



## RESISTOFLEX COMPANY TERMS AND CONDITIONS OF SALES

(last revised June 15, 2011)

1. **ALL SALES OF SELLER ARE SUBJECT TO EACH OF THE FOLLOWING TERMS AND CONDITIONS.** The recipient of the order acknowledgement from a purchase order is herein called "Purchaser" and "Seller" is RESISTOFLEX COMPANY a division of MCC Holdings Inc., A CRANE CO Company.

2. **CANCELLATION:** Orders received by seller are accepted with the understanding that they are not subject to cancellation.

3. **ORIGIN:** In accordance with INCO terms, all sales are made FCA, Sellers plant, Marion, NC, unless otherwise specified on the face hereof

4. **PRICES:** Prices are based on the quantity of materials specified in Seller's quotation. Orders for small quantities are subject to high prices fixed by Seller.

5. **TOOLS, DIES, AND MOLDS:** Any equipment including tools, dies and molds which Seller constructs or acquires for the Purchaser, notwithstanding any charges therefore, shall be and remain Seller's property and in Seller's possession and control. Charges for such equipment are payable, net cash, 10 days after date of invoice.

6. **DELIVERY:** Shipping and delivery dates are approximate and not guaranteed unless otherwise specified on the face hereof. Partial shipments of complete orders will be made by Seller when ready and invoiced absent an agreement in writing to the contrary. Delay in delivery of any installments shall not relieve Purchaser of: a) its obligation to pay for any installments received prior to such delay and, b) its obligation to accept the remaining deliveries.

If because of acts of God, strikes, lockouts or other industrial disturbances, acts of wars, blockages, insurrections, riots, arrests, explosions, sabotage, fires, floods, perils of the sea, accidents to machinery, delays in transportation, inability of seller to obtain the whole or any part of merchandise contracted for by Seller, precedence or priorities granted at the request, demand or for the benefit, directly or indirectly, of Federal or State Government or any subdivision or agency thereof, or other causes not with control of Seller. Seller shall be unto carry out its obligations under this contract either wholly or in part, such obligations shall be suspended during the continuance of such hindrances and the obligations, terms and conditions of this contract shall be extended for such periods as may be necessary for the purpose of making good any suspension of delivers so caused Seller shall not in any event be liable for failure to deliver or perform or for delays in delivery of performance occasioned by such causes.

On orders accepted by Seller, calling for deferred deliveries scheduled over a stated time interval; or on orders with deliveries unspecified but accepted by Seller subject to subsequent delivery instructions; such delivery instructions may not extend deliveries beyond the date originally specified in Seller's quotation of prices or beyond a reasonable time if not date has been so specified except with Seller's written consent and upon terms which will indemnify Seller against all loss.

7. **INSPECTION:** Apart from qualified Government inspectors, no inspectors or other representatives of Purchaser will be allowed in Seller's plant without specific approval in writing signed by a duly authorized officer of Seller.

8. **ROUTING:** In the absence of Purchaser's instructions as to desired carrier and routing of goods, goods will be forwarded and routed as Seller may determine.

9. **DAMAGE IN TRANSIT:** Delivery of the finished goods hereunder to carrier shall constitute delivery to Purchaser and all risk of loss or damage after delivery to carrier shall be borne solely by Purchaser. All claims for loss or damage in transit should be made to carrier.

10. **DAMAGE IN USE OR STORAGE:** Seller is not responsible for loss or damage to goods because of improper installation or use, or if improperly handled, maintained, stored or serviced.

11. **CLAIMS OR RETURNS:** All claims must be made in writing and delivered to seller within 10 days after receipt of goods and must be accompanied by Seller's packing list and freight bill. Failure to make such claims within 10 days will constitute a waiver by the Purchaser of such claims.

**NO GOODS ARE TO BE RETURNED TO SELLER WITHOUT WRITTEN INSTRUCTIONS FROM SELLER AND WHEN SO RETURNED ORIGINAL BILL OF LADING MUST BE ATTACHED. WHEN GOODS ARE RETURNED WITHOUT SUCH INSTRUCTIONS THEY WILL NOT BE ACCEPTED AND IF ACCEPTED THEY WILL BE HELD FOR PURCHASER'S ACCOUNT OR RETURN.**

12. **COMPLIANCE WITH STATUTES:** Seller agrees to comply with requirements of all applicable Federal, State and Local Statutes and laws with respect to its operations. All products are subject to Export Control laws, regulations and rules.

13. **TAXES:** If any taxes shall be levied by the Federal or any State or Local Government upon goods covered hereby or in respect to the production, manufacture, or sale thereof or upon the transportation thereof including freight charges thereon, the amount of such taxes shall be added to the purchase price specified herein and should be borne by Purchaser.

14. **PAYMENT:** In the event Purchaser shall default in any payment due Seller hereunder, Seller shall be entitled to interest on all such unpaid amount at a rate equal to the lesser of: a) 11/2% per month or, b) the maximum rate permitted

by law. In addition, Purchaser shall pay Seller all costs of collection on overdue accounts including but not limited to reasonable attorney's fees whether or not litigation should be commenced in aid thereof. Remittance must be made in U.S. funds.

15. **WAIVERS:** A waiver of any of the terms hereof in a single instance shall not constitute a waiver in other instances nor shall a specific waiver with respect to any term constitute a waiver of any other term. A waiver to be binding on Seller must be in writing and signed by an officer of Seller.

16. **WARRANTY:** All goods sold hereunder are warranted to be free from defects in materials and workmanship for a period of one year from initial use but not exceed 18 months from date of shipment. Any modifications to goods sold by purchaser shall nullify seller warranty.

**THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES EXPRESS OR IMPLIED INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OR MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE.**

Purchaser's If the Seller shall become insolvent or make a general assignment for the benefit of creditors, or a receiver or liquidator for Seller is appointed or applied for, or if Seller admits in writing its inability to pay its debts as they become due or if any proceeding under any applicable federal or state bankruptcy or insolvency law is brought by or against Seller, or if, at any time, Seller would default in performance or shall so fail to make progress in the work as to endanger performance hereunder, or if Seller fails to deliver to products herein within the time or quantity specified herein or otherwise defaults in performance hereunder, Buyer may, by written notice to Seller, terminate this order, in whole or in part; provided, however, that if Seller shall be determined not to be in default, then termination by Buyer shall be deemed to be termination for convenience to which provisions of Paragraph 12 above shall apply. In the event of termination for default; (i) Seller shall continue performance of any nonterminated portion of the Order and Buyer may obtain elsewhere the portions of the products affected by the termination, or products similar thereto, and charge the Seller with any cost increase thereby; and (ii) Buyer may, at its option, require Seller to transfer to Buyer all materials, work in progress, completed supplies, tooling, plans and specifications allocable to the terminated portion of the order; Buyer to pay Seller the fair value of such items. Buyer's rights under this Paragraph 13 are in addition to and not in lieu of any other remedies available under this order or provided by law.

17. **SUBCONTRACTING AND/OR ASSIGNMENT BY SELLER.** No contract shall be made by Seller with any other party for furnishing any of the completed or substantially completed products, nor shall Seller sell and/or assigns this purchase order or any part hereof or any monies due or to become due hereunder without the prior written approval of Buyer.

18. **LABOR DISPUTES.** Whenever Seller has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance or delivery of this order, Seller shall immediately give notice thereof to Buyer. In the event of delay as a result of such dispute for a period greater than ten (10) days, Buyer may, terminate this order in accordance with Paragraph 12 above.

19. **REMEDIES, WAIVER.** The remedies herein set forth shall be cumulative and additional to any other or further remedies provided in law or equity. No failure by Buyer to exercise any of the rights hereunder and no partial or single exercise thereof shall constitute a waiver of such rights. No waiver by Buyer of any obligation or breach of any provision or provisions hereof shall constitute a waiver of any obligation, past or future, hereunder or any other reoccurring breach of this or any other purchase order.

20. **WORK ON BUYER'S OR ITS CUSTOMER'S PREMISES.** If Seller's work under this order involves operations by Seller on the premises of Buyer or one of Buyer's customers. Seller shall take all necessary precautions to prevent the occurrence of any injury to persons or property during the progress of such work, and except to the extent that any such injury is due solely and directly to Buyer's or its customer's negligence, as the case may be, shall defend and indemnify, save and hold harmless Buyer, or its customers, as the case may be, from and against any and all suits, liabilities, demands, costs and expenses (including reasonable attorneys' fees) for injuries to persons, loss of life or damage to property arising out of or claimed to have arisen out of or in connection with or by reason of any act or omission of Seller, its agents, employees or subcontractors, and Seller shall maintain and furnish Buyer with copies of such public liability, property damages and employer's liability compensation insurance and will protect Buyer or customer, as the case may be, from said risks and from any claims under any applicable Workmen's Compensation and Occupational Disease Act.

21. **BILL OF LADING, INVOICES.** Original bills of lading shall be delivered to Buyer, or if shipment is not made by railroad, comparable documents shall be mailed to Buyer at the time of shipment. Seller shall send a separate invoice for each purchase order.

22. **PACKAGES, EXTRA CHARGES.** All packages must bear Buyer's order number. No charges of any kind, including charges for boxing, packaging or cartage, will be allowed unless specifically agreed to by Buyer in writing. Price based on weight shall be determined according to net weight of material unless otherwise agreed in writing by Buyer.

23. **PRICING.** Seller warrants and represents that the prices for the articles sold to Buyer under this order are not less favorable than those currently extended to any other customer for the same or like articles in equal or less quantities. In the event Seller reduces its prices for such articles during the terms of this order, Seller agrees to reduce the prices hereof correspondingly.

24. **TRANSPORTATION.** Transportation charges on products, delivered destination, must be Ex-Works unless otherwise specified in Buyer's Purchase Order. No parcel post insurance charges will be allowed unless authorized in writing by Buyer.

25. **DELIVERY SCHEDULE.** Time and rate of deliveries are of the essence of this order. Unless otherwise agreed to in writing by Buyer, Seller shall not make material commitments or production arrangements in excess of the amount or in advance of the time necessary to meet delivery schedule. Goods shipped to Buyer in advance of or later than shipping date specified on delivery schedule may be rejected or returned to Seller at Seller's expense.

26. **QUANTITY.** It is Seller's responsibility to furnish the proper quantity called for in this purchase order. No variations in the quantity specified herein will be accepted as compliance with this order, except by prior written agreement. Buyer reserves the right to return excess shipments at Seller's expense.

27. **PAYMENT.** Payment shall be based upon, and any discount and late payment periods shall begin to run from the later of the dates (i) Buyer receives an acceptable invoice, (ii) Buyer receives acceptable products, or (iii) specified by Buyer for delivery of the products. Buyer shall have the right to offset any claims or amounts due to Seller under this order or otherwise against any claims or amounts owed by Seller to Buyer by reason of this order or otherwise.

28. **TITLE AND RISK OF LOSS.** Seller shall not reserve title or a security interest in goods shipped to Buyer. For items shipped F.O.B. Seller's facility and for which Seller has no obligations to assemble, install or test at destination, the risk of loss or damage shall pass to Buyer upon delivery of the item properly packed to the carrier, for items shipped F.O.B. destination and for which Seller has no obligation to install or assemble at destination, the risk of loss or damage shall pass to Buyer upon delivery of the item upon Buyer's dock; for items for which Seller has the obligation to assemble or install at destination, the risk of loss or damage shall not pass to Buyer until final acceptance regardless of F.O.B. point.

29. **FAIR LABOR STANDARDS ACT.** By acceptance of this order Seller hereby certifies that the goods covered by this order will be produced in compliance with all applicable requirements of the Fair Labor Standards Act of 1938, as amended, including Section 12(a) thereof, as amended, and of the regulations and orders issued thereunder.

30. **EQUAL EMPLOYMENT OPPORTUNITY.** Unless exempt from the terms of Executive Order 11246 of September 24, 1965, as amended, the Seller agrees that:

(1) Within the one year period beginning on the date of this Purchase Order, the Equal Opportunity clause contained in OFCC Rules and Regulations 60.14(a), paragraphs (1) through (7) and the Affirmative Action for Handicapped Workers clause contained in OFCC Rules and Regulations 60-741.4, paragraphs (a) through (f) shall be considered to be part of every contract, subcontract or purchase order between Seller and Buyer;

(2) Upon receipt of any contract, subcontract or purchase order amounting to \$50,000 or more with Buyer, Seller will file with the appropriate federal agency on or before March 31 of each year or within such other period permitted or required by Executive Order 11246, as amended, complete and accurate reports on Standard Form 100(EEO-1);

(3) Seller has developed and is currently maintaining a written Affirmative Action Program at each of its establishments pursuant to all the terms of the regulations promulgated under Executive Order 11246, as amended and as contained in OFCC Rules and Regulations Section 60-741.5. In accordance with those regulations, the Seller agrees and certifies that if such a program has not been developed, such a program or programs will be developed within one hundred twenty (120) days from the commencement of a contract, subcontract, or purchase order with Buyer in the amount of fifty thousand (\$50,000.00) or more.

31. **NONSEGREGATED FACILITIES.** The Seller certifies to Buyer that it does not maintain or provide for his employees any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any location under its control, where segregated facilities are maintained, Seller certifies further that it will not maintain or provide for his employees any segregated facilities at any of its establishments and that it will not permit its employees to provide their services at any location, under its control where segregated facilities are maintained. The Seller further agrees that a breach of this certification is a violation of the Equal Opportunity paragraph in any of the contracts between Seller and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are, in fact, segregated on the basis of race, creed, color and national origin because of habit, local custom or otherwise.

32. **OCCUPATIONAL SAFETY AND HEALTH ACT.** All items supplied under the terms of this purchase shall be certified by the Seller to be in compliance with the requirements and standards of the Occupational Safety and Health Act of 1970 (Public Law 91-596), as amended, and all regulations and orders promulgated thereunder. In addition, where required, hazardous material data sheets will be supplied on all applicable products. Failure of Buyer to contest a citation resulting from non-compliance of these items will not relieve the Seller of liability under this warranty. Seller warrants that each and every chemical substance delivered under this purchase order shall, at the time of sale, transfer or delivery, be on the list of chemical substances compiled and published by the administrator of the environmental protection agency pursuant to section 8 of the toxic substances control act. (Public Law 94-469).

**PURCHASE ORDER TERMS AND CONDITIONS – End of Document -----**