

STANDARD TERMS AND CONDITIONS OF SALE

1. **General.** These Terms and Conditions set forth the terms and conditions pursuant to which the purchaser ("Purchaser") will purchase and AMADA MACHINERY AMERICA, INC. ("Seller") will sell parts and accessories (excluding parts requiring programming) pertaining to Amada Machinery equipment ("Products") via both Seller's e-commerce sites ("online sales") and other sales channels ("traditional sales"), and shall apply to this agreement and any subsequent sales by Seller to Purchaser. These Terms and Conditions do not apply to the sale of blades or other machines.

2. **Orders.** All orders of Purchaser shall, unless otherwise agreed in writing by Seller, be made via one of Seller's websites. Such orders shall be limited and subject to acceptance of these Terms and Conditions and no additional, inconsistent or contrary terms shall become part of this agreement or any sale of Products to Purchaser unless specifically accepted in writing by Seller.

3. **Acceptance/Return.** All orders for Products shall be subject to acceptance by Seller at its office in Brea, California. Purchaser shall not return and is not entitled to credit for any Products that are electrical or electronic components or were made to order, discontinued, or customs products. Purchaser must request a return merchandise authorization ("RMA") within 30 days of receipt of any returnable Products. Returned Products must be in like-new condition and in their original packaging. Seller will assess a 20% restocking charge on all returned Products other than blades.

4. **Price.** Prices shall be those in effect at the time of order entry. Prices, discounts and any other incentives are subject to change by Seller without notice. Seller's prices do not include sales, use, excise or similar taxes. Consequently, the amount of any present or future sales, use or other similar tax applicable to the sale or use of the Products shall be paid by Purchaser.

5. **Payment/Delinquency Charge.** Payment is due at the time of ordering. If Seller extends credit to Purchaser on a traditional sale, unless agreed otherwise, payment terms are net thirty (30) days from the date of Seller's invoice. Seller reserves the right to charge interest at the rate of 1.5% per month (but not more than the maximum percentage permitted by law) on all balances not paid by Purchaser within the designated net terms. For all online sales, Purchaser must make payment by credit card at the time of ordering.

6. **Delivery and Freight Charges.** All delivery dates are approximate and based upon the prompt receipt of all necessary information from Purchaser. Unless otherwise instructed, Seller will ship products via nationally recognized economical carrier. All sales/transactions on this site are FOB SHIPPING POINT, once a part ships (and appears on carrier's tracking system) it is the property of Purchaser with cost of freight to be charged to Purchaser. Title and risk of loss shall pass to Purchaser from the time the parts ship. Notwithstanding the provisions contained in these Terms and Conditions to the contrary, Seller shall not be responsible or liable for any loss or damage whatsoever, including loss of income and/or profits, incidental, special or consequential damages resulting from Seller's delayed performance in shipment or delivery of the Products for any reason whatsoever. All freight charges are stated on Seller's invoices and are part of Seller's payment terms.

7. **Warranty.** Seller warrants that the Products sold hereunder will be free from defects in material and workmanship for a period of thirty (30) days from the date of shipment from Seller's facility. **SELLER'S WARRANTY HEREIN IS IN LIEU OF AND EXCLUDES ALL OTHER WARRANTIES OF SELLER, ITS PARENT AND AFFILIATED ENTITIES AND THE MANUFACTURER OF THE PRODUCTS IF DIFFERENT (COLLECTIVELY, "Manufacturing and Selling Parties"), WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE CREATED UNDER APPLICABLE LAW, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY AND ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR USE. IN NO EVENT SHALL SELLER OR THE MANUFACTURING AND SELLING PARTIES BE LIABLE (AND PURCHASER SHALL NOT ASSERT ANY CLAIM) FOR SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFITS. PURCHASER'S SOLE AND EXCLUSIVE REMEDIES UNDER THIS WARRANTY SHALL BE LIMITED, AT SELLER'S EXCLUSIVE DISCRETION, TO: (1) REPLACEMENT OF ANY DEFECTIVE PRODUCTS OR PART THEREOF; OR (2) REPAIR OF ANY DEFECTIVE PRODUCTS OR PART THEREOF; OR (3) RETURN OF THE PURCHASE PRICE FOR ANY DEFECTIVE PRODUCT OR PART THEREOF.** The warranty and remedy set forth above are conditioned upon the proper storage, use and maintenance of the Products and conformance with all applicable recommendations of the Manufacturing and Selling Parties with respect to the Products. No agent, employee or representative of Seller (or any distributor, dealer or sales representative of Seller) has the authority to bind Seller to any affirmation, representation or warranty concerning the Products sold hereunder, and unless such affirmation, representation or warranty is specifically included in these Terms and Conditions, it will not form a part of the basis of these Terms and Conditions and shall in no way be binding upon the Seller or enforceable by Purchaser.

8. **Patent Infringement.** Seller's liability for patent infringement (and the liability of the Manufacturing and Selling Parties) is limited to Seller's defense of any suit or proceeding brought against Purchaser based on a claim that the Products sold hereunder, when employed in the manner intended by Seller, constitutes an infringement of any patent of the United States. If Purchaser's use of the Products in the manner intended by Seller is finally enjoined, Seller

shall, at its option, procure for Purchaser the right to continue using the Products, replace the same with non-infringing Products, modify the Products so that they become non-infringing, but equivalent to the Products sold hereunder, or refund the purchase price (less allowance for use, damage or obsolescence). Seller makes no warranty against patent infringement resulting from portions of the Products made to Purchaser's specifications or the use of Products in combination with any other Products or in the practice of any process and if a claim, suit or action against the Manufacturing or Selling Parties is based thereon, Purchaser shall defend, indemnify and save Seller and the Manufacturing and Selling Parties harmless from and against any and all claims, losses or damages arising therefrom.

9. **Indemnification.** Should Purchaser incorporate any Products as a component part or parts into any other product(s) or good(s), whether finished, component or otherwise, Purchaser shall defend, indemnify and otherwise hold the Manufacturing and Selling Parties harmless from and against any and all claims, damages or injuries, of whatever nature, including, but not limited to property damage or personal injury claims, arising out of or relating to the performance of the Products or the finished product(s) or good(s).

10. **Arbitration.** (a) Except as provided in subparagraph (b) hereof, the parties agree that all disputes arising out of this Agreement, the purchase or sale of Products and/or the relationship of the parties shall be settled by submission for arbitration to the American Arbitration Association ("AAA") at Los Angeles, California under the Commercial Rules of Arbitration of the AAA. The parties agree to select a panel of three (3) arbitrators. Any judgment upon any award rendered by the arbitrators may be entered in any court having appropriate jurisdiction. Except as provided in subparagraph (b) hereof, if any suit or proceeding is filed in any court, the court shall, on application of one of the parties, stay the action until such arbitration has been had in accordance with these Terms and Conditions.

(b) The provisions of subparagraph (a) hereof to the contrary notwithstanding, Seller reserves the right to bring an action for equitable relief or replevin in an appropriate case, and the parties' agreement to arbitrate hereunder shall not stay or otherwise affect Seller's right to petition a court of competent jurisdiction for equitable relief in appropriate circumstances, or for the purpose of repossessing or replevining Products, provided, however, that all claims for money or money damages related thereto shall be referred to arbitration as aforesaid. Seller also reserves the right to bring an action for collection of monies owed, and the parties' agreement to arbitrate hereunder shall not stay or otherwise affect, Seller's right to petition a court of competent jurisdiction for such relief.

11. **Force Majeure.** Seller's obligations hereunder are subject to, and Seller shall not be held responsible for, any delay or failure to make delivery of all or any part of the Products due to acts or circumstances beyond the control of Seller, including, but not limited to, labor difficulties, fires, casualties, accidents, acts of God, acts of war or terror, transportation difficulties, inability to obtain Products, materials or components or qualified labor sufficient to timely perform part or all of any obligation, or governmental regulations or actions. In the event of the occurrence of any of the foregoing, at the option of Seller, Seller shall be excused from the performance hereunder or the performance of the Seller shall be correspondingly extended.

12. **Miscellaneous Provisions.** (a) These Terms and Conditions constitute the entire agreement between Seller and Purchaser as it relates to the purchase and sale of Products to Purchaser by Seller and the liability of the Manufacturing and Selling parties, and supersede any and all prior agreements, correspondence, quotations or understandings heretofore enforced between the parties relating to the subject matter hereof.

(b) If any term or condition or part of these Terms and Conditions is held invalid, the remaining terms and conditions hereof shall not be affected thereby.

(c) These Terms and Conditions may be modified, canceled or rescinded only by a written agreement by both parties executed by their duly authorized agents.

(d) All rights available to Seller under the Uniform Commercial Code except as specifically limited or excluded herein (even though not specifically enumerated), are reserved to Seller as remedies available in the event of default or breach by Purchaser.

(e) This agreement and any sale of Products to Purchaser shall be deemed to have been made in and governed by the substantive laws of the State of California, without regard to choice-of-law provisions.

(f) Any failure by either party to enforce at any time any term or condition hereof shall not be considered a waiver of such party's right thereafter to enforce the same or any other term or condition hereof.

(g) These Terms and Conditions shall be binding upon the successors and legal representatives of Purchaser and Seller.

13. **Security Interest.** To secure any indebtedness due and owing from Purchaser from time to time, Purchaser hereby grants to Seller, and Seller hereby reserves unto itself, a continuing purchase money security interest in any and all Products heretofore or hereafter sold or delivered to Purchaser by Seller, and all related parts, components and accessories therefor, and all proceeds arising from the sale or other disposition of the foregoing, including, but not limited to, cash, accounts, contract rights, accounts receivable, instruments and chattel paper. Purchaser shall at no time grant any security interest in conflict with that granted to Seller herein.