

STILES MACHINERY INC.

STANDARD TERMS AND CONDITIONS OF SALE

The foregoing agreement by Stiles Machinery Inc. ("Seller") is subject to the following terms and conditions:

1. Acceptance

This agreement by Seller is subject to assent by the customer ("Buyer") to all terms herein to which Buyer has previously objected (if any), or which materially alter any terms proposed by Buyer (if any) covering the subject matter of this agreement. Buyer's acceptance of any part of the goods sold hereunder, any payment by Buyer for such goods, or any other form of acceptance by Buyer, shall constitute Buyer's acceptance of all terms and conditions herein. Descriptions, specifications, information, and other data concerning Seller's products contained in Seller's catalogs, circulars, advertisements, price lists, or similar promotional materials or representations or statements thereof made by Seller's representatives or sales agents are the Seller's estimates and approximations only and shall not be binding except as and to the extent expressly agreed to by Seller. Seller objects to any terms and conditions proposed by Buyer which vary the terms hereof. Buyer acknowledges that these terms and conditions shall continue to be binding on Buyer regardless of any type of financing utilized by Buyer and/or any assignment of this agreement by Buyer. Buyer may only assign this agreement with Seller's written consent. Unless specifically provided otherwise within the terms of this agreement, Seller has no responsibility for staging, alignment or any other preparation of parts, panels or other material fed into or otherwise introduced into the equipment covered by this agreement, or for any unloading, stacking, routing, storing or other disposition of parts, panels or other materials exiting such equipment.

2. Price Adjustment

Prices are based upon material, production, and manufacturing costs as of the date hereof and upon duty, surcharge, tariff and similar import or export charges and currency exchange rates in effect on the date hereof. Should there be changes adverse to Seller in such prices, charges or rates occur, the Seller reserves the right to adjust prices accordingly. Seller's quotations are not binding upon Seller unless expressly stated as such in writing.

3. Delivery, Shipment, Security Interest, Risk of Loss, and Claims

Delivery of goods covered hereby shall be F.O.B. at the port of entry nearest Buyer unless otherwise specified by Seller. Seller may, at its option, ship all of the goods covered herewith at one time or in portions from time to time. Seller will attempt to ship goods for delivery on or about the times stated on the face hereof, although time shall not be of the essence in this contract. In the absence of instructions from Buyer, Seller shall have absolute discretion as to mode and routing of shipment. Until Buyer has paid in full for all products sold, Buyer grants to Seller a security interest in all such products and to the proceeds thereof. Buyer authorizes Seller to execute or authenticate, or at Seller's option, Buyer shall execute and deliver, any financing statements or other documents that Seller may reasonably require for the perfection of such security interest and Buyer hereby authorizes Seller to do all other acts reasonably necessary for the establishment, perfection, preservation, and enforcement of its security interest. Risk of loss of the goods shall pass to Buyer upon identification of the goods to the contract. Buyer shall have all responsibility for and expense of preparing and filing claims against carriers for loss or damage to goods in transit.

4. Force Majeure

Seller shall have no liability for any non-performance or delay in performance caused by circumstances beyond Seller's control, including, but not limited to, acts of God, fire, flood, war, government action, accident, labor trouble or shortage, inability to obtain material, equipment or transportation, or failure of Seller's suppliers to furnish the goods.

5. Taxes

Buyer shall pay all privilege, occupation, personal property, sales, excise, use and other taxes applicable to the sale, purchase, storage, erection, use or ownership of the goods covered hereby, regardless of whether such taxes are invoiced by Seller.

6. Installation, Setting Up and Starting Goods

Unless otherwise agreed, prices do not include product erection or installation which shall be Buyer's responsibility and expense. Buyer may obtain erection or installation service and assistance from the Seller pursuant to a separately negotiated agreement, provided however, that nothing in this agreement shall obligate Seller to enter into any such agreement with Buyer except upon terms and conditions acceptable to Seller. The limited warranty as provided for in paragraph 9 shall apply only to products erected or installed by Seller or under Seller's supervision, or by some person or organization expressly approved and authorized in writing by Seller to perform such erection or installation. In the event any product is not thus erected or installed, this limited warranty shall terminate immediately upon erection or installation, or expiration of Buyer's 10-day inspection period as provided for in paragraph 11. The average cost of meals for Internal Revenue reporting is .19% of the cost of the goods. Seller accepts no responsibility for material and equipment or for the acts of persons furnished by Buyer.

7. Payment Terms

Unless otherwise agreed, the net amount for products purchased shall be due and payable by Buyer immediately upon receipt of Seller's invoice. Invoices not paid within thirty (30) days after the date of Seller's invoice will be subject to carrying charges. Carrying charges shall accrue in the amount of one and one half percent (1 - 1-1/2%) per month (18% per annum) on any overdue unpaid balance. Seller's invoice shall constitute an "evidence of indebtedness" as that term is related to the recovery of attorney's fees. Buyer shall reimburse Seller for the costs of collection, including reasonable attorney's fees of any overdue amount owed by Buyer to Seller and such collection costs shall be added to Buyer's indebtedness subject to the aforementioned carrying charges. If, in Seller's opinion, Buyer's financial condition at any time does not justify continuance of the production or shipment on the terms of payment herein specified, Seller may require full or partial payment in advance. All payments shall not be deemed to have been made until so received by Seller. Buyer shall have no right and waives any right to set off, offset or recoup any debts or liabilities of Seller to Buyer against amounts deposited with Seller or due Seller for the purchase of goods covered hereby.

8. No Liability to Third Persons

Seller shall in no way be liable to Buyer for any claim or action by any third person arising out of or alleged to arise out of the delivery of goods covered hereby or out of the presence of Seller's employees on Buyer's premises in connection with this agreement, or out of the use, by Buyer or third persons of the goods covered hereby. "Third persons" shall include, without limitation, employees of both Buyer and Seller as well as all third persons not connected with Buyer or Seller.

9. Remedies of Buyer; Limitations/ Disclaimer of Warranties

Seller warrants that the goods sold hereunder shall be free from defects in materials and manufacture at the time of delivery to Buyer. Seller may, at its option, repair or replace any defect, or pay the reasonable cost thereof, for any such defects notice of which is given to Seller within thirty (30) days after discovery of such defect by Buyer, but not later than one (1) year after delivery of the goods to Buyer, except that notices for defects relating to motors, bearings, switches, contactors, relays, electronic components, air controls or air switches must be received within one hundred eighty (180) days of delivery of goods to Buyer. Seller shall have no obligation to remedy any defect except upon delivery of the defective part or parts to Seller at Seller's office in Grand Rapids, Michigan. The repair, replacement, or payment in the manner described above shall be the exclusive remedy of Buyer for breach of Seller's warranty. **Seller disclaims all other warranties whatsoever, express or implied, including all warranties of merchantability and fitness for a particular purpose. In no event shall Seller be liable for any consequential, incidental, special or indirect damages whatsoever (including without limitation personal injury, property damage, lost profits or other economic injury) even if Seller has been advised of the possibility of such damages.** Normal wear, tear, and deterioration during use, including but not limited to such items as light bulbs, belts, synthetic material and fuses, shall not constitute a defect in material or manufacture under this limited warranty. The one (1) year limited warranty is based on Buyer's business consisting of a single shift eight hour per day operation. In no event is Seller liable for any damages or loss attributable to incorrect use or abuse of the goods, including but not limited to, inadequate or improper maintenance or unauthorized alteration. The foregoing warranty of Seller shall not limit Buyers' recourse against a manufacturer of goods sold hereunder for any warranty extended by such manufacturer. The warranty of any manufacturer or other third party shall not be deemed to be the warranty of Seller.

10. Compliance with Laws

Unless otherwise expressly agreed in writing signed by Seller and Buyer, Seller shall not be liable to Buyer for, and Buyer agrees to indemnify and defend and hold Seller harmless from, any liability arising or alleged to arise out of, any failure of the goods covered hereby to conform to any federal, state, or local law, order, regulation, or standard. The equipment is wired according to UL standards and may not conform to local codes in your area. If local regulations require inspection, the cost of the inspection and any modification(s) to the equipment is the responsibility of Buyer.

11. Statute of Limitations, Claims

No suit may be brought by Buyer for any breach by Seller or any other claim arising out of this contract after two (2) years from the date of delivery of the goods covered hereby. Within ten

(10) business days after receipt by Buyer of products sold, Buyer must give written notice to Seller of any claim based upon the condition, quantity, or grade of the products sold or of any claimed nonconformity with Buyer's specifications, which notice must indicate the basis of Buyer's claim in detail. The failure of Buyer to comply with this paragraph 11 shall constitute irrevocable acceptance of the products sold to Buyer and bind Buyer to pay to Seller the full price of the goods or equipment.

12. Waiver of Claims or Defenses Against Secured Parties

Buyer agrees that it will not assert against any party having a security interest in any contract between Buyer and Seller, or in the inventory or accounts of Seller, or against any other assignee of any such contract, accounts, or inventory, any claim or defense which Buyer may have against Seller.

13. Safety Devices

In operating the products, Buyer shall use and require its employees and agents to use all safety devices and guards on the products and will otherwise employ safe operating procedures. Buyer shall not remove or modify any such devices, guards or warning signs. Should Buyer fail to observe such safety precautions, Buyer will indemnify and save Seller harmless from any risk, liability, or obligation to persons injured directly or indirectly in connection with the operation of the products. Buyer assumes full responsibility for damages to the products as a result of the use of qualities, grades, or quantities of materials which adversely affect the construction and operation of the products. Buyer further assumes full responsibility for training and to warn and protect all operating personnel and keep others away from any and all dangers in connection with the operation of the products. If any additional safety devices or guards are specified by Buyer, or by local laws/regulations, these safety devices or guards must be identified by Buyer and Seller will then provide a quotation.

14. Cancellation

An order once placed with and accepted by Seller can be cancelled by Buyer only with the written consent of Seller and upon the terms that will indemnify Seller against any loss.

15. Governing Law, Venue, Service of Process

This contract shall be deemed to have been made in the State of Michigan, and any action arising out of it shall be governed by the law of the State of Michigan. Any action arising out of this contract may be brought only in a state or federal court sitting in the County of Kent, State of Michigan. Buyer consents that such courts shall have personal jurisdiction over Buyer with respect to any such action.

16. Reservation of Rights

No failure of Seller to insist upon or compel compliance by Buyer with any of the terms, provisions, or conditions hereof shall be construed as a waiver by Seller of its right to insist upon compliance therewith in the future.

17. Complete Agreement; Modification

The provisions hereof are intended as a complete and exclusive statement of the terms of the agreement between Seller and Buyer. This agreement may not be modified, rescinded, or cancelled, and no waiver by Seller of any claim or right hereunder shall be effective, except by writing signed by an officer of Seller.

In addition to the terms and conditions set forth above, the following terms and conditions are applicable to any itemized software and/or software services:

- A. Unless specifically provided otherwise in this proposal and any resulting agreement, the Customer acknowledges that all software products offered by Stiles are offered on the basis of a license to the Customer and that the specific terms and conditions of any such license are determined by the vendor of each software product ("Software"). Apart from Software, Stiles may also quote and/or provide to the Customer certain software-related services e.g., programming, integration, etc. ("Software Services").
- B. **Stiles warrants that software services will be provided in a workmanlike manner; however, the customer acknowledges and agrees that no other warranties of any kind, either express or implied, are applicable to software, and/or software services, including but not limited to any implied warranties of merchantability or fitness for a particular purpose. The customer acknowledges that he/she/it will look solely to the vendor of any software for resolution of any claims, issues, questions, or disputes with respect to such software.**
- C. **In no event shall Stiles be liable for any incidental, indirect, special or consequential damages whatsoever arising under or as a result of software, and/or software services (including without limitation personal injury, property damage, lost profits or other economic injury) even if stiles has been informed of the possibility of such damages. The customer agrees that any claim of any nature against stiles arising under or as a result of software, and/or software services shall be limited to the amount paid by the customer to stiles for such software, and/or software services; the customer acknowledges and agrees that this limitation is a material inducement to stiles to offer or provide software, and/or software services and that stiles would not undertake to offer or provide software, and/or software services unless such limitation is included as part of the transaction.**
- D. The Customer is responsible for providing to Stiles complete and accurate product and production information, including but not limited to technical specifications, existing programming, engineering drawings, samples and process/production engineering data, in a timely manner. In addition, Stiles may require the Customer's written approval of engineering drawings, technical or process concepts, etc., provided by Stiles or its sub-contractor. Stiles reserves the right to delay the start of work described in this proposal until Customer information and/or approval is received.
- E. Upon receipt of Customer information, Stiles further reserves the right to rescind this proposal and any resulting agreement (and return any deposit to the Customer), to extend schedules, revise fees or charges to the Customer and/or otherwise modify this proposal and any resulting agreement, any such modification to be provided to the Customer in writing and to be effective upon acceptance by the Customer; failure or refusal by the Customer to accept such modifications shall be grounds for Stiles to rescind this proposal and any resulting agreement, and return any deposit to the Customer. In the event of any material change at time of delivery/installation of any previously provided information from the Customer, Stiles reserves the right to bill the Customer on a time and materials basis for such material change.
- F. The Customer understands that Stiles is providing only the items described in this proposal and any resulting agreement and that if customized software products are included, Stiles will, in its sole discretion, define and implement all user interface/access issues for those software products, including but not limited to menuing, sequencing and related features. If the Customer engages in modification and/or customization of user interface/access features, Stiles reserves the right to charge the Customer additional amounts, on a time and materials basis, for any work relating to such modification or customization.
- G. The Customer further understands that any time devoted by Stiles to installation of any Software in this proposal and any resulting agreement is included in calculating any Stiles on-site time commitments and any time devoted by Stiles beyond its on-site time commitment is chargeable to the Customer. The Customer agrees to be responsible for all travel, lodging and meal expenses incurred by Stiles employees/representatives while on-site at Customer's location as well as all travel, lodging and meal expenses incurred by Customer employees/representatives to attend off-site meetings/sessions. If the Customer requests any additional services, Stiles reserves the right to provide or decline to provide such services, and if provided, to charge the Customer on a time and materials basis.
- H. Stiles reserves the right to sub-contract or otherwise utilize third parties to fulfill some or all of the provisions contained in this proposal and any resulting agreement.

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