

WACKER NEUSON CORPORATION AND SUBSIDIARIES

TERMS AND CONDITIONS OF PURCHASE

THESE TERMS AND CONDITIONS APPLY TO ALL PURCHASES OF GOODS MADE BY WACKER NEUSON CORPORATION OR ANY OF ITS DIRECT OR INDIRECT SUBSIDIARIES (IN ANY SUCH EVENT, "PURCHASER") FROM YOU ("SELLER"), WHETHER SUCH PURCHASE IS MADE BY ISSUANCE OF A WRITTEN PURCHASE ORDER, ELECTRONIC PURCHASE ORDER OR OTHERWISE, AND ARE INCORPORATED IN THEIR ENTIRETY BY THIS REFERENCE INTO ALL OF PURCHASER'S ORDERS AND PURCHASE DOCUMENTS. ALL ORDERS SUBMITTED TO SELLER AND CONTRACT FORMATION BETWEEN SELLER AND PURCHASER ARE EXPRESSLY MADE CONDITIONAL ON SELLER'S ACCEPTANCE OF ALL OF THESE TERMS AND CONDITIONS WITHOUT MODIFICATION OR SUPPLEMENT. ANY ADDITIONAL OR DIFFERENT TERMS AND CONDITIONS PROPOSED BY SELLER, WHETHER PROPOSED ORALLY, IN ANY ACKNOWLEDGMENT, RELEASE, INVOICE OR OTHER FORM OF SELLER, OR OTHERWISE, ARE REJECTED IN THEIR ENTIRETY AND SHALL BE DEEMED A MATERIAL ALTERATION OF THESE TERMS AND CONDITIONS UNLESS SPECIFICALLY AGREED TO IN WRITING BY PURCHASER, NOTWITHSTANDING PURCHASER'S ACCEPTANCE OF OR PAYMENT FOR ANY GOODS COVERED HEREBY OR ANY OTHER SIMILAR ACT OF PURCHASER. IF PURCHASER'S ORDER SHALL BE DEEMED AN ACCEPTANCE OF A PRIOR OFFER BY SELLER, SUCH ACCEPTANCE IS LIMITED EXCLUSIVELY TO THESE TERMS AND CONDITIONS AND THE PRICE, QUANTITY, DELIVERY AND OTHER TERMS PROVIDED BY PURCHASER. FOR EASE OF REFERENCE, ANY ORDER BY PURCHASER IS REFERRED TO HEREIN AS A "PURCHASE ORDER," WHETHER SUBMITTED IN WRITTEN FORM, ELECTRONIC FORM OR OTHERWISE.

1. **PRICING; PAYMENT TERMS:** No increase in price as stated in this Purchase Order will be allowed unless specifically agreed to in writing in advance by Purchaser. Purchaser must receive not less than sixty (60) days' prior written notice of any price increase, provided that such notice, in of itself, shall not constitute or be deemed Purchaser's acceptance of such price increase. The price stated shall be deemed to include any and all taxes and other governmental charges, now imposed or hereafter becoming effective, upon the production, sale, shipment, or use of the goods and Seller shall pay and discharge all such taxes and charges without reimbursement from Purchaser. If no price is stated in this Purchase Order, then this Purchase Order may not be filled at a higher price than the price last quoted or charged or set forth in Seller's price list in effect at the time of order unless specifically agreed to in writing in advance by Purchaser. Seller represents and warrants that the price or prices specified in this Purchase Order are no higher than those net prices (i.e., taking into account all applicable discounts, rebates, allowances and other credits) charged to its most favored customers when purchasing like goods in like quantities, although nothing herein shall preclude the parties from agreeing to a price less than that amount. In the event the stated prices are determined to be higher than the net prices for which the goods had been sold by Seller to others, prices specified in this Purchase Order shall be reduced accordingly or, in the event Purchaser has already paid for the goods, Purchaser shall promptly be reimbursed for the amount of any overpayment. No additional charges of any kind, including, without limitation, charges for boxing, packing, cartage, handling or other extras, will be allowed unless specifically agreed to in writing in advance by Purchaser. Unless otherwise specified in this Purchase Order or specifically agreed to in writing in advance by Purchaser, payment for goods shall be made in accordance with Purchaser's payment procedures applicable to discounted and non-discounted vendor invoices, a copy of which has been made available to Seller.

2. **WARRANTY:** Seller expressly represents and warrants that all of the goods purchased hereunder will be (i) in exact accordance with this Purchase Order and any other specifications, drawings, samples or other descriptions furnished or adopted by the parties for such goods, (ii) free from defects in design, material and workmanship, (iii) fit for the purposes intended, (iv) safe and appropriate for the purposes for which such goods are normally used and in compliance with all applicable foreign, federal, state and local laws, rules and regulations, (v) new and merchantable, and (vi) free from all security interests, liens, encumbrances and restrictions on transfer (the "Warranty"). The Warranty shall survive delivery, inspection, acceptance and payment and shall accrue to Purchaser, its successors, assignees, customers and users of Purchaser's goods and shall be in addition to any other representations and warranties of Seller, express, implied, or statutory. Any deviations from any specifications, drawings, samples or other descriptions furnished or adopted by the parties for the goods must be approved in writing in advance by Purchaser. Purchaser may, at its option, return for credit or require prompt correction or replacement of defective or nonconforming goods or have defective or nonconforming goods corrected or replaced at Seller's expense (including all labor). Return to Seller of any defective or nonconforming goods and delivery to Purchaser of any corrected or replaced goods shall be at Seller's expense. Defective or nonconforming goods shall not be corrected or replaced unless specified on Purchaser's written order. Corrected or replaced goods shall be subject to the terms and conditions of this Purchase Order in the same manner and to the same extent as the defective or nonconforming goods originally delivered under this Purchase Order. If part of the goods to be delivered under this Purchase Order are defective or nonconforming, Purchaser may cancel any unshipped portion of the goods covered by this Purchase Order. Seller shall obtain and assign or otherwise provide to Purchaser, without charge, the benefits of warranties and guarantees provided by suppliers of material or equipment incorporated into Seller's goods and shall perform its responsibilities so that such warranties and guarantees remain in full force and effect.

3. **INTELLECTUAL PROPERTY:** Seller represents and warrants that the goods purchased under this Purchase Order do not infringe upon or constitute a misappropriation or an unauthorized use of any patent, patent right, invention right, trademark, trade name, copyright, trade secret or other right of any person or entity. Seller shall hold harmless, indemnify and, at Purchaser's request, defend (i) Purchaser, (ii) Purchaser's shareholders, directors, officers, employees, agents, representatives and affiliates, (iii) Purchaser's customers and other users of Seller's goods, whether directly or by inclusion with other goods of Purchaser or otherwise, and (iv) its and their respective heirs, personal and legal representatives, successors and assignees (collectively, the "Purchaser Indemnitees") from and against all actions, demands, claims, suits, proceedings, losses, damages (including, without limitation, incidental, consequential, punitive and similar damages), injuries, liabilities and expenses (including, without limitation, attorneys' fees and investigation and defense costs) arising out of or relating in any way to, directly or indirectly, actual or alleged infringement, misappropriation or unauthorized use of any patent, patent right, invention right, trademark, trade name, copyright, trade secret or other right of any person or entity by reason of the use, sale, offer for sale or possession of any goods or part thereof which are the subject of this Purchase Order. In the event the goods purchased under this Purchase Order actually or are alleged to infringe upon or constitute a misappropriation or an unauthorized use of any of such rights, in addition to the above indemnity, Seller shall, at its expense (including all labor), either procure for Purchaser the right to continue using the item in question without restriction or replace such item with a non-offending item acceptable to Purchaser. No specifications, drawings, samples or other descriptions furnished or adopted by Purchaser with respect to any part of this Purchase Order constitutes a representation or warranty, express or implied, against claims for infringement or misappropriation or unauthorized use of any patent, patent right, invention right, trademark, trade name, copyright, trade secret or other right of any person or entity, and Purchaser is not responsible to Seller or any other person or entity for or on account of any liability or obligation related to such a claim.

4. **SHIPMENTS AND DELIVERIES:** Shipments and deliveries shall be in accordance with Purchaser's instructions, time being of the essence in this Purchase Order, and must be made to the specified ship-to location, or, if none is specified, to Purchaser's designated receiving area and not to individuals or departments. In the absence of shipping instructions from Purchaser, all goods shipped hereunder shall be by route and method resulting in the lowest cost which will assure delivery on or before the date(s) specified by Purchaser. All goods delivered pursuant to this Purchase Order shall be in suitable containers for protection in shipment and storage. Any damage to goods resulting from improper packaging or routing will be charged to Seller. All charges for transportation, insurance, boxing, packaging, crating and returnable

containers will be the responsibility of Seller and not paid by Purchaser unless separately stated on this Purchase Order. Deliveries shall be made strictly in accordance with the delivery schedule specified by Purchaser and in the exact quantity ordered and not in installments. Any unauthorized quantity is subject to Purchaser's rejection and return at Seller's expense. Delivery shall not be deemed complete until all goods have been received and accepted by Purchaser. If delivery is not made in accordance with the delivery schedule, Purchaser may cancel this Purchase Order in whole or in part in accordance with Paragraph 6, below. Seller shall be responsible and shall bear all risks for loss or damage to the goods to be delivered under this Purchase Order until they are delivered at Purchaser's facility, regardless of F.O.B. point, or point of inspection or acceptance, and are received and accepted by Purchaser.

5. **PURCHASER PROPERTY:** Unless specifically agreed to in writing in advance by Purchaser, all tools, gauges, dies, molds, patterns, jigs, fixtures and any other property paid for and/or furnished to Seller by Purchaser shall: (i) be used only in filling this Purchase Order; (ii) remain and be conspicuously identified as Purchaser's property; (iii) be segregated from the property of Seller and third parties; (iv) be removed from Seller's premises approved by Purchaser only upon Purchaser's written instructions; (v) be held at Seller's risk of loss and damage strictly on a bailment basis; and (vi) be insured by Seller at its expense in a replacement cost amount reasonably satisfactory to Purchaser. Seller shall not represent that any party other than Purchaser owns such property. Purchaser shall have the right to enter Seller's premises at all reasonable times to inspect Purchaser's property and Seller's records with respect thereto. Evidence of such insurance coverage shall be delivered to Purchaser from time to time upon request and Purchaser's interest in such property shall be identified therein as Purchaser directs. Purchaser shall have the right, without further authorization, to make such public filings as Purchaser deems reasonably necessary to notify third parties of Purchaser's interest in such property, including, without limitation, Uniform Commercial Code notice filings. Seller shall return all Purchaser property to Purchaser upon Purchaser's request and, in any event, upon completion of this Purchase Order, or the cancellation hereof, whichever occurs first.

6. **CANCELLATION:** Purchaser reserves the right to cancel all or any part of the undelivered portion of this Purchase Order by written notice or verbal notice confirmed in writing in any of the following circumstances: (i) Seller does not make deliveries as specified; (ii) Seller breaches any of the terms hereof, including, without limitation, any of Seller's representations and warranties set forth in Paragraphs 2 or 3, above; (iii) Seller fails to make progress as to endanger performance of this Purchase Order in accordance with its terms; or (iv) Seller becomes insolvent, fails to pay its debts as they come due, makes an assignment for the benefit of creditors or becomes the subject of any voluntary or involuntary bankruptcy, reorganization, insolvency or similar proceedings. Any cancellation of this Purchase Order shall be without cost or liability to Purchaser. In the event of cancellation under this Paragraph, Purchaser shall have the right to procure, on such terms and in any manner as it may deem appropriate, substitute goods deemed satisfactory by Purchaser and to recover from Seller the excess cost for such goods and Seller shall be liable to Purchaser for any and all damages sustained by reason of the default which gave rise to the cancellation.

7. **CONTRACT DEVIATION:** None of the terms and conditions contained in this Purchase Order may be added to, modified, superseded or otherwise altered except by a written instrument signed by an authorized representative of Purchaser, notwithstanding any terms and conditions proposed to Purchaser orally or that may be contained in any acknowledgment, invoice or other form of Seller and notwithstanding Purchaser's act of accepting or paying for any shipment of goods covered hereby or any other similar act of Purchaser. The terms and conditions contained in this Purchase Order shall apply to each shipment covered by this Purchase Order except as such terms and conditions may be added to, modified, superseded or otherwise altered as provided in this Paragraph.

8. **ORDER CHANGES:** Purchaser reserves the right at any time to make changes, by delivering a written order to Seller, in any or all of the following terms of this Purchase Order: (i) the specifications, drawings, designs, quantities and/or delivery schedules; (ii) methods of shipment or packaging; and (iii) place of inspection, acceptance and/or delivery. If any such change causes an increase or decrease in the cost of, or the time required for, performance of this Purchase Order, an equitable adjustment shall be made in the purchase price or delivery schedule, or both, as reasonably determined by Purchaser with Seller's input. Any claim by Seller for adjustment under this Paragraph shall be deemed waived unless Purchaser is notified in writing of such claim within ten (10) days after receipt by Seller of Purchaser's change order. Price increases or extensions of time for delivery shall not be binding on Purchaser unless specifically approved in writing in advance by Purchaser.

9. **CHANGES IN MATERIALS:** Seller must receive specific prior written approval from Purchaser before proceeding with any change in specified materials.

10. **COMPLIANCE WITH LAWS:** Seller's performance of this Purchase Order and all goods provided to Purchaser pursuant hereto will comply with all applicable foreign, federal, state and local laws, rules and regulations. Any provision which is required to be a part of this Purchase Order by virtue of any such laws, rules or regulations, and which cannot be waived by the parties by omission or by agreeing on any contrary term set forth herein, is incorporated herein by reference.

11. **INDEMNIFICATION:** In addition to the representations and warranties provided in Paragraph 2, above, and the representations and warranties and indemnification provided in Paragraph 3, above, Seller shall hold harmless, indemnify and, at Purchaser's request, defend each of the Purchaser Indemnitees from and against all actions, demands, claims, suits, proceedings, losses, damages (including, without limitation, incidental, consequential, punitive and similar damages), injuries, liabilities and expenses (including, without limitation, attorneys' fees and investigation and defense costs) arising out of or relating in any way to, directly or indirectly, any actual or alleged (i) breach of this Purchase Order by Seller or any of its officers, agents, employees or subcontractors, including, without limitation, the confidentiality and non-use obligations set forth in Paragraph 12, below, (ii) breach of a representation or warranty covering the goods sold to Purchaser hereunder, whether express, implied or statutory, (iii) recall of goods sold to Purchaser hereunder, (iv) death of or injury to a person or damage to property caused by any defect in the goods (whether latent or patent) or the failure of the goods to comply with specifications, drawings, samples or other descriptions, (v) violation of applicable foreign, federal, state or local laws, rules or regulations by Seller or any of its officers, agents, employees or subcontractors, and/or (vi) act or omission of Seller or any of its officers, agents, employees or subcontractors.

12. **CONFIDENTIALITY:** Seller shall hold all specifications, plans, instructions, samples and other information (including, without limitation, Data (as defined below)) furnished by or on behalf of, or obtained from, Purchaser or any of the other Purchaser Indemnitees, or prepared by Seller specifically for Purchaser or any of the other Purchaser Indemnitees in connection with or in contemplation of this Purchase Order, confidential and shall not (i) disclose any such information to any other person or entity other than Seller's employees having a need-to-know such information to enable Seller to perform this Purchase Order, or (ii) use such information for any purpose other than performing Seller's obligations under this Purchase Order. Without Purchaser's prior written permission, Seller shall not advertise or publish the fact that Purchaser has contracted to purchase goods from Seller, disclose information relating to this Purchase Order, or use the name, trademark or logo of Purchaser, or any of the other Purchaser Indemnitees, in any advertising or other publication. Purchaser retains all rights in designs, drawings, specifications, reports and other information (collectively, "Data") furnished to Seller in connection with or in contemplation of this Purchase Order. All Data shall remain the sole property of Purchaser. Seller shall be fully responsible for the care and protection of all such Data until it is returned to Purchaser. Seller shall return all Data to Purchaser upon Purchaser's request and, in any event, upon completion of this Purchase Order, or the cancellation hereof, whichever occurs first.

13. **INSPECTION AND ACCEPTANCE:** All goods shall be subject to Purchaser's right of inspection and test and all such goods are subject to final inspection and acceptance at Purchaser's facility notwithstanding any prior inspection, testing or design approvals. Purchaser's inspection shall be final and conclusive, however Purchaser shall not be required to inspect or test goods. Purchaser will give notice of rejection of goods within a reasonable time after receipt and inspection and test, if performed by Purchaser. All rejected goods will be held at Seller's risk and shall be removed promptly by Seller at Seller's expense, and during the period such goods are held by Purchaser shall be subject to Purchaser's storage and handling charges then in effect. Seller shall promptly reimburse Purchaser for all freight, storage and handling charges

and all other expenses incurred by Purchaser prior to discovery of any defects or nonconformance with this Purchase Order, and in Purchaser's attempts to remedy the same or make any goods usable for Purchaser's purposes. Purchaser may, at its option, require prompt replacement or correction of rejected goods at Seller's expense, including an equitable reduction in the price of this Purchase Order for rejected goods. Seller shall not resubmit rejected goods to Purchaser without Purchaser's prior written approval. Seller shall identify resubmitted goods as previously rejected. Purchaser's acceptance, payment, use or resale of the goods covered by this Purchase Order shall not release Seller from any of Seller's obligations, representations, or warranties hereunder. Payment for any goods shall not be deemed an acceptance thereof. Seller shall provide and maintain a quality assurance and control system acceptable to Purchaser and Purchaser shall have the right to inspect the goods covered hereby at Seller's facility. Upon request, Seller shall provide Purchaser with, at Purchaser's option, written or verbal reports relating to the status of Seller's performance hereunder. Purchaser shall have the right to inspect and copy Seller's books and records related to performance of this Purchase Order upon reasonable notice. The provisions of this Paragraph shall be without limitation to Seller's obligations and Purchaser's rights set forth in Paragraph 2, above.

14. **ASSIGNMENT:** Seller may not assign or subcontract either its rights or obligations under this Purchase Order, in whole or in part, without the specific prior written consent of Purchaser, and any attempted assignment or subcontracting without such consent shall be null and void. Purchaser may assign its rights and obligations under this Purchase Order. This Purchase Order shall be binding upon Seller and its successors and permitted assignees and Purchaser and its successors and assignees.

15. **NO WAIVER:** Failure of Purchaser to enforce any of these terms or conditions or to exercise any right accruing through the default of Seller shall not affect Purchaser's rights in case such default continues or in case of any subsequent default of Seller and such failure shall not constitute a waiver of other or future defaults of Seller.

16. **GOVERNING LAW; VENUE:** The rights of all parties hereunder and the construction of every provision hereof shall be governed by the laws of the State of Wisconsin, without giving effect to principles of conflicts of law. The parties agree that any action, demand, claim, suit or proceeding arising out of this Purchase Order or in connection with goods provided hereunder, not amicably resolved by the parties, shall be brought exclusively in the state courts located in or otherwise having jurisdiction over Waukesha County, Wisconsin, or the Federal court for the Eastern District of Wisconsin, and the parties hereby consent to personal jurisdiction in such courts and waive any objection based on jurisdiction or venue of any such action.

17. **COPYRIGHT:** Seller hereby grants Purchaser an irrevocable, perpetual, royalty-free, non-exclusive, world-wide license to reproduce or otherwise use all copyrightable material furnished in connection with this Purchase Order.

18. **INSURANCE:** Seller shall maintain in effect, at its expense, insurance of such types as is commercially reasonable in connection with the conduct of its business, including, without limitation, insurance coverage for its liability and indemnity obligations hereunder. Evidence of such insurance coverage shall be delivered to Purchaser from time to time upon request and Purchaser's interest herein shall be identified therein as Purchaser directs, including, without limitation, by having Purchaser named as an additional insured.

19. **REMEDIES:** Purchaser's liability on any claim of any kind for any loss, damage, injury, liability or expense arising out of or in connection with or resulting from this Purchase Order or from Purchaser's performance or breach hereof shall in no case exceed the price allocable to the goods or unit thereof which gives rise to the claim. WITHOUT LIMITING THE GENERAL APPLICABILITY OF THE FOREGOING, PURCHASER SHALL IN NO EVENT HAVE ANY LIABILITY HEREUNDER FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE OR SIMILAR DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF REPUTATION OR LOSS OF GOODWILL, EVEN IF PURCHASER HAS BEEN ADVISED IN ADVANCE OF THE SAME. In addition to any remedy stated herein, Purchaser shall retain the right to avail itself of any remedy available at law or in equity. All remedies available to the parties under this Purchase Order, at law or in equity shall be considered cumulative. All claims for monies due or to become due from Purchaser shall be subject to set-off by Purchaser against any amount owed by Seller or any of its affiliates to Purchaser or any other Purchaser Indemnitee. Seller's assumption, at Purchaser's request, of the defense of any action, demand, claim, suit or proceeding pursuant to Paragraphs 3 or 11 hereof shall conclusively establish Seller's obligation to indemnify Purchaser and the other Purchaser Indemnitees pursuant to such Paragraphs.

20. **LIENS:** Seller agrees that it shall not file any liens as a result of producing goods hereunder and that it shall not permit its subcontractors or suppliers to file such liens. Upon request, Seller shall provide Purchaser with lien waivers for itself, its subcontractors and suppliers in a form satisfactory to Purchaser, who may withhold any payment(s) otherwise due until it has received reasonable assurances that all of Seller's obligations respecting the goods have been paid. If a lien is filed, Seller shall cooperate fully with Purchaser, at Seller's expense, to cause the lien to be removed.

21. **INDEPENDENT CONTRACTOR:** The relationship of Seller to Purchaser is solely that of an independent contractor. Nothing in this Purchase Order or the business relationship between the parties shall be construed to establish a principal-agent, partnership, joint venture or similar relationship between Seller and Purchaser and neither party shall have the authority to bind or obligate the other in any manner.

22. **SEVERABILITY:** If any provision of this Purchase Order shall under any circumstances be deemed invalid or inoperative, this Purchase Order shall be construed with the invalid or inoperative provision deleted, and the rights and obligations of the parties shall be construed and enforced accordingly.

23. **NOTICES:** All notices, requests, demands and other communications with Purchaser shall be in writing and shall be effective (i) when delivered by hand, (ii) when delivered by facsimile transmission, actually received by the receiving equipment with written confirmation thereof (provided that any facsimile sent on a Saturday, Sunday or legal holiday observed by Purchaser, or after 5:00 p.m. (Central Standard Time) on a business day, shall be deemed effective on the next business day, (iii) one (1) business day after being sent by nationally recognized overnight courier service, or (iv) three (3) business days after being sent by certified mail, return receipt requested, in each case to Purchaser at the following address or to such other address as may be designated by like notice, duly given: Wacker Neuson Corporation, N92W15000 Anthony Ave., Menomonee Falls WI 53051, attn: [Buyer Name].

24. **ENTIRE AGREEMENT:** These terms and conditions and any other specifications, drawings, samples or other descriptions furnished or adopted by Purchaser in connection herewith constitute and represent the complete and entire agreement between Purchaser and Seller and supersede all previous communications, warranties and representations, either written or verbal, with respect to the subject matter hereof and will become a contract between Purchaser and Seller upon the earlier of Seller's acknowledgment of this Purchase Order or Seller's commencement of performance.

25. **SURVIVAL:** These terms and conditions which by their nature are intended to survive the cancellation or completion of this Purchase Order shall continue as valid and enforceable rights and obligations of the parties, as applicable, notwithstanding any such cancellation or completion.

ISSUED AUGUST 31, 2010

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