1. Definitions

a) “Buyer” means the purchaser of the Goods or Services which are the subject of these Terms and Conditions.

b) “Contract” or “Order” means the written contract between the Buyer and Seller for the provision of Goods or Services, consisting of (i) the Buyer’s purchase order (but specifically excludes any pre-printed terms and conditions contained in or incorporated by reference into such purchase order) and the written acknowledgment of such order by Seller, (ii) these Terms and Conditions, and (iii) any written addendum to the Contract signed by both Buyer and Seller, such as the “as sold proposal” of Seller or other technical addendum.

c) “Goods” means the equipment sold by the Seller pursuant to these Terms and Conditions.

d) “Services” means field service, installation, supervisory or other labor services sold by the Seller pursuant to these Terms and Conditions.

e) “Seller” means Kadant Johnson LLC.

f) “Terms and Conditions” means these Terms and Conditions, which apply to any order approved and accepted by Seller and which may not be modified except in writing in accordance with the provisions stated in these Terms and Conditions.

2. Orders

Acceptance. All orders are subject to approval and acceptance by Seller. No order is considered accepted until officially acknowledged in writing by Seller on its standard form of acknowledgment which contains or incorporates by reference these Terms and Conditions.

Right to Refuse Order. Seller may reject any order.

Cancellation. Once Seller has accepted an order, the Buyer cannot change or cancel that order without Seller's written consent. Seller reserves the right to charge restocking (for normally stocked items) or cancellation fees for returned items. Within 30 days of cancellation, the Buyer shall pay Seller's reasonable costs and expenses (such as engineering expenses and commitments to suppliers and subcontractors and other expenses incurred by Seller) plus a normal and reasonable markup of 15% of the contract value with respect to any canceled order.

Changes. The Buyer may request in writing changes in the drawings and specifications, shipping instructions, and shipment schedules of the Goods. As promptly as possible after the receipt of that request, Seller will advise the Buyer of what changes to the Contract, if any, may be necessary because of the requested changes (such as changes...
in price, specifications, and shipment schedule). If the Buyer accepts the proposed amendments in writing, Seller will make the requested changes. Seller may make minor changes in details of design, construction, or arrangement of the Goods that, in its judgment, constitute an improvement over the former design as described in the specifications without the approval of Buyer.

*Suspending Performance.* If in Seller's judgment reasonable doubt exists about the Buyer's financial responsibility, or if the Buyer is past due in payment of any amount that it owes Seller, Seller may, in its sole discretion, take any or all of the following actions: (1) suspend manufacturing, (2) refuse to ship, (3) stop the shipment of any Goods ordered by the Buyer until Seller has been paid in full, whether or not the Buyer has given adequate assurance of payment, (4) sell all or any part of the Goods to another party, (5) store the Goods at the expense of the Buyer, and (6) terminate the Contract and recover damages.

3. **Prices and Payment**

*Published Prices.* All published prices are subject to change by Seller without notice. Orders for Goods subject to published prices shall be sold at the price in effect at the time of shipment.

*Validity of Quoted Prices.* The prices quoted for any order (other than pre-published prices) are valid for 30 days from the date of the quotation or such other period as may be stated in the written quotation. Seller has the right to adjust the quoted prices after acceptance by Buyer in the event of:

- changes in the Goods or in shipping or delivery instructions (including delays) due to changes requested by Buyer;
- changes in the Goods necessitated by changes in assumed or actual operating conditions; and
- changes in the prices of raw materials or the materials furnished by others included in the quotation.

The quotation may be subject to price escalation. If applicable, details of the escalation clause will be attached as a separate condition of sale.

*Services.* All Services performed by Seller personnel will be charged at its prevailing service rate plus all expenses, transportation, materials, and parts.

*Taxes.* All taxes, duties, and other governmental charges for the production, sale, and shipment of the Goods, whether imposed by federal, state, municipal, or other authorities, must be paid by the Buyer in addition to the quoted price.

*Terms.* Terms of payment are Net 30 days. An interest charge of 1% per month will be assessed on all late payments.
Security Interest. Buyer hereby grants a security interest in the Goods to secure the payment of the obligations of the Buyer under the Contract. The Buyer authorizes Seller to (i) execute and file any Uniform Commercial Code financing statements and other documents that Seller deems appropriate to evidence the Seller’s security interest and (ii) notify any other creditors of Buyer that have filed financing statements that Seller claims title to and/or a security interest in the Goods. Until the Seller receives payment in full for the Goods, the Goods shall be kept at all times at the Buyer’s place of business as set forth in the Contract and shall not be removed to any other location and Buyer shall insure the Goods against risk of loss in an amount not less than the replacement value of the Goods, and, if requested by Seller, shall name Seller an additional insured to the extent of its interest in the Goods.

4. Shipping and Delivery

Delivery. Unless otherwise set forth in the order, pricing includes delivery FOB Seller’s plant. All other charges, including shipping, insurance, and otherwise, from the point of delivery shall be for the Buyer’s account.

Shipping Dates. Shipping and delivery dates are approximate and subject to change.

Delay and Failure to Perform. Seller will not be liable for any delay in delivery or shipping or failure to perform all or part of any order that is caused by (i) delays in the receipt of signed documentation evidencing a Contract, (ii) Buyer’s delay or failure to approve required specifications and manufacturing drawings or provide information necessary for producing the Goods, (iii) any delay or failure of Buyer to pay when due any amounts payable under the Contract or other delays in the reasonable control of Buyer, and (iv) any event that is beyond Seller’s reasonable control or other events constituting force majeure (such as labor disturbances, non-delivery of materials by Seller's suppliers, embargoes and other trade actions, hostilities and acts of governments, and natural conditions or events). If delivery or performance is delayed or interrupted because of any event that is beyond Seller's reasonable control, Seller may store the Goods at the Buyer's expense and risk and may charge a rate similar to that charged by a public warehouse. If Seller cannot fulfill its commitments to all customers because of an event that is beyond Seller's reasonable control, the Buyer agrees to accept as Seller's full and complete performance deliveries that conform to any plan or proration that Seller has adopted.

Title. When Seller delivers the Goods to a common carrier or storage facility, the risk of loss is transferred to the Buyer at that time. Title to and ownership of the Goods shall be retained by Seller until Seller receives payment in full for the Goods.

Packaging. Seller will pack the Goods in packaging that is adequate, under normal conditions, to protect the Goods in shipment and identify the contents of the shipment. Buyer must specify special packaging and certification requirements on the face of the purchase order.
Routing. Seller will select the mode of transportation based on cost or other factors, unless the Buyer requests otherwise at its expense.

Inspection and Claims. The Buyer will promptly examine the Goods upon receipt of shipment. Any claims for loss or damage in transit and shortages in shipped quantities must be made in writing to Seller at the time of delivery. Any other claims for non-conformance or other grounds for rejection of shipped Goods must be made in writing to Seller within thirty (30) days after receipt of shipment. Shipment will be deemed to have been accepted and proper in all respects absent such notice. Seller will be given a reasonable opportunity to investigate any claims. The Buyer must set aside and hold all such Goods without further processing, until Seller advises the Buyer of the disposition to be made of the Goods. All dismantling, installation, and shipping costs that result from the Buyer's making a claim under the Contract must be paid by the Buyer.

5. Returns

The Buyer may not return any Goods without Seller's prior written authorization. Seller may charge a handling, restocking or cancellation fee for any Goods returned by the Buyer.

6. Warranty

Scope of Warranty. Seller, the manufacturer of the Goods sold under the Contract, warrants that its Goods are free of defects in material and workmanship and shall reasonably conform to specifications published by Seller or included in the final “as sold” quotations provided by Seller and applicable to such Goods when used by competent trained personnel for a period of one year from the shipment date. Services provided to Buyer by Seller personnel at Buyer’s site shall be performed in a good, workmanlike manner in accordance with industry standards and warranted for a period of ninety (90) days after completion of the Service provided.

Equipment Supplied by Others. Notwithstanding any other provision of these Terms and Conditions, materials or equipment manufactured by persons other than the Seller are sold exclusively under such warranty as the manufacturer provides to Seller. As an accommodation to Buyer, Seller will assign to the Buyer any rights it may have arising out of the warranties given to Seller by any manufacturer of materials or equipment purchased by Seller and resold to Buyer, to the extent permissible or enforceable by the Seller. In no event shall Seller be responsible to Buyer for warranties on purchased equipment or materials that are more extensive than the warranty provided to Seller by the manufacturer.

Warranty Exclusions. This warranty does not extend to any Goods that are: (1) subjected to misuse, abuse, neglect, accident, improper repair, improper installation or abnormal operation; (2) installed, altered or repaired by persons not authorized by Seller; (3) damaged during shipment; (4) consumable parts; (5) normal wear and tear; or (6) not manufactured or designed by Seller.
Disclaimer. SELLER MAKES NO OTHER REPRESENTATIONS OR WARRANTIES WHATSOEVER, EITHER EXPRESS OR IMPLIED, IN FACT OR IN LAW, EXCEPT AS STATED IN THIS PARAGRAPH 6. SELLER DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR ANY PARTICULAR PURPOSE.

7. Buyer Remedies

Scope of the Buyer's Remedies. Seller's only liability with respect to the Goods sold under this Contract will be, at Seller's option: to repair or to replace those Goods that do not meet the limited warranty stated in this Contract; to refund some or all of the purchase price of those Goods; or to allow credit for some or all of those Goods. Seller's total liability arising in any way from the Goods sold under this Contract shall not in any case exceed the purchase price paid by the Buyer for those Goods. BUYER ACKNOWLEDGES THAT THE REMEDY EXPRESSED IN THIS PARAGRAPH IS ITS SOLE AND EXCLUSIVE REMEDY UNDER ANY AND ALL CIRCUMSTANCES.

Limitation of Liability. REGARDLESS OF WHETHER BUYER'S CLAIMS ARE BASED IN CONTRACT, TORT, NEGLIGENCE, BREACH OF WARRANTY, STRICT LIABILITY OR OTHERWISE, IN NO EVENT SHALL SELLER BE LIABLE FOR COMMERCIAL LOSSES, LOSS OF USE, LOST PROFITS, LABOR OR INSTALLATION EXPENSES, OR ANY INDIRECT, SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES OF ANY TYPE.

8. Intellectual Property and Technical Documentation

Descriptive Data. Specifications, including but not limited to weights, dimensions, capacities, performance ratings and other data, included in catalogs, brochures, advertisements or other published materials (including those published in electronic format or contained on the company’s website) are an approximate guide.

Ownership of Drawings and Technical Documents. Drawings, specifications, designs, computer programs, studies, projects, reports or technical documents prepared by Seller at any time remain the exclusive property and trade secret, confidential and proprietary information of Seller (collectively, “Drawings and Technical Documents”). These Drawings and Technical Documents may not be used by the Buyer or reproduced, transmitted, or communicated to a third party without Seller's written consent. The Buyer will be liable to Seller for any damages suffered if any Drawings or Technical Documents are transmitted by the Buyer to a third party without the prior written consent of Seller. All Drawings and Technical Documents are confidential and must not be used for any installation other than the one for which they were designed. Drawings and Technical Documents shall not be considered a “work for hire” or “work of authorship” conferring any ownership rights to Buyer, notwithstanding anything to the contrary contained in these Terms and Conditions or any terms and conditions of the Buyer.

Limited Use of Drawings and Technical Documents. Seller may provide its Drawings or Technical Documents to Buyer for Buyer’s internal use and not for any commercial use.
for the limited purpose of properly installing, operating and maintaining the Goods, subject to all of the provisions contained in this Paragraph 8.

**No Implied License.** The sale of the Goods under this Contract, and the provision of any Drawings or Technical Documents, does not give or imply any right or license to the Buyer to analyze or manufacture such Goods or to use, make or have made any such Goods.

**Buyer Approval.** Seller may submit its drawings to Buyer to confirm the scope of work and overall dimensions. In such circumstances, Buyer is required to provide all necessary information for Seller to complete its scope of work, including accurate measurements and interferences with other equipment, piping and wiring. Delivery dates are contingent upon prompt receipt of Buyer information and Buyer approval of drawings. Changes required after approval of drawings will be at Buyer’s expense, whether due to changes in the scope of work or due to inaccuracies in the information supplied by Buyer.

9. **Third Party Beneficiaries**

No provision of this Contract is intended or shall be construed to be for the benefit of any third party, including without limitation the contractors or employees of the parties.

10. **Miscellaneous**

**Entire Agreement.** These Terms and Conditions supersede all previous written and oral communications and agreements, and together with the Contract as defined herein, constitute the entire agreement between the parties with respect to the Goods. All sales and shipments will be only upon these Terms and Conditions unless Seller, in writing signed by its authorized representative, (1) accepts additional or different terms and conditions or (2) changes or waives any of these Terms and Conditions. In the event of any conflict between these Terms and Conditions and any such additional, different or changed terms, the provisions of these Terms and Conditions shall prevail. The preprinted terms and conditions that appear on any Buyer’s order or acceptance shall be of no effect on the subject matter hereof.

**Amendments and Waiver.** These Terms and Conditions and the Contract to which they apply may not be amended or modified except in writing, signed by an authorized representative of Seller. The delay or failure of Seller to require strict compliance with or complete performance of any obligation of Buyer hereunder shall not be construed as a waiver of any subsequent breach by Buyer.

**Severability.** If any condition or provision of this agreement is determined to be invalid or unenforceable, the remainder of this agreement will not be affected and each condition and provision of this agreement will be valid and enforced to the fullest extent permitted by law.
**Binding Effect.** These Terms and Conditions bind and benefit Seller, the Buyer, and their respective heirs, representatives, successors, and assigns; provided, that neither Seller nor the Buyer may assign any of its rights under the Contract without the prior written consent of the other party.

**Notices.** Any notice provided under this Contract shall be deemed delivered only upon actual receipt and shall be sent by certified mail, return receipt requested, express mail service, overnight courier service, or by hand delivery to the Seller at its address stated in the Contract.

**Governing Law and Forum Selection.** This Contract, and the rights and obligations of the parties to the Contract, will be governed by, construed and interpreted in accordance with Michigan law, without regard to conflicts of law. Any disputes arising out of this agreement will be brought in an appropriate court of competent jurisdiction in Michigan.

**Equal Opportunity.** The provisions of the “Equal Opportunity” clause made applicable to nonexempt federal contracts and subcontracts by Executive Order 11246 and the implementing regulations including 41 C.F.R. 60-1, 41 C.F.R. 60-250 and 41 C.F.R. 60-741, are incorporated into the Contract by reference, to the extent applicable. The Seller agrees that it shall comply with all applicable provisions.

**Independent Contractor.** Seller shall be considered an “independent contractor” in all respects when providing Goods, performing any Services or delivering any Drawings or Technical Documents to, for or on behalf of Buyer.

**Trade Sanctions.** The sale and re-sale of these Goods and Services are prohibited by U.S. law to certain countries, companies, organizations, individuals, and groups who are under U.S. trade sanction, as listed in the web site http://www.treasury.gov/ofac.

Effective: January 1, 2017