

ENGEL MACHINERY KOREA LTD. STANDARD TERMS AND CONDITIONS

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1. ACCEPTANCE - THE TERMS AND CONDITIONS HEREOF BECOME THE EXCLUSIVE AND BINDING AGREEMENT BETWEEN THE PARTIES COVERING THE PURCHASE OF THE GOODS OR SERVICES ORDERED HEREIN WHEN THIS ORDER IS ACCEPTED BY ACKNOWLEDGMENT OR COMMENCEMENT OF PERFORMANCE. THIS PURCHASE ORDER CAN BE ACCEPTED ONLY ON THESE TERMS AND CONDITIONS. ADDITIONAL OR DIFFERENT TERMS PROPOSED BY SELLER WILL NOT BE APPLICABLE UNLESS ACCEPTED IN WRITING BY THE BUYER. NO CHANGE, MODIFICATION, OR REVISION OF THIS PURCHASE ORDER SHALL BE EFFECTIVE UNLESS IN WRITING AND SIGNED BY BUYER.

2. INVOICES - Invoices shall contain the following information: purchase order number, item number, description of goods, sizes, quantities, unit prices, and extended totals in addition to any other information specified elsewhere herein. Payment of invoice shall not constitute acceptance of goods or services and shall be subject to adjustment for errors, shortages, defects in the goods, or other failure of Seller to meet the requirements of the Purchase Order. Buyer may at any time set off any amount owed by Buyer to Seller against any amount owed by Seller or any of its affiliated companies to Buyer. Partial shipments must be invoiced separately.

3. TAXES - Unless otherwise specified, the agreed prices include all applicable federal, state, and local taxes. All such taxes shall be stated separately on Seller's invoice.

4. PRICES - Seller hereby agrees and represents that prices charged for goods or services provided hereunder are not in excess of prices charged other customers of Seller for orders of similar quantities of substantially similar goods or services on comparable terms.

5. DELIVERY - (a) Time is of the essence. Failure to deliver as scheduled shall constitute default. (b) Buyer will pay only for maximum quantities ordered. Over-shipments will be held at Seller's risk and expense for a reasonable time awaiting shipping instructions. Return shipping charges for excess quantities will be at Seller's expense. (c) No partial delivery shall be made unless Buyer has given prior consent. (d) No delivery shall be made hereunder prior to the date or dates shown unless Buyer has given prior consent.

6. PACKING AND SHIPMENT - Unless otherwise specified, when the price of this order is based on the weight of the ordered goods, such price is to cover net weight of goods ordered only, and no charges will be allowed for boxing, crating, handling damage, carting, drayage, storage, or other packing requirements. Unless otherwise specified, all goods shall be packed, packaged, marked, and otherwise prepared for shipment in a manner which is (i) in accordance with good commercial practice, (ii) acceptable to common carriers for shipment at the lowest rate for the particular goods and in accordance with I.C.C. regulations and (iii) adequate to insure safe arrival of the goods at the named destination. Seller shall mark all containers with necessary lifting, handling, and shipping information and also purchase order numbers, date of shipment, and the names of the consignee and consignor. An itemized packaging sheet must accompany each shipment.

7. RESPONSIBILITY FOR GOODS - Notwithstanding any prior inspections, and irrespective of the F.O.B. point named herein, the Seller shall bear all risks of loss, damage, or destruction to the goods called for hereunder until final acceptance by Buyer at destination. Further, the Seller shall also bear the same risks with respect to any goods rejected by Buyer provided, however, that in either case, the Buyer shall be responsible for any loss occasioned by the gross negligence of its employees acting within the scope of their employment.

8. QUALITY ASSURANCE - (a) All goods purchased hereunder shall be subject to inspection and test by Buyer to the extent practicable at all times and places, including the period of manufacture and in any event, prior to final acceptance. If inspection or test is made by Buyer on Seller's premises, Seller, without additional charge, shall provide all reasonable facilities and assistance for the safety and convenience of Buyer's inspectors. No preliminary inspection or test shall constitute acceptance. Records of all inspection work shall be kept complete and available to Buyer during the performance of this order and for such further period as the Buyer may determine. (b) In case any goods are defective in material or workmanship, or otherwise not in conformity with the requirements of this order, Buyer shall have the right either to reject, require correction, or accept such goods with an adjustment in price. Any goods which have been rejected or required to be corrected shall be replaced or corrected by and at the expense of the Seller promptly after notice. If, after being requested by Buyer, the Seller fails to promptly replace or correct any defective goods within the delivery schedule, Buyer may (i) by contract or otherwise, replace or correct such goods and charge to the Seller the cost occasioned thereby; (ii) terminate this order for default in accordance with the clause hereof entitled "TERMINATION FOR DEFAULT"; (iii) and require an appropriate reduction in price. (c) The Seller shall provide and maintain a quality assurance program which is acceptable to Buyer.

9. WARRANTY - (a) Seller warrants that all goods and services delivered hereunder shall be free from defects in workmanship, material, and manufacture; shall comply with the requirements of this contract, including any drawings or specifications incorporated herein or samples furnished by Seller; and, where design is Seller's responsibility, shall be free from defects in design. Seller further warrants all goods purchased hereunder shall be of merchantable quality and shall be fit and suitable for the purpose intended by Buyer. The foregoing warranties shall constitute conditions and are in addition to all other warranties, whether expressed or implied, and shall survive any delivery, inspection, acceptance, or payment by Buyer. (b) If any goods or services delivered hereunder do not meet the warranties specified herein or otherwise applicable, Buyer may, at its option (i) require Seller to correct at no cost to Buyer any defective or nonconforming goods or services by repair or replacement, or (ii) return such defective or nonconforming goods at Seller's expense to Seller and recover from Seller the order price thereof, or (iii) correct the defective or nonconformant goods or services itself and charge Seller with the cost of such correction. The foregoing remedies are in addition to all other remedies at law or in equity or under this order. All warranties shall run to Buyer and to its customers. (c) Buyer's approval of Seller's material or design shall not relieve Seller of the warranties set forth in this clause, nor shall waiver by Buyer of any drawing or specification requirement for one or more of the goods constitute a waiver of such requirements for the remaining goods to be delivered hereunder unless so stated by Buyer in writing. The provisions of this clause shall not limit or affect the rights of Buyer under the clause entitled "QUALITY ASSURANCE".

10. CHANGES - Buyer may at anytime, by a written order and without notice to sureties or assignees, suspend performance hereunder, increase or decrease the order quantities, or make changes within the general scope of this order in any one or more of the following: (a) applicable drawings, designs, or specification (b) method of shipment or packing, and/or (c) place and date of delivery. If any such change causes an increase or decrease in the cost of or time required for performance of the Purchase Order, an equitable adjustment shall be made in the Purchase Order price or delivery schedule, or both, and the order shall be modified in writing accordingly. No claim by Seller for adjustment hereunder shall be valid unless asserted within twenty (20) days from the date of receipt by Seller of the notification of change, provided, however, that such period may be extended upon the written approval of Buyer. However, nothing in this clause shall excuse Seller from proceeding with the order as changed or amended.

11. TERMINATION FOR DEFAULT - (a) Buyer may, by notice, terminate this Purchase Order in whole or in part (i) if Seller fails to deliver goods or services on agreed delivery schedules; (ii) if Seller fails to replace or correct defective goods or services; (iii) if Seller fails to perform any other obligations or; (iv) if Seller becomes insolvent. (b) In the event of termination pursuant to this Section: (i) Seller shall continue to supply any portion of this Purchase Order not terminated. (ii) Seller shall be liable for additional costs, if any, for the purchase of such similar goods and services to cover such default; (iii) At Buyer's request Seller will transfer title and deliver to Buyer (1) any completed goods, (2) any partially completed goods and (3) all unique materials. Prices for partially completed goods and unique materials so accepted shall be negotiated. However, such prices shall not exceed the Agreement price per item. (c) Buyer's rights and remedies herein are in addition to any other rights and remedies provided by law or in equity.

12. TERMINATION FOR CONVENIENCE - (a) Buyer may terminate, for convenience, work under this Purchase Order in whole or in part, at any time by written or electronic notice. Upon any such termination Seller shall, to the extent and at the time specified by Buyer, stop all work on this Purchase Order, place no further orders hereunder, terminate work under orders outstanding hereunder, assign to Buyer all Seller's interests under terminated sub-contracts and orders, settle all claims thereunder after obtaining Buyer's approval, protect all property in which Buyer has or may acquire an interest, and transfer title and make delivery to Buyer of all goods, materials, work in process, or other things held or acquired by Seller in connection with the terminated portion of this Purchase Order. Seller shall proceed promptly to comply with Buyer's directions respecting each of the foregoing without awaiting settlement or payment of its termination claim. (b) Within six (6) months from such termination, Seller may submit to Buyer its written claim for termination charges, in the form and with supporting data and detail prescribed by Buyer. No profit shall be allowed if it appears Seller would have sustained a loss on the Purchase Order. Failure to submit such claim with such items shall constitute a waiver of all claims and a release of all Buyer's liability arising out of such termination. (c) The parties may agree upon the amount to be paid Seller for such termination. If they fail to agree, Buyer shall pay Seller the amount due for goods delivered prior to termination and in addition thereto but without duplication, shall pay the following amounts: (i) The contract price for all goods completed in accordance with this Purchase Order and not previously paid for. (ii) The actual costs for work in process incurred by Seller which are properly allocable or apportionable under recognized commercial accounting practices to the terminated portion of this Purchase Order and a sum constituting a fair and reasonable profit on such costs. If it appears Seller would have sustained a loss on the Purchase Order, no profit shall be allowed under this Subparagraph (ii), and an adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss. (iii) The reasonable costs of Seller in making settlement hereunder and in protecting goods to which Buyer has or may acquire an interest. (d) Payments made under subparagraphs 14 (i) and 14 (ii) shall not exceed the aggregate price specified in this order, less payment otherwise made or to be made.

Buyer shall have no obligation to pay for goods lost, damaged, stolen or destroyed prior to delivery to Buyer. (e) The foregoing paragraphs (a) to (d) inclusive, shall be applicable only to a termination for Buyer's convenience and shall not affect or impair any right of Buyer to terminate this order for Seller's default in the performance hereof.

13. **NON-DISCLOSURE OF CONFIDENTIAL MATTER/BUYER'S PROPERTY** - (a) All specifications, drawings, samples, data, technical information, tools, equipment and other materials furnished or paid for by Buyer, or amortized in the unit price of items purchased by Buyer, shall (i) be kept confidential and not be disclosed to third parties, (ii) remain or become Buyer's property, (iii) be used by Seller exclusively for Buyer's orders, (iv) be clearly marked as Buyer's property and segregated when not in use, (v) be kept in good working condition at Seller's expense, and (vi) be returned to Buyer promptly upon request. Seller shall insure Buyer's property and be liable for loss or damage while in Seller's possession or control, ordinary wear and tear excepted. (b) **Goods purchased hereunder with the Buyer's specifications or drawings shall not be quoted for sale to others without the Buyer's written authorization.**

14. **PATENTS, ROYALTIES AND ENCUMBRANCES** - All goods must be free from liability of royalties, patent rights, and mechanics' liens or other encumbrances, and Seller agrees to defend and indemnify the Buyer against all claims, demands, costs, and actions for actual or alleged infringements of patent, copyright or trade secret rights in the use, sale, or re-sale of said goods, except to the extent such infringement was unavoidably caused by Seller's compliance with a detailed design furnished and required by Buyer.

15. **PATENT LICENSE** - Seller, as part consideration for this Purchase Order and without further cost to Buyer, hereby grants to Buyer an irrevocable, non-exclusive, paid-up right and license to make, have made, use, and sell any inventions made by or for Seller in the performance of this Purchase Order. In addition, Buyer shall be entitled to license Buyer's customers to use such inventions during the operation of Buyer's products.

16. **INSURANCE** - Seller shall maintain (1) comprehensive general liability insurance covering bodily injury, property damage, contractual liability, products liability and completed operations, (2) Worker's Compensation and employer's liability insurance, and (3) auto insurance, in such amounts as are necessary to insure against the risks of Seller's operations. Upon request, Seller shall furnish to Buyer certificates evidencing such coverage. Seller shall notify Buyer at least thirty (30) days prior to the cancellation or change of any of the foregoing policies.

17. **TOOLS AND DOCUMENTS** - Unless otherwise agreed in writing, special dies, tools, patterns and drawings used in the manufacture of goods herein ordered shall be furnished by and at the expense of the Seller.

18. **SUBCONTRACTING** - Seller shall not subcontract for completed or substantially completed goods or services supplied to Buyer without prior written approval of Buyer.

19. **ASSIGNMENTS** - No right or obligation under this order shall be assigned by Seller without the prior written consent of Buyer, and any purported assignment

without such consent shall be void. Buyer may assign this order at any time if such assignment is considered necessary by Buyer in connection with a sale of Buyer's assets or a transfer of its obligation.

20. **GRATUITIES** - Seller warrants that it has not offered or given and will not offer or give to any employee, agent, or representative of Buyer any gratuity. Any breach of this warranty shall be a material breach of each and every contract between Buyer and Seller.

21. **NOTICE OF LABOR DISPUTES** - Whenever an actual or potential labor dispute is delaying or threatens to delay the timely performance of this Purchase Order, Seller will immediately notify Buyer of such dispute and furnish all relevant details.

22. **INSOLVENCY** - The insolvency or adjudication of bankruptcy, the filing of a voluntary petition, or the making of an assignment for the benefit of creditors, by either party, shall be a material breach hereof.

23. **COMPLIANCE WITH LAWS** - Seller warrants that no law, rule, or ordinance of Korea, or any other governmental agency has been violated in supplying the goods or services ordered herein.

24. **WAIVER** - In the event Buyer fails to insist on performance of any of the terms and conditions, or fails to exercise any of its rights or privileges hereunder, such failure shall not constitute a waiver of such terms, conditions, rights or privileges.

25. **LIMITATION OF LIABILITY** - In no event shall Buyer be liable for any special, indirect, incidental, consequential, or contingent damages, whether or not Buyer has been advised of the possibility of such damages.

26. **INDEMNITY BY SELLER** - Seller shall defend, indemnify and hold harmless Buyer from and against any and all claims, suits, losses, and liabilities and the associated costs and expenses (including attorney's fees), caused in whole or in part by Seller's breach of any term or provision of this Agreement, or any negligent, grossly negligent or intentional acts, errors or omissions by Seller, its employees, officers, agents or representatives in the performance of this Agreement.

27. **APPLICABLE LAW - ARBITRATION** - This Purchase Order shall be governed by, subject to, and construed in accordance with the laws of Korea, excluding conflict of law rules. Any disputes arising out of or in connection with such a sales contract (including any issue regarding its existence or validity) shall be finally settled by arbitration in Seoul in accordance with the International Arbitration Rules of the Korean Commercial Arbitration Board. The number of arbitrators shall be three. The seat, or legal place, of arbitral proceedings shall be Seoul. The language to be used in the arbitral proceedings shall be English.

ACKNOWLEDGMENT

I have read the attached Terms and Conditions of Purchase, and agreed to. I understand that payment for all materials is due upon receipt of invoice, according to Engel Machinery Korea Ltd. Payment Terms.

Accepted by : _____

Date : _____

Company name: _____

