

## Terms and Conditions of Sale

All sales of products (the "Products") by R. L. Craig, Incorporated (hereinafter referred to as "RLC") to a buyer anywhere in the world (each a "Buyer" and collectively the "Buyers") are subject to the following terms and conditions (the "Terms"), which form an integral part of a contract for the sale of Products by RLC. Any modification hereto must be in writing signed by RLC. No modification shall be affected by any oral or written purchase order from Buyer containing any different terms and conditions, and any such inconsistent terms and conditions shall be deemed to be superseded by this Agreement notwithstanding any contrary provision contained in Buyer's purchase orders, invoices, acknowledgements or other documents. Unless otherwise agreed to in writing by RLC, the Terms and Conditions provided for herein shall prevail in the event of any conflict between these Terms and any differing Terms submitted by the Buyer in connection with any order. If for any reason Buyer fails to accept this Agreement in writing, any conduct between RLC and Buyer that demonstrates the existence of a contract, including, without limitation, the delivery of goods in accordance with this Agreement prior to written acceptance hereof and acceptance of such goods by Buyer, shall constitute a binding agreement to the terms and conditions herein and the order acknowledgement attached hereto.

### 1. ORDERS AND DELIVERIES

- 1.1. All orders are subject to written acceptance by RLC.
- 1.2. Delivery schedules (even if accepted or agreed to in writing by RLC) are tentative and based upon best information available at the time of quotation or acceptance of an order. All reasonable steps to meet delivery schedules will be taken by RLC.
- 1.3. Unless otherwise stated in RLC's quotation or order acknowledgement, risk of loss shall pass to Buyer, upon delivery of the goods to the carrier. All goods shall be delivered and shipped in accordance with the delivery schedule and instructions indicated on the face of RLC's order acknowledgement. Any special shipping instructions must be included in this Agreement. If Buyer's acts or omissions, including but not limited to failure to promptly notify RLC in writing of special shipping instructions prior to the scheduled ship date, result in RLC's failure to meet Buyer's delivery requirements and Buyer requires a more expeditious method of transportation for the goods than the transportation method originally specified by the Buyer, RLC shall ship the goods as expeditiously as possible at Buyer's sole expense. Unless otherwise stated in RLC's quotation, order acknowledgement or invoice, transportation shall be at Buyer's risk and expense, and any claim for loss or damage in transit shall belong to Buyer.

## 2. PRICES AND QUOTATIONS

2.1. Prices are subject to change without notice, but any such changes shall not affect accepted orders scheduled for shipment within 30 days from the date the order is entered. Prices of Products scheduled for shipment after that period shall be those as published and in effect at the time of shipment. However, Buyer may, by written notice within 5 days of receipt of the information on price increases, elect to cancel the order for said Products.

2.2. Price quotations are firm for 30 days, unless marked as "Budgetary Quotes." Budgetary Quotes are subject to review of pricing and may increase at the time of order.

## 3. PAYMENT & DOWN PAYMENT

3.1. All orders will be invoiced upon shipment. Unless otherwise specified in a written order confirmation, payment shall be made to RLC within 30 days of the date of invoice. Unless otherwise agreed in writing, RLC reserves the right to submit invoices for partial shipments.

3.2. All orders with a total value UNDER \$ 5,000.00 must be paid within 30 days of the date of the invoice. All orders with a total value OVER \$ 5,000.00 must pay 50% of the total value at the time of order confirmation and the remaining 50% shall be paid within 30 days of the date of invoice. Specific TERMS for less qualified Buyers may have special restrictions as noted on the quotation.

3.3. RLC shall retain title to all goods as security for the payment of the invoice price until payment in full has been received. If Buyer at any time fails to make payment as required under this Agreement, RLC may, in addition to any other remedies that it may have as provided by law or in equity, suspend its own performance hereunder and demand additional collateral sufficient to secure the payment of all outstanding amounts now or hereafter due from the Buyer to the RLC. Further, RLC shall have the right to charge Buyer reasonable storage charges on a per diem basis for any finished goods for which Buyer fails or refuses to accept delivery. Buyer hereby authorizes RLC to file UCC Financing Statements with or without the signature of Buyer to evidence RLC's security interest in the collateral.

## 4. DESIGNS & PUBLISHED DATA

All designs and specifications are subject to change without notice. Such changes are not applicable to prior sales. RLC assumes no responsibility for changes to Products already supplied. All data is sufficiently accurate for general use, however, any responsibility for errors or omissions is excluded. Certified prints are available on request at such charge as shall be in effect from time to time.

## 5. WARRANTY

5.1. RLC warrants the Product to be free from defect in material and workmanship for a period of one (1) year from the date of shipment to the original Buyer. RLC's obligation under this warranty is limited to repair or replacement at the RLC facility, on equipment authorized by RLC, to be returned with freight prepaid. Examination by RLC must prove to RLC's satisfaction, the Product involved is defective, has been operated under normal condition of use, and has not been subject to misuse, negligence, accident, or failure to follow the appropriate operating manual. All parts not manufactured by RLC will carry a warranty supplied by the manufacturer. This includes items, but is not limited to, the variable speed controller, motor, belt, and gearbox. RLC makes no warranty whatsoever with respect to equipment, components, or systems that it does not manufacture.

5.2. There are no implied warranties of merchantability or fitness for a particular purpose that apply to the sale. This warranty is the sole and exclusive warranty provided under this Agreement and extends only to the original Buyer or first intended user and does not extend to any subsequent purchasers or any other users of any goods sold hereunder. No claim against RLC shall be allowed by any party other than the Buyer or the first intended user. **NO OTHER WARRANTY, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, INFRINGEMENT, FITNESS FOR PARTICULAR PURPOSE OR OTHERWISE, SHALL EXIST IN CONNECTION WITH THE SALE OR USE OF ANY GOODS HEREUNDER, ADDITIONALLY, NO REPRESENTATION OR WARRANTY MADE BY ANY SALES REPRESENTATIVE OF RLC WHICH IS NOT SPECIFICALLY SET FORTH HEREIN SHALL BE BINDING UPON RLC.**

5.3. This warranty is expressly made in lieu of all other warranties expressed or implied; and RLC shall under no circumstance be liable for any direct, indirect, special, or consequential damages, expenses, or losses resulting from operation of, or defects in, equipment, covered by the warranty.

5.4. Using unapproved chemicals or solutions to clean the conveyor belt may cause damage to the belt and will void the warranty. The limited warranty provided for herein does not cover, and specifically excludes, material failure resulting from normal wear and tear, abuse, neglect, improper installation, faulty maintenance, accidental or intentional damage, damage from fire, floods, earthquakes or other acts of God, and/or defects resulting from RLC's compliance with Buyer's specifications. Additionally, it is solely Buyer's responsibility to test, maintain and determine the suitability of goods for any intended use, and although RLC may have recommended goods or developed goods at Buyer's request, Buyer assumes all risk and liability whatsoever regarding the suitability of the goods for Buyer's or any other intended user's use.

5.5. RLC shall have no responsibility to repair, replace or issue refunds for Products damaged as a result of (a) inadequate installation, handling, operation or maintenance of Products (including without limitation, the installation, handling, operation or maintenance of Products contrary to written instructions and/or recommendations of RLC), or (b) acts of Buyer or third parties, acts of God or Nature, modification, misapplication, abuse, or other similar events.

5.6. All claims under this warranty must be made in writing and delivered to RLC at the address listed in RLC's invoice prior to the expiration of the Warranty Period set forth in the Limited Warranty or such claims shall be barred.

5.7. Upon receipt of a timely warranty claim from Buyer in accordance with these terms and conditions, RLC shall have the option either to inspect the goods while in Buyer's possession or to request Buyer to deliver the goods to RLC at its factory or other designated site, at Buyer's expense, for inspection by RLC. RLC shall, at its option, either (i) replace any goods that have been properly rejected and are reasonably determined by RLC to be in breach of the warranty set forth in the foregoing paragraph of these terms and conditions, in which case RLC shall then ship the replacement goods to Buyer F.O.B. point of shipment; or (ii) if in RLC's sole judgment circumstances are such as to preclude the remedying of a breach of any warranty by replacement, RLC shall refund to Buyer, by issuance of a credit or otherwise, the applicable part of the purchase price theretofore paid to RLC. IN NO EVENT SHALL RLC'S LIABILITY FOR ANY DEFECTIVE GOODS UNDER THIS AGREEMENT EXCEED THE PURCHASE PRICE THEREOF. IT IS EXPRESSLY AGREED THAT REPLACEMENT OR REFUND OF THE PURCHASE PRICE SHALL BE THE SOLE AND EXCLUSIVE REMEDY FOR ANY BREACH OF WARRANTY OR ANY OTHER CLAIM IN RESPECT OF SUCH GOODS, INCLUDING, WITHOUT LIMITATION, THOSE CLAIMS BASED ON CONTRACT, WARRANTY, TORT, OR STRICT LIABILITY. RLC SHALL NOT UNDER ANY CIRCUMSTANCES BE LIABLE FOR REMOVAL OR INSTALLATION COSTS, DISPOSAL COSTS, LABOR COSTS, DOWNTIME, DAMAGE TO OTHER PROPERTY, LOSS OF BUSINESS OR PROFITS, OR ANY SIMILAR OR DISSIMILAR INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES. The sole purpose of the stipulated exclusive remedy set forth in this paragraph shall be to provide Buyer with replacement or refund for defective goods in the manner provided herein. This exclusive remedy shall not be deemed to have failed of its essential purpose so long as RLC is willing and able to replace defective goods in the manner prescribed herein or to provide a refund if, in RLC's judgment, replacement is not feasible or appropriate under the circumstances.

## 6. PROPRIETARY RIGHTS

All inventions (whether patented or not), methods, processes, know-how, layouts, models, designs, sketches, drawings, blueprints, patterns, trade secrets, copyrights, mask works, trade names, registered and unregistered trademarks and service marks, proprietary materials or other intellectual property and all improvements or modifications relating to any of the foregoing, incorporated into or in any manner associated with or attached to the Products or otherwise provided to Buyer (the "RLC Intellectual Property") are and shall at all times remain the sole property of RLC or its Licensors. Buyer agrees not to (a) modify, translate, decompile, reverse engineer, copy or duplicate the RLC Intellectual Property, nor to remanufacture or have remanufactured any products which incorporate the RLC Intellectual Property, (b) to use any of RLC's trademarks, service marks or trade names in any manner without the prior written permission of RLC, or (c) to infringe, or permit a third party to infringe, any such RLC Intellectual Property or to adapt the Products in any way or to create a derivative work of any of the RLC Intellectual Property, except as may be authorized in writing by RLC. Any act or omission of Buyer contrary to the provisions of this Section 6 shall be a material breach of these Terms.

## 7. FORCE MAJEURE

7.1. RLC shall not be liable for delays in performing contractual obligations due, in whole or in part, to any contingency beyond its reasonable control, including acts of God, fires, accidents, strikes, labor disputes, floods, wars, terrorism, sabotage, or governmental laws, ordinances, rules or regulations or any other events, occurrences or conditions beyond RLC's control. In an event of a force majeure condition, RLC may, at its option, extend the delivery time or cancel the order in whole or in part.

7.2. If Buyer fails to accept delivery of any Products due to reasons beyond RLC's control, Buyer shall nonetheless pay the purchase price for the Products to RLC.

## 8. TERMINATION

In addition to any other remedies that RLC may have as provided by law or in equity, if Buyer (i) fails to make any payment when due hereunder, or (ii) fails on request to give proper and timely shipping instructions, or (iii) fails to accept delivery at times stated, or (iv) becomes insolvent or otherwise voluntarily or involuntarily becomes subject to any bankruptcy or receivership proceedings; or (v) delays the scheduled ship date, or (vi) otherwise fails to comply with any terms and conditions of any contract between Buyer and RLC, RLC shall have the right at its option to terminate this Agreement, recover damages and deduct any undelivered quantities of goods from the total quantities of goods to be furnished to Buyer, whether under this or any other contract between Buyer and RLC. Such damages, at RLC's option, may include a cancellation fee equal to 25% of the purchase price which will be immediately due and payable upon demand. Additionally, RLC may, at any time or times, in the event of a default by the Buyer, suspend performance of any order or require payment in cash, security or other adequate assurances satisfactory to RLC or invoice Buyer in accordance with the provisions of Section 4 hereof and charge the Buyer interest at the rate of 1-1/2% per month and storage charges.

Buyer shall not be permitted to modify or cancel its order without the prior written consent of RLC. In no event shall any order be modified or cancelled for any portion thereof already manufactured, or in the process of manufacture at the time the request for modification or cancellation is received by RLC. RLC, in its sole and exclusive discretion, shall have the right to make exceptions to this cancellation and modification requirement upon such terms as are satisfactory to RLC and that will protect and indemnify RLC against all loss.

## 9. INDEMNIFICATION

RLC shall not be liable for any inaccurate, incomplete, or faulty specifications supplied by Buyer, nor will RLC be liable for any infringement or alleged infringement of any patent, trademark, design, or other intellectual property rights arising out of RLC's compliance with Buyer's specifications. To the fullest extent permitted by law, Buyer shall protect, defend, indemnify and hold harmless RLC, its directors, officers, shareholders and employees (collectively "RLC") from and against any and all manner of actions, claims, demands, damages, losses, liabilities, penalties, judgments, costs and expenses of any kind whatsoever (including without limitation, attorneys' and consultants' fees and expenses), whether in law or in equity or otherwise, arising out of or relating to (i) any inaccurate or faulty specifications supplied by Buyer; or (ii) any infringement or alleged infringement of any patent, trademark, design or

other intellectual property rights resulting from RLC's compliance with Buyer's specifications; or (iii) any personal injuries or property damage sustained or allegedly sustained by any person (including, but not limited to, RLC's agents and employees) as a result of Buyer's acts, omissions or misconduct; or (iv) Buyer's or any third party's failure to test and determine the suitability of any goods for Buyer's or any other intended use; or (v) Buyer's or any third-party's misuse or failure to use any goods in a manner that does not conform to the applicable goods specifications or to the requirements of any applicable federal, state or local law or requirement; or (vi) any third-party claims asserted against RLC as a result of Buyer's or any other third-party's use of any goods purchased hereunder; or (vii) Buyer's negligence or willful misconduct. The provisions of this paragraph shall survive the delivery of and payment for all goods under this Agreement and shall apply notwithstanding the acts and/or omissions of RLC. In addition, this indemnity specifically covers any claims that may be asserted by Buyer's employees, and Buyer hereby expressly waives, for purposes of this indemnity only, any immunity it may have under any worker's compensation or other law from liability for claims brought by RLC pursuant to this paragraph. Buyer's indemnity obligations to RLC hereinabove shall not be limited by a limitation on the amount or type of damages, benefits or compensation payable by or for Buyer under worker's compensation acts, disability benefit acts or other employee benefit acts on account of claims against RLC by an employee of Buyer or anyone employed directly or indirectly by Buyer or anyone for whose acts Buyer may be liable. In no event shall Buyer's liability hereunder be limited to the extent of any insurance available to or provided by Buyer.

## **10. GOVERNING LAW**

This Agreement shall be governed by, and construed in accordance with, the laws of the State of Ohio, without regard to its conflicts of laws principles. Any and all disputes arising under this Agreement shall be resolved in a state or federal court of competent jurisdiction within Columbiana County, Ohio, and Buyer hereby irrevocably submits to the jurisdiction of any such court for the resolution of any and all disputes arising hereunder.

## **11. NO THIRD PARTY BENEFICIARIES**

Except as otherwise provided in writing, nothing contained in this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than Buyer and RLC, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Buyer and RLC and not for the benefit of any other party.

## **12. SUCCESSORS AND ASSIGNS**

This Agreement shall be binding upon and shall inure to the benefit of the respective successors and assigns of both RLC and Buyer. Buyer shall not, however, assign this Agreement or any part thereof or the goods hereunder without the prior written consent of RLC, which consent RLC may grant or withhold in its sole and absolute discretion.