



## TERMS AND CONDITIONS

1. Definitions. “**Buyer**” means the person, corporation or other entity purchasing Products from Seller. “**Products**” means all goods and materials to be provided pursuant to this Sales Acknowledgment. “**Sales Acknowledgment**” means the terms and conditions set forth on the face hereof along with the Terms and Conditions set forth herein. “**Seller**” means Hutchens Industries, Inc. or its successors or assigns.
2. Prices. Prices for the products will be those prices in effect at the time of shipment. All quoted prices are subject to change without notice. Prices are F.O.B. **Shipping Point** and are exclusive of all taxes (federal, state or local). Any sales or other tax or duty Seller is required to collect or pay will be added to the price.
3. Payment Terms. Buyer shall pay invoiced amounts within 30 days from the date of invoice. Seller may, in its sole discretion, require such other payment terms as it deems appropriate, including full or partial payment in advance of shipment or by letter of credit.
4. Warranty. Seller warrants, except with respect to parts manufactured by others, to the first purchaser only that the parts manufactured by Seller covered hereby will be free from defects in material and workmanship under normal use and service and proper operation for a period of five (5) years from the date of shipment. With respect to parts manufactured by others, Seller shall have no duty except to assign to Buyer any claim which Seller may have against the manufacturer thereof. This Warranty shall not apply and no warranty of any kind shall exist as to any Product which has been subject to abuse, misuse, negligence or accident of any type or cause or which has been repaired, replaced, substituted or used with parts other than genuine parts of Seller or altered by anyone. In addition, Seller is not responsible for damages resulting from improper installation or operations beyond design capability. Seller, in its sole discretion, shall determine whether or not any Product is defective or otherwise covered or not covered by

this Warranty. No action for breach of this Warranty may be commenced more than one (1) year after the occurrence of the alleged breach. This Warranty is not transferable. SELLER AND BUYER MUTUALLY AGREE THAT SELLER SHALL NOT BE LIABLE FOR THE LOSS OF USE OF ANY PRODUCT, LOSS OF TIME, INCONVENIENCE, COMMERCIAL LOSS OR ANY OTHER INDIRECT, CONSEQUENTIAL, SPECIAL OR INCIDENTAL DAMAGES DUE TO BREACH OF THE ABOVE WARRANTY OR ANY OTHER FAILURE TO COMPLY WITH THE TERMS OF THE CONTRACT BETWEEN SELLER AND BUYER. SELLER MAKES NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, OTHER THAN AS HEREIN EXPRESSLY PROVIDED, AND SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

5. Exclusive Remedy. Buyer's exclusive remedy for breach of Seller's warranty is limited to repair or replacement, at Seller's sole discretion, of any part not in compliance with Seller's warranty. In the event Buyer makes any claim under Seller's warranty, Seller reserves the right to require any Products to be returned for inspection, at Buyer's expense, to Seller's designated facility.
  
6. Damage Limitation. In no event, shall SELLER be liable in contract, tort, strict liability, indemnity, warranty or otherwise for special, economic, indirect, incidental, exemplary, consequential or punitive damages (however arising), including, without limitation, damages for losses of business, profits, sales, turnover, bargain, opportunity, standard production throughput, goodwill, reputation, or business interruption, even if advised of the possibility of such damages, or for any claim by any third party except as expressly provided herein. The Seller's total aggregate liability and the Purchaser's exclusive remedy hereunder, whether based upon contract, tort (including negligence and strict liability) or otherwise, is expressly limited to a maximum of the aggregate dollar amount paid by the buyer for Product(s) sold under this agreement. Irrespective of the value of an individual purchase the overall liability of Seller never exceeds ten thousand dollars (\$10,000.00).  
Seller's liability is limited to the extent permitted by law in states that do not allow the exclusion or limitation of liability for consequential or incidental damages.

7. Waiver of Subrogation. The Buyer and its agents shall require their insurance carriers, with respect to all insurance policies, to waive all rights of subrogation against Seller, its directors, officers, employees and agents.  
In any event, the Buyer agrees that Seller is not liable to Buyer for damages for which the Buyer has received insurance reimbursement.
8. Transportation. Risk of loss shall pass to Buyer upon delivery of the Products to the initial carrier. All Products are shipped at Buyer's sole risk and expense, and any claim for loss or damage in transit shall be against the carrier only.
9. Delays. Seller shall not be liable for any delay, non-delivery or failure to perform under this Sales Acknowledgment due to causes beyond its reasonable control and without its fault or negligence.
10. Patent or Trademark Infringement. If the Products sold hereunder are to be prepared for manufacture according to Buyer's specifications, Buyer shall indemnify Seller against any claims or liability for patent or trademark infringement. Buyer's indemnification includes, but is not limited to, the payment of damages (regardless of the nature of the damages) and the payment of reasonable attorneys' fees (including attorneys' fees incurred in enforcing the Terms and Conditions of the Sales Acknowledgment).
11. Breach. If Buyer fails to make any payment to Seller when due, Seller may, in its sole discretion, suspend shipment of any Products to Buyer, cancel any outstanding contracts for the sale of Products to Buyer, and receive all collection expenses incurred by Seller, including reasonable attorneys' fees.
12. Cancellation. Orders may be cancelled by Buyer only with the written consent of Seller and only upon payment of reasonable cancellation charges and all outstanding invoices.
13. Governing Law. This Sales Acknowledgment shall be governed by and construed and interpreted in accordance with the laws of the State of Missouri applicable to agreements made and to be performed entirely within such State.

14. Exclusive Forum. BUYER IRREVOCABLY AGREES THAT SUBJECT TO SELLER'S SOLE ELECTION, ALL ACTIONS OR PROCEEDINGS IN ANY WAY, MANNER OR RESPECT ARISING OUT OF OR FROM OR RELATED TO THIS SALES ACKNOWLEDGMENT OR THE PRODUCTS SHALL BE LITIGATED ONLY IN COURTS HAVING SITUS WITHIN KANSAS CITY, MISSOURI OR SPRINGFIELD, MISSOURI. BUYER HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY LOCAL, STATE OR FEDERAL COURT LOCATED WITHIN SAID CITIES AND STATE. BUYER HEREBY IRREVOCABLY APPOINTS AND DESIGNATES THE CT CORPORATION SYSTEM, WHOSE ADDRESS IS 314 NORTH BROADWAY, ST. LOUIS, MISSOURI 63102, OR ANY OTHER PERSON HAVING AND MAINTAINING A PLACE OF BUSINESS IN SUCH STATE, WHOM SELLER MAY FROM TIME TO TIME HEREAFTER DESIGNATE, HAVING GIVEN THIRTY (30) DAYS WRITTEN NOTICE THEREOF TO SELLER, AS BUYER'S TRUE AND LAWFUL ATTORNEY AND DULY AUTHORIZED AGENT FOR ACCEPTANCE OF SERVICE OF LEGAL PROCESS. BUYER AGREES THAT SERVICE OF SUCH PROCESS UPON SUCH PERSON SHALL CONSTITUTE PERSONAL SERVICE OF SUCH PROCESS UPON BUYER. BUYER HEREBY WAIVES ANY RIGHT IT MAY HAVE TO TRANSFER OR CHANGE THE VENUE OF ANY LITIGATION BROUGHT WITH RESPECT TO THIS AGREEMENT.
15. Agreement - Waiver - Assignment. This Sales Acknowledgment constitutes a complete, exclusive, and final statement of the agreement between the parties and cancels and supercedes all prior communications between the parties. No agreement or other understanding in any way modifying the terms of this Sales Acknowledgment will be binding upon Seller unless made in writing and signed by Seller's authorized representative. Buyer is hereby notified of Seller's objection to and rejection of any purchase order or other communication from Buyer, whether received before or after the sending of this Sales Acknowledgment, which contains any additional or different terms from those contained herein, all of which additional or different terms are considered material by Seller. Neither acknowledgment, return of Buyer's purchase order or other form nor any other action by Seller (including, without limitation, shipping the Products or accepting payment for the Products) shall constitute acceptance of any offer containing

different or additional terms, nor shall any such acknowledgment, return or other action operate to modify the full effect of the terms and conditions set forth herein. If this Sales Acknowledgment is construed to be an offer, then Seller's offer shall be deemed conditional upon Buyer's acceptance of each and every term and condition contained herein without modification and no additional or different terms from those contained herein shall become part of the agreement between the parties. Seller's failure to insist on any right shall not operate as a waiver of any other right. Buyer may not assign any of its rights hereunder without the prior written consent of Seller.

16. Severability. The terms of this agreement are severable. If any part of this agreement is determined to be unenforceable or invalid, that part of the agreement will be interpreted in accordance with applicable law as closely as possible in line with the original intention of both parties of the agreement. The remaining terms and conditions of the agreement will remain in full force and effect.