

MANITOWOC CRANE GROUP ITALY SRL
TERMS AND CONDITIONS OF SALE AND SERVICE/REPAIR

1. Scope, offers, orders and cancellation

1.1 These terms and conditions of sale ("Terms and Conditions") shall apply to (i) any offer for sale (the "Offer") made by Manitowoc Crane Group Italy Srl ("Seller") to the buyer under this Terms and Conditions ("Buyer") with respect to goods and/or services described herein (the "Goods"), or (ii) any order issued by Buyer to purchase Goods (the "Purchase Order").

1.2 All sales by Seller to Buyer are subject to, and are expressly conditioned upon assent to, these Terms and Conditions. Seller hereby objects to any additional or different terms or conditions, and notifies Buyer that Seller is unwilling to sell on any terms or conditions other than these Terms and Conditions. These Terms and Conditions and the additional terms and conditions contained in or attached any Offer or any Purchase Order, relating to agree upon quantities and description of Goods and shipping or provision dates shall be the entire agreement between Seller and Buyer with respect to the subject matter hereof (collectively, the "Agreement"). There are no conditions to the Agreement that are not expressed herein. Any provision, term or condition set forth on any Purchase Order or on any acknowledgment, invoice or other document or communication provided by Buyer, which is inconsistent with the terms of the Agreement, or is not addressed herein, shall be void and of no effect.

1.3 No accepted Offer or Purchase Order may be cancelled or altered by Buyer except upon terms and conditions accepted by Seller in writing; and no changes to any Offer or Purchase Order will be binding unless set forth in writing and manually signed by Seller in an order acknowledgment.

1.4 Any Offer may be cancelled or amended by Seller at any time prior to acceptance by Buyer by written notice to Buyer with no liability to Seller, and shall automatically expire thirty (30) calendar days after its date if Buyer has not accepted it before then by delivering to Seller a written acceptance of the Offer (the "Offer Acceptance"). Neither Offer Acceptance nor any conduct by Seller including but not limited to shipment or provision of Goods (the "Delivery"), shall oblige Seller to sell to Buyer any quantity of Goods in excess of the quantity that Buyer has committed to purchase from Seller at the time of such acceptance or conduct.

1.5 All Purchase Orders shall be firm and may not be canceled or modified by Buyer after acceptance by Seller without the prior written permission of Seller and shall state (i) the quantity of Goods (by part number and description) desired, (ii) the date of delivery (which will be mutually agreed between the parties from time to time), and (iii) the address to which Seller's invoice shall be sent. If Seller determines that the Purchase Order is complete and can be fully performed, Seller shall issue a written acceptance of the Purchase Order ("Purchase Order Acceptance"). On Seller's issuance of a written Purchase Order Acceptance of a Purchase Order, such Purchase Orders shall constitute a binding commitment from Buyer to purchase the Goods specified therein, and a binding commitment of Seller to deliver such Goods on the terms and conditions specified in the Agreement.

2. Price

2.1 Unless otherwise specified in the Agreement, the price for Goods sold hereunder shall be Seller's list price in effect as of the date of the relevant Offer or Purchase Order Acceptance. The prices for all Goods shall be documented in the Offer or the Purchase Order Acceptance.

2.2 Notwithstanding the foregoing, Seller may increase the price of the Goods upon notice to Buyer to reflect any additional increases in Seller's cost of producing or providing the Goods.

2.3 Prices are stated and payable in the currency set forth in Seller's price list.

3. Credit approval and payment terms

3.1 All payment terms set forth in the Agreement are subject to Seller's approval of Buyer's credit, in Seller's discretion, and if such approval is withheld, payment shall be due in advance of Seller's performance. If Buyer is subject to bankruptcy or insolvency proceedings, then the payment shall be made in cash prior to either production or Delivery of the Goods, in Seller's discretion.

3.2 Except as otherwise provided in the Agreement, payment is due upon Buyer's receipt of Seller's invoice following Delivery, unless the due date of the invoice payment is a bank holiday in the country of the receiving bank, in that case the invoice payment shall be made the last working day preceding the due date of the invoice payment. Except as otherwise provided in the Agreement, Buyer shall pay Seller the net invoice amount within 90 days after the date of the invoice.

3.3 Late payments shall bear, *ipso jure* and without prior notification, (i) interest calculated at (a) a rate of the official reference rate of the European Central Bank increased by 7 (seven) basis points, or (b) the highest rate permitted by applicable law without prejudice to any other rights of Seller caused by said payment failure.

3.4 Seller may, in addition to its rights and remedies provided hereunder or at law, (i) defer or suspend further Delivery of Goods until Buyer reestablishes satisfactory credit, (ii) cancel the unshipped or unperformed portion of any Offer or Purchase Order and invoice Buyer for incurred costs and reasonable profit, without any liability to Seller for failure of Delivery of Goods, or (iii) make Delivery of Goods to Buyer on a "cash on delivery" or cash in advance basis.

3.5 If production or Delivery of completed Goods, or other Seller performance, is delayed by Buyer, Seller may immediately invoice, and Buyer shall pay, the percentage of the purchase price corresponding to the percentage of completion; in addition, Buyer shall compensate Seller for storage of completed Goods or work in process during any such delay, whether stored at Seller's facility or an independent storage company's facilities.

4. Taxes and other charges

4.1 Any taxes and charges (including, but not limited to, any cargo insurance, manufacturer's tax, occupation tax, use tax, sales tax, excise tax, value added tax, duty, custom, import, inspection or testing fee, or any other tax, fee, interest or charge of any nature whatsoever) imposed by any governmental authority on, or measured by the transaction between Seller and Buyer, shall be paid by Buyer in addition to the prices quoted or invoiced.

4.2 In the event Seller is required to pay any such taxes or other charges, Buyer shall reimburse Seller therefor on demand.

5. Retention of title

5.1 The Goods supplied shall remain in the property of Seller until the date of full payment by Buyer of the full price of the Goods and of all the other amounts due to Seller by Buyer hereunder. Until that time Buyer shall hold the Goods as Seller's fiduciary agent and shall keep the Goods properly stored, protected and insured.

5.2 If for the validity of the retention of title for the benefit of Seller it is necessary to fulfill some administrative or legal formalities including, without limitation, any filing of the Agreement with public registers or affixture of particular seals on the Goods, then Buyer shall cooperate with Seller and shall do its best effort to carry out all necessary actions in order to obtain a valid retention of title right on the Goods for the benefit of Seller.

5.3 Buyer shall have the right to dispose of the Goods delivered by Seller or to process them in the ordinary course of the business. The proceeds deriving from any such disposal or process of the Goods shall be transferred to Seller up to the extent of the full price and any other amounts due by Buyer to Seller in connection with any transaction hereunder.

5.4 The right of Buyer to dispose of Goods or to process them shall cease in the cases referred to in Sections 3.1, 3.3 and 3.5 hereof. In such a case, Buyer must place the Goods at the disposal of Seller who shall have the right to enter upon Buyer's premises for the purpose of obtaining the ownership of the Goods.

5.5 In the event of an action brought by any third party against the Goods delivered under retention of title in accordance with this Section 5, Buyer shall notify such party of Seller's property of such Goods and shall immediately inform Seller of any such action. Buyer shall bear the costs of any intervention.

6. Passage of risk, Delivery and claims

6.1 Unless otherwise provided in the Agreement or agreed to in writing, Goods shall be delivered, ex works Seller's loading dock (as defined in [Incoterms 2010](#)). Delivery of Goods to the carrier shall constitute delivery to Buyer; and regardless of shipping terms or freight payment, Buyer shall bear all risk of loss or damage in transit.

6.2 Buyer shall be responsible to (i) supply to Seller, sufficiently in advance in order to permit Seller to make the necessary shipping arrangements, all appropriate information including (a) marking and shipping instructions, (b) import certificates, documents required to obtain necessary government licenses and any other documents prior to their shipment, (c) legal or regulatory requirements and standards mandatorily applicable to Goods in any country in terms of safety, manufacturing requirements, performance, expected lifetime, maintenance, export and user information, and (d) Buyer's confirmation that it has caused the opening or establishment of a letter of credit if required, and (ii) deliver and file any documents or instruments required to be filed with the competent authorities of such countries or any conformity or similar statements required to market the Goods in such countries. If any such instructions, documents or confirmations are not so received or would (in Seller's sole judgment) require unreasonable expense or delay on its part, then Seller may, at its sole discretion and without prejudice as to any other remedies, delay the time of Delivery and/or cancel the Offer of the Purchase Order.

6.3 Claims for shortages or other errors in Delivery must be made in writing to Seller within 10 calendar days after receipt of shipment; and failure to give such notice shall constitute unqualified acceptance and a waiver of all such claims by Buyer. Claims for loss of or damage to Goods in transit must be made to the carrier, and not to Seller.

6.4 Seller reserves the right to make Delivery in installments, unless otherwise expressly stipulated in the Agreement; all such installments shall be invoiced upon Delivery of the first installment and paid for when due per invoice, without regard to subsequent Deliveries. Delay in Delivery of any installment shall not relieve Buyer of its obligations to accept remaining Deliveries. In any event, in case of production delays, Seller is entitled to not supply the whole quantity that Buyer has ordered in one delivery, but can deliver by several subsequent partial Deliveries.

6.5 Seller shall not be liable for any losses or damages as a result of any delay or failure to Delivery due to any cause beyond Seller's reasonable control, including but not limited to any act of Buyer, embargo or other governmental act, regulation or request, fire, accident, strike, slowdown, war, act of terrorism, riot, delay in transportation, or inability to obtain necessary labor, materials or manufacturing facilities. In the event of any such delay, the date of Delivery shall be extended for a period equal to the time lost because of the delay.

7. Changes

7.1 Seller may at any time make such changes in design and construction of Goods, products, components or parts as Seller deems appropriate, without notice to Buyer.

7.2 Seller may furnish suitable substitutes for materials unobtainable because of priorities or regulations established by governmental authority or non-availability of materials from suppliers.

8. Warranties

The goods sold by Seller to Buyer hereunder are warranted by Seller pursuant to Seller's applicable written warranty available at <http://manitowoccranes.com/termsandconditions> or available upon request (the "Warranty").

The warranty is exclusive and in lieu of all other warranties, whether written, oral or implied, arising by operation of law or otherwise, including, but not limited to, any warranty of satisfactory quality or fitness for a particular purpose.

Buyer shall indemnify and hold harmless Seller from and against any and all losses, liabilities, damages and expenses (including but not limited to attorneys' fees and other costs of defense) that Seller may incur as a result of Buyer or any intermediary purchaser extending any warranties to its customers beyond the Warranty. Performance of the remedy provided in the Warranty shall be Seller's sole obligation and the end-user's exclusive remedy with respect to defective goods. Any parts repaired or replaced under the Warranty are warranted only for the balance of the warranty period on the part that was repaired or replaced.

9. Consequential damages, other liability and indemnity

9.1 Seller's liability with respect to the Goods sold hereunder shall be limited to the Warranty and, with respect to any other breaches of the Agreement, shall be limited to the invoiced value of the defective or damaged Goods. Seller shall not be subject to any other obligations or liabilities, whether arising out of breach of the Agreement, Warranty, tort (including strict liability, gross negligence or willful misconduct duly proved by Buyer), with respect to Goods sold by Seller, or any undertakings, acts or omissions relating thereto.

9.2 Without limiting the generality of the foregoing, Seller specifically disclaims any liability for property damages, penalties, special or punitive damages, damages for lost profits or revenues, downtime, lost good will, cost of capital, cost of substitute goods or services, or for any other types of economic loss, or for claims of Buyer's customers or any third party for any such damages, costs or losses. Seller shall not be liable for and disclaims all consequential, incidental, indirect and contingent damages whatsoever.

9.3 Buyer shall indemnify and hold harmless Seller and its affiliates, officers, directors, employees and agents (each, a "Seller Indemnitee") from and against any and all losses, liabilities, damages and expenses (including but not limited to attorneys' fees and other costs of defense) suffered or incurred by any Seller Indemnitee arising from or based upon (i) any breach of any of the representations or warranties made by Buyer in the Agreement, or (ii) any claim, action or suit made against the Seller Indemnitee by a third party to the extent that such claim, action or suit (a) is caused by a breach of Buyer's obligations hereunder; or (b) relates to the manufacture or sale of any finished equipment or products which incorporate the Goods, or the use or installation of the Goods by Buyer or its affiliates in a manner contrary to Supplier's instructions in effect on the date of the Delivery of any such Goods.

10. Installation and technical information

10.1 If Buyer purchases any Goods that require installation or erection, Buyer shall, at its expense, make all arrangements and operations necessary to install, erect and operate the Goods. Buyer shall install the Goods in accordance with any Seller instructions.

10.2 Any sketches, models or samples submitted by Seller shall remain the property of Seller, and shall be treated as confidential information unless Seller has in writing indicated a contrary intent. No use or disclosure of such sketches, models or samples, or any design or production techniques revealed thereby, shall be made without the express, prior written consent of Seller.

11. Assignment

Buyer may not assign any of its rights, duties or obligations under this Agreement without Seller's prior written consent, and any attempted assignment without such consent will be void and of no effect or consequence.

12. No waiver

No waiver of the Agreement or any of its provisions is valid unless expressly agreed to in a writing signed by Seller. No waiver by Seller of any default under the Agreement is a waiver of any other or subsequent default. The failure of Seller to insist upon strict and timely performance of any term or condition of the Agreement shall not be deemed a waiver of any right or remedy that Seller may have under the Agreement or at law, and shall not be deemed a waiver of any subsequent default in performance of the terms and conditions of the Agreement.

13. Cost of collection

In the event legal action is necessary to recover monies due from Buyer or to enforce any provision of the Agreement, Buyer shall be liable to Seller for all costs and expenses associated therewith, including, without limitation, Seller's actual attorneys' fees and costs.

14. Insurance

14.1 Unless otherwise specified in the Agreement or agreed to in writing, Buyer shall be solely responsible from the point of delivery of the Goods by Seller for all consequences as a result of theft, loss, partial or total destruction, damages or liability for any reason whatsoever, including accidental reasons or as a result of force majeure.

14.2 Buyer shall insure, at its expense, the Goods against all aforementioned risks (including public and product liability risks) and shall provide evidence of this insurance, upon request by Seller. Should Buyer fail to comply with these requirements, Seller may, at Seller's sole discretion, within eight days following written notice to Buyer, either cancel the sale and take back the Goods, or procure such insurance at the expense of Buyer.

15. Spare parts

Seller shall determine, in its sole discretion, the period of time for which it supplies spare parts manufactured by it; provided however, in no event shall Seller supply spare parts manufactured by it more than ten (10) years after the cessation of manufacture of this Good. The supply of spare parts provided is limited to the availabilities of the Seller.

16. Services

The following terms shall also apply to all services being provided by Seller. (a) Seller will repair or, at its option, replace any part which is or becomes faulty if, in the opinion of Seller, the fault is in workmanship (and not the result of ordinary wear and tear; negligence; acts of God; vandalism; abuse; misuse; neglect; accident or disasters such as fire, flood, wind and lightning; overloading; unauthorized altered, modified or changed products or parts; products or parts which have not been properly installed, stored, operated or maintained or which have been improperly adjusted; any products or parts not manufactured by Seller), provided that the fault is brought to the notice of Seller within twenty (20) days of the date of delivery of the goods to Buyer on completion of the services. (b) The goods, while in Seller's possession are at the risk of the Buyer and Seller shall not be liable for the loss of or damage to the goods or their contents howsoever arising unless the same is caused by the negligence of Seller. In the event of such negligence, Seller's liability shall be limited to the replacement or at Seller's option, repair of the lost or damaged goods and under no circumstances whatsoever shall Seller be liable for any other loss, damage or expense suffered by the Buyer as a result of the loss or damage to the goods. (c) If the goods are not paid for and collected from Seller's premises within twenty (20) days of notice that they are ready for collection or if, where the goods are to be collected elsewhere, the Buyer fails to collect them at the agreed time and place, Seller reserves the right, in its sole discretion, to charge for storage or disposal of them. (d) If Seller is required to go to a location other than Seller's premises, Buyer shall be solely responsible to make sure such premises are safe and suitable for the services to be provided by Seller. Seller reserves the right, in its sole discretion to reject the premises if Seller determines they are not safe and/or suitable. Seller further reserves the right, in its sole discretion, to charge if it is waiting for the site to be prepared or if it leaves a site it determines not safe and/or suitable.

17. Second-hand or used Goods

If the Buyer is buying the equipment as second-hand equipment, the Buyer recognized that he had an opportunity to inspect the second-hand equipment and is buying it in full knowledge of its condition. The second-hand equipment is being sold to Buyer as is, with all faults; and Seller hereby specifically disclaims any and all warranties and representations of any nature whatsoever, express or implied, with respect to the equipment, including, without limitation, any implied warranty or

satisfactory, quality or fitness for a particular purpose, any warranty arising by course of dealing or usage of trade.

18. Protection of Personal Data.

For the purpose of this Agreement, each party may have access and process personal data of employees of the other party. As such, each party represents that it takes reasonable measures to ensure the protection and confidentiality of the information it holds or that it processes in compliance with applicable laws, including, without limitation, the European Regulation 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (GDPR). Each party represents that it informs its employees that they have the right to request access, correction, modification and erasure regarding their personal data in case of inaccuracy, as well as a right to the limitation of processing, to data portability and to opposition for legitimate reasons which they may exercise by sending an email to the other party's data protection officer or similar responsible person. Each party also represents that it informs its employees about their right to lodge a claim before the competent authorities.

19. Telematic system

The goods sold by Seller to Buyer may be equipped with a remote-connection machine-data-collection system (the "Telematic System"). Use of the Telematic System is condition upon acceptance of the "Telematic System Terms and Conditions of Use" available at <http://manitowoccranes.com/termsandconditions>. Buyer agrees that its use of the Telematic System constitutes acceptance of the Telematic System Terms and Conditions of Use.

20. Place of Performance

Unless otherwise provided in Seller's confirmation order, Seller's place of business shall be the place of performance.

21. Miscellaneous

21.1 The Agreement does not authorize any party to act as agent or representative of any of the other parties. No party is granted any right or authority to undertake any obligation or to create any responsibility on behalf of, or in name of any of the other party. None of the provisions contained in the Agreement may be construed to make the party partners or joint ventures or to render any party liable for the debts or obligations of any of the other party.

21.2 In the event that any provision of the Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby as long as the remaining provisions do not fundamentally alter the relations among the parties and the parties shall negotiate and agree a fair revision of the Agreement so as to replace the invalid, illegal or unenforceable provisions with provisions as similar in terms to such invalid, illegal or unenforceable provision as may be possible and be valid, legal and enforceable.

22. Language, applicable law and jurisdiction

The English language shall be the language used for the interpretation and construction of these Terms and Conditions.

These Terms and Conditions shall be governed by and construed in accordance with Italian law.

Without prejudice to any right of Seller to apply to any competent court for injunctive relief, any dispute arising out of or in connection with the Agreement, shall be referred to and finally resolved by the courts of Milan (Italy).

23. Final provisions

Pursuant to Articles 1341 and 1342 of the Italian civil code, Buyer hereby represents that it has examined the content of these Terms and Conditions and specifically approves in writing the provisions set forth in the following Sections: 1 (*Scope, offers, orders and cancellation*); 3 (*Credit approval and payment terms*); 5 (*Retention of title*); 6 (*Passage of risk, Delivery and claims*); 7 (*Changes*); 8 (*Warranties*); 9 (*Consequential damages, other liability and indemnity*); 11 (*Assignment*); 14 (*Insurance*); and 22 (*Language, applicable law and jurisdiction*).

T&C Sales MCG Italy – rev. n°1 dated October 1st, 2019
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