

TERMS AND CONDITIONS OF SALE

1. **Offer, Governing Provisions and Cancellation.** This document is an offer or counter-offer by MANITOWOC CRANE GROUP ASIA PTE LTD, a Singapore corporation ("Seller") to sell the goods and/or services that are identified in this document to the buyer identified in this document ("Buyer") in accordance with these Terms and Conditions of Sale ("Terms and Conditions"), is not an acceptance of any offer made by Buyer, and is expressly conditioned upon Buyer's assent to these Terms and Conditions. All sales by Seller to Buyer are subject to, and are expressly conditioned upon assent to, these Terms and Conditions. No additional or different terms or conditions will be binding upon Seller unless specifically agreed to in writing. Seller hereby objects to any such additional or different terms or conditions, and notifies Buyer that Seller is unwilling to sell on any terms or conditions other than these Terms and Conditions. These Terms and Conditions and the additional terms and conditions contained in or attached to this document, as supplemented by agreed upon quantities and shipping dates (collectively, the "Agreement"), shall be the entire agreement between Seller and Buyer on the subject of the transactions described herein; and there are no conditions to this Agreement that are not expressed herein. This offer and the agreement shall be governed by and construed in accordance with the laws of the Republic of Singapore without giving effect to any conflicts of law provisions. Without prejudice to any right of Seller to apply to any competent court for injunctive relief, any dispute arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration in Singapore in accordance with the Arbitration Rules of the Singapore International Arbitration Centre ("SIAC Rules") for the time being in force, which rules are deemed to be incorporated by reference in this clause. The tribunal shall consist of one (1) arbitrator who shall be appointed by the Chairman of the Singapore International Arbitration Centre. The language of the arbitration shall be English. Notwithstanding anything in this Agreement, the Buyer acknowledges and agrees that Seller shall have the right at any time to apply to any competent court for interim injunctive relief in relation to any dispute arising out of or in connection with this Agreement. The Buyer agrees that judgment upon any award issued by an arbitrator hereunder may be entered in any court having jurisdiction thereof. Upon a showing of potential for substantial and irreparable injury, the arbitrator or an appropriate court (at the election of the party suffering such injury) shall have power to order protective or conservative measures to be taken to preserve the respective rights of either party. If Seller is constrained to and does successfully enforce this Agreement, the Buyer will reimburse and indemnify Seller for the reasonable costs incurred by Seller in such enforcement proceeding, including but not limited to, legal fees and costs. **THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL NOT BE GOVERNED BY THE 1980 U.N. CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS.**

No accepted offer and no distributor order may be cancelled or altered by Buyer except upon terms and conditions accepted by Seller in writing; and no changes to this document will be binding unless set forth in writing and manually signed by Seller. This offer may be revoked by Seller at any time before it is accepted by Buyer, and shall automatically expire 30 calendar days after its date if Buyer has not accepted it before then. Neither Buyer's acceptance of this offer nor any conduct by Seller (including but not limited to shipment of goods) shall obligate Seller to sell to Buyer any quantity of goods in excess of the quantity that Buyer has committed to purchase from Seller at the time of such acceptance or conduct.

2. **Price.** Unless otherwise specified on the face of this document or agreed to in writing, the price for goods sold hereunder shall be Seller's distributor list price in effect as of the date of Buyer's order. Notwithstanding the foregoing, Seller may increase the price of the goods upon notice to Buyer to reflect any additional increases in Seller's cost of producing the goods. Prices are stated and payable in the currency set forth in the price list.

3. **Credit Approval; Payment Terms.** All payment terms set forth in this document are subject to Seller's approval of Buyer's credit, in Seller's discretion; and if such approval is withheld, payment shall be due in advance of Seller's performance. Except as otherwise agreed to in writing or otherwise provided on the face of this document or in the preceding sentence, payment is due upon Buyer's receipt of Seller's invoice following shipment. Interest will be charged at the lesser of (i) 18% per year, or (ii) the highest rate permitted by applicable law, on accounts more than 30 calendar days past due. If Buyer fails to make any payments in accordance with the terms of this Agreement, Seller may, in addition to its rights and remedies provided hereunder or at law or equity, (a) defer or suspend further shipments or provision of goods until Buyer reestablishes satisfactory credit, (b) cancel the unshipped or unperformed portion of any order and invoice Buyer for incurred costs and reasonable profit without any liability on the part of Seller for failure to ship or provide goods, or (c) make shipment of goods to Buyer on a C.O.D. or cash in advance basis. If production or shipment of completed goods, or other Seller performance, is delayed by Buyer, Seller may immediately invoice, and Buyer shall pay, the percentage of the purchase price corresponding to the percentage of completion; in addition, Buyer shall compensate Seller for storage of completed goods or work in process during any such delay, whether stored at Seller's facility or an independent storage company's facilities.

4. **Taxes and Other Charges.** Any manufacturer's tax, occupation tax, use tax, sales tax, excise tax, value added tax, duty, custom, inspection or testing fee, or any other tax, fee, interest or charge of any nature whatsoever imposed by any governmental authority on or measured by the transaction between Seller and Buyer shall be paid by Buyer in addition to the prices quoted or invoiced. In the event Seller is required to pay any such taxes or other charges, Buyer shall reimburse Seller therefor on demand.

5. **Retention of Title.** (a) In spite of delivery having been made, property in the goods sold hereunder shall not pass to the Seller until: (i) the Buyer shall have paid the price and any applicable taxes in full; and (ii) no other sums whatsoever shall be due from the Buyer to the Seller. (b) Until property in the goods passes to the Buyer in accordance with the above clause (a), the Buyer shall hold the goods and each of them on a fiduciary basis as bailee for the Seller. The Buyer shall store the goods (at no cost to the Seller) separately from all other goods in its possession and marked in such a way that they are clearly identified as the Seller's property. (c) Notwithstanding that the goods (or any of them) remain the property of the Seller, the Buyer may sell or use the goods in the ordinary course of the Buyer's business at full market value for the account of the Seller. Any such sale or dealing shall be a sale or use of the Seller's property by the Buyer on the Buyer's own behalf and the Buyer shall deal as principal when making such sales or dealings. Until property in the goods passes from the Seller, the entire proceeds of sale or otherwise of the goods shall be held in trust for the Seller and shall not be mixed with other monies or paid into any overdrawn bank account and shall be at all material times identified as the Seller's money. (d) Until such time as property in the goods passes from the Seller, the Buyer shall upon request deliver up such of the goods as have not ceased to be in existence or resold to the Seller. If the Buyer fails to do so, the Seller may enter upon any premises owned, occupied or controlled by the Buyer where the goods are situated and repossess the goods. On the making of such request, the rights of the Buyer under clause (c) above shall cease. (e) The Buyer shall not pledge or in any way charge by way of security for any indebtedness any of the goods which are the property of the Seller. Without prejudice to the other rights of the Seller, if the Buyer does so all sums whatsoever owing by the Buyer to the Seller shall forthwith become due and payable. (f) The Buyer shall insure and keep insured the goods to the full price against all risks to the reasonable satisfaction of the Seller until the date that property in the goods passes from the Seller, and shall whenever requested by the Seller produce a copy of the policy of insurance. Without prejudice to the other rights of the Seller, if the Buyer fails to do so, all sums whatever owing by the Buyer to the Seller shall forthwith become due and payable.

6. **Delivery, Claims and Force Majeure.** Unless otherwise provided on the face of this document or agreed to in writing, goods shall be delivered, ex works Seller's loading dock (as the latter shipping term is defined in Incoterms 2000). Delivery of goods to the carrier shall constitute delivery to Buyer; and regardless of shipping terms or freight payment, Buyer shall bear all risk of loss or damage in transit. Seller reserves the right to make delivery in installments, unless otherwise expressly stipulated herein; all such installments to be invoiced upon shipment of the first installment and paid for when due per invoice, without regard to subsequent deliveries. Delay in delivery of any installment shall not relieve Buyer of its obligations to accept remaining deliveries.

Claims for shortages or other errors in delivery must be made in writing to Seller within 10 calendar days after receipt of shipment; and failure to give such notice shall constitute unqualified acceptance and a waiver of all such claims by Buyer. Claims for loss of or damage to goods in transit must be made to the carrier, and not to Seller.

All delivery dates are approximate. Seller shall not be liable for any losses or damages as a result of any delay or failure to deliver due to any cause beyond Seller's reasonable control, including but not limited to any act of God, act of Buyer, embargo or other governmental act, regulation or request, fire, accident, strike, slowdown, war, act of terrorism, riot, delay in transportation, or inability to obtain necessary labor, materials or manufacturing facilities. In the event of any such delay, the date of

delivery shall be extended for a period equal to the time lost because of the delay. All timeframes provided by Seller, whether verbally or in writing, are good faith estimates of the expected delivery date for the goods. Seller shall use commercially reasonable efforts to fill Buyer's orders within the time stated, but in no event shall Seller be liable for any damages associated with Seller's inability to meet any such timeframes or deadlines, including, without limitation, incidental or consequential damages arising therefrom.

7. **Changes.** Seller may at any time make such changes in design and construction of products, components or parts as Seller deems appropriate, without notice to Buyer. Seller may furnish suitable substitutes for materials unobtainable because of priorities or regulations established by governmental authority or nonavailability of materials from suppliers.

8. **Warranties.** The goods sold by Seller to Buyer hereunder are warranted by Seller pursuant to Seller's applicable written warranty available at <http://manitowoccranes.com/termsandconditions> or available upon request (the "Warranty"). The Warranty is exclusive and in lieu of all other warranties, whether written, oral or implied, arising by operation of law or otherwise, including, but not limited to, any warranty of satisfactory quality or fitness for a particular purpose.

Buyer shall indemnify and hold harmless Seller from and against any and all losses, liabilities, damages and expenses (including but not limited to attorneys' fees and other costs of defense) that Seller may incur as a result of Buyer or any intermediary purchaser extending any warranties to its customers beyond the Warranty. Performance of the remedy provided in the Warranty shall be Seller's sole obligation and the end-user's exclusive remedy with respect to defective goods. Any parts repaired or replaced under the Warranty are warranted only for the balance of the warranty period on the part that was repaired or replaced.

9. **Patents, Trademarks and Copyrights.** Seller will, at its own expense, defend any suits that may be instituted by anyone against Buyer for alleged infringement of any United States patent, trademark or copyright relating to goods or services provided by Seller, and pay any final damage award therein, provided Buyer shall have made all payments then due hereunder, shall give Seller immediate notice in writing of any such suit, shall transmit to Seller immediately upon receipt all processes and papers served upon Buyer, and shall permit Seller, through its counsel, to defend or settle the same either in the name of Buyer or in the name of Seller, giving Seller all needed information, assistance and authority to enable Seller to do so. Further, if the result of any such suit is a determination or acknowledgement of infringement, Seller shall, at Seller's option, (a) obtain for Buyer the right to continue to use the goods or products of the services purchased from Seller, or (b) replace the same with non-infringing goods or services, or (c) modify such goods or services so that they are non-infringing, or (d) remove such goods or products of services and refund to Buyer the undepreciated portion of the purchase price, determined on the basis of a five-year useful life.

To the extent that any goods or services that Seller furnishes to Buyer are (1) manufactured in accordance with drawings, designs or specifications proposed or furnished by Buyer or (2) modified by Buyer or any of Buyer's customers subsequent to the delivery of the goods or services, Seller shall not be liable, and Buyer shall indemnify and hold harmless Seller from and against any and all losses, liabilities, damages, claims and expenses (including but not limited to Seller's reasonable attorneys' fees and other costs of defense) incurred by Seller as a result of any claim of patent, trademark, copyright or trade secret infringement, or infringement or any other proprietary rights of third parties.

10. **Consequential Damages and Other Liability; Indemnity.** Buyer has considered and agrees that the foregoing terms in these Terms and Conditions of Sale and in particular this clause 10 are reasonable. Seller's liability with respect to the goods or services sold hereunder shall be limited to the warranty and indemnity provided in sections 8 and 9 of these Terms and Conditions and, with respect to any other breaches of its contract with Buyer, shall be limited to the contract price. **SELLER SHALL NOT BE SUBJECT TO ANY OTHER OBLIGATIONS OR LIABILITIES, WHETHER ARISING OUT OF BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR UNDER OTHER THEORIES OF LAW OR EQUITY, WITH RESPECT TO GOODS OR SERVICES SOLD BY SELLER, OR ANY UNDERTAKINGS, ACTS OR OMISSIONS RELATING THERETO.** Without limiting the generality of the foregoing, Seller specifically disclaims any liability for property damages, penalties, special or punitive damages, damages for lost profits or revenues, downtime, lost good will, cost of capital, cost of substitute goods or services, or for any other types of economic loss, or for claims of Buyer's customers or any third party for any such damages, costs or losses. **SELLER SHALL NOT BE LIABLE FOR AND DISCLAIMS ALL CONSEQUENTIAL, INCIDENTAL, INDIRECT AND CONTINGENT DAMAGES WHATSOEVER.**

Buyer shall indemnify and hold harmless Seller from and against any and all losses, liabilities, damages and expenses (including but not limited to attorneys' fees and other costs of defense) that Seller may incur as a result of any claim by Buyer or by Buyer's customers or by any third party arising out of or in connection with the goods or services sold hereunder, including but not limited to any such claim based upon the negligence of Seller in designing, manufacturing, performing and/or selling such goods or services, unless such losses, liabilities, damages or expenses are ultimately determined to be attributable solely to the willful misconduct of Seller.

11. **Installation.** If Buyer purchases any goods that require installation, Buyer shall, at its expense, make all arrangements necessary to install and operate the goods. Buyer shall install the goods in accordance with any Seller instructions. Buyer shall indemnify and hold harmless Seller from and against any and all losses, liabilities, damages and expenses (including but not limited to attorneys' fees and other costs of defense) arising from or otherwise connected with Buyer's or its agent's failure to properly install the goods.

12. **Work by Others; Safety Devices.** Unless agreed to in writing by Seller, Seller has no responsibility for labor or work performed by Buyer or others, of any nature, relating to design, manufacture, fabrication, use, installation or provision of goods. Buyer is solely responsible for furnishing, and requiring its employees and customers to use, all safety devices, guards and safe operating procedures required by law and as set forth in manuals and instruction sheets furnished by Seller. Buyer is responsible for consulting all operators' manuals, safety standards/regulations and other sources of safety standards and regulations applicable to the use and operation of the goods.

13. **Services.** The following terms shall also apply to all services being provided by Seller. (a) Seller will repair or, at its option, replace any part which is or becomes faulty if, in the opinion of Seller, the fault is in workmanship (and not the result of ordinary wear and tear; negligence; acts of God; vandalism; abuse; misuse; neglect; accident or disasters such as fire, flood, wind and lightning; overloading; unauthorized altered, modified or changed products or parts; products or parts which have not been properly installed, stored, operated or maintained or which have been improperly adjusted; any products or parts not manufactured by Seller), provided that the fault is brought to the notice of Seller within twenty (20) days of the date of delivery of the goods to Buyer on completion of the services. (b) The goods, while in Seller's possession are at the risk of the Buyer and Seller shall not be liable for the loss of or damage to the goods or their contents howsoever arising unless the same is caused by the negligence of Seller. In the event of such negligence, Seller's liability shall be limited to the replacement or at Seller's option, repair of the lost or damaged goods and under no circumstances whatsoever shall Seller be liable for any other loss, damage or expense suffered by the Buyer as a result of the loss or damage to the goods. (c) If the goods are not paid for and collected from Seller's premises within twenty (20) days of notice that they are ready for collection or if, where the goods are to be collected elsewhere, the Buyer fails to collect them at the agreed time and place, Seller reserves the right, in its sole discretion, to charge for storage or disposal of them. (d) If Seller is required to go to a location other than Seller's premises, Buyer shall be solely responsible to make sure such premises are safe and suitable for the services to be provided by Seller. Seller reserves the right, in its sole discretion to reject the premises if Seller determines they are not safe and/or suitable. Seller further reserves the right, in its sole discretion, to charge if it is waiting for the site to be prepared or if it leaves a site it determines not safe and/or suitable.

14. **Assignment.** Buyer may not assign any of its rights, duties or obligations under this Agreement without Seller's prior written consent, and any attempted assignment without such consent will be void and of no effect or consequence.

15. **No Waiver.** No waiver of this Agreement or any of its provisions is valid unless expressly agreed to in a writing signed by Seller. No waiver by Seller of any default under this Agreement is a waiver of any other or subsequent default. The failure of Seller to insist upon strict and timely performance of any term or condition of this Agreement shall not be deemed a waiver of any right or remedy that Seller may have under this Agreement or at law or equity, and shall not be deemed a waiver of any subsequent default in performance of the terms and conditions of this Agreement.

16. **Cost of Collection.** In the event legal action is necessary to recover monies due from Buyer or to enforce any provision of this Agreement, Buyer shall be liable to Seller for all costs and expenses associated therewith, including, without limitation, Seller's actual attorneys' fees and costs.