



LATHRUP INDUSTRIES, INC.

CONVEYOR MANUFACTURERS

Terms & Conditions of Sale

1. GENERAL

All orders for products and drawings furnished in connection therewith (herein after collectively called "products") manufactured or supplied by Lathrup Industries, Inc. ("Lathrup") shall be subject to these terms and conditions of sale. No modifications or additions hereto will be binding unless agreed to in writing by an authorized officer of Lathrup.

2. QUOTATIONS

Price quotations by Lathrup are subject to change without notice. All products sold are subject to price in effect at time of shipment.

3. TAXES

Prices do not include Sales, Use, Excise, or other taxes payable to any governmental authority in respect of the sale of Lathrup's products. The purchaser shall pay the amount of any such taxes or shall reimburse Lathrup for the amount thereof that Lathrup may be required to pay.

4. PAYMENTS

1. ACCEPTANCE AND PRICE: Quotations are held open for thirty (30) days from the date of the quotation. Prices will be firm for orders scheduled by Lathrup to be delivered within sixty (60) days after acceptance of the order or later as specified in the quotation. Applicable terms of payment, freight allowances, discounts and minimum charges are contained in the quotation, appropriate catalogs and/or price lists. All taxes are extra if applicable.

ALL ORDERS ARE SUBJECT TO ACCEPTANCE BY LATHRUP AT THE FACTORY AND ARE SUBJECT TO CREDIT APPROVAL.

2. TERMS OF PAYMENT (Subject to credit approval):

A. Equipment Only:

(1) Under \$50,000 – Net thirty (30) days from date of invoice.

(2) Over \$50,000 – The first 10% will be due with

placement of order. The remainder will be billed Progressive (90/10), i.e., monthly invoices payable ten (10) days from date thereof in the amount of 90% of the value of labor performed and material used or contracted for in the performance of this contract during the preceding month with the final 10% payable thirty (30) days after receipt of final shipping papers.

(3) In the event that Purchaser does not satisfy the terms of payment outlined above, Lathrup reserves the right to assess a service charge of one-and-one-half percent (1 ½%) per month on a pro rata basis on the amount in arrears, provided there is no conflict with local or state law.

(4) In the event that payment for all or any part of order shall become delinquent, the Purchaser hereby assumes responsibility for any and all costs incurred in collection, including but not limited to collection fees and attorney's fees and costs.

B. Equipment and Field Services:

(1) Under \$50,000 -75/25, i.e., 75% of the value of the contract, ten (10) days after receipt of shipping papers and the remaining 25%, thirty (30) days after notification of completion of field services work or sixty (60) days after receipt of shipping papers, whichever shall occur first.

(2) Over \$50,000 – The first 10% will be due with placement of order. The remainder will be billed Progressive (90/10), i.e., monthly invoices payable ten (10) days from date thereof in the amount of 100% of the value of labor performed and material used or contracted for in the performance of this contract during the preceding month until 90% of the total contract price has been invoiced. The remaining 10% is payable thirty (30) days after notification of completion or beneficial use, whichever shall occur first.

(3) In the event that Purchaser does not satisfy the terms of payment outlined above, Lathrup reserves the right to assess a service charge of one-and-one-half percent (1 ½%) per month on a pro rata basis on the amount in arrears, provided there is no conflict with local or state law.

(4) In the event that payment for all or any part of order shall become delinquent, the Purchaser hereby assumes responsibility for any and all costs incurred in collection, including but not limited to collection fees and attorney's fees and costs.

3. DELIVERY: Delivery is F.O.B. shipping point.

Delivery dates are approximate and are not guaranteed. Lathrup will not be liable for delays attributable to circumstances beyond its reasonable control, including but not limited to, delays in delivery by its suppliers, natural disasters, acts of third parties, or labor disorders. If delivery as originally scheduled is delayed by Purchaser, Lathrup may invoice Purchaser and store the products at Purchaser's expense.

4. CHANGES AND SUBSTITUTIONS: Subject to approval by Purchaser, Lathrup may make changes in design, construction and material necessary to assure equipment operation and timely delivery. Purchaser shall reimburse Lathrup for all increased costs resulting from these changes and Lathrup shall credit Purchaser for any resulting decrease in the purchase price. Additional charges may be made to cover any unforeseen or unusual cost elements that have not been contemplated by Lathrup or Purchaser, and special packing, engineering and documentation.

5. ACCEPTANCE

No order or other offer shall be binding upon Lathrup until accepted in writing by an authorized officer of Lathrup.

6. CHANGES

Lathrup will not accept changes in specification unless such changes are requested in writing and agreed to in writing by an authorized officer of Lathrup and the purchaser agrees to pay, if necessary, in addition to the original purchase price a sum so set by Lathrup.

7. CANCELLATION

Any order when placed with and accepted by Lathrup is not subject to cancellation unless agreed to in writing by an authorized officer of Lathrup. Cancellations are subject to reasonable charges based upon expenses already incurred and commitments made by Lathrup.

8. DELIVERY

Any indicated dates of delivery are approximate only, but Lathrup will attempt to meet them where possible. Lathrup will not be liable for delays in manufacturing of delivery or failure to manufacture or deliver due to any event in the nature of force majeure or any cause beyond Lathrup's reasonable control. Lathrup will not be bound by any penalty clause contained in any specification or order submitting by the pur-

chaser unless such clause is agreed to in writing by an authorized officer of Lathrup. Delivery of products shall be made FOB Lathrup's factory unless otherwise agreed to in writing by authorized officer of Lathrup.

9. PATENTS

Lathrup shall indemnify and hold harmless the purchaser against all claims or actions that are instituted against the purchaser on the grounds that the purchaser has infringed the patent rights of others by using, reselling, or promoting the sale or resale of Lathrup's products, provided that Lathrup shall not a) The purchaser fails to give Lathrup prompt notice of any such claim or actions, or b) Such claims or actions against the purchaser are based wholly or in part on the existence or operation of any complete installation or apparatus incorporating Lathrup's products as components and which is designed or manufactured by the purchaser or its customers.

10. REGULATORY LAWS OR STANDARDS

Lathrup makes no representation that its products conform to state or local laws, ordinances, regulations, codes or standards except as may be otherwise agreed to in writing by an authorized officer of Lathrup.

11. LIMITED WARRANTY

Lathrup warrants all its products against defects in material and workmanship for a period of one (1) year from the date the product is placed in service to a maximum of eighteen (18) months from date of shipment. Parts subject to replacement due to operational wear and tear. Notwithstanding the foregoing, any equipment or components of the products not of Lathrup's own manufacture and/or specified by the purchaser is sold under only such warranty as the maker thereof gives Lathrup and Lathrup is able to enforce, but such items are not warranted by Lathrup in any way. Use of products rated capacity, misuse, field alterations of products, damage due to lack of maintenance or improper storage, neglect or accident are also excluded from this Limited Warranty.

This Limited Warranty is effective provided: a) The purchaser notifies Lathrup in writing of the alleged defect immediately after it becomes known to the purchaser; and b) no alterations, repairs, or services have been performed by the purchaser or third parties on the products without written approval of an authorized officer of Lathrup. Lathrup's obligation

under this Limited Warranty is limited to the repair or replacement FOB Lathrup's factory or any part or parts found to be defective in material or workmanship. Lathrup shall, in no event, be liable to the user/purchaser under this Limited Warranty, or otherwise, for claims, expenditures or losses arising from operational delays or work stoppages or damages to property or people caused by defective products or for consequential or indirect damage of any nature whatsoever.

THIS LIMITED WARRANTY IS IN LIEU OF ALL OTHER EXPRESS OR IMPLIED WARRANTIES INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.

12. ASSIGNMENT

No contract to purchase goods from Lathrup may be assigned by the purchaser without prior agreement in writing by an authorized officer of Lathrup.

13. SECURITY INTEREST

Unless and until the products are fully paid for, Lathrup reserves a security interest in them to secure the unpaid balance of the price and all other obligations of the purchaser to Lathrup however arising. The purchaser hereby grants Lathrup a power of attorney to execute and file on behalf of purchaser all necessary financing statements and other similar documents required to protect the security interest granted herein.

14. DAMAGES; LIMITATION

In the event of breach of this agreement by Lathrup, the rights of the purchaser are limited to the amount therefore paid to Lathrup for the goods.

THE PURCHASER SHALL HAVE NO RIGHT TO CONSEQUENTIAL OR INDIRECT DAMAGES, WHETHER FOR INJURES TO PERSON, PROPERTY OR OTHERWISE.

15. DEFAULT

If the purchaser defaults in performing any of its obligations to Lathrup under this agreement, or any other agreements, Lathrup may, at its option and without incurring any liability thereby, elect to terminate this agreement or to terminate any or all other agreements with the purchaser or to terminate this agreement together with any or all such other agree-

ments. Furthermore, Lathrup shall have a right to all damages sustained, including loss of profits.

16. INSOLVENCY

If the purchaser shall be insolvent or cease doing business or be the subject of any proceedings under any bankruptcy, insolvency, reorganization or arrangement statute or law, such act shall at the option of Lathrup, be deemed a default under this agreement, and Lathrup may elect to cease performing and cancel this agreement with respect to any products not delivered or received prior to the election. All of the foregoing shall be without prejudice to recovery by Lathrup of damages for work performed and for loss of profits and material and products delivered.

17. MISCELLANEOUS

The provisions of this agreement shall be governed and construed in accordance with the laws of the State of Michigan. These terms and conditions set forth the entire understanding and agreement of the parties hereto in respect to the subject matter hereof, and all prior undertakings between the parties hereto, together with all representations and obligations of such parties in respect to such subject matter, shall be superseded by and merged into this agreement. No provisions hereof shall be waived, changed, terminated, a) modified, discharged or rescinded orally or otherwise, except by a writing signed by the party to be charged by any such waiver, change, termination, modification, discharge, or rescission. No waiver of any breach of any provision of this agreement shall constitute an amendment or modification of this agreement, or any provision thereof. If any provision of this agreement shall be held to be unenforceable or inapplicable in any way or respect, such holding shall not affect the enforceability of any other provision of this agreement under any other circumstances. The provisions of this agreement shall bind and inure to the benefits of the parties here to and their respective heirs, executors, administrators, successors and (subject to any restrictions on assignment hereinabove set forth) assigns. In the event unspecified redress or commitments develop not covered above, terms of the Uniform Commercial Code under the laws of Michigan will be construed as being effective as they may pertain.