

TERMS

1. **ACCEPTANCE.** This quotation is an invitation for an offer and is tendered by Buyer for acceptance by Seller ("Seller"). It shall become a binding contract only when accepted by the General Manager or General Sales Manager at the offices of Seller's sales and service office stated herein. Upon said acceptance, the contract shall be effective after and shall survive (i) delivery of the equipment ordered hereunder and (ii) the signing of any additional security agreement relating to said equipment. If the terms hereof conflict with any such security agreement, the terms of the latter shall control.

2. **SCOPE.** Seller shall furnish only the materials and services specifically identified in the Proposal. Customer requested revisions may require a change order. Engineering, PE stamped drawings, permitting, fire protection modifications, electrical work, concrete work, utility relocation, surveys, structural modifications, demolition, and other items not expressly included are excluded.

3. **SHIPMENT.** Unless otherwise specifically agreed, all prices are for material packed for domestic shipment and for delivery F.O.B. factory. Shipping dates are approximate and contingent upon prompt receipt of all necessary information. All risk of loss shall be upon the Buyer from point of shipment. Buyer shall pay all transportation and delivery charges to final destination. Freight rates quoted to Buyer prior to shipping are estimates only and it is agreed that final charges levied by the carrier will be determined at the time of shipping and satisfaction thereof will be the sole responsibility of the Buyer. Delivery dates are estimates only. Seller is not liable for delays caused by manufacturers, suppliers, transportation, labor shortages, permitting, weather, governmental actions, or other causes beyond its reasonable control.

4. **CUSTOMER RESPONSIBILITIES.** Customer shall provide unrestricted access to the project site, safe working conditions, adequate utilities, finished floors, and staging areas. Customer shall remove obstructions, coordinate other trades, protect existing property, and identify underground utilities and concealed conditions. Delays caused by Customer or others shall extend project schedules and Customer shall reimburse Seller for resulting costs.

5. **SITE CONDITIONS.** Pricing assumes ordinary site conditions. Concealed utilities, unsuitable concrete or soils, hazardous materials, structural deficiencies, undocumented building conditions may constitute additional work requiring a Change Order. Seller is not responsible for existing building conditions or damage resulting from inaccurate information supplied by Customer.

6. **SLAB, FOUNDATIONS, FOOTINGS, SUBSURFACE CONDITIONS, AND CONCRETE ANCHORS.** Seller makes no representation or warranty regarding the adequacy, strength, thickness, reinforcement, bearing capacity, design, condition, composition, or suitability of any existing slab-on-grade, concrete floor, foundation, footing, structural element, soil, fill material, or other subsurface condition.

Customer represents and warrants that the Project Site, including all slabs, foundations, footings, structural components, pavements, and supporting soils, has been properly designed, constructed, and maintained, is suitable for the intended installation, and is capable of safely supporting all imposed dead loads, live loads, point loads, and dynamic loads associated with the equipment, storage systems, mezzanines, racking, shelving, conveyors, and other improvements contemplated by the contract. Seller shall be entitled to rely upon these representations without conducting any independent investigation or verification.

Customer shall be solely responsible for obtaining any structural engineering evaluation, geotechnical report, concrete core testing, reinforcement verification, slab scanning, anchor pull testing, load capacity analysis, or other professional investigation required by Customer, its engineer, architect, landlord, insurer, lender, building official, or any governmental authority.

Seller assumes the existing concrete has the minimum compressive strength, thickness, reinforcement, and structural integrity required by applicable building codes, engineering standards, and anchor manufacturers for the intended installation. Seller shall have no obligation to verify or confirm such conditions.

All concrete anchors, expansion anchors, adhesive anchors, wedge anchors, epoxy anchors, mechanical anchors, or other fastening systems

installed by Seller are installed in reliance upon the assumed characteristics of the existing concrete and in accordance with applicable manufacturer installation requirements. Seller does not warrant or guarantee the performance, pull-out capacity, shear capacity, or long-term performance of any anchor installed into existing concrete where the concrete strength, thickness, reinforcement, age, condition, moisture content, cracking, deterioration, or composition has not been independently verified. Any reduction in anchor performance resulting from unknown or existing concrete conditions shall be the sole responsibility of Customer.

Seller shall not be responsible or liable for any cracking, settlement, heaving, deflection, movement, spalling, deterioration, anchor failure, concrete failure, structural failure, floor damage, foundation failure, water intrusion, or other damage to any slab, foundation, footing, pavement, building structure, or subsurface condition, whether existing before installation or occurring thereafter.

7. **PRICES.** Prices quoted are based on present costs. Such prices are subject to increase by Seller at any time prior to delivery for all or any portion of the equipment on order for scheduled delivery more than three (3) months from order date, in the amount necessary to cover Seller's increased costs applicable thereto. Prices quoted include, if applicable, the current steel surcharge which is subject to change up to two weeks prior to delivery.

8. **PAYMENT.** Payment shall be net 15 days date of shipment unless otherwise agreed to in writing. Partial shipments may be made and payments therefore shall become due in accordance with the terms hereof. Production, shipment, and delivery shall at all times be subject to the approval of Lift Power Inc.'s credit department. Seller reserves the right at any time to modify or withdraw credit terms without notice and to require guarantees, security, or payment in advance of the amount of the credit involved. If Seller in its discretion at any time doubts Buyer's financial responsibility, Seller shall have the right to decline to make shipments except upon cash payment in advance or receipt of security or other proof of responsibility satisfactory to Seller.

9. **TAXES.** The amount of taxes stated on the face hereof, if any, is approximate only. Buyer is liable for the full amount of all taxes applicable to or as a result of this transaction, exclusive of franchise taxes and taxes measured by the net income of Seller. Buyer shall pay the amount of all such taxes as at any time requested by Seller as if originally added to the price. If Seller pays such taxes, Buyer shall reimburse Seller therefor.

10. **SECURITY INTEREST AND DEFAULT.** Seller shall retain a security interest in the equipment delivered hereunder until the total selling price, including taxes, delivery and other charges, is paid in full by Buyer. Buyer agrees to sign and deliver to Seller any additional security agreement required by Seller.

If Buyer shall fail or refuse to accept delivery of the equipment and parts ordered hereunder or shall default in the performance of any of the terms, covenants and conditions of these Terms and Conditions, Seller may retain the cash deposited or paid to it and the equipment accepted by it on account of the sale price, if any, and apply the same toward payment of its damages. If equipment ordered has been delivered to Buyer by Seller at the time of default, Seller may declare the full amount due and payable without notice or demand and may repossess the equipment. Repossession and disposition of equipment, and suit for any deficiency, shall be pursuant to applicable laws. The remedies provided herein in favor of Seller shall not be deemed exclusive, but shall be cumulative and shall be in addition to all other remedies in Seller's favor existing at law or in equity.

11. **INSTALLATION.** If installation is included within the scope of work, Buyer shall ensure that all areas are free and clear of obstruction prior to install. All equipment for installation shall be provided by Seller unless otherwise expressly stated in the Quote. All work in support of installation shall be performed on a weekly basis Monday through Friday between the hours of 8a.m.- 5p.m. only. If work in support of installation is suspended or paused because of change(s) in layout, customer delays, requests outside the original scope of work, or due to the delays of other construction or work crews then Buyer agrees to additional charges which shall include but not limited to reimbursement to Seller in the amount necessary to compensate Seller for the actual costs incurred by such delay(s). If installation is included within the scope of work, it will be completed at standard installation tolerations to be determined in the sole discretion of Seller, unless specific tolerance levels are identified in writing in the Quote Terms or Scope of Work. Buyer shall inspect the installation within 30 days of confirmation in writing by Seller that the installation has been completed ("Confirmation"). Buyer will be deemed to have accepted the Installation unless it notifies Seller otherwise in writing within seven (7) days of the inspection or within

thirty (30) days of Confirmation, whichever is later.

12. **WARRANTY.** Seller makes no representations or warranties with respect to any third-party services or product including but not limited to any warranty of merchantability, warranty of fitness for a particular purpose, warranty of title, or warranty against infringement of intellectual property rights by a third party.

13. **DELAYS.** Seller shall not be liable for loss or damage due to delay in delivery. Installation, or manufacture, resulting from any cause beyond Seller's reasonable control, including but not limited to, compliance with any regulations, orders, or instructions of any federal, state or municipal government or any department or agency thereof, acts of God, acts or omissions of the Buyer, acts of civil or military authority, fires, strikes, factory shutdowns or alterations, embargoes, pandemics, war, riot, delays in transportation, or inability due to causes beyond the Seller's reasonable control to obtain necessary labor, manufacturing facilities or materials from the Seller's usual sources; and any delays resulting from any such cause shall constitute a waiver of all claims for damages by Buyer. In no event shall the Seller be liable for special or consequential damages.

14. **CANCELLATION.** Buyer may cancel its order, reduce quantities, revise specifications or extend schedules only by mutual agreement in writing as to reasonable and proper cancellation charges which shall take into account expenses already incurred and commitments made by Seller, and Buyer shall indemnify and hold harmless Seller against any loss and damages resulting therefrom, including but not limited to attorney fees and expenses, attributable to or arising out of Buyer's termination.

15. **APPLICABLE LAW, SUBMISSION TO JURISDICTION.** The rights and obligations of Seller and Buyer under any order placed pursuant hereto shall be governed by the laws of the state of Georgia. Any legal suit, action or proceeding arising out of or relating to this Agreement shall be instituted in the federal courts of the United States of America or the courts of the State of Georgia in each case located in the City of Savannah and County of Chatham, and Buyer irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding.

16. **TITLE.** Title to the goods herein described shall not pass to the buyer until the purchase price has been paid in full. In the event of nonpayment within sixty days after delivery, Seller reserves the right to repossess said goods and to charge a reasonable sum for the use thereof during the period from delivery to repossession.

17. **DEFAULT.** Seller may suspend fabrication, delivery, or installation if any payment becomes delinquent. Customer shall pay all costs resulting from suspension, including storage, remobilization, labor escalation, and rescheduling. Upon default, Seller may accelerate all unpaid amounts, terminate the Agreement, repossess equipment where permitted by law, enforce mechanic's lien rights, and pursue all available legal remedies.

18. **LIMITATION OF LIABILITY.** To the fullest extent permitted by law, Seller's total liability arising from this Agreement shall not exceed the amount paid by Customer under the applicable contract. Seller shall not be liable for lost profits, business interruption, delay damages, loss of inventory, loss of use, incidental, indirect, special, exemplary, punitive, or

consequential damages regardless of the legal theory asserted.

19. **INDEMNIFICATION.** Customer shall defend, indemnify, and hold harmless Seller, its officers, employees, and subcontractors from all claims, damages, losses, liabilities, penalties, and expenses arising from Customer's property, Customer's negligence, Customer-furnished information, concealed site conditions, or acts of Customer's employees, contractors, or invitees. Customer shall defend, indemnify, and hold harmless Seller, its officers, employees, agents, and subcontractors from and against any and all claims, damages, liabilities, losses, costs, and expenses, including reasonable attorney's fees, arising out of or relating to the adequacy, condition, design, performance, or failure of any existing slab, foundation, footing, structural component, concrete, soil, subsurface condition, or concrete anchoring system, except to the extent caused solely by the gross negligence or willful misconduct of Seller

20. **OWNERSHIP.** Title to all materials and equipment remains with Seller until paid in full. Seller retains a purchase money security interest in all equipment supplied and reserves all mechanic's lien and bond rights permitted by applicable law.

21. **MISCELLANEOUS.** Seller retains ownership of all drawings, layouts, quotations, calculations, and intellectual property unless otherwise agreed in writing. No waiver or modification of these Terms is effective unless signed by Seller. If any provision is held unenforceable, the remaining provisions remain in effect. This Agreement shall be governed by the laws of the State of Georgia, and any action shall be brought exclusively in the state or federal courts located in Chatham County, Georgia. The prevailing party in any legal proceeding shall be entitled to recover its reasonable attorney's fees, costs, and expenses.

22. **GENERAL.** These Terms shall be the complete and exclusive terms and conditions applicable to the agreement between Seller and Buyer. Seller shall not be bound by Buyer's terms unless expressly agreed to in writing. In the absence of written acceptance of these Terms by Buyer, either acceptance of or payment for the equipment shall constitute Buyer's acceptance of these Terms. Any different or additional terms or conditions in any order, proposal, acknowledgment form, or any other document of Buyer are hereby deemed material alterations and are null and void and superseded by these Terms.

23. **ENTIRE AGREEMENT AND SEVERABILITY.** The provisions hereof are intended by Buyer and Seller as a final expression of their agreement and are intended also as a complete and exclusive statement of all the terms applicable to Buyer's order. No waiver, modification or addition to any of the terms hereof shall be binding on Seller unless made in writing by the General Manager or the General Sales Manager at Seller's office as stated herein. In the event of conflict between Buyer's purchase order and the terms hereof, the latter shall control. If any provision herein is invalid or unenforceable in any jurisdiction, such unenforceability shall not affect or invalidate any other provision of this agreement or render unenforceable such provision in any other jurisdiction.

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