the defective services, or (y) accept the services subject to an equitable adjustment in price. Payment shall not constitute acceptance of any shipment, and if made, shall be without prejudice to any and all claims that Manitowoc may have against Seller. In the event the goods must be installed, tested, inspected or assembled prior to commercial use, they shall not be deemed finally accepted until such installation, testing, inspection or assembly indicates that the goods are in accordance with specifications and are operating properly. Upon notice, Manitowoc may make inspection visit(s) at the site where the goods are being designed or manufactured, or services being performed. Upon request, Seller shall provide Manitowoc with written performance and status reports.

**DEFAULT.** If Seller breaches any of the terms of this Order, Manitowoc may, in addition to all other remedies permitted by law or granted in this Order, withhold any payments due Seller until such time as Seller cures its breach.

**TERMINATION FOR CONVENIENCE OR CAUSE.** Manitowoc may, at any time and without further liability, terminate this Order or any part hereof for its sole convenience, at which time Seller shall immediately stop all work related to this Order. Manitowoc shall pay Seller's actual direct costs for goods produced or work performed up until the date of termination, provided that such costs were incurred by Seller in good faith to fulfill this Order in accordance with its terms. Seller's claims under this section must be provided in

writing with sufficient detail within thirty (30) days of receipt of Manitowoc's termination notice. Further, Manitowoc may rescind or cancel this Order, in whole or part, at any time and without penalty or liability if: (a) Seller breaches any terms or conditions of this Order including without limitation late delivery; or (b) Seller ceases operations or fails to make progress or meet progress milestones; or (c) a petition in bankruptcy is filed by or against Seller, Seller is declared insolvent or has a receiver or trustee appointed for it or its assets, or Seller makes an assignment for the benefit of creditors or commences proceedings under any insolvency or similar laws.

Seller shall protect Manitowoc's property, work or goods in Seller's (or its subcontractor's) care, custody or control until final transfer of such property, work or goods has been made to Manitowoc. Seller shall at Manitowoc's sole option, direction and benefit deliver to Manitowoc or dispose of any partially completed goods or obsolete materials.

**REMEDIES.** Manitowoc's remedies granted in this Order are not exclusive, but are in addition to any other remedies provided by law or equity. Where specified herein, Seller's remedies are exclusive of all other remedies.

**RISK OF LOSS / TITLE.** Unless otherwise specified on the face of the Order, Seller shall bear all risk of loss or damage to goods until acceptance of delivery by Manitowoc at its facility specified in the Order. Seller shall remain responsible for any hidden damages. Title to goods shall pass upon delivery, or sooner if otherwise specified in the Order.

**CALIBRATION.** Any required calibration on goods supplied to Manitowoc must be performed with equipment calibrated against a national or international standard as part of a calibration system determined to be acceptable to Manitowoc.

**TOOLING.** Unless otherwise agreed in a writing signed by Manitowoc, Seller shall be fully responsible for all tools, dies, jigs, molds or other property ("Tooling") furnished to Seller that are in its care, custody and control. Seller shall insure Tooling at replacement value with financially sound insurers reasonably acceptable to Manitowoc. Seller shall keep accurate written records of all Tooling, and will provide such records to Manitowoc upon request. Manitowoc may at any reasonable time, with or without notice to Seller, inspect the premises where such property is located. Seller shall mark or affix labels to each item indicating that Manitowoc (or its subsidiary) is the sole owner of such property. Seller shall return all Tooling to Manitowoc upon demand by Manitowoc. Seller shall indemnify Manitowoc for all of Manitowoc's costs, expenses, losses and damages arising from any breach by Seller of its obligations under this section.

**INDEMNIFICATION.** Seller shall defend, indemnify, and hold harmless Manitowoc and its affiliates, and its and their directors, officers, employees, customers, successors and assigns, against any claim, action, proceeding, liability, loss, cost or expense whatsoever, including without limitation Manitowoc's attorneys fees, arising out of or in connection with (1)(a) enforcement by Manitowoc of its rights hereunder, (b) performance of this Order by Seller and/or its subcontractors, or by its or their employees and agents, or (c) any breach of the terms and conditions of this Order, or (2) any actual or alleged: (w) defect in the goods or services, (x) failure by Seller to comply with Manitowoc's specifications or with the express or implied warranties of Seller, (y) violation by the goods, or in their manufacture or sale, or in the provision of services, of any federal, state, local, foreign or international law, rule or regulation, or (z) infringement of any patent, trademark, trade name, trade secret, copyright or other property right by reason of the sale or use of the goods or services ordered by Manitowoc. Manitowoc shall have the right to participate in the defense and settlement of any such claim, action or proceeding.

**INSURANCE.** Seller shall obtain and maintain general liability insurance (including products) in amounts no less than \$5 million per occurrence, worker's compensation insurance in accordance with all state laws, and property insurance sufficient to cover the work or any Manitowoc property that is in the care, custody or control of Seller. Such insurance shall be primary (with deductibles or SIR no greater than \$500) and shall pay in full before any other insurance available to Manitowoc. Seller shall obtain waivers of subrogation for the benefit of Manitowoc and shall name it as an additional named insured under all such insurance policies.

**COMPLIANCE WITH LAWS.** Seller shall comply with all applicable local, state, federal, international and foreign laws, rules, regulations, standards and codes.

**WARRANTIES.** Seller warrants that all goods delivered and services performed shall, for a reasonable period of time, but no less than five years, (a) be merchantable and free from defects in design, materials and workmanship; (b) strictly conform to all specifications, statements of work, drawings, samples, descriptions, designs and any other requirements specified by Manitowoc; (c) be free from all liens and encumbrances; and (d) be fit and safe for their intended purpose. Seller further warrants that all goods provided hereunder shall have a useable life of no less than ten (10) years. Seller shall, at no cost to Manitowoc and at Manitowoc's option, expeditiously repair or replace all defective work or goods at the exact place the goods are, or the work is, located, time being of the essence. Seller shall reimburse Manitowoc all of Manitowoc's direct and indirect costs associated with the defects, including without limitation lost profits and loss of use. All warranty work shall be warranted for an additional five years from the completion of repairs or new installation. Without limiting in any way the foregoing warranties, Seller also warrants that it shall obtain and assign or otherwise provide to Manitowoc the benefits of warranties and guarantees provided by manufacturers or suppliers of material or equipment incorporated into the goods or services, and shall perform its responsibilities so that such warranties or guarantees remain in full effect. Unless this Order expressly provides otherwise, any goods which discolor or create discoloration, or emit an odor, are not merchantable.

**FORCE MAJEURE.** Seller shall maintain a contingency plan to avoid any delay in the delivery of the goods subject to this Order, that result from the occurrence of any events beyond Seller's reasonable control.

**COPYRIGHTABLE MATERIALS.** All copyrightable materials prepared for Manitowoc or arising out of anything done pursuant to this Order shall constitute works made for hire. Seller agrees that this Order constitutes an assignment of such rights to Manitowoc, and covenants that it shall take all actions necessary to obtain and fully and effectively transfer all such rights to Manitowoc, without additional cost or expense to Manitowoc.

**CONFIDENTIALITY.** Unless modified by a more specific written agreement executed by Manitowoc and Seller, all information furnished by Manitowoc or any other person acting on behalf of Manitowoc and all information learned or observed about Manitowoc or its operations through performing this Order is confidential ("Confidential Information") and Supplier shall not disclose any such information to any other person, or use such information for any purpose other than performing this Order. Seller shall limit disclosure of Confidential Information to only those employees who need to know, and Seller shall indemnify Manitowoc for all costs and expenses related to any breach of its obligations hereunder by Seller or its employees. All Confidential Information in tangible form, (including all copies) provided by Manitowoc or prepared by Seller for Manitowoc shall be returned to Manitowoc promptly upon request. Seller shall not publicize the fact that Manitowoc has contracted to purchase goods or services from Seller, nor shall any

information relating to this Order be disclosed without Manitowoc's written consent. Unless otherwise agreed in writing, no information disclosed by Seller to Manitowoc shall be deemed confidential and Seller shall have no rights against Manitowoc with respect to Manitowoc's use thereof.

**GOVERNING LAW.** (a) This Agreement and the rights and obligations of the parties hereunder shall be construed and interpreted in accordance with the laws of the State of Wisconsin, USA without regard to conflict of law principles. (b) This Agreement and the rights and obligations of the parties hereunder shall not be governed by, and the parties hereby disclaim the effect of, the United Nations Convention on Contracts for the International Sale of Goods, as amended.

**ARBITRATION.** (a) If Seller has a sales office or operates within the United States, then any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the then-current Commercial Arbitration Rules of the American Arbitration Association (the "AAA"). The place of arbitration shall be Milwaukee, Wisconsin. (b) If Seller has no operations or offices located in the United States, then any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the then-current Rules of Conciliation and Arbitration of the International Chamber of Commerce. The place of arbitration shall be Los Angeles, California. The arbitration will be conducted in the English language. All arbitrators shall be fluent in English. (c) The following additional provisions shall apply to any arbitration conducted pursuant to this Section: (i) Cases involving alleged claims less than one million dollars shall be decided by a single arbitrator. Cases involving alleged claims of one million dollars or more shall be decided by a panel of three arbitrators. In cases requiring three arbitrators, each party shall select an arbitrator and the two arbitrators shall select a third arbitrator. If the two arbitrators are unable to agree on a third arbitrator, the third arbitrator shall be selected by the arbitral association having jurisdiction over the case. The third arbitrator shall act as the chairman. The three arbitrators shall render an arbitration decision by majority vote. All arbitration decisions shall be in writing. (ii) Except as otherwise agreed by the parties, each party shall be entitled to discovery exclusively by the following means: (A) requests for admission, (B) requests for production of documents, (C) up to twenty-five written interrogatories (with any subpart to be counted as a separate interrogatory), and (D) depositions of no more than six individuals. (iii) Unless the arbitrator(s) find that delay is reasonably justified or as otherwise agreed to by the parties, all discovery shall be completed, and the arbitration hearing shall commence within three months after the appointment of the arbitrator(s). Unless the arbitrator(s) find that delay is reasonably justified, the hearing will be completed, and an award rendered within 30 days of the commencement of the hearing. (iv) The authority of the arbitrator(s) shall include the ability to render equitable types of relief and, in such event, any court of competent jurisdiction may enter an order enjoining and/or compelling such actions or relief ordered or as found by the arbitrator(s). Notwithstanding the foregoing, the parties expressly agree that a court of competent jurisdiction may enter a temporary restraining order or an order enjoining a breach of this Agreement pending a final award or further order by the arbitrator(s). Such remedy, however, shall be cumulative and nonexclusive, and shall be in addition to any other remedy to which the parties may be entitled. (v) In the event of any conflict between the arbitration rules applicable to a case and the provisions stated above in this Section, the provisions of this Section shall control.

**MISCELLANEOUS.** (a) Manitowoc's failure to insist on performance of any of the terms of this Order, its failure to exercise any right or privilege or its waiver of any breach hereunder shall not effect a waiver of any other right or privilege, whether of the same or similar type; (b) the invalidity or unenforceability of any provision of this Order shall not affect the validity or enforceability of any other provisions of this Order, (d).

**Electronic or larger-type copies of these purchase terms may be obtained by calling Manitowoc's Vice President of Global Purchasing at 920-652-1779.**