



GENERAL TERMS AND CONDITIONS OF SALE SERVICE PARTS

The sale of services and/or products to you, the buyer ("you" or "your" herein), is expressly conditioned on these terms and conditions. We object to any additional or different terms in your purchase order or other documents and such terms will not be binding upon **Manitowoc FSG Operations, LLC** ("us" or "we" or "our" herein) unless we specifically agree in writing. Your authorization, whether written or oral, will constitute acceptance by You of these terms and conditions.

1. **PRICES/PAYMENT:** Prices quoted are those in effect on the date the quotation is made and are valid for 30 days from the date of quotation. Shipments will be billed at our price in effect on the date of your acceptance of these General Terms and Conditions and any additional terms of ours for the order in question. If we reasonably believe you may not pay for service parts or services, we may cancel any outstanding order with you, withhold or revoke any extension of credit, and take any other reasonable steps to secure ourselves. All amounts not paid by you when due will be subject to a charge of 1 1/2% (or the maximum rate allowable by law) per month until paid. For international shipments, unless otherwise agreed to in writing by us, you will pay for goods and services we furnish by means of an irrevocable letter of credit providing for payment in US dollars and opened at or confirmed by a U.S. bank reasonably acceptable to us at the time of order placement. All letters of credit will conform to and be subject to the "Uniform Custom and Practice for Documentary Credits" as published by the International Chamber of Commerce, brochure No. 500 (1993 revision or most current).
2. **TAXES AND DUTIES:** In addition to the purchase price, you will pay (or reimburse us for): (a) all sale, use or other taxes (notwithstanding their designation as excise, gross receipts, privilege or similar taxes) imposed by any governmental body, unless you provide us with satisfactory evidence of exemption acceptable to the taxing authorities; (b) all additional costs arising from any duties and any laws imposed as processing or any other taxes on the raw materials or manufactured product for which we may be liable; and (c) all additional costs arising from any laws fixing or regulating hours and/or costs of labor producing the service parts.
3. **TITLE:** Title and risk of loss shall pass to you at the point of manufacture. We shall cooperate in every reasonable manner to facilitate claims to the transportation agent for lost or damaged service parts. You will indemnify and hold us harmless from and against all claims of parties claiming under or through you with respect to such service parts and property.
4. **FREIGHT:** All shipments are Ex Works point of manufacture unless otherwise specified and agreed upon by the parties in writing. No allowance will be made for pickup at factory location. You will pay for all transportation and handling charges from point of manufacture, and you accept all risk of loss following delivery at point of manufacture. You must obtain a Return Material Authorization (RMA) number from us before returning any product.
5. **INSTALLATION:** In certain instances, installation and/or supervision is quoted separately in this quotation, and our warranty may be voided if you do not accept our quotation and utilize our services for supervision of installation and start up.
6. **WARRANTY**
 - (a) During the warranty period, we will repair, or at our option replace, service parts manufactured by us that we determine to be defective in material or workmanship, and with respect to services, we will re-perform any defective portion of said services. The service parts warranty period is ninety (90) days from the time the service part was placed in service, as determined by our records. The foregoing will be our sole obligation under this warranty with respect to the service parts, other property and services included in this Agreement. With respect to equipment, materials, parts and accessories manufactured by others, our sole obligation will be to use reasonable efforts to obtain for you the full benefit of the manufacturer's warranties. We will have no liability, whether in contract, tort, negligence, or otherwise, to you with respect to products not manufactured by us.
 - (b) Our warranty obligations exclude the repair or replacement of service parts required because of misuse, improper care, installation (except where we perform the installation) or storage, negligence, alteration, accident, use of incompatible supplies or lack of specified maintenance. We do not warrant that the service parts or any part thereof complies with OSHA. You will be responsible for any costs resulting from modifications you request due to your interpretation of OSHA or resulting from the need to have equipment comply with state or local safety or sanitation requirements.
 - (c) Remedies: Our liability for breach of any warranty obligation hereunder is limited to: (i) the repair or replacement of the service part on which the liability is based, or with respect to services, reperformance of the services; or (ii) at our option, we will refund to you the amount you paid for the service part or services in question.
 - (d) The preceding paragraphs set forth the exclusive remedy for all claims based on failure of, or defect in, products or services sold hereunder, whether the failure or defect arises before or during the warranty period, and whether a claim, however instituted, is based on contract, indemnity, warranty, tort (including negligence), strict liability or otherwise. Upon the expiration of the warranty period, all such liability will terminate. **THE FOREGOING WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER WRITTEN, ORAL, IMPLIED OR STATUTORY. NO IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE WILL APPLY. WE DO NOT WARRANT ANY PRODUCTS OR SERVICES OF OTHERS THAT YOU HAVE DESIGNATED.** (e) Breach: Any breach by us with respect to any item, service part or unit of equipment or services will be deemed a breach with respect to that item or unit or service only.
7. **PATENTS**
 - (a) We warrant that the service parts sold hereunder, and any part thereof, as manufactured and without any change or modification, and standing alone without being combined with other equipment or considered as part of any larger system, will be free of any rightful claim of any third party for direct infringement of any United States "article", "product", or "machine" patent. If promptly notified in writing and given authority, information and assistance, we will defend, or may settle, at our expense, any suit or proceeding against you based on a claimed infringement which would result in a breach of this warranty, and we will pay all damages and costs awarded in such suit or proceeding against you due to such breach, up to the purchase price you paid for the service parts in question. In case any products are in such suit held to constitute such an infringement and the use for the purpose intended of said products is enjoined, we will, at our expense and option, either procure for you the right to continue using the products, or replace them with noninfringing products, or modify them so they become noninfringing, or remove the products and refund the purchase price (less reasonable depreciation for any period of use) and any transportation costs separately paid by you. The foregoing states our entire liability for patent infringement.

(b) The preceding paragraph will not apply to any products you specify and that we do not manufacture, or that are manufactured to your design, or to the use of any products furnished, or to any claim for inducement of patent infringement or contributory patent infringement. As to any such products, use or claims, we assume no liability whatsoever for patent infringement and you will hold us harmless against any such infringement claim.

8. LIMITATIONS OF LIABILITY

- (a) OUR LIABILITY ON ALL CLAIMS OF ANY KIND, WHETHER BASED ON CONTRACT, INDEMNITY, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, FOR ALL LOSSES OR DAMAGES ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM THIS AGREEMENT, OR THESE TERMS AND CONDITIONS, OR FROM THE PERFORMANCE OR BREACH THEREOF, OR FROM ANY PRODUCTS OR SERVICES COVERED BY OR FURNISHED UNDER THE AGREEMENT OR ANY EXTENSION OR EXPANSION THEREOF (INCLUDING REMEDIAL WARRANTY EFFORTS), WILL IN NO CASE EXCEED THE PRICE ALLOCABLE TO THE SPECIFIC PRODUCT OR SERVICE THAT GIVES RISE TO THE CLAIM. ALL SUCH LIABILITY WILL TERMINATE UPON THE EXPIRATION OF THE WARRANTY PERIOD SPECIFIED ABOVE.
 - (b) IN NO EVENT, WHETHER BASED ON CONTRACT, INDEMNITY, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, WILL WE, OUR EMPLOYEES AND SUPPLIERS BE LIABLE FOR SPECIAL, INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUE, LOSS OF USE OF ANY PROPERTY, COST OF CAPITAL, COST OF PURCHASED POWER, COST OF SUBSTITUTE EQUIPMENT, FACILITIES OR SERVICES, COST OF RAW MATERIALS USED OR LOST IN TESTING, START-UP, COMMISSIONING OR EXPERIMENTAL OPERATIONS, DOWNTIME COSTS, OR CLAIMS OF YOUR CUSTOMERS FOR SUCH DAMAGES AND YOU WILL INDEMNIFY US, OUR EMPLOYEES AND SUPPLIERS AGAINST ANY SUCH CLAIMS FROM YOUR CUSTOMERS. IF YOU RESELL THE PRODUCTS TO ANY THIRD PARTY, YOU WILL ENSURE THAT ANY SUCH THIRD PARTY AFFORDS US THE SAME PROTECTIONS OF THE PRECEDING SENTENCE.
 - (c) The products sold are not intended for use in any nuclear or weapons production facility or activity. If so used, we disclaim all liability for any damages arising as a result of the hazardous nature of the business in question, including but not limited to nuclear, chemical or environmental damage, injury or contamination, and you will indemnify, hold harmless and defend us, our officers, directors, employees and agents against all such liability, whether based on contract, warranty, tort (including negligence), or any other legal theory, regardless of whether we had knowledge of the possibility of such damages. (d) If we furnish you with advice or assistance concerning any products or systems which are not required under this agreement, the furnishing of such advice or assistance will not subject us to any liability, whether in contract, indemnity, warranty, tort (including negligence), strict liability or otherwise.
9. **DELIVERY:** Delivery and shipment dates indicated on any of our documents are estimated but not guaranteed and we will not be liable for any delay in delivery. Where shipment is deferred at your request, the order will be subject to invoicing, payment, and storage charges from date of completion. We will not be liable for failure to deliver the goods specified due to contingencies beyond our control, including strikes, lockouts and differences with workmen, when these events affect either us or our suppliers of material, or individuals or corporations upon whom we are dependent for transportation of supplies and delivery of our manufactured goods, and also including war, insurrection, embargoes, fire, flood, injuries to works where the goods or raw materials are manufactured, government regulations of fuel, transportation, labor or production, and inability for whatever reason to secure necessary labor, materials or supplies. In case of curtailment of production for any of the above causes, we reserve the right to deliver pro rata the goods which we produce to all of our customers, and to invoice you for partial shipment accordingly, and you will make payment on the purchase price in amounts as so invoiced.
 10. **CANCELLATION:** You may not cancel any order except upon written notice to us and on payment of a reasonable and proper sum to compensate us for expenses incurred in the engineering and/or manufacture of the order to the date of cancellation and for our reasonably anticipated profit in connection with the order.
 11. **GOVERNING LAW:** This Agreement will be subject to the substantive laws of the State of Delaware. The provisions of the United Nations Convention on the International Sale of Goods will not apply to this Agreement.
 12. **CONFIDENTIALITY:** You will treat as confidential all technical and business information and drawings supplied by us to you both prior to and after execution of this Agreement and delivery of the equipment or services.
 13. **EXPORT:** If you intend to export (or reexport), directly or indirectly, all or any part of the products or related technical information we supply to you, it is your responsibility to assure compliance with US and other applicable export control regulations and, if appropriate, to secure any required export licenses in your own name.
 14. **NON-ASSIGNMENT:** You may not assign all or any part of this Agreement without our prior written consent.
 15. **ENTIRE AGREEMENT:** This Agreement and our price lists as revised from time to time will constitute the entire agreement between us regardless of any inconsistent or additional terms and conditions in your purchase orders or other documents submitted to us whether or not we have executed or otherwise accepted them. Unless specifically stated in this agreement, all other agreements, proposals and understandings with respect to the subject matter of this agreement are merged into this agreement, and there are no promises, terms, conditions or obligations other than those contained in this agreement and in our currently published price lists as revised from time to time. Any and all representations, promises, warranties or statements by our agents that differ in any way from the terms and conditions of this agreement will be of no force or effect. This agreement may be amended only by a written instrument executed by all parties.