

**HYDRO SYSTEMS COMPANY
STANDARD TERMS AND CONDITIONS OF SALE**

Hydro Systems Company ("Seller") agrees to sell, and the buyer identified in Seller's quotations and in its order acknowledgements, and on the face of these Terms and Conditions of Sale ("Buyer") agrees to purchase, the goods ("Goods") and any services ("Services") described therein, subject to the following:

1. **Applicability.** Any contract formed between Seller and Buyer shall consist exclusively of, and all sales by Seller are subject only to, Seller's quotations and order acknowledgements, these Terms and Conditions of Sale, any other document issued by Seller, and any other document signed by both Buyer and Seller. Seller hereby objects to and rejects any and all additional or contrary terms and conditions in Buyer's purchase order and in any other document issued by Buyer, none of which shall be part of any contract between Seller and Buyer or otherwise binding on Seller. Any acknowledgement by Seller of an order from Buyer, or reference to any such order, or performance pursuant to any such order, shall not be deemed an acceptance by Seller of any additional or contrary terms and conditions contained in any document issued by Buyer.

2. **Order Acceptance.** Buyer's orders shall not bind Seller until accepted by Seller in writing or by any electronic means of its choice. Seller's quotations automatically expire 30 days after their respective dates and may be reinstated only by Seller and in writing. Orders may not be cancelled by Buyer, in whole or in part, without Seller's prior written consent. Seller reserves the right to cancel any order, in whole or in part, at any time unless designated as firm or non-cancellable on the order placed by Buyer.

3. **Prices.** The price indicated on Seller's order confirmation shall be considered to be the price agreed between Buyer and Seller. All prices for Goods are EXW Seller's Cincinnati, Ohio facility and all prices for Goods and Services are subject to change without notice any time prior to Seller's acceptance of Buyer's order. Prices do not include sales, use, transfer, excise, value added or other taxes, tariffs or custom duties

which Seller may be required to collect from Buyer or pay upon or in connection with the sale.

4. **Payment.** Buyer shall pay on the terms stated on Seller's order confirmation or, failing such indication, net 30 days from invoice date. Invoices are payable only in United States Dollars. Seller reserves the right to suspend further deliveries of Goods and performance of Services, or to require satisfactory assurances of future performance, if Buyer fails to pay in full when due for any one invoice. In case of late payment, Buyer also shall be liable to Seller for interest on the overdue amount at a rate equal to the lesser of 1.5% per month or the maximum amount allowed under applicable law. Such interest shall be payable immediately upon demand and shall be compounded quarterly. All payments shall be made without set-off, deductions or counterclaims.

5. **Delivery of Goods.** Seller shall deliver the Goods to Buyer which shall be responsible for all associated delivery costs. Delivery dates are estimates only and are not guaranteed by Seller. All shipments will be made freight collect unless Buyer has prepaid the freight costs. Each delivery of Goods shall constitute a separate contract. Title and risk of loss shall pass to Buyer upon delivery to Buyer or to Buyer's approved carrier. Seller shall not be responsible for any shipment delays or suspensions due to any delays in Seller's receipt of specifications from Buyer or any changes in specifications by Buyer.

6. **Performance of Services.** Seller shall perform the Services in a safe, good and workmanlike manner through employees or authorized contractors who are skilled in the performance of the Services. If any Services are performed on Buyer's premises, Buyer shall provide Seller's employees and contractors with reasonable access to, and a safe, clean and secure environment, where such Services are to be performed.

7. **Enforcement.** If Seller is required to take any action to collect any amounts due from Buyer, or otherwise enforce its rights against Buyer, Seller shall be entitled, in addition to all its other rights and remedies, to recover from Buyer all of Seller's resulting expenses including attorneys' fees and court costs.

8. **Limited Warranties.** Except as may be otherwise provided in the product literature for a particular product, or as may be otherwise agreed by Seller and Buyer in writing, Seller warrants solely to the original Buyer only that the Goods shall conform to Seller's standard specifications in effect on the date of shipment and under normal use and service shall be free of defects in materials and workmanship for a period of one year from the date of completion of manufacture, and that the Services shall be properly performed and shall be free of defects in workmanship for a period of 90 days from the date of completion. This limited warranty does not apply to hoses, any Goods that have a normal useful life of less than one year, or failure in performance due to chemicals, abrasive materials, corrosion, lightning, improper voltage, improper wiring, physical abuse, accident, vandalism, fire, neglect, mishandling or misapplication. This limited warranty also does not apply to failure in performance or damage due to failure to follow installation, operating and maintenance instructions. This limited warranty also does not apply to any Goods which have been altered or repaired without Seller's prior written approval. SELLER MAKES NO OTHER WARRANTIES, EXPRESSED OR IMPLIED INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES AS TO FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY, WITH RESPECT TO THE GOODS OR SERVICES, USED ALONE OR IN COMBINATION WITH OTHER MATERIALS, AND ALL OTHER WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED.

9. **Claims.** All claims by Buyer including, without limitation, claims for alleged defects, damage or shortage, must be made in writing and received by Seller within 30 days after Buyer's receipt of the applicable shipment.

Claims concerning defects, damage or shortage that could not be discovered within the above time limit despite timely inspection of the Goods must be made in writing and received by Seller within 10 days from the date Buyer discovered or should have discovered the defects, damage or shortage and, in any event, within 90 days after Buyer's receipt of the Goods.

10. **Sole Remedies.** The sole obligations of Seller under the foregoing limited warranty or otherwise is, at its options, to repair or replace EXW Seller's Cincinnati, Ohio facility any Goods found to be other than as warranted, and to remediate any Services not properly performed, or to issue to Buyer, in an amount not to exceed the purchase price of such Goods or Services, as applicable, either a refund or a credit against future orders. IN ALL EVENTS SELLER'S LIABILITY SHALL BE EXPRESSLY LIMITED TO THE PURCHASE PRICE OF THE GOODS AND OF THE SERVICES IN RESPECT OF WHICH ANY CLAIM IS MADE. SELLER SHALL HAVE NO OTHER LIABILITY TO BUYER WHATSOEVER, WHETHER BASED ON BREACH OF CONTRACT, NEGLIGENCE, GROSS NEGLIGENCE, STRICT LIABILITY OR ANY OTHER CLAIM AND UNDER NO CIRCUMSTANCES SHALL SELLER BE LIABLE TO BUYER FOR LOST PROFITS OR REVENUES, SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL OR EXEMPLARY DAMAGES, OR FINES OR PENALTIES, INCURRED BY BUYER OR ANY THIRD PARTY.

11. **Returns.** No Goods may be returned to Seller for warranty service or otherwise without Seller's prior written authorization. All returned Goods must be delivered to Seller's Cincinnati, Ohio facility, freight prepaid, and accompanied by a Returned Materials Authorization Number issued by Seller. Goods returned to Seller with Seller's permission for restocking are subject to a minimum restocking fee of 15% of the original purchase price or \$100.00, whichever is greater.

12. **Limitation of Actions.** Any action by Buyer on a claim against Seller must be commenced within one year from the date on which the right of action accrues.

13. IP Ownership, Confidentiality and Non-Use. Buyer acknowledges and agrees that Seller makes considerable investment in the creation and evaluation of all Goods and the Services it sells to Buyer and, to protect the proprietary and confidential nature of the Goods and Services, Buyer further acknowledges and agrees that: Seller is, and at all times shall remain, the sole owner of all scientific and technical information related to the Goods and the Services including, without limitation, all know-how, methods, processes and specifications; Buyer shall keep all such information in strict confidence and shall not disclose or make available any such information to any third party; and Buyer shall not directly or indirectly use any such information, in whole or in part, to procure any Goods or Services except from Seller. Buyer shall not perform, procure, permit or facilitate any analysis, reverse engineering or replication of the Goods and Services.

14. Use of Goods. Buyer acknowledges and agrees that Seller is in no way responsible for the use of the Goods by Buyer, that Seller cannot anticipate all conditions under which the Goods may be used and that Buyer shall conduct its own tests to determine the safety and suitability of the Goods for Buyer's purposes. Any representations or other statements concerning the Goods, other than those in Seller's quotations and order acknowledgements, these Terms and Conditions of Sale, any other document issued by Seller, or any other document signed by both Buyer and Seller, are not binding on Seller and Seller shall not be liable for any such representations or other statements.

15. Compliance. At all times Buyer shall, and shall require its employees, contractors, agents, representatives, and customers to: comply with all installation, operating, safety, and maintenance instructions and guidelines; comply with all applicable national, federal, state, provincial and local laws, rules and regulations; use reasonable care in connection with the handling, use and storage of the Goods; and insure that any Goods based in whole or in part on Buyer's design, whether or not patentable, do not infringe on the intellectual property rights of any other domestic or foreign person or entity.

16. Indemnification. Buyer shall indemnify and defend Seller, and its shareholders, directors, officers, employees, agents and representatives, and hold each and all of them harmless, from and against any and all causes of action, damages, expenses, liabilities, losses, fines, penalties and costs (including, without limitation, attorneys' fees and court costs) arising out of, or in connection with: (a) any breach by Buyer of any term, condition, covenant or warranty contained in Seller's quotations and order acknowledgements, these Terms and Conditions of Sale, or any other document signed by both Buyer and Seller; or (b) any wrongful act or omission of Buyer or Buyer's subcontractors, agents or representatives in connection with purchasing or using the Goods or the Services, unless and except to the extent caused solely by Seller's gross negligence or willful misconduct.

17. Independent Contractors. The relationship between Seller and Buyer is that of independent contractors. Nothing contained herein or otherwise shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment, or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever. No relationship of exclusivity shall be construed herefrom.

18. Force Majeure. No liability shall result from delay in performance or non-performance by Seller caused by circumstances beyond its reasonable control including, without limitation, acts of God, fire, flood, explosions, riots, wars, terrorism, perils of the sea, labor troubles, machinery breakages, government actions or prohibitions, shortages of raw materials or energy at reasonable cost, and/or traffic stoppages.

19. No Waiver. Failure or delay by Seller in enforcing any right which it may have in any instance shall not be deemed to be a waiver of any right it may have in that or any other instance.

20. Severability. Each provision of these Terms and Conditions of Sale shall be

interpreted in such a manner as to be effective and valid under applicable law. The determination by any court of competent jurisdiction that one or more of the sections or provisions of these Terms and Conditions of Sale are unenforceable shall not invalidate the remaining Terms and Conditions of Sale, and the decision of such court shall be given effect so as to limit to the extent possible the sections or provisions which are deemed unenforceable.

21. Entire Agreement. Seller's quotations and order acknowledgements, these Terms and Conditions of Sale, any other document issued by Seller, and any other document signed by both Buyer and Seller, together constitute the entire agreement between Seller and Buyer and supersede all prior and contemporaneous oral or written proposals, negotiations, communications, understandings and agreements with respect to the subject matter hereof.

22. No Assignment. Buyer shall not assign its rights or delegate its performance hereunder, in whole or in part, or any interest herein, without Seller's prior written consent.

23. Governing Law. Any contract formed between Seller and Buyer including, without limitation, these Terms and Conditions of Sale, and all purchases by Buyer from Seller, shall be governed by and construed in accordance with the laws of the State of Ohio.

24. Venue. Buyer irrevocably agrees that the federal and state courts located in Hamilton County, Ohio shall have non-exclusive personal jurisdiction over Buyer in connection with any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims). Nothing in this clause shall prevent Seller from bringing proceedings in any other courts of competent jurisdiction.

25. Rights Cumulative. Seller's rights and remedies herein set forth shall be cumulative and in addition to any other available rights or remedies provided in law or equity.

26. Binding Effect. These Terms and Conditions of Sale shall be binding upon the successors and assigns of Buyer and shall insure to the benefit of the successors and assigns of Seller.

The following terms and conditions apply only to sales by Seller of Goods shipped to destinations outside the United States and supersede any conflicting provisions above:

27. Shipping Terms. Wherever the term EXW is used above, it shall be replaced by F.C.A. (as such term is defined in the International Chamber of Commerce INCOTERMS – 2010 Edition).

28. Payment Terms. Unless otherwise agreed by Seller in writing, all invoices are payable in advance via wire transfer (net of wire transfer charges) to the bank account specified by Seller.

29. FCPA; Export and Trade Laws. At all times Buyer shall, and shall require its employees, contractors, agents, representatives, and customers to, comply with: the United States Foreign Corrupt Practices Act, and all United States export control laws and anti-boycott laws. Buyer shall furnish all consular and custom declarations, and shall have sole responsibility and pay all penalties related to any errors and omissions. Buyer shall not re-export the Goods or any items which incorporate the Goods if the re-export would violate United States export laws. Buyer shall obtain and maintain in effect any and all required licenses, permissions, authorizations, consents and permits incident to Buyer's order. Seller may cancel any order if any domestic or foreign governmental authority imposes any antidumping duties, countervailing duties or retaliatory duties on the Goods.

30. Governing Law. Any contract formed between Seller and Buyer including, without limitation, these Terms and Conditions of Sale, and all purchases by Buyer from Seller, shall be solely governed by and construed in accordance with the laws of the State of Ohio, U.S.A., and not in any respect by the 1980 U.N. Convention on Contracts for the International Sale of Goods.

31. Governing Language. The governing language of any contract formed between Seller and Buyer shall be English, and all written communications related hereto shall be in English. If any translation of any contract formed between Seller and Buyer conflicts with the English version, or contains terms or conditions in addition to or different from the English version, the English version shall prevail.

32. Ancillary Expenses. All expenses ancillary to any contract formed between Seller and Buyer including, without limitation, any transportation and insurance costs, and any tariffs, import fees and other governmental levies on the Goods and the Services, shall be the sole responsibility and liability of Buyer.

33. Dispute Resolution. Any dispute arising in connection with any contract formed between Seller and Buyer shall be finally settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one arbitrator appointed in accordance with said Rules. The arbitration proceedings shall be in the English language only, and shall take place in Cincinnati, Ohio, U.S.A. Notwithstanding the foregoing, Seller at all times shall have the right to seek such remedies through the courts, wherever located, at law or in equity, including without limitation, injunctive relief, to protect its confidential and/or proprietary rights (including its intellectual property rights).

Goods and Services
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