

"Buyer" means the entity identified as Buyer on the Quotation of Orthman Conveying Systems, LLC. ("the company"). This document, which includes the Quotation, shall become a binding agreement ("Agreement") upon Buyer's placement and Orthman's acceptance of order for all or a portion of the items/services included within the company's Quotation. If a conflict exists between language of the Quotation and these Terms and Conditions, these Terms and Conditions shall control. Section titles are for reference only, and typographical errors are subject to correction by the company. Buyer agrees and stipulates:

1. **Order Acceptance.** Unless otherwise specified in the Quotation, the Quotation will expire and not bind the company (A) if, before the company receives written acceptance by Buyer, 30 days expires from the Quotation's date, or the company withdraws the Quotation; or (B) if the Company declines to send written acknowledgement of the Quotation after Buyer accepts the Quotation.

All purchase orders and changes to purchase orders are subject to the company's approval and shall not bind the company unless acknowledged in writing by an authorized company agent. If Buyer does not object in writing within five (5) Business Days to any written acknowledgement or written amended acknowledgement, it shall be deemed to have accepted the Goods' quantities, specifications, delivery schedules, and terms set forth therein. Orders over \$100,000 and changes over \$20,000 to accepted orders may require approval by the company's CFO or a corporate executive officer. The company has the right on orders over \$100,000 to require a letter of budget approval from the owner customer (whether or not Buyer).

2. **Pricing.** Unless specifically stated otherwise in the Quotation, the company has the right to increase the Goods' purchase price if the company incurs beyond its control a substantial increase in material, labor or shipping cost during the period after the Quotation's date and before initiation of manufacture.

3. **Payment Terms.** With approved credit, payment terms in this paragraph shall apply unless the Quotation is expressly to the contrary. For orders to be delivered within the United States, purchases require a 25% deposit net due with order, another 25% payment net due with submission of drawings, and the remainder is net due 30 days after each partial and final delivery. For orders to be delivered outside of the United States, purchases must be paid in advance for the estimated project invoicing in U.S. dollars, and Buyer will bear all fees and costs of any letter of credit (or other escrow). Buyer agrees to pay processing fees incurred by the company for any payments that Buyer makes to the company by credit card.

4. **Taxes and Regulatory Obligations.** In addition to the prices agreed upon, Buyer shall pay promptly when due all present or future federal, state, municipal or other taxes, assessments and other public charges or fees (such as but not limited to sales, use, personal property or excise taxes, inspections and customs) that might be directly or indirectly levied, rated, charged upon, or measured by or arise from the sale, transportation, delivery, use or consumption of Goods, or otherwise upon this transaction; and shall timely file any government-required return. If Buyer breaches such duty, the company may but is not obligated to file a return and pay the tax, and the amount so paid shall then become immediately due from Buyer to the company in addition to all other debts to the company.

5. **Delivery.** Unless the company writes otherwise on the Quotation, all shipments of goods, services and other items described on the Quotation (the "Goods") shall be F.O.B. the company's loading dock in Cleburne, TX and risk of loss or damage to Goods due to shipping shall pass to Buyer upon delivery of the equipment or any portion thereof by the company to a common carrier at the company's plant or point of shipment. Any delivery dates stated are estimates and do not guarantee delivery on a particular date. The company shall not be liable to Buyer or any third party for any failure or delay due to Seller's inability to obtain materials or any other cause beyond the company's reasonable control.

6. **Title and Security.** Title in and to the Goods shall remain in the company until the later of the time the company receives from Buyer, in immediately available funds, the full purchase price as this Agreement provides; or the time Buyer takes delivery of the Goods at Buyer's warehouse, job site or a similar non-company location. A Buyer default in any provisions of this Agreement shall give the company the right to immediate and unconditional possession of the Goods. Until payment in full, the Goods shall remain personal property, regardless of any attachment to realty, if any.

To secure all Buyer's obligations to the company, Buyer hereby grants to the company a continuing security interest in the Goods and all Buyer's presently owned or hereafter acquired or arising books and records and accounts (including deposit accounts and accounts receivable) relating wholly or partly to the Goods, together with all proceeds and substitutions. Buyer also authorizes the company to use mechanic's or construction liens upon Buyer's default (regardless of the wording of any customer owner contract), although nothing herein shall be interpreted to mean such authorization is required. The company is authorized to enter in this Agreement the Goods' serial or other identification number after this Agreement has been signed.

7. Change Orders and Cancellations. Requests by Buyer for changes to an acknowledged purchase order shall be made in writing, and will only bind the company if and when the company expressly accepts them thereafter in an amended acknowledgement; however, nothing in this Agreement requires the company to accept requested changes. Buyer agrees to accept a later delivery date than estimated in the company's most recent acknowledgement or amended acknowledgement if the company at its sole discretion determines that a later delivery date is required because of a change requested by Buyer, or if Buyer delays drawing approval beyond a reasonable time not to exceed 10 business days.

If Buyer seeks to cancel an order or seeks to or does delay manufacturing production or product delivery, or if Buyer delays drawing approval beyond 10 business days, the company at its option may cancel the order and/or require Buyer to pay to the company promptly the company's actual costs incurred or estimated, reasonable storage fees for Goods that are not completed or are undelivered, plus a reasonable profit margin, plus, at the company's option, a production interruption fee equal to the lesser of 10% of the total contract price or \$10,000 which Buyer shall pay immediately before remaining amounts are calculated.

8. Company Liability Limitations. THE COMPANY SHALL NOT BE LIABLE FOR ANY PUNITIVE, EXEMPLARY, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES AND COSTS WHATSOEVER (EVEN IF THE COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND COSTS), including but not limited to claims for liquidated damages provided in any Buyer or owner customer documentation (such as but not limited to damages for late delivery), loss of profits, goodwill, business or economic opportunity, delay, use of money, additional freight, attorney fees, fines, statutory or other interest, or cost of substitute goods. TO THE EXTENT WAIVER IS NOT PROHIBITED BY APPLICABLE LAW, BUYER HEREBY WAIVES ALL THE FOREGOING DAMAGES AND COSTS. Notwithstanding any other provision to the contrary in this Agreement, Buyer's sole remedy in contract or in tort or in product liability (including without limitation negligence, gross negligence, interference, strict liability, deceptive or unfair trade practices, or unjust enrichment) for any loss or injury arising out of, connected with, or resulting from the company's acts or omissions in negotiating, manufacturing, packaging, communicating about, or otherwise producing the Goods, in lieu of all other remedies, shall be limited to refund of any purchase price paid to the company for materially defective Goods. Buyer's failure to notify the company of any claim within thirty (30) days after delivery of the Goods (or, in the situation of non-delivery, 30 days after the date fixed for delivery) shall constitute a waiver and release by Buyer of all claims arising against the company and of any right to reject or revoke acceptance of Goods. No action by Buyer arising out of, from or related to this Agreement, its negotiation, or the transactions contemplated hereby shall be commenced after the earlier of two (2) years after the cause of action first accrued or the commencement deadline provided by applicable law.

9. Warranty. The Goods are sold AS IS and WITHOUT WARRANTY OR REPRESENTATION, except: (A) The company warrants only that the Goods, if Buyer strictly complies with this Agreement and the Goods are operated and maintained properly, shall be free from defective material and workmanship for a period of 12 months after delivery of the Goods; and (B) the company shall furnish free of charge any part(s) necessary to make good any defect directly and solely traceable to a fault in the company's material or workmanship which defect occurs during the warranty period. Provided, however, that, when requested, all defective parts are promptly returned to a location the company designates, freight prepaid by Buyer. Provided, further, that equipment and accessories not of the company's manufacture are warranted only to the extent, if any, that the manufacturers of the same expressly warrant them in writing and, in such situation, the company's only warranty duty is to take reasonable efforts to make the manufacturer's warranty available for payment or performance by the manufacturer to Buyer.

If Buyer is not the end user of the Goods and Buyer attempts to pass on to the end user any warranty herein, such attempt shall be ineffective and void unless the company receives written notice of the end user's name, contact information and desire for limited warranty rights and, even if such written notice is received, the passed on warranty shall be strictly limited by all other provisions of this Section 9 and any other remedy limitations and other provisions of this Agreement in the company's favor. One prerequisite to Buyer or any end user to have the benefit of any warranty on the Goods (i.e., the limited warranty provided in this paragraph), is that the Buyer or such end user, as the case may be, must allow the Company the first right to fix any alleged defect and must not attempt to fix the alleged defect itself or through a third party unless and until a company executive officer has stated the company declines to attempt to fix the alleged defect; and such end user must agree it is bound by all provisions of this Agreement in the company's favor.

Notwithstanding any other Section 9 provision, the company's liability or warranty shall not exceed the amount of the purchase price received by the company and all warranties are limited to Buyer and, for example, exclude invitees of, buyers from or customers of Buyer (except to the extent this Agreement expressly provides to the contrary). THE COMPANY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF THE GOODS FOR ANY PARTICULAR PURPOSE. Failure to strictly follow all storage, maintenance, replacement part, or use procedures specified by the company voids all warranty rights.

10. **Force Majeure.** The company shall not be liable in any way for delay, non-delivery or default in shipment or installation due to labor disputes, transportation shortage, delays in receipt of material, priorities, fires, terrorism, acts of governmental authorities, epidemics, accidents and all other causes beyond control of the company, affecting the company or its suppliers. If the company, in its sole judgment, is prevented, directly or indirectly, on account of any cause beyond its control, from delivering or installing the Goods at the time specified, it may terminate this Agreement without any liability whatsoever on the company, by written notice to Buyer.

11. **Other Buyer Obligations.** Buyer shall promptly furnish the company with all information, instructions and drawings reasonably requested for fulfillment of the Agreement, but nothing in this section gives Buyer any right to add duties or deadlines on the company, decrease any tolerances in the Quotation, decrease company remedies, provide unreasonable or non-customary specifications, or change other provisions of this Agreement.

It is Buyer's responsibility to establish safe operation procedures, to provide safety devices and equipment to safeguard the operator from harm for any use, operation, and set-up and to adequately safeguard the Goods, to conform to all Federal, State, and Local government safety standards and all industry safety standards. Buyer shall notify the company as soon as possible of any accident pertaining directly or indirectly to the Goods and shall cooperate fully with the company's reasonable investigations related thereto.

Buyer warrants that it is not relying on the company for installing or arranging installation of Goods, for advice regarding any operability of the Goods with aggregates or other equipment, and that Buyer has independently determined the appropriateness of any specifications in the Quotation for Buyer's purposes and for installation at any location of use, and that the company is not a fiduciary.

12. **Default.** The whole agreement between the parties is contained in the company's Quotation, Acknowledgement and these Standard Terms and Conditions, and all representations made by or on behalf of the company are void unless contained in them. Notwithstanding the provisions of any purchase order, acknowledgement, confirmation, or Buyer notice of objection, this Agreement's provisions will apply and preclude the inclusion of any different or additional terms. This preclusion shall occur whether or not a Buyer purchase order is interpreted as an offer, acceptance, or confirmation of a contract. All waivers and consents by Buyer are irrevocable. This Agreement has been negotiated in Cleburne, Texas, provides for work producing the Goods in Cleburne, Texas, and is being accepted by the company in Cleburne, Texas. Buyer agrees to pay all expenses and fees the company incurs for collection, interpretation (including but not limited to any interpretation of price changes after a Buyer change of specifications or drawings), or enforcement of this Agreement or in any bankruptcy of Buyer, including reasonable attorney fees and expert fees. If Buyer defaults in any obligation to the company under this Agreement, any other agreement, or any law, the company may accelerate all obligations owed to the company under any agreement, decline to work on or transfer any products to Buyer whether or not under this Agreement, require a deposit from Buyer of any amount the company specifies in good faith, and/or use any remedy under applicable law. The company's remedies are cumulative and not mutually exclusive. If the company submits to Buyer a general affidavit of its total actual costs incurred, which need not be itemized, such shall be deemed controlling unless Buyer disproves the total by clear and convincing evidence. Without limiting any other company protection, company approvals must be express to be valid.

13. **Jurisdiction.** This agreement shall be subject to and interpreted according to the laws of the State of Texas, USA, without regard to principles of conflicts of laws. Unless waived in writing by the company, any action to interpret or enforce this Agreement, or otherwise pertaining to rights encompassed by this Agreement, or concerning its negotiation or implementation, shall be brought exclusively in the District Court of Johnson County, Texas or the Fort Worth, Texas U.S. District Court for the Northern District of Texas. As to all such actions, Buyer hereby WAIVES any defense of inconvenient forum concerning said Johnson County and District of Texas courts and acknowledges the propriety of their exclusive jurisdiction.

14. **Assignment.** The provisions of this Agreement shall inure to the benefit of and be binding upon the parties to this agreement and their respective personal representatives, successors and assigns. Duties under this Agreement may not be delegated. Other than the company's ability to assign any contract price receivable, no other rights under this Agreement may be assigned without the parties' written consent, which consent shall not be unreasonably withheld. Any such assignment shall not remove Buyer's liability for the contract price.