

## **BRADLEY LIFTING STANDARD TERMS AND CONDITIONS OF SALE FOR ENGINEERING SERVICES - DOMESTIC**

All sales of engineering services, design services, detail drawing services, consulting and training services, and inspection and analysis services by Bradley Lifting (collectively referred to herein as "Engineering Services") are subject to the following terms and conditions. All proposals, quotations or acknowledgments issued by Bradley Lifting are an offer to sell Engineering Services pursuant to these terms and conditions. Bradley Lifting objects to any additional or different terms contained in any documentation submitted by Customer. No waiver or modification of these terms and conditions shall be binding on Bradley Lifting unless authorized in writing by Bradley Lifting. Bradley Lifting's acceptance of any order is contingent upon the receipt of a valid purchase order from the Customer.

**SCOPE.** The scope of work for the Engineering Services to be provided to Customer is specifically set forth in the proposal, quote, or acknowledgment submitted to Customer by Bradley Lifting. If Customer requests a change in the scope of the Engineering Services to be provided, Bradley Lifting reserves the right to revise delivery schedules and make an equitable adjustment to the price. Customer acknowledges and agrees that Bradley Lifting is providing the Engineering Services only and is not providing or participating in the provision of any product(s). Bradley Lifting will not be obligated to provide any services which are (a) outside of the scope defined in the applicable documentation; (b) outside its area of expertise; or (c) in violation of any applicable laws, codes or regulations.

**CUSTOMER OBLIGATIONS.** Customer shall make available in a timely manner at no charge to Bradley Lifting all drawings, technical data, measurements, or other information and resources reasonably required by Bradley Lifting for the performance of the Engineering Services. Customer will be responsible for, and assumes the risk of any problems resulting from, the content, accuracy, completeness and consistency of all such data, materials and information supplied by Customer.

**PRICES/TAXES.** Prices for the Engineering Services are subject to escalation in the event of an increase in costs associated with the project. Unless otherwise stated or agreed, Bradley Lifting's prices do not include sales, use, or similar taxes.

**PAYMENT TERMS.** Standard payment terms are net 30 days for creditworthy customers. For all orders greater than \$50,000, progress payments will normally be required as specified in the quotation.

**LIMITED WARRANTY.** Bradley Lifting will provide the Engineering Services in accordance with generally accepted professional engineering practices using reasonable care and skill consistent with that ordinarily exercised by members of the profession under similar conditions. However, due to the nature of the Engineering Services being provided, Bradley Lifting cannot fully guarantee the success of Customer's project. As such, except as set forth in this Section, Bradley Lifting makes no warranties or guarantees, whether express, implied, or statutory, regarding or relating to the Engineering Services furnished under this Agreement. Bradley Lifting specifically disclaims all implied warranties of merchantability and fitness for a particular purpose with respect to the Engineering Services.

**REMEDY FOR BREACH OF THE LIMITED WARRANTY.** The parties acknowledge and agree that the Engineering Services are being provided by Bradley Lifting with the expectation that Bradley Lifting is not assuming any financial or operational risks of the Customer. In the event Bradley Lifting commits an error with respect to or incorrectly performs the Engineering Services, Bradley Lifting shall use commercially reasonable efforts to correct such error, or re-perform such Engineering Services at no cost to Customer. Customer acknowledges that its sole and exclusive remedy, and Bradley Lifting's sole and exclusive liability, for any defect or error in the Engineering Services shall be correction, re-performance or substitution of such services by Bradley Lifting.

**LIMITATION OF LIABILITY.** Bradley Lifting's liability for a claim of any kind arising out of the Engineering Services provided pursuant to this Agreement shall in no case exceed the price paid by Customer. In no event shall Bradley Lifting be liable for any special, indirect, incidental or consequential damages, including loss of profits or business interruption or loss of use of equipment, however caused arising from the Engineering Services provided pursuant to this Agreement.

**DELIVERY/FORCE MAJUERE.** Bradley Lifting shall have no liability for delays or any other breach of its obligations resulting from an Act of God, war, riot, explosion, accident, act of government, work stoppage, default of subcontractor or supplier of materials, or any other cause beyond the reasonable control of Bradley Lifting.

**CANCELLATION, SUSPENSION OR DELAY.** Customer may cancel an order for Engineering Services upon written notice to Bradley Lifting and payment of an agreed upon cancellation charge, which shall include all costs incurred by Bradley Lifting prior to the cancellation plus a reasonable profit. A purchase order may be suspended or delayed by Customer with Bradley Lifting's prior written consent. If Bradley Lifting agrees to a suspension or delay, Customer shall reimburse Bradley Lifting for all costs incurred up to the date of such suspension or delay, plus a reasonable profit. All other costs related to and risks incidental to resumption of the Services shall be borne by Customer.

**BRADLEY LIFTING'S PROPERTY.** Except as otherwise specifically set forth in the scope of work provided as part of the proposal or quotation, all documents, including drawings, specifications, computer files, electronic media, data, engineering calculations,

notes, and other documents and instruments prepared or furnished by Bradley Lifting (collectively the "Documentation") are the property of Bradley Lifting. Bradley Lifting shall retain all common law, statutory and other reserved rights, including copyright, applicable to the Documentation. The Documentation is not intended or represented to be suitable for use on any other project. Any reuse of the Documentation without written verification or adaptation by Bradley Lifting for the specific purpose intended is prohibited and will be at Customer's sole risk and without liability or legal exposure to Bradley Lifting. Customer agrees to defend, indemnify and hold Bradley Lifting harmless against all claims, damages, losses, and expenses (including reasonable attorneys' fees) arising from or in any way connected with the unauthorized use or modification of the Documentation by Customer or any person or entity that acquires or obtains the Documentation from or through Customer without the written authorization of Bradley Lifting.

**INTELLECTUAL PROPERTY RIGHTS.** Each party shall retain ownership of all intellectual property it had prior to commencement of the Engineering Services. However, Bradley Lifting shall own exclusively all rights in any ideas, inventions, or works of authorship created in or resulting from the Engineering Services, including but not limited to all patent rights, copyrights, moral rights, rights in proprietary information, trademark rights and other intellectual property rights, and Customer will execute assignments as necessary to achieve that result.

**UNAUTHORIZED CHANGES.** Bradley Lifting shall have no liability to Customer or others for changes made to the Documentation by Customer without Bradley Lifting's prior written approval.

**INDEMNITY.** Customer will defend, indemnify, and hold Bradley Lifting harmless from all claims, damages, losses, and expenses (including reasonable attorneys' fees) arising out of the provision of the Engineering Services by Bradley Lifting under this Agreement, including claims related to Bradley Lifting's use of Customer supplied drawings, measurements, data, or any other information provided by Customer that is used in performing the Engineering Services. However, in no event shall Customer be liable under this provision for claims arising out of the sole negligence or willful misconduct of Bradley Lifting.

**COMPLIANCE WITH LAWS.** The parties agree to comply with all applicable federal, state, or local laws in connection with the Engineering Services being provided pursuant to this Agreement.

**ASSIGNMENT.** Customer may not assign the Agreement between Bradley Lifting and Customer without the prior written consent of Bradley Lifting.

**THIRD-PARTY BENEFICIARIES.** Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against Bradley Lifting. Bradley Lifting's Engineering Services are being performed solely for Customer's benefit, and no party or entity shall have any claim against Bradley Lifting because of this Agreement or the performance or nonperformance of the Engineering Services.

**INDEPENDENT CONTRACTORS.** Each party will be and act as an independent contractor and not as an agent or partner of, or joint venture with, the other party for any purpose related to this Agreement or the transactions contemplated by this Agreement, and neither party by virtue of this Agreement will have any right, power, or authority to act or create any obligation, expressed or implied, on behalf of the other party.

**ENTIRE AGREEMENT.** This Agreement represents the entire and integrated Agreement between Customer and Bradley Lifting and supersedes all prior negotiations, representations or agreements either written or oral. This Agreement may be amended only by written instrument signed by both Customer and Bradley Lifting.