

## Terms and Conditions of Sale

- Acceptance. ITW Rippey, a division of Illinois Tool Works Inc., is herein referred to as “Rippey” and the customer purchasing products (“Products”) or services (“Services”) is herein referred to as “Purchaser.” These terms and conditions of sale (“Terms”), any Rippey quotation, acknowledgment or invoice and all documents incorporated by specific reference herein or therein (“Rippey Documents” and together with these Terms, the “Agreement”), constitute the complete terms governing the sale of Products and Services. **RIPPEY HEREBY REJECTS ANY ADDITIONAL OR DIFFERENT TERMS OR CONDITIONS PROPOSED BY PURCHASER, WHETHER OR NOT CONTAINED IN ANY OF PURCHASER’S BUSINESS FORMS OR IN PURCHASER’S WEBSITE, AND SUCH ADDITIONAL OR DIFFERENT TERMS WILL BE OF NO EFFECT.** No site usage agreement or any other click through agreement on a website will have any binding effect whether or not Rippey clicks on an “ok,” “I accept,” or similar acknowledgment. Commencement of any work by Rippey or Purchaser's acceptance of delivery of the Products or Services will manifest Purchaser's assent to the Agreement. Additional or different terms applicable to a particular sale may be specified in the body of an Rippey Document or agreed to in writing by the parties. In the event of a conflict, the following order of precedence will apply: (a) terms agreed to in writing and executed by an authorized officer of Rippey; (b) Rippey Document terms; (c) these Terms.
- Quotations. Quotations are only valid in writing and for 30 days from the date of the quotation. All quotations are subject to change or withdrawal without prior notice to Purchaser. Quotations are made subject to approval of Purchaser's credit. Rippey may refuse orders and has no obligation to supply Products or Services unless Rippey issues an order acknowledgement or upon the shipment of Products or commencement of Services.
- Prices and Payment Terms. Prices are in U.S. Dollars and are subject to change without notice. All orders are accepted subject to Rippey's price in effect at time of shipment. Prices do not include any sales, use, value-added or other taxes, import duties, license fees or like charges (“Fees”) related to the sale, importation or use of Products or Services, and Purchaser is responsible for those Fees. If Rippey is subsequently required to pay any Fees, Purchaser shall fully defend and indemnify Rippey therefor. Terms of payment are 30 days net from the date of Rippey's invoice. Overdue invoices will incur interest at the rate of 1.5% per month, or at the maximum rate allowable by governing law. Purchaser's inspection rights herein will not affect the payment terms. Under no circumstances will Purchaser have a right of set-off. If Purchaser fails to make any payment as required, Purchaser agrees to indemnify Rippey for all associated costs incurred by Rippey, including reasonable attorney fees and court costs.
- Credit Approval. All shipments are subject to approval by Rippey's credit department. Rippey may invoice Purchaser and recover for each shipment as a separate transaction. If, in Rippey's sole judgment, Purchaser's financial condition is or becomes unsatisfactory, then Rippey may, without prejudice to any of its other remedies: (a) defer or decline to make any shipments except upon receipt of satisfactory security or cash payments in advance; and/or (b) terminate any or all of Purchaser's purchase orders.
- Cancellation or Modification. Rippey may cancel any purchase order or release thereunder, or terminate any agreement relating to the purchase of Rippey's Products or Services upon reasonable prior written notice to Purchaser. Once Rippey has accepted a purchase order or begun taking actions with respect to a purchase order, Purchaser cannot cancel or modify that purchase order except with Rippey's written consent. In such event, Purchaser will be liable for cancellation or modification charges and all costs incurred and committed for the order or in connection with the cancellation or modification, as applicable, together with a reasonable allowance for prorated expenses and anticipated profits.
- Inspection / Non-Conforming Shipments. Purchaser may inspect Products for a period of five days after delivery (“Inspection Period”). Purchaser must notify Rippey in writing of any Products that do not conform to the specifications applicable to their sale within the Inspection Period and afford Rippey a reasonable opportunity to inspect such Products and cure any nonconformity. If Purchaser fails to provide Rippey such written notice within the Inspection Period, Purchaser will be deemed to have accepted the Products. Purchaser may not return any Product without a Rippey RMA number. Any return authorized by Rippey must be made in accordance with Rippey's return policies. Purchaser will be responsible for all costs associated with returns of Products and will bear the risk of loss, unless Rippey agrees otherwise in writing or determines that the Products do not conform to the applicable terms of sale. Any variation in quantities shipped over or under those ordered (not to exceed 10%) will constitute compliance with Purchaser's order, and the stated price per item will continue to apply.
- Delivery. Rippey anticipates use of common carriers for shipment of Products. The carrier, and not Rippey, will bill for freight rates and other shipping charges. Payments for such charges shall be paid by Purchaser directly to the carrier. All Products will be shipped ExWorks Rippey's facility (Incoterms 2010). Shipping dates are approximate and are based upon prompt receipt of all necessary information from Purchaser. Rippey may ship items in a single or multiple shipments. Title to the Products and risk of loss shall pass to Purchaser upon delivery in accordance with the applicable shipping term. Purchaser assumes all risk and liability for loss and use or misuse by third parties who acquire or use the Products illicitly after delivery. Purchaser must notify Rippey and the delivering carrier within five days from date of receipt of Products, of any damage or

## Terms and Conditions of Sale

shortage, and afford Rippey a reasonable opportunity to inspect the Products. Any loss occasioned by damage or shrinkage in transit will be for Purchaser's account, and claims for such loss must be made solely against the carrier.

8. Limited Warranty. Rippey warrants that it will convey the Products free and clear of all liens, security interests and encumbrances created by, through or under Rippey. Rippey further warrants that the Products will have a shelf life of six months from the date of shipment, if stored in accordance with the Product specifications, and, as of the date of delivery, will conform to mutually agreed upon written specifications or other descriptions.

In the event of a breach of the warranties set forth above (the "Warranties"), Rippey will, at Rippey's option and as Rippey's sole liability and Purchaser's sole remedy, replace, or credit Purchaser's account or refund the purchase price for, any Product that fails to conform to the Warranties, provided that (i) within six months of the date of shipment, Rippey is promptly notified in writing upon discovery of such failure with a detailed explanation of any alleged deficiencies; (ii) Rippey is given a reasonable opportunity to investigate all claims; and (iii) Rippey's examination of such Product confirms the alleged nonconformities and that they were not caused by accident, improper storage, or neglect after shipment. No Products may be returned to Rippey until inspection and approval by Rippey. The Warranties extend only to the original purchaser and are non-transferrable.

EXCEPT AS SET FORTH HEREIN, RIPPEY MAKES NO WARRANTY OR REPRESENTATION OF ANY KIND, EXPRESS OR IMPLIED (INCLUDING NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE).

9. Limitation of Liability and Remedies. RIPPEY WILL NOT BE LIABLE, AND PURCHASER WAIVES ALL CLAIMS AGAINST RIPPEY, FOR INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, DOWN TIME, LOST PROFITS OR COMMERCIAL LOSSES, WHETHER OR NOT BASED UPON RIPPEY'S NEGLIGENCE OR BREACH OF WARRANTY OR STRICT LIABILITY IN TORT OR ANY OTHER CAUSE OF ACTION. IN NO EVENT WILL RIPPEY'S LIABILITY IN CONNECTION WITH THE AGREEMENT OR SALE OF RIPPEY'S PRODUCTS OR SERVICES EXCEED THE PURCHASE PRICE OF THE SPECIFIC PRODUCTS OR SERVICES AS TO WHICH THE CLAIM IS MADE.

10. Product Use. Purchaser is solely responsible for determining if a Product is fit for a particular purpose and suitable for Purchaser's method of application. Accordingly, and due to the nature and manner of use of Rippey's Products, Rippey is not responsible for the results or consequences of use, misuse or application of its Products. All physical properties, statements and recommendations are either based on the tests or experience that Rippey believes to be reliable, but they are not guaranteed.

11. Tooling/Molds/Dies. All material, equipment, facilities and special tooling (including tools, jigs, dies, fixtures, molds, patterns, special taps, special gauges, special test equipment and manufacturing aids and replacements thereof) used in the manufacture of the Products will remain the property of Rippey. Any material, tooling or equipment furnished to Rippey by Purchaser will remain the property of Purchaser with title to and right of possession remaining in Purchaser.

12. Consignment. If Products are sold on a consignment basis, title in such Products will not pass to Purchaser until the earlier of: (a) the time the Product is removed from inventory for use; or (b) the date that is 90 days from the Product's shipment date. Rippey will have a purchase money security interest in consigned Products and may file a financing statement in accordance with the Uniform Commercial Code. Purchaser agrees to store consigned Products in a segregated area and will install and/or maintain any signs or other devices to clearly identify the Products as Rippey Products. Purchaser assumes the risk of loss of all consigned Products. Purchaser shall insure consigned Products at Purchaser's expense in amounts at least equal to the replacement value.

13. Ownership of Intellectual Property. All drawings, know-how, designs, specifications, inventions, devices, developments, processes, copyrights and other information or intellectual property disclosed or otherwise provided to Purchaser by Rippey and all rights therein (collectively, "Intellectual Property") will remain the property of Rippey and will be kept confidential by Purchaser in accordance with these Terms. Purchaser has no claim to, nor ownership interest in, any Intellectual Property, and such information, in whatever form and any copies thereof, shall be promptly returned to Rippey upon request from Rippey. Purchaser acknowledges that no license or rights of any sort are granted to Purchaser hereunder in respect of any Intellectual Property, other than the limited right to use Rippey's Products or receive the Services purchased from Rippey.

14. Use of Trademarks and Trade Names. Purchaser shall not use, directly or indirectly, in whole or in part, Rippey's name, or any other trademark or trade name that is now or may hereafter be owned by Rippey (collectively the "Trademarks"), as part of Purchaser's corporate or business name, or in any way in connection with Purchaser's business, except in a manner and to the extent authorized herein or otherwise approved by Rippey in writing. Purchaser hereby acknowledges Rippey's ownership of the Trademarks and the goodwill associated therewith. Purchaser shall not infringe upon, harm or contest the validity of any Trademarks. Purchaser shall be entitled to use the Trademarks only in connection with the promotion or sale of

## Terms and Conditions of Sale

the Authorized Products pursuant to the terms of the Agreement. Purchaser shall reproduce the Trademarks exactly as specified by Rippey. Purchaser shall not use the Trademarks in combination with any other trademarks or names. Purchaser agrees that it will not register or attempt to register any Trademark or any colorable imitation thereof (including any non-English language variation thereof), or use such Trademarks for any products or for any purposes other than those set forth in the Agreement. Purchaser shall not at any time during or after termination of the Agreement use in its business any other trademark that is similar to or in any way resembles the Trademarks so as to be likely to cause deception or confusion with the Trademarks. Purchaser shall provide reasonable cooperation to Rippey with respect to any efforts of Rippey to protect, defend or enforce its rights to the Trademarks. Should Purchaser cease being an authorized customer of Rippey for any reason, Purchaser shall immediately discontinue any formerly permitted use of Rippey's name or the Trademarks.

15. **Confidential Information.** All information furnished or made available by Rippey to Purchaser in connection with the subject matter hereof shall be held in confidence by Purchaser. Purchaser agrees not to use (directly or indirectly), or disclose to others, such information without Rippey's prior written consent. The obligations in this section will not apply to any information that: (a) at the time of disclosure was or thereafter becomes generally available to the public by publication or otherwise through no breach by Purchaser of any obligation herein; (b) Purchaser can show by written records was in Purchaser's possession prior to disclosure by Rippey; or (c) is legally made available to Purchaser by or through a third party having no direct or indirect confidentiality obligation to Rippey with respect to such information.

16. **Audit.** Unless agreed to in writing by an officer of Rippey, neither Purchaser nor any Purchaser representative, may examine or audit Rippey's cost accounts, books or records of any kind or any matter, or any other data that Rippey, in its sole discretion, considers confidential or proprietary.

17. **Infringement and Indemnification.** Except as set forth below, Rippey agrees to defend and indemnify Purchaser against any claims, costs, damages, liability and expenses resulting from actual patent, trademark or copyright infringement, misappropriation of confidential information, or violation of any other Intellectual Property right, domestic or foreign that may arise from the sale of Rippey's proprietary Product to Purchaser as such pertains to the subject matter of the Agreement (each, a "Claim"); provided, however, (a) Purchaser supplies Rippey written notice of such Claim immediately after the Purchaser has notice of such Claim, (b) Purchaser cooperates with Rippey in the defense and settlement of such Claim; and (c) Purchaser allows Rippey the right to defend and settle such Claim at Rippey's expense. If a suit or claim results in any injunction or order that would prevent Rippey from supplying any part or Product falling under the Agreement, or if the result of such a suit or claim would, in the reasonable opinion of Rippey, otherwise cause Rippey to be unable to supply such parts or Products, Rippey may do one or more of the following: (i) secure an appropriate license to permit Rippey to continue supplying those parts or Products; (ii) modify the appropriate part or Product so that it becomes non-infringing; (iii) replace the appropriate part or Product with a non-infringing but practically equivalent part or Product; or (iv) if Rippey cannot reasonably accomplish the actions specified in subsections (i) – (iii), then in Rippey's sole discretion, Rippey may discontinue selling the part or Product without any further liability to Purchaser. Notwithstanding the foregoing, Rippey shall have no liability or duty to defend and indemnify Purchaser against any Claim relating to: (1) the use of any part or Product, (2) the combination of any part or Product with any other part or product not supplied by Rippey, or (3) any part or Product or process that is designed or specified by Purchaser.

18. **Rippey Employees.** Rippey sales employees do not have the training or authority to make legal representations or enter into any agreements or execute any Purchaser documents affecting legal responsibilities or waiving legal rights, including those regarding the transfer of intellectual property rights or related to privacy laws. Any such representations, agreements or documents will not be binding on Rippey or such Rippey employees.

19. **Compliance.** Purchaser agrees to comply with all federal, state, local and foreign rules, regulations, ordinances and laws applicable to Purchaser's obligations hereunder and Purchaser's use of the Products and Services, including import/export laws, labor laws and anti-corruption laws.

20. **Relationship of the Parties.** Nothing in the Agreement or the course of dealing of the parties may be construed to constitute the parties hereto as partners, joint venturers or as agents for one another or as authorizing either party to obligate the other in any manner.

21. **Force Majeure.** Rippey will not be responsible for failure to perform in a timely manner under the Agreement when its failure results from events beyond its reasonable control (an event of "Force Majeure"), including acts of God, epidemics, acts of war whether declared or undeclared, blockades, labor disputes (whether of Rippey's employees or the employees of others), raw material shortages and material increases in costs of raw materials. In the event of Force Majeure, the time for performance will extend for such time as reasonably necessary to enable Rippey to perform.

22. **Assignment; Binding Effect.** No assignment of any rights or interest or delegation of any obligation of Purchaser under the Agreement or Purchaser's purchase order may be made without Rippey's prior written consent. Any attempted assignment

## Terms and Conditions of Sale

will be void. Rippey may assign the Agreement or otherwise transfer its rights and/or obligations under the Agreement. The Agreement will inure to the benefit of and be binding upon the parties and their respective permitted successors and assigns.

23. Waiver. In the event of any default by Purchaser, Rippey may decline to ship Products or provide Services. If Rippey elects to continue shipping or otherwise fails to insist upon strict compliance with the Agreement, Rippey's actions will not constitute a waiver of Purchaser's default or any other existing or future default, or affect Rippey's legal remedies.

24. Bankruptcy. If either party becomes insolvent, is unable to pay its debts when due, files for or is the subject of involuntary bankruptcy, has a receiver appointed or has its assets assigned, the other party may cancel any unfulfilled obligations hereunder.

25. Limitation of Actions/Choice of Law. Any dispute arising out of or related to the Agreement will be governed by and construed according to the laws of the state of Illinois and litigated exclusively in a state or federal court located in Cook County, Illinois. The parties hereto expressly release and waive any and all rights to a jury trial and consent to have any dispute heard solely by a court of competent jurisdiction. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply to the Agreement.

26. Survival. Any provisions in the Agreement which, by their nature, extend beyond the termination or expiration of any sale of Products or Services, will remain in effect until fulfilled.

27. Severability. If any provision herein is held to be unlawful or unenforceable, the remaining provisions herein will remain in effect.

28. Integration and Modification. The Agreement constitutes the entire agreement between Rippey and Purchaser with respect to the Products and Services covered by the Agreement, and supersedes any prior agreements, understandings, representations and quotations with respect thereto. No modification hereof will be of any effect unless in writing and signed by the party to be bound thereby.