TERMS AND CONDITIONS OF SALE

1) Offer, Governing Provisions and Cancellation. This document is an offer or counter-offer by Grove U.S. LLC ("Seller") to sell the goods and/or services that are identified in the document. The terms and conditions of this document are the only terms and conditions for the sale and delivery of the goods and services and shall prevail over any terms and conditions in Buyer’s purchase order or other documents. Seller hereby acknowledges that Buyer’s acceptance of the offer is made subject to, and is expressly conditioned upon assent to, these Terms and Conditions, and that Buyer will not be bound by any other terms and conditions contained in or attached to this document, as supplemented by agreed upon quantities and shipping dates (collectively, the “Agreement”), whether written or oral. The terms and conditions contained in this document or attached to this document, as supplemented by agreed upon quantities and shipping dates (collectively, the “Agreement”), whether written or oral, shall govern the sale of goods by Seller to Buyer hereunder, subject to the right of the Buyer to accept or reject the offer. In the event of any such delay, the date of delivery shall be extended for a period equal to the delay. The Seller shall be responsible for any delay in delivery unless such delay is caused by the Buyer’s failure to pay or failure to provide all necessary instructions. If Buyer fails to make any payments in accordance with the terms and conditions of the sale, Buyer is not entitled to any prior payment or any other payment for goods that remain unshipped or unperformed. Buyer shall reimburse Seller therefor on demand.

2) Price. Unless otherwise specified on the face of this document or agreed to in writing, the price for goods sold hereunder shall be Seller’s distributor list price in effect as of the date of Buyer’s order. 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 the goods. Prices are stated and payable in the currency set forth in the price list.

3) Credit Approval; Payment Terms. All payment terms set forth in this document are subject to Buyer’s acceptance of Buyer’s credit. In Seller’s discretion, and if credit approval is withheld, payment shall be due in advance of Seller's performance. Except as otherwise agreed to in writing or otherwise provided on the face of this document or in the preceding sentence, payment is due upon Buyer's receipt of Seller’s invoice following shipment. Interest will be charged at the lesser of (i) 18% per year, or (ii) the highest rate permitted by applicable law, on accounts more than 30 calendar days past due. If Buyer fails to make any payments in accordance with the terms of this Agreement, Seller, in addition to its rights and remedies provided hereunder or at law or equity, (a) defer or suspend further shipments or provision of goods until Buyer reinstates satisfactory credit, (b) cancel the unshipped or unperformed portion of any order and invoice Buyer for incurred costs and reasonable profit without any liability on the part of Seller for failure to ship or provide the goods following Buyer’s receipt of goods or a C.O.D. or cash in advance basis. If production or shipment of completed goods, or other Seller performance, is delayed by Buyer, Seller may immediately invoice, and Buyer shall pay, the peripheral purchase price in the amount of the purchase price, in full, for goods fully completed or in progress of being completed, 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 on an independent third party’s storage or inventory. If such delay continues, Buyer shall reimburse Seller thereon on demand.

4) Taxes and Other Charges. 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 the sale of or the purchase of the goods by Buyer, shall be the sole liability of Buyer, unless agreed otherwise in writing or agreed to in writing. Such taxes shall remain the property of Seller, and shall be treated as confidential information. If Seller furnishes suitable substitutes for materials unobtainable because of products, components or parts as Seller deems appropriate, without notice to Buyer, Buyer shall reimburse Seller therefor on demand.

5) Security Interest. Buyer hereby grants to Seller and Seller hereby retains a purchase money security interest in all goods sold hereunder and all accessories and additions thereto, whether presently upon Buyer’s premises or hereafter acquired, all spare parts and components therefor, and all proceeds of the sale or other disposition thereof, including, without limitation, cash, accounts, contract rights, instruments and chattel paper. Buyer hereby authorizes Seller and its agents to file any financing statement or other documents necessary to create, perfect and maintain the security interest granted hereunder.

6) Delivery, Claims and Force Majeure. Unless otherwise provided on the face of this document 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 release of the carrier. The Buyer bears all risk of loss or damage in transit. Seller reserves the right to make delivery in installments, unless otherwise expressly stipulated herein; all such installments shall be treated as separate transactions. Seller shall not be liable for any losses, damages or delays, including, without limitation, loss of any or all of the goods occurring or arising in transit, nor for any other losses, damages or delays incurred by Buyer 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. The delivery date shall be extended for a period equal to the delay. Seller shall not be liable for any costs or expenses, including, without limitation, costs of correcting any errors or omissions 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 for the goods or services, unless such defects or omissions were directly caused by the carrier, and not to Seller. All delivery dates are approximate. Seller shall not be liable for any losses or damages as a result of any delay or failure to deliver due to any cause beyond Seller’s reasonable control, including but not limited to any act of God, act of Buyer, embargo or other governmental act, regulation or request, fire, explosion, act of war, terrorism, breakdown of machinery, transportation failure, 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 delay. The Seller shall be responsible for any delay in delivery unless such delay is caused by the Buyer’s failure to pay or failure to provide all necessary instructions. 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. 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’s or any intermediary purchaser extending any warranties to its customers. 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 Buyer may incur as a result of Buyer’s or any intermediary purchaser extending any warranties to its customers.

7) Changes. Seller may at any time make such changes in design and construction of products, components or parts as Seller deems appropriate, without notice to Buyer. 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; goods modified at the request of Buyer are subject to the warranty provided by Seller at the time of each corresponding transaction (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. 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’s or any intermediary purchaser extending any warranties to its customers.

9) CONSEQUENTIAL DAMAGES AND OTHER LIABILITY; INDEMNITY. SELLER’S LIABILITY WITH RESPECT TO THE GOODS OR SERVICES SOLD HEREUNDER AND ANY OTHER OBLIGATIONS, LIABILITIES, ARISING OUT OF BREACH OF CONTRACT, Warranties, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR UNDER OTHER THEORIES OF LAW OR EQUITY, WITH APPROVAL 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 ANY CLAIM BY BUYER OR BY BUYER’S CUSTOMERS OR BY ANY THIRD PARTY ARISING OUT OF OR IN CONNECTION WITH THE GOODS OR SERVICES SOLD HEREUNDER, INCLUDING, WITHOUT LIMITATION, THE SALE OF GOODS MODIFIED AT THE REQUEST OF BUYER, OR ANY UNDERTAKINGS, ACTS OR OMISSIONS RELATING THERETO. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, SELLER SPECIFICALLY DISCLAIMS ANY LIABILITY FOR PROPERTY DAMAGES, PENALTIES, SPECIAL OR PUNITIVE DAMAGES, DAMAGES FOR LOSS OF DOWN-TIME, LOST GOOD WILL, COST OF CAPITAL, COST OF SUBSTITUTE GOODS OR SERVICES, OR FOR ANY OTHER TYPES OF ECONOMIC LOSS, OR FOR ANY OTHER LOSS SUSTAINED BY OR TO BUYER’S CUSTOMERS OR ANY THIRD PARTY FOR SUCH DAMAGES, COSTS OR LOSSES. SELLER SHALL NOT BE LIABLE FOR AND DISCLAIMS ALL CONSEQUENTIAL, INCIDENTAL, INDIRECT AND CONTINGENT DAMAGES.

10) Installation. If Buyer purchases any goods that require installation or erection, Buyer shall, at its expense, make all arrangements necessary to install, erect and operate the goods. Buyer shall install the goods in accordance with any Seller instructions. 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) arising from or otherwise connected with Buyer’s or its agent’s failure to properly install the goods.

11) Technical Information. 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 shall be made without Seller’s prior written consent, and any such information revealed thereby, shall be made without the express, prior written consent of Seller.

12) 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.
13) No Waiver. No waiver of this 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 this 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 this Agreement shall not be deemed a waiver of any right or remedy that Seller may have under this Agreement or at law or equity, and shall not be deemed a waiver of any subsequent default in performance of the terms and conditions of this Agreement.

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

15) Insurance. Unless otherwise specified on the face of this document 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 or partial or total destruction, for any reason whatsoever, including accidental reasons or as a result of force majeure. Buyer shall insure, at its expense, the goods against all risks of loss or damage from the date of delivery of the goods to Buyer on completion of the services. Buyer 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.

16) 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.

17) 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 or 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.

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 if 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.