

Terms & Conditions of Sale

- **1.1** – In consideration of the mutual promises evidenced by the purchase order (“Order”), invoice, signed agreement or other document to which these Terms & Conditions of Sale (“Terms & Conditions”) are attached, these Terms & Conditions shall apply to all national and international sales and deliveries of products by CTX Lifting Solutions Inc., a Delaware corporation (hereafter “CTX”), to the purchaser of those goods (“Customer” or “Buyer”), wherever located or made. Consequently, CTX does not accept to be bound by a Customer’s general terms and conditions of sales forwarded to CTX alongside with purchase orders or otherwise. These Terms & Conditions also serve as notice of CTX’s objection to and express rejection of any terms and conditions of purchase included in Customer’s order or other writings that differ from these Terms & Conditions.
- **1.2** – These Terms & Conditions shall have precedence over any contradictory agreement between CTX and the Buyer, unless explicitly agreed upon in writing. Nothing in relation to past practice, industry standards, course-of-dealing or usage of trade shall constitute a modification of any term or condition contained herein, nor shall it add any term not contained herein. By Buyer’s acceptance of the products delivered by CTX, Buyer confirms its acceptance of these Terms & Conditions.

2 ORDER AND ORDER CONFIRMATION

- **2.1** – A Customer’s order requires acceptance in the form of a written order confirmation from CTX. The order confirmation shall be deemed made incorporating these Terms & Conditions even without these Terms & Conditions being referred to or attached to such order confirmation. No subsequent orders made by Buyer shall be binding on CTX unless and until confirmed by CTX in writing or by CTX’s shipment of the subject products and submission of an invoice to Buyer.

3 PRICES AND TERMS OF PAYMENT

- **3.1** – Prices indicated in offers, order confirmations, catalogues and current price lists are current prices “Ex Works”, cf. Incoterms 2010, exclusive of VAT and other applicable taxes, and exclusive of packaging material, which will be invoiced separately. Currency is indicated in the relevant offer, order confirmation, catalogue and price list.
- **3.2** – CTX reserves the right to change the prices with 30 days written notice due to changes in prices for raw material, wages, rates of exchange, taxes, duties or the like.



- **3.3** – Payment terms are 14 days net unless otherwise stated in the order confirmation. Payment must be made to the specified bank account of CTX. No cash payments will be accepted.
- **3.4** – In the event of a breach of credit terms, CTX reserves the right to:
 - **3.4.1** – charge Buyer interest at the rate of 10% per year or up to the maximum allowable by law, whichever is lower, from the due date until payment is made, and/or
 - **3.4.2** – charge a reminder fee up to the maximum allowable by law in the relevant jurisdiction, and/or
 - **3.4.3** – pursue debt collection actions including arbitration or litigation and CTX shall be entitled to recover from the Customer all arbitral or court costs and reasonable attorneys’ fees arising from the arbitration or litigation or collection action, and/or
 - **3.4.4** – withhold all other deliveries and/or part deliveries ordered but not completed at the time in question until the Customer has paid all outstanding amounts including interest and costs thereon, and/or
 - **3.4.5** – cancel any orders not affected, but still outstanding.
- **3.5** – The Customer shall not be entitled to set off against any invoices any claims, which the Customer may have against CTX.

4 PACKAGING

- **4.1** – Packaging will be according to CTX standards, unless otherwise agreed to in writing with the Customer, in which case CTX will pack the products in accordance with the packaging instructions issued by the Customer.

5 DELIVERY

- **5.1** – Products are delivered “Ex. Works”, cf. 3.1. Accordingly, CTX can arrange for transport of the products on market terms on behalf of the Customer. The total transportation costs will, in such case, be invoiced to the Customer. Transport insurance shall only be taken out at the Customer’s written request and at the Customer’s expense.
- **5.2** – The time of delivery is separately agreed upon for each individual order and shall be stated by CTX on the order confirmation.
- **5.3** – CTX reserves the right to alter the delivery dates, where such alteration is based on circumstances which CTX could not reasonably have foreseen at the time of issuing the order confirmation. In such case CTX will inform the Customer, without



unreasonable delay, of the reason for the alteration and of the new estimated date of delivery. Partial shipments may be affected. In any case the delivery date stated in the offer or in the order confirmation shall be an approximate only.

- **5.4** – It is the Customer’s sole responsibility to pay for and to obtain any governmental or other licenses, certificates or documentation as may be required.

6 RETENTION OF TITLE AND SECURITY INTEREST

- **6.1 – CTX retains title to the products until payment of the purchase price including interest, if payable, has been made in full.** The Customer shall, at the request of CTX, assist CTX in taking any measures necessary to protect CTX’s title to the products in the country concerned. The retention of title shall not affect the passing of risk to Buyer at the point of delivery. Notwithstanding anything to the contrary herein, all intellectual property rights in the products manufactured by CTX, including without limitation, patents, trademarks, utility models, copyrights and know-how used or subsisting in connection with CTX’s products are and shall remain CTX’s exclusive property.
- **6.2 – For sales to Customers in the US the following shall apply:** Until all amounts due have been paid in full, Customer hereby grants CTX a security interest in the products sold and CTX shall have all rights of a secured party under the Uniform Commercial Code including, without limitation, the right to take possession of the products without legal process and the right to require Customer to assemble the products and make them available to CTX at a place reasonably convenient to both parties. Customer hereby appoints CTX its agent, to take all such action and to execute and file all such documents and instruments (including, but not limited to, UCC-1 financing statements) as may be necessary or reasonably requested by CTX to perfect and continue CTX’s security interest hereunder.

7 CLAIMS AND LIMITATION OF LIABILITY

- **7.1** – The Customer is obliged to examine and sign for the products upon receipt. Damage to product occurring in transport must be noted on the transportation papers. Claims for non-delivery, shortages or damage during transport must be made promptly to CTX upon receipt of products.
- **7.2** – THE EXPRESS WARRANTIES IN THIS AGREEMENT REPLACE ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, AND ALL OTHER OBLIGATIONS OR LIABILITIES OF CTX, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY, SUITABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR OTHERWISE, TO THE FULL EXTENT POSSIBLE UNDER APPLICABLE LAW. ALL OTHER WARRANTIES ARE DISCLAIMED AND EXCLUDED BY SELLER. THE REMEDIES CONTAINED IN THIS AGREEMENT ARE THE SOLE AND EXCLUSIVE REMEDIES OF BUYER, ITS SUCCESSORS AND ASSIGNS, FOR ANY CLAIMS HEREUNDER OR IN RELATION TO THE GOODS, WHETHER IN CONTRACT, TORT, OR OTHERWISE. THIS LIMITATION APPLIES TO ALL GOODS, SERVICES, AND INTELLECTUAL PROPERTY DURING AND AFTER ANY APPLICABLE WARRANTY PERIOD.



CTX SHALL NOT BE RESPONSIBLE FOR ANY DEFECT OR INJURY CAUSED BY MISUSE OF THE GOODS, INCLUDING ANY USE OF THE GOODS OTHER THAN AS SPECIFIED IN THE INSTRUCTION MANUAL THEREFOR. IN NO EVENT WILL CTX BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS OR REVENUE, RE-ESTABLISHMENT COSTS, PACKING, FREIGHT, CUSTOMS DUTIES, LOSS OF USE OF THE GOODS, OR COST OF SUBSTITUTED GOODS, PARTS OR SERVICES (EXCEPT AS PROVIDED TO THE CONTRARY HEREIN) THAT ARISE OUT OF PERFORMANCE OR FAILURE TO PERFORM ANY OBLIGATION IN THIS AGREEMENT, OR OUT OF NEGLIGENCE IN THE COURSE OF SUCH PERFORMANCE, WHETHER THE CLAIM FOR DAMAGES IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE. ANY ACTION FOR AN ALLEGED BREACH OF ANY CONTRACT OF SALE OR OF THE ABOVE-STATED WARRANTY WITH RESPECT TO GOODS SOLD BY SELLER TO BUYER MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES. FURTHERMORE, THE WARRANTY DOES NOT COVER DEFECTS OR BREAKDOWNS FROM NATURAL WEAR AND TEAR, IMPROPER INSTALLATION, HANDLING OR STORAGE, UNINTENDED USE, LACK OF REASONABLE MAINTENANCE OR IMPROPER OPERATION BY BUYER OR BUYER'S AGENT OR REPRESENTATIVE.

- **7.3** – In case of lack of conformity of the products to CTX's standard specifications the Customer must give notice to CTX within a reasonable time after the non-conformance has been discovered or reasonably should have been discovered, but no later than one(1) year after the date of delivery.
- **7.4** – The Customer is not entitled to return products without prior written approval of CTX. The Customer pays for freight both ways with respect to any return of product.
- **7.5** – Where products on inspection are found not to be defective, CTX may charge for conducted inspection and handling. Furthermore, claiming an alleged defect does not relieve Customer of any of its payment obligations to CTX.
- **7.6** – If CTX has been duly informed under clause 7.3 and it is apparent that the products were non-conforming to CTX's specifications at delivery, CTX shall in its sole discretion have the option to elect – without any further liability, including but not limited to the return or reduction of purchase price – to repair or renew defective parts or to replace the delivered products with a new delivery. CTX shall not cover the costs, if the Customer purchases a replacement item from an alternative source.
- **7.7** – CTX is not liable for any defect due to misuse, alteration, modification, repair, misfitting or any defect occurring after delivery. The Customer shall prove that the maintenance and operating procedures, recommended at any time by CTX in the relevant data sheet for the products, has been complied with.
- **7.8** – CTX shall not be liable for, and therefore expressly disclaims, any remedy, damages or compensation for trading loss, operating loss, loss of profits and similar financial consequential losses or indirect losses, including claims from third parties.
- **7.9** – To the fullest extent permitted by law, the Customer agrees to limit CTX's liability



for any and all claims, losses, costs and damages of any nature whatsoever, so that the total aggregate liability of CTX shall not exceed the total purchase sum paid by the customer for the relevant products or services.

- **7.10** – Any claim must be put forward to CTX by e-mail to the following address: sales@ctxlifting.com

8 PRODUCT REQUIREMENTS, INTERNATIONAL MARKETING AND SYMBOLS

- **8.1** – Where any public authority imposes requirements on the product, the Customer shall immediately inform CTX of these requirements. Application to any authorities for approval of production permits, registration numbers for the product and any other matters shall be the Customer's sole responsibility and liability. Any additional costs in connection with the production and delivery of the products as well as any other matters concerning the fulfillment of public requirements and provisions shall be payable by the Customer.
- **8.2** – It is the sole responsibility and liability of the Customer to ensure that all markings and symbols on the product comply with any laws and regulations in the Customer's jurisdiction.

9 PRODUCT LIABILITY

- **9.1** – Texas law shall apply to any product liability claims by Buyer or any third party, except as required to the contrary by California statutory law. CTX shall only be liable for damage to property or injuries to persons directly caused by defects in the goods delivered to the extent that any such defect is due to CTX's errors or omissions and could not have been prevented by Buyer's inspection of, or Buyer's proper, unmodified use of the applicable goods. Buyer shall indemnify, defend and hold harmless CTX to the extent CTX incurs liability to any third party for damage or injuries related to Buyer's use or modification of the goods. Specifically, CTX shall not be liable for direct, indirect, incidental, special or consequential loss or damage to Buyer, its successors or assigns, or any third party that is caused by the goods or due to Buyer's or its successor's or assign's misuse of the goods, modification of the goods, negligence, or intentional misconduct, including loss or damage (a) to any movable or immobile property while the goods are in Buyer's possession, or (b) to products manufactured by Buyer or to products from which Buyer's products form a part, or for loss or damage to any property. Except where CTX is subject to strict liability (whereupon CTX shall be liable only to the extent of such strict liability), CTX shall not be liable for indirect, incidental, special or consequential losses, lost profit or other losses or damage to Buyer, its employees or agents, or to any third party.
- **9.2** – In no event shall seller be liable for any product liability that is not covered under CTX's product liability insurance policy.



- **9.3** – If a third party raises a claim for loss or damage related to the goods purchased by Buyer against either party to the order, the notified party shall promptly notify the other party in writing thereof.

10 INTELLECTUAL PROPERTY RIGHTS

- **10.1** – All intellectual property rights in relation to the products and accompanying materials – including but not limited to any design, patent, trademark, name or copyright, and including the name and logo of CTX – belong to CTX, and the Customer shall not be authorized to exploit or otherwise use such intellectual property rights unless approved in writing beforehand by CTX. At no time may CTX’s trademark be modified or removed from any of its products.

11 FORCE MAJEURE

- **11.1** – CTX cannot be held liable for shortages, lack or delays in delivery caused by pandemic, war, terrorism, riots, civil unrest, governmental intervention or intervention by another public authority, fire, machine damage, strike, lockout, export and/or import restrictions, shortage of labor, fuel or any other reason out of the control of CTX and which causes delay or prevents production or delivery of the products ordered.

12 MISCELLANEOUS

- **12.1** – Should any of the provisions of these Terms & Conditions become invalid, this shall not affect the validity of the remaining provisions. Instead of the provision that is or has become null, void or illegal, a valid provision shall be deemed as agreed upon which comes closest to what the parties originally intended.

13 APPLICABLE LAW, VENUE AND ARBITRATION

- **13.1** – These Terms & Conditions shall be interpreted in accordance with and governed by the laws of the State of Texas, without giving effect to choice of law rules. The provisions of the CISG shall not apply to sales or deliveries hereunder.
- **13.2** – Any dispute arising out of or in connection with these Terms & Conditions, including any disputes regarding the existence, validity or termination thereof, will be resolved first through good faith negotiations between the parties. Provided the parties are not able to agree upon an amicable settlement within a reasonable time and no later than thirty (30) calendar days after initiation of settlement discussions, any dispute arising out of or in relation to these Terms & Conditions and including disputes regarding the validity of this Section concerning venue, shall be resolved through the procedures of the American Arbitration Act (“AAA”), or if the parties agree otherwise, then by an organization of similar purpose. The place of arbitration shall be within the state and county in which CTX maintains its primary business offices, unless the parties mutually agree otherwise. Provided the Dispute involves Three Hundred Thousand U.S. Dollars (USD 300,000) or less, the Arbitration Panel shall consist of one



(1) arbitrator. If the Dispute exceeds Three Hundred Thousand U.S. Dollars (USD 300,000), the arbitration panel shall consist of three (3) arbitrators. The arbitration panel shall have the right to award the prevailing Party its reasonable attorneys' fees and costs. The language of the arbitration shall be English. The arbitrator(s) shall provide a written opinion of their factual findings and legal rationale.

