1. ACCEPTANCE
All orders are subject to acceptance by Timken Motor & Crane Services LLC ("Seller"). Any acceptance by Seller shall be in accordance with the applicable minimum conditions of Buyer. All terms and conditions contained herein, and all sales and charges of the products listed herein shall be, in the case of conflicts or interpretation of terms and conditions of Buyer and Seller, interpreted and governed exclusively by the terms and conditions contained herein. Seller shall not be bound by any terms and conditions contained in any subsequent confirmations or notices received from Buyer, which are additional to or different from the terms and conditions set forth herein, unless and only if accepted in writing by a principal officer of the Seller or his designated representative.

2. TAXES
The Buyer’s prices do not include any applicable sales, use, excise, value added or similar taxes, and the amount of any such tax which the Seller may be required to pay or collect will be added to each invoice unless the Buyer has furnished the Seller with a valid tax exemption certificate acceptable to the taxing authorities.

3. RETURN POLICY
Merchandise Authorization (M.A.) number prior to return of the product. All returns must be made within 30 days from date of invoice, which shall be the date of shipment or agreed progress payments as applicable. Returns or allowances on parts are subject to a service charge of 1% and $25, whichever is greater, or if less, the maximum contract price permitted by law. If the Seller deems that by reason of the financial condition of the Buyer or otherwise, the continuance of any services or shipment on the terms specified herein is not justified, the Seller may require full or partial payment in advance. The Seller at its option may retain possession of equipment repaired, modified, inspected, tested, maintained or serviced under this agreement until its billings (final or progress) are paid. If such charges are not paid within 90 days following completion of the work and the invoicing to the Buyer, the Seller may upon not less than 7 days notice to Buyer at the Buyer’s address stated on the equipment invoice seize the equipment at the Buyer’s address and hold it as security for such services, expenses, costs and expenses as the Seller may incur, including engineering expense and all commitments to its suppliers and subcontractors incurred by the Buyer of Buyer’s order is expressly made conditional on Buyer’s assent to any additional or different terms and conditions contained herein.

4. PRICE POLICY
In the event of a standard Seller price increase or decrease, the price of goods in order will be adjusted to reflect such increase or decrease. If at Seller’s sole discretion, this does not apply to shipment held which has already been shipped, no adjustment will be made to the price increase or decrease. Orders placed on a bid or contract basis are subject to the bid and the mutually agreed terms upon terms of the contract. Seller’s prices include the costs of standard domestic packing only. Any deviation from this standard packing (domestic or export), including U.S. government approved packing, will result in extra charges. To determine such charges, consult Seller’s sales offices. The minimum order amount is $20.

5. DELIVERY
Shipping charges paid by the Seller are approximate and are based on prompt receipt of information, equipment, or access to the equipment at the customer’s premises if work is performed on said premises. The Seller will use its reasonable efforts to meet the scheduled dates, however, it cannot be held responsible for its failure to do so beyond its reasonable control and in no event shall it be liable for any loss or damage resulting from its failure to deliver the services within the time specified herein.

6. SHIPPING/HANDLING CHARGES
Shipments are F.O.B. shipping point (or Ex Works) and Buyer assumes all risk of loss or damage to the goods in transit, but except to the extent of Seller’s negligence. Buyer’s exclusive remedy for shortage, loss or damage in transit shall be a claim against the carrier. Shipping/handling will be prepaid and the cost allocated to the equipment invoice on the basis of Seller’s current shipping/handling policies. Seller assumes no responsibility for tariffs classifications on carriers.

7. CHANGES
Buyer agrees to the express written consent of the Seller, make changes in the specifications for equipment covered by the contract in such event the contract price and delivery dates shall be equitably adjusted. In no event shall Buyer be paid for any additional cost plus interest and any expenses incurred for any work or materials rendered unnecessary as a result of such changes for and work and materials required to affect said changes.

8. CANCELLATION
Unauthorized parts of any order may be canceled by the Buyer only with the written approval of the Seller. If the Buyer makes an assignment for the benefit of creditors, suffers an involuntary petition in bankruptcy or for reorganization or under any other insolvency law shall be filed by or against the Buyer, the Seller shall have the right to require the Buyer to deliver any apparatus covered by this warranty to a designated service center and Buyer shall pay both in bound and in transit transportation charges, with Seller accepting only the direct and actual cost of apparatus repair or replacement as provided above.

9. RETURN POLICY
Upon prior written approval in each case, the Seller may accept merchandise returns on items normally stocked by Buyer upon the following conditions. The Buyer contacts the Seller to obtain a RMA (Return Merchandise Authorization) number prior to returning the product. All returns must be made within 90 days from date of invoice, which shall be the date of shipment or agreed progress payments as applicable. Returned merchandise must be in original unopened packaging and in reasonable condition as determined by Seller. Special order items are not returnable. Defective merchandise may return not later than 90 days of the original invoice date.

10. ELECTRONIC DATA INTERCHANGE/FACSIMILE (FAX)
Orders placed hereunder by Buyer may be transmitted electronically or via FAX and in such event, such orders shall be subject to the terms and conditions contained in Seller’s Electronic Data Interchange Agreement, in addition to the terms and conditions contained herein.

11. REGULATORY LAWS AND STANDARDS
The Seller makes no promises or representation that its products, services or work will conform to any federal, state or local laws, regulations, codes, or standards, except as particularly specified and agreed upon for compliance in writing as part of the quotation or contract between Buyer and Seller. The Seller prices do not include the cost of any related inspections or permits or inspection fees.

12. EXPORT CONTROL
Products and associated materials supplied or licensed under this agreement may be subject to various export and import regulations. It is the responsibility of the exporter to comply with all such laws and regulations.

13. PRODUCT AND SERVICE STANDARD
The Seller implements ISO 9001:2008 and CMAE, Crane Manufacturer’s Association of America, NEC National Electrical Code, ASME American Society of Mechanical Engineers, AWS American Welding Society, ASIC Institute of Steel Construction will be used where agreed upon in each case and applicable in the manufacture of the crane and crane units. Products of Seller’s design and original manufacture will comply with applicable federal government occupational safety, noise, environmental, health and sanitation standards. As related to Buyer’s use of the products, Seller is solely responsible for compliance in the products with any state or local laws, codes, rules, or regulations, and for all necessary precautions and protections to ensure the safety of persons, including when Seller’s products are used as a component of a larger installation.

14. WARRANTY
A. WARRANTY PERIOD
All sales, repair, inspection, test, rental service, modification or maintenance sold or serviced by the Seller is warranted to be free from defects of material and workmanship and to conform to any applicable drawings, specifications, or written documents approved by the Seller for a period of time as detailed below, or if different, such other period as included in Seller’s quote:

1. Reconditioned components: no warranty unless otherwise agreed by the parties.
2. Reconditioned and standard motor rewind: one (1) year in service or 18 months from date of shipment, whichever occurs first.
3. New Product Sales: one (1) year in service or 18 months from date of shipment, whichever occurs first.

B. WITHIN the period specified above, the Seller receives from the Buyer written notice of any alleged defect or nonconformity and if the Seller determines, at its option, that the Seller does not have to be in conformity with this warranty the Buyer having provided the Seller reasonable opportunity to perform any appropriate test hereunder, the Seller will, at its option, correct the alleged defect or nonconformity or provide the Buyer with a replacement for the alleged nonconformity or nonconformity specified herein shall only apply to parts repaired or replaced by the Seller. No separate warranty shall apply to replacement parts or replacement parts or to parts or parts not repaired or replaced by the Seller. The Seller shall have the right to require the Buyer to deliver any apparatus covered by this warranty to a designated service center and Buyer shall pay both in bound and in transit transportation charges, with Seller accepting only the direct and actual cost of apparatus repair or replacement as provided above.

C. EQUIPMENT, COMPONENT AND PARTS WARRANTY
In the event of any cancellation of this order by either party, the Buyer shall pay the Seller the reasonable cost and expense, incurred by Seller of Buyer’s order is expressly made conditional on Buyer’s assent to any additional or different terms and conditions contained herein.

D. WARRANTY – REPAIR, MODIFICATION, REBUILD
In the event of any cancellation of this order by either party, the Buyer shall pay the Seller the reasonable cost and expense, incurred by Seller of Buyer’s order is expressly made conditional on Buyer’s assent to any additional or different terms and conditions contained herein.

E. REMANUFACTURED EQUIPMENT/COMPONENTS
All equipment components remanufactured by Seller will be warranted for a period of one (1) year from date of shipment. Repair of electronic boards will be warranted for a period of six (6) months from date of shipment.

F. NUCLEAR APPLICATIONS
NOTWITHSTANDING ANYTHING IN THESE TERMS TO THE CONTRARY, BUYER SHALL NOT DEFEND AND HOLD HARMLESS THE SELLER FROM ANY LIABILITY, COST OR EXPENSE ARISING OUT OF OR RELATING TO NUCLEAR MATERIAL AND CUSTOMER SHALL INCLUDE SELLER AS AN ADDITIONAL INSURED ON ANY POLICY ISSUED TO CUSTOMER WITH RESPECT TO NUCLEAR DAMAGE OR LIABILITY AND SHALL WAIVE AND CAUSE ITS CARRIERS TO WAIVER SUBROGATION AGAINST SELLER UNDER SUCH POLICIES.

G. EXCLUSIVE WARRANTY
These WARRANTIES ARE IN LIEU OF AND EXCLUDE ALL OTHER EXPRESS, IMPLIED OR STATUTORY WARRANTIES INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL THE SELLER BE LIABLE FOR ANY CONSEQUENTIAL DAMAGES, OR FOR ANY OTHER LOSS, DAMAGE OR EXPENSE OF ANY KIND, INCLUDING LOSS OF PROFITS ARISING IN CONNECTION WITH THIS AGREEMENT OR WITH THE USE OR INABILITY TO USE THE SERVICES FURNISHED UNDER THIS AGREEMENT, THE SELLER DOES NOT WARRANT THE DESIGN OF ANY EQUIPMENT, MATERIAL COMPONENTS OR SERVICES OF OTHERS.

15. INSURANCE
The Seller will use its reasonable efforts to meet the scheduled dates, however, it cannot be held responsible for its failure to do so beyond its reasonable control and in no event shall it be liable for any loss or damage resulting from its failure to deliver the services within the time specified herein.

9. RETURN POLICY
Upon prior written approval in each case, the Seller may accept merchandise returns on items normally stocked by Buyer upon the following conditions. The Buyer contacts the Seller to obtain an RMA (Return Merchandise Authorization) number prior to returning the product. All returns must be made within 30 days from date of invoice, which shall be the date of shipment or agreed progress payments as applicable. Returned merchandise must be in original unopened packaging and in reasonable condition as determined by Seller. Special order items are not returnable. Defective merchandise may return not later than 90 days of the original invoice date.

10. ELECTRONIC DATA INTERCHANGE/FACSIMILE (FAX)
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11. REGULATORY LAWS AND STANDARDS
The Seller makes no promises or representation that its product, services or work will conform to any federal, state or local laws, regulations, codes, or standards, except as particularly specified and agreed upon for compliance in writing as part of the quotation or contract between Buyer and Seller. The Seller prices do not include the cost of any related inspections or permits or inspection fees.
18. TITLE
All scrap resulting from the work shall be the property of the Seller. The title and right of possession of equipment upgraded and modified under this contract shall remain with the Buyer, subject to any applicable lien rights of the Seller and to its right of sale in the event of non-payment as provided herein.

19. FORCE MAJEURE
Seller shall not be liable for any loss, damage, expense, cost, product failure, cover, non-performance, delay or breach caused or occasioned by acts of God or any governmental authority, labor disputes (including lockouts), unusual weather conditions, fire, flood, accident, unavailability of materials or components, or late delivery thereof, boycott, embargo, insurrection, riot, civil disturbances, war, exposure to conditions or processes not specified by Seller, or any other cause which is unavoidable or beyond Seller’s reasonable control.

20. DISCLAIMER OF DAMAGES
IN NO EVENT SHALL SELLER BE LIABLE FOR ANY TYPE OF SPECIAL, CONSEQUENTIAL, INCIDENTAL OR PENAL DAMAGES, WHETHER SUCH DAMAGES ARISE OUT OF OR ARE A RESULT OF BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE. Such damages which are disclaimed shall include but not be limited to loss of profits or revenues, loss of use of the equipment or associated equipment, cost of substitute equipment, facilities, down time costs, increased construction costs or claims of Buyer’s customers or contractors for such damages. Buyer agrees that in the event of a transfer, assignment, or lease of the equipment sold hereunder that Buyer shall secure for the Seller the protection afforded to it in this paragraph.

21. LIMITATION OF LIABILITY
The Seller shall not be liable for any loss, claim, expense or damage caused by, contributed to by or arising out of the acts or omissions of Buyer or third parties, whether negligent or otherwise. Seller’s liability to Buyer on any claim or cause of action of any kind in contract, tort or otherwise, for any losses, costs, damages, expense, statutory violation, fine or penalty, loss of use, non-performance, exercise of cover or any breach or fault by Seller whatsoever, shall be limited to the purchase price paid by Buyer for the portion of the products or services allocable to the part, component or work out of which the claim arose. Any suit arising hereunder must be commenced within one (1) year from the date the cause of action accrues.

22. DISPUTES
At the sole and exclusive election of Seller, any claim or controversy arising out of or relating to the transaction(s) between Seller and Buyer shall be settled by arbitration administered by the American Arbitration Association (“AAA”) and judgment on the award rendered by the arbitrator(s) may be entered by any court or competent jurisdiction. The Arbitrator(s) shall be entitled to award the charges of the arbitrator(s) and the AAA to the prevailing party. Exclusive venue for any arbitration and for any court proceedings shall be as designated by Seller at the time of the action, and Buyer waives any defenses or objections to such venue and consents to such jurisdiction.

23. GOVERNING LAW, LIMITATION PERIOD AND FEES
These Terms and the transaction between Buyer and Seller shall be governed, interpreted and enforced in accordance with the laws of Colorado, without regard to its conflict of laws rules. No claim for breach of contract or warranty shall be asserted by Buyer in any court or arbitration proceeding after one year from the date the cause of action accrues. Seller shall be entitled to recover its reasonable attorneys’ fees incurred in connection with collection of all or a portion and/or reasonable additional charges from Buyer.

24. NO RESPONSIBILITY FOR GRATUITOUS INFORMATION OR ASSISTANCE
If Seller provides Buyer with assistance or advice which concerns any parts/products/service supplied hereunder or any system or equipment in which any such part/product/service may be installed and which is not required pursuant hereto, the furnishing of such assistance or advice shall not subject Seller to any liability, whether based in contract, warranty, tort (including negligence) or otherwise.

25. INTERPRETATION
Should any term or provision contained in the contract contravene or be invalid under applicable law, the contract shall not fail by reason thereof but shall be construed in the same manner as if such term or provision had not appeared therein. All transactions covered by these terms and conditions shall be governed by the laws of the state of Delaware. This contract is not assignable by any party hereto; provided, however, that Seller may assign this contract to any purchaser of all or substantially all of Seller’s business, whether by stock or asset sale, merger or any other similar transaction.

26. NO OTHER REPRESENTATIONS
There are no understandings, agreements, representations or warranties, either written or oral, relative to the goods that are not fully expressed in these Terms, which supersede or cancel any previous understanding or agreement between the parties with respect to the subject matter of the order. Any subsequent representation made by any person, including distributors, dealers, employees and representatives of Seller, which is inconsistent with or adds to these Terms shall not be binding on Seller unless approved in writing by an officer of Seller.