

## TERMS AND CONDITIONS

- 1. GENERAL** The sale of any Enshu products or other goods by Enshu (USA) Corporation ("Enshu") shall be subject to these Terms and Conditions pursuant to which the purchaser ("Purchaser") will purchase and Enshu ("Seller") will sell the product, and any accessories and attachments (collectively, the "Product") described in this SALES CONTRACT. These Terms and Conditions shall govern and apply to the sale of the Product to Purchaser, regardless of any terms and conditions appearing on any purchase order or other forms submitted by Purchaser to Seller, or the inconsistency of any terms therein and herein.
- 2. CANCELLATION** Purchaser shall not cancel this SALES CONTRACT or cause the shipment to be delayed, except with the written consent of, and upon terms agreed to by, Seller.
- 3. PRICE** All prices set forth on this SALES CONTRACT are F.O.B. location set forth on the front page hereof. All prices are exclusive of any and all taxes, including, but not limited to, excise, sales, use, property or transportation taxes related to the sale or use of the Product, now or hereafter imposed, together with all penalties and expenses. Purchaser shall be responsible for collecting and/or paying any and all such taxes, whether or not they are stated in any invoice for the Product. Purchaser shall indemnify and hold Seller free and harmless from and against the imposition and payment of such taxes. Seller, at its option, may at any time separately bill the Purchaser for any taxes not included in Seller's invoice and Purchaser shall pay said taxes, or in lieu thereof, shall provide Seller with a tax exemption certificate acceptable to taxing authorities. Unless otherwise specified herein, all prices are exclusive of inland transportation, freight, insurance and other costs and expenses relating to the shipment of the Product from the F.O.B. point to Purchaser's facility. Any prepayment by Seller of freight insurance and other costs shall be for the account of Purchaser and shall be repaid to Seller.
- 4. PAYMENT DELINQUENCY CHARGE** Payment shall be made in accordance with the terms of this SALES CONTRACT. Seller reserves the right to charge interest at the rate of 1.5% per month (but not more than the maximum percentage permitted by law) on all balances not paid by Purchaser within the designated net terms. Seller reserves the right at any time to revoke any credit extended to Purchaser because of Purchaser's failure to pay for any goods when due or for any other reason deemed to be good and sufficient by Seller. Seller shall have no obligation to make sale or shipment of any products to Purchaser, in any manner, if at any time the financial responsibility of Purchaser becomes impaired or unsatisfactory to Seller, or if at the time of such sale or shipment, Purchaser is delinquent in the payment of any account to Seller. In the event Purchaser shall be in default of any terms and conditions hereof, or becomes insolvent or proceedings are instituted to declare Purchaser bankrupt, or a receiver is appointed for Purchaser in any court, Seller may at its option terminate this SALES CONTRACT and/or declare any and all claims or demands against Purchaser held by Seller immediately due and payable, together with any and all attorneys' fees and costs incurred by Seller in enforcing its rights hereunder, all of which Seller may sue for and recover from Purchaser.
- 5. DELIVERY** Seller shall exert reasonable efforts to cause the Product to be shipped and delivered in accordance with the terms and provisions of this SALES CONTRACT. Title to the Product shall pass at the F.O.B. point designated on this SALES CONTRACT. Notwithstanding the provisions contained in this SALES CONTRACT to the contrary, Seller shall not be responsible or liable for any loss or damage whatsoever, including loss of income and/or profits, incidental, special or consequential damages resulting from Seller's delayed performance in shipment and delivery of the Product for any reason whatsoever. All risk of damage or loss to the Product at any time after arrival at the F.O.B. point set forth on the front page hereof is assumed by Purchaser and such damage or loss shall not operate in any way to release Purchaser from any of its obligations hereunder or otherwise. Upon written notice to Purchaser, Seller reserves the right to ship the Products on an installment basis in the event that Seller is unable to deliver the Product in one shipment.
- 6. INSTALLATION** Unless otherwise stated herein, Purchaser, at its sole cost and expense, shall furnish such materials, labor and equipment as may be necessary for the prompt erection, assembly and installation of the Product. In this regard, Purchaser shall (a) provide all transportation and necessary rigging services, (b) uncrate the Product and deliver it to the floor of the plant, (c) provide all utilities required for assembly to the Product, and (d) provide such other services as may be required to allow Seller to place electric leads into the Product.
- 7. WARRANTY** Seller warrants that the Products sold hereunder will be free from defects in material and workmanship for a period of one year from the date the Product is installed at Purchaser's plant, unless otherwise specified on the front page of this document. SELLER'S WARRANTY HEREIN IS IN LIEU OF AND EXCLUDES ALL OTHER WARRANTIES OF SELLER AND THE MANUFACTURER OF THE PRODUCT - (COLLECTIVELY, "MANUFACTURING AND SELLING PARTIES"), WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE CREATED UNDER APPLICABLE LAW, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY AND ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR USE. IN NO EVENT SHALL SELLER OR THE MANUFACTURING AND SELLING PARTIES BE LIABLE FOR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFITS, WHETHER OR NOT CAUSED BY OR RESULTING FROM THE NEGLIGENCE OF SELLER AND/OR THE MANUFACTURING AND SELLING COMPANIES, UNLESS SPECIFICALLY PROVIDED HEREIN. IN ADDITION, THIS WARRANTY SHALL NOT APPLY TO ANY PRODUCT OR PORTIONS THEREOF WHICH HAVE BEEN SUBJECT TO ABUSE, MISUSE, IMPROPER INSTALLATION, MAINTENANCE OR OPERATION, ELECTRICAL FAILURE OR ABNORMAL CONDITIONS, AND TO ANY PRODUCT WHICH HAS BEEN TAMPED WITH, ALTERED, MODIFIED, REPAIRED, OR REWORKED BY ANYONE NOT APPROVED BY SELLER. PURCHASER'S SOLE AND EXCLUSIVE REMEDIES UNDER THIS WARRANTY SHALL BE LIMITED, AT SELLER'S EXCLUSIVE DISCRETION, TO: (1) REPLACEMENT OF ANY DEFECTIVE PRODUCT OR PART THEREOF; (2) REPAIR OF ANY DEFECTIVE PRODUCT OR PART THEREOF; OR (3) RETURN OF THE PURCHASE PRICE IN EXCHANGE FOR RETURN OF THE PRODUCT. UNLESS SPECIFICALLY PROVIDED HEREIN, THIS WARRANTY SHALL NOT APPLY TO THE PORTIONS OF THE PRODUCT NOT MANUFACTURED BY ENSHU, LTD. ("EL"), INCLUDING, BUT NOT LIMITED TO, THE CONTROL. SELLER SHALL ASSIGN TO PURCHASER SUCH WARRANTIES AS SELLER SHALL RECEIVE FROM THE MANUFACTURER OF SUCH PORTIONS OF THE EQUIPMENT WHICH ARE MANUFACTURED BY MANUFACTURERS OTHER THAN EL. SUCH PORTION OF THE EQUIPMENT SHALL BE SEPARATELY WARRANTED BY SUCH MANUFACTURERS. No agent, employee or representative of Seller has the authority to bind Seller to any affirmation, representation or warranty concerning the Product sold hereunder, and unless such affirmation, representation or warranty made by an agent, employee or representative is specifically included in this SALES CONTRACT, it will not form a part of the basis of this SALES CONTRACT and shall in no way be binding upon the Seller or enforceable by Purchaser. This warranty is not assignable or otherwise transferable to any subsequent purchaser or user of the Product and any sale or other transfer of the Product or any such attempted assignment and transfer of this warranty shall void Seller's warranty and Seller shall thereafter have no further obligation or liability with regards thereto.
- 8. SECURITY INTEREST** Purchaser hereby grants to Seller and Seller hereby retains a continuing purchase money security interest in the Product and all of the equipment sold and delivered by Seller to Purchaser, whether presently in the possession of Purchaser or hereafter acquired, and all spare parts and components therefor, together with any and all proceeds of sale or other disposition of the Product, including, but not limited to, cash, accounts, contract rights and chattel paper. Purchaser shall join with Seller in executing one or more financing statements pursuant to the Uniform Commercial Code in force in Purchaser's state of business in a form satisfactory to Seller to evidence Seller's security interest in the Product. Purchaser shall keep the Product free from any adverse lien, security interest or encumbrance and will not store the Product or any part thereof or use the Product in violation of any statute or ordinance. In the event Purchaser shall be in default under this SALES CONTRACT, Seller shall have the remedies of a secured party under the Uniform Commercial Code in force in the state where the Product is located. In the event of failure of Purchaser to timely make payment or any other default, Seller may enter the Purchaser's premises, remove the Product, and/or otherwise render the Product unusable by electronic or other means.
- 9. PATENT INFRINGEMENT** Seller's liability for patent infringement (and the liability of the Manufacturing and Selling Parties) is limited to Seller's defense of any suit or proceeding brought against Purchaser based on a claim that the Product sold hereunder when employed in the manner intended by Seller, constitutes an infringement of any patent of the United States. If Purchaser's use of the Product in the manner intended by the Seller is finally enjoined, Seller shall, at its option, procure for Purchaser the right to continue using the Product, replace the same with non-infringing product, modify the Product so that it becomes non-infringing, but equivalent to the Product sold hereunder, or refund the purchase price (less allowance for use, damage or obsolescence). In no event will Seller and the Manufacturing and Selling Parties be liable for any patent infringement based upon the use of the Product for a purpose other than for which it is sold by Seller. Seller makes no warranty against patent infringement resulting from portions of the Product made to Purchaser's specifications or the use of Product in combination with any other Product or in the practice of any process and if a claim, suit or action is based thereon, Purchaser shall defend, indemnify and save Seller and the manufacturing and Selling Parties harmless from and against any and all claims, losses or damages arising therefrom.
- 10. CONFIDENTIALITY** All drawings, designs, specifications, manuals and programs furnished to Purchaser by Seller shall remain the confidential and proprietary property of Seller. All such information, except as may be found in the public domain, shall be held in strict confidence by Purchaser and shall not be disclosed by Purchaser to any third parties. Copyright in all materials made available by Seller shall remain in Seller at all times.
- 11. SAFETY PRECAUTIONS** Purchaser shall require employees to use all safety devices, guards, and proper safe operating procedures as set forth in manuals and instructions furnished by Seller. Purchaser shall not remove or modify any such device, guard or sign. It is the Purchaser's responsibility to provide all the means that may be necessary to effectively protect all employees from serious bodily injury, which otherwise may result from the method of particular use, operation or set-up or service of the Product. If Purchaser fails to comply with such provisions of this paragraph of the applicable standards or regulations aforementioned, Purchaser shall indemnify and save Seller harmless from and against any and all claims, losses or damages arising therefrom.
- 12. FORCE MAJEURE** Seller's obligation hereunder are subject to, and Seller shall not be held responsible for, any delay or failure to make delivery of all or any part of the Product due to labor difficulties, fires, casualties, accidents, acts of the elements, acts of God, transportation difficulties, delays by a common carrier, inability to obtain Product, materials or components or qualified labor sufficient to timely perform part of or all of this SALES CONTRACT, governmental regulations or actions, strikes, damage to or destruction in whole or part of manufacturing plant, riots, civil commotions, warlike conditions, flood, tidal waves, typhoon, hurricane, earthquake, lightning, explosion or any other causes, contingencies, or circumstances within or without the United States not subject to the Seller's control which prevent or hinder the manufacture or delivery of the Product or make the fulfillment of this SALES CONTRACT impracticable. In the event of the occurrence of any of the foregoing, at the option of Seller, Seller shall be excused from the performance of this SALES CONTRACT, or the performance of the Seller shall be correspondingly extended.
- 13. GOVERNING LAW, JURISDICTION, VENUE AND WAIVER OF TRIAL BY JURY** This SALES CONTRACT will be binding and effective only when signed by a duly authorized representative of Seller. Except for the perfection of any security interest or lien in any other state, and except as otherwise provided herein, this SALES CONTRACT will be governed and construed in all respects by the Internal laws and decisions, other than any conflict of laws provisions, of the State of Illinois, including, without limitation, all matters of construction, validity, enforceability, and performance. PURCHASER (I) CONSENTS AT SELLER'S ELECTION AND WITHOUT LIMITING SELLER'S RIGHT TO COMMENCE AN ACTION IN ANY OTHER JURISDICTION, TO THE EXCLUSIVE JURISDICTION AND VENUE OF ANY COURT (FEDERAL, STATE, OR LOCAL) SITUATED IN THE STATE OF ILLINOIS; (II) WAIVES ANY OBJECTION TO IMPROPER VENUE AND FORUM NON-CONVENIENS; AND (III) CONSENTS TO SERVICE OF PROCESS BY CERTIFIED MAIL, POSTAGE PREPAID, ADDRESSED TO PURCHASER AT ITS ADDRESS AS SET FORTH HEREIN. PURCHASER HEREBY WAIVES TRIAL BY JURY. Purchaser shall bring any action arising out of this SALES CONTRACT only in the federal or state courts in the State of Illinois. In the event Purchaser institutes any action in any court other than a court located in the State of Illinois, Purchaser shall assume all of Seller's costs in transferring said proceeding to a court located in the State of Illinois, including, without limitation, reasonable attorneys' fees.
- 14. MISCELLANEOUS PROVISIONS**

  - (a) This SALES CONTRACT constitutes the entire agreement between Seller and Purchaser as it relates to this transaction and the liability of the Manufacturing and Selling Parties and supersedes any and all prior agreements, correspondence, quotations or understandings heretofore in force between the parties relating to the subject matter hereof. There are no agreements between Seller and Purchaser with respect to the Product herein except those specifically set forth in and made part of this SALES CONTRACT. Any additional terms, conditions and/or prices are rejected by Seller.
  - (b) If any term or condition or part of this SALES CONTRACT is held invalid, the remaining terms and conditions of this SALES CONTRACT shall not be affected thereby.
  - (c) This SALES CONTRACT may be modified, canceled or rescinded only by a written agreement of both parties executed by their duly authorized agents.
  - (d) No claim arising out of any breach of this SALES CONTRACT may be discharged in whole or in part by waiver or renunciation of such claim unless such waiver or renunciation is in writing and signed by the parties hereto.
  - (e) All rights available to Seller under the Uniform Commercial Code except as specifically limited or excluded herein (even though not specifically enumerated), are reserved to Seller as remedies available in the event of default of Purchaser.