

CONDITIONS OF SALE

Revised 07/2018

CONTRACT ACCEPTANCE. All quotations are valid for thirty (30) days from the date stated on the quotation unless otherwise agreed to in writing by Screw Conveyor Corporation (“SCC”) and shall expire immediately thereafter. A binding contract for the sale, purchase, and shipment of a conveyor, conveyor good(s), product(s), part(s), material(s), and/or component(s) (hereinafter “Conveyor”) is completed when a Quotation has been duly executed by Purchaser and SCC, and is received at the Hammond, Indiana office of SCC prior to expiration of such Quotation (the “Contract”). SUCH CONTRACT SHALL DEEMED TO INCORPORATE THESE CONDITIONS OF SALE (THE “CONDITIONS”) AND THE TERMS OF SUCH CONTRACT SHALL BE EXPRESSLY LIMITED TO THOSE SET FORTH ON THE QUOTATION, ANY PURCHASE INVOICE, AND THESE CONDITIONS, AND SHALL NOT BE MODIFIED, SUPPLEMENTED, RESCINDED, EXPLAINED, OR WAIVED BY PAROL EVIDENCE, COURSE OF DEALING, USAGE OF TRADE, THE PARTIES’ SUBSEQUENT PERFORMANCE, CONDUCT, OR DELIVERY, OR ANY OTHER MANNER EXCEPT BY A DULY EXECUTED WRITTEN AGREEMENT BETWEEN SCC AND PURCHASER. IN THE EVENT OF ANY INCONSISTENCY BETWEEN A TERM OF THESE CONDITIONS AND ANY OTHER TERM OF THE CONTRACT, THE TERM OF THESE CONDITIONS SHALL GOVERN. SCC HEREBY OBJECTS TO ANY ADDITIONAL OR DIFFERENT TERMS THAT MAY BE PROPOSED OR CONTAINED IN ANY RESPONSE TO THE CONTRACT BY PURCHASER.

FUTURE CONTRACTS. These Conditions of Sale shall apply to the Contract and all future contracts entered into between SCC and the Purchaser, except as modified or otherwise waived by SCC in writing.

USE OF CONVEYOR. In all actions related to the Conveyor, Purchaser agrees to strictly comply with the Contract, all written and verbal safety instructions provided by SCC, including but not limited to SCC’s safety manual received with the Conveyor, which Purchaser acknowledges having received and reviewed, and SCC’s other safety, assembly, design and operational policies, instructions, manuals, and plans, the Williams-Steiger Occupational Safety and Health Act (OSHA), the American National Standard Institute safety code, rules and regulations of the Occupational Safety and Health Administration, and all other applicable federal, state, and local laws, rules, and regulations (collectively the “Rules”), now existing and hereinafter adopted. SPECIFICALLY, PURCHASER ACKNOWLEDGES THAT, IN ASSEMBLING AND OPERATING THE CONVEYOR:

- A) ALL TROUGH AND COVERS OR TROUGHS WITHOUT COVERS OR COVERS WITHOUT TROUGHS SHALL BE DRILLED FOR BOLTS IN ALL 4 CORNERS AS SHOWN ON THE DRAWING ATTACHED AS EXHIBIT A;
- B) ALL TROUGHS AND COVERS THAT ARE ON AN ASSEMBLED ORDER OR A PARTS ORDER SHALL HAVE THE COVER PLACED ON THE TROUGH AND BOLTED IN ALL 4 CORNERS;
- C) COVERS SHALL BEGIN AND TERMINATE AT THE TROUGH CONNECTING FLANGE AND SHALL NOT OVERLAP WITH THE TROUGH ENDS;
- D) PURCHASER IS SOLELY RESPONSIBLE FOR THE SAFE OPERATION OF THE CONVEYOR AND USE OF CONVEYOR IN COMPLIANCE WITH OSHA AND MINE SAFETY AND HEALTH ADMINISTRATION (MSHA) REGULATIONS FOR CONVEYOR INTALLATION, OPERATION, GUARDING, AND TRAINING; AND
- E) THERE IS INCREASED RISK OF INJURY OR DEATH IF THE CONVEYOR IS NOT INSTALLED AND OPERATED IN COMPLIANCE THE RULES AND THE FOREGOING.

Purchaser acknowledges that its compliance with the Rules is a material term and condition of this Contract. Purchaser shall require any third party operating, installing, or otherwise using the Conveyor to execute a written agreement requiring it to abide by the terms and conditions set forth herein prior to such party’s operation, installation, or other use of the Conveyor.

INDEMNIFICATION. Purchaser agrees to indemnify and hold harmless SCC and its directors, officers, shareholders, and employees, from and against all claims, demands, causes of action, liability, loss, or expense (including reasonable attorneys’ fees) arising from or relating to the use of the Conveyor by a third party or Purchaser’s: (1) negligence or willful misconduct; (2) misuse, abuse, alteration, modification, or negligent or improper operation or storage of the Conveyor; (3) deviation from or failure to comply with the Rules; or (4) breach of the Contract.

LIMITED WARRANTY AND DISCLAIMER.

A) THE LIMITED WARRANTY CONTAINED HEREIN SHALL BE IN LIEU OF ANY OTHER WARRANTY, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, INTENDED USE, OR MERCHANTABILITY, SAID WARRANTIES, AND ALL OTHER WARRANTIES EXCEPT THE EXPRESS LIMITED WARRANTY CONTAINED HEREIN, BEING EXPRESSLY DISCLAIMED.

B) WHERE APPLICABLE LAW PROHIBITS THE DISCLAIMER OF AN IMPLIED WARRANTY PRIOR TO THE EXPIRATION OF AN EXPRESS WARRANTY, THEN, AND ONLY IN THAT CASE, SCC’S DISCLAIMER OF SUCH IMPLIED WARRANTY SHALL TAKE EFFECT IMMEDIATELY UPON THE EXPIRATION OF THE EXPRESS LIMITED WARRANTY SET FORTH HEREIN. PURCHASER ACKNOWLEDGES THAT ITS ACCEPTANCE OF SCC’S DISCLAIMER OF WARRANTIES IS A MATERIAL TERM AND CONDITION OF THE CONTRACT.

C) SCC warrants that the Conveyor shall be free from defects in material and workmanship at the time of shipment to Purchaser and for one (1) year thereafter. SCC will repair or replace, at SCC’s option and cost, the Conveyor if it is shown to SCC’s satisfaction to have been defective prior to shipment to Purchaser, provided the Conveyor claimed defective is made available for SCC’s inspection within ten (10) days after the Purchaser gains knowledge of the purported defect. The method of reshipping shall determine by SCC in its sole discretion, and reshipping shall be at Purchaser’s expense. In no event shall SCC be responsible for the cost of disassembly, assembly, storage, or disposal of the Conveyor or any replacement thereof. This warranty shall not apply with respect to defects caused by: (1) normal wear and tear; (2) accident, disaster, or event of force majeure; (3) negligence or willful misconduct by a party other than SCC; (4) misuse, abuse, alteration, modification, or negligent or improper operation or storage of the Conveyor by a party other than SCC; (5) deviation from or failure to comply with the Rules by any party other than SCC; or (6) breach of the Contract by any party other than SCC. Furthermore, this warranty shall terminate immediately upon any sale, assignment or other transfer of the Conveyor by Purchaser. SCC does not warrant the uninterrupted or error-free operation of the Conveyor or that SCC will correct all defects in the Conveyor. This warranty is not transferable.

LIMITATION OF LIABILITY. EXCEPT AS PROHIBITED BY LAW, SCC SHALL NOT BE LIABLE TO PURCHASER OR ANY OTHER PARTY FOR PUNITIVE, SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT, OR OTHER SIMILAR DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES OR COSTS INCURRED AS A RESULT OF LOSS OF TIME, LOSS OF PRODUCTION, LOSS OF PROFITS OR REVENUE, OR LOSS OF USE OF THE CONVEYOR.



CONDITIONS OF SALE

Revised 07/2018

TITLE AND SECURITY INTEREST. SCC may transfer possession of the Conveyor to Purchaser prior to Purchaser's payment of the full amount due to SCC under the Contract. In such a case, it is hereby agreed that: (1) Purchaser grants SCC a security interest and first lien in the Conveyor and any proceeds of Purchaser's transfer of the Conveyor and authorizes SCC to file the Contract and a UCC financing statement with the appropriate governmental offices to perfect such security interest and secure SCC's right to payment under the Contract; (2) Upon Purchaser's breach of the Contract, SCC shall be permitted to enter the Purchaser's premises to peacefully repossess the Conveyor or to receive the proceeds thereof and take any other actions permitted of a secured party under the UCC; (3) No part of the Conveyor shall be considered a fixture or incorporated into realty by virtue of its attachment to such realty; and (6) SCC shall have the right to file a mechanic's lien against the property upon which the Conveyor is situated and waive SCC's rights to repossess under items (1) and (2) of this paragraph any time before expiration of the time fixed by law for filing such mechanic's lien.

COSTS OF ENFORCEMENT. In the event that SCC files suit or takes other action to enforce the Contract or its rights thereunder, SCC shall be entitled to reimbursement from Purchaser for all costs and expenses SCC incurs, including, without limitation, reasonable attorney fees and other costs of collection.

CREDITWORTHINESS. Purchaser authorizes SCC to obtain independent credit reports and other information from third parties and hereby authorizes such third parties to release information to SCC that may be used to determine Purchaser's creditworthiness. Any unfavorable information may be grounds, at SCC's sole discretion, for SCC to terminate or refuse to fulfill any purchase order request, or extend or continue credit to Purchaser, including declaring the full payment due under the Contract to be immediately due and payable. In addition, Purchaser agrees to furnish SCC financial statements and other information which SCC may request, from time to time, to evaluate Purchaser's financial condition and creditworthiness. Purchaser represents that any information it provides to SCC concerning its financial condition and creditworthiness shall be true and correct and that Purchaser shall keep SCC informed in writing of any material change in any such information.

RISK OF LOSS. All risk of loss and damage to the Conveyor shall immediately transfer and be sole the responsibility of Purchaser when possession is tendered to a shipping carrier for shipping to Purchaser. SCC shall have no responsibility with respect to claims for shortages or damage to the Conveyor while in transit.

SCREW CONVEYOR CORPORATION

By: _____

Date: _____

PROMISE OF DELIVERY. Promise of delivery represents only SCC's estimate of time necessary to complete work with respect to the Conveyor and failure to complete delivery by the estimated time shall not entitle Purchaser to cancel the Contract or its obligation to make full payment due to SCC thereunder.

CANCELLATION. In no event shall the Contract be subject to cancellation by Purchaser, except as agreed to in writing by SCC, at its sole discretion.

FREIGHT ALLOWANCE. All prices are ex-factory. Proposals or quotations which are based upon freight allowance to first destination will have freight prepaid to freight terminal or nearest railroad siding at destination. Any extra transportation costs incurred by Purchaser shall be at Purchaser's own specific routing instructions and shall be borne by the Purchaser.

RETURN OF GOODS. The Conveyor shall not be returned to SCC for credit without SCC's written preauthorization, which SCC may withhold in its sole discretion. SCC reserves the right to replace or substitute any Conveyor for similar or comparable goods, at its election. Purchaser shall be solely responsible for all costs and any damage associated with return shipping of a Conveyor and SCC reserves the right bill Purchaser for said costs or damages, or to deduct any shipping costs or damages from the Purchaser's refund or exchange price.

SPECIAL TAXES. Any imposed duty, tariff or ewage, or any federal, state, or local tax, if and when assessed, shall be paid by Purchaser.

SAFETY DEVICES. SCC shall not be required to furnish any safety devices except those specified in the Rules or except as otherwise agreed to in writing by SCC and Purchaser.

GOVERNING LAW. The Contract shall be governed, construed and enforced in accordance with the laws of the State of Indiana without regard to its conflict of laws principals. Venue for any and all suits arising hereunder shall be with the courts of the State of Indiana and of the United States District Court for the Northern District of Indiana located in Lake County, Indiana and Purchaser agree to submit to the jurisdiction of such courts with respect to any such suits.

THIRD-PARTY BENEFICIARIES. This Contract is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever.

For: _____ (Print)

By: _____ (Sign)

Date: _____

CONDITIONS OF SALE

Revised 07/2018

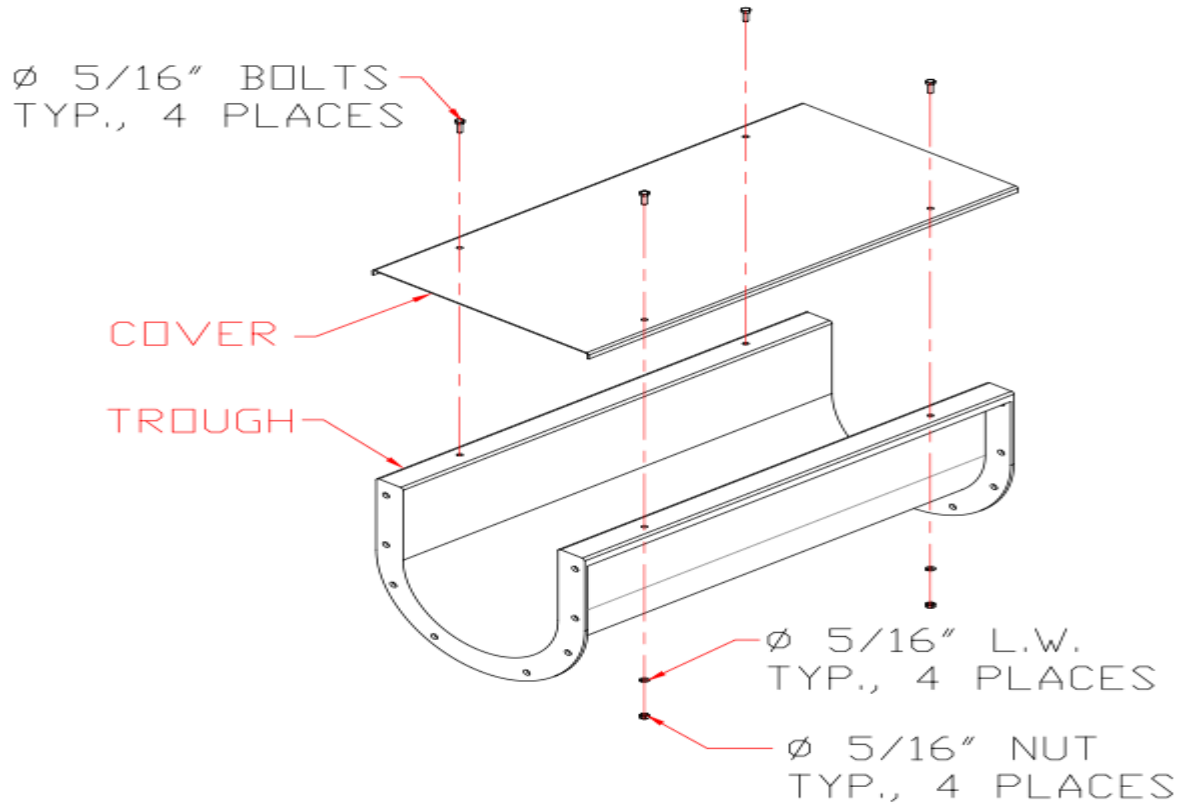


EXHIBIT A