

TERMS AND CONDITIONS HYDRAULIC CONTROLS, INC.

1. Terms of Offer. The Buyer shall be deemed to accept Seller's offer when Buyer accepts delivery of the items shipped pursuant to this order. After acceptance by Buyer, no cancellation, change in quantity or extension of delivery schedule may be made without the written consent of Seller. Items are not subject to return or rejection, except with the written consent of Seller.
2. Price. Prices do not include sales, gross receipts, excise or similar taxes or customer duties. Consequently, the amount of any present or future sales, use, gross receipts, excise or other similar tax or custom duties applicable to the sale of items hereunder shall be paid or reimbursed to Seller to the Buyer, or in lieu thereof, Buyer, when applicable, shall provide Seller with a tax-exemption certificate acceptable to the taxing authorities. Terms are net F.O.B. manufacturer's factory or as modified by written agreement and/or exceptions noted on the face hereof. Charges for special shipping, handling, and special expediting shall be for the account of the Buyer. The price shall be Seller's standard price in effect at the time of delivery of performance. Invoice date is the date of shipment or offer to ship.
3. Delivery. Risk of loss passes to the Buyer upon delivery of the items to the carrier for shipment. Every effort will be made to deliver as promised. Seller shall not, however, be liable for non-performance, delay, loss of or damage to items, in whole or in part, by Act of God or the public enemy or by labor troubles, lockouts, strikes, riots, fires, storms, explosions, breakdowns of machinery, railroad embargoes or congestions, government embargoes, interventions or controls, non-receipt or delay in receipt of machinery, equipment, materials or supplies, or other causes affecting Seller, Seller's facilities or Seller's sources of supply, whether such other causes be of the classes mentioned herein or not. In the event of any such delay, the time fixed for delivery or performance shall be extended for a period of time equal to any such delay. If shipment or performance is delayed by the Buyer, it shall be invoiced when items are ready for shipment or supply and the invoice shall be payable in accordance with the terms set forth herein.
4. Warranty Disclaimer. THE FOLLOWING IS IN LIEU OF ALL WARRANTIES EXPRESS, IMPLIED OR STATUTORY AND IN NO EVENT SHALL SELLER OR ITS AGENTS, SUCCESSORS, NOMINEES OR ASSIGNEES, OR EITHER, BE LIABLE FOR SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF A BREACH OF WARRANTY. THIS WARRANTY DOES NOT APPLY TO ANY DAMAGE OF DEFECT RESULTING FROM NEGLIGENT OR IMPROPER ASSEMBLY OR USE OF ANY ITEMS BY THE BUYER OR ITS AGENT OR FROM ALTERATION OR ATTEMPTED REPAIR BY ANY PERSON OTHER THAN AN AUTHORIZED AGENT OR SELLER. ALL USE, REPAIRED, MODIFIED OR ALTERED ITEMS ARE PURCHASED "AS IS" AND WITH ALL FAULTS. THE SOLE AND EXCLUSIVE REMEDY OF BUYER FOR BREACH OF WARRANTY BY SELLER SHALL BE REPAIR OR REPLACEMENT OF DEFECTIVE PARTS OR, AT SELLER'S OPTION, REFUND OF THE PURCHASE PRICE, AS SET FORTH BELOW:

(A.) SELLER MAKES NO WARRANTY WITH RESPECT TO ITEMS SOLD OTHER THAN IN ACCORDANCE HEREUNDER (B.) ON ITEMS SELLER ASSEMBLES, SELLER WARRANTS THAT ALL ITEMS ARE TO BE FREE FROM DEFECTS IN WORKMANSHIP AND MATERIALS FOR A PERIOD OF 60 DAYS FROM DATE OF SHIPMENT TO BUYER, BUT NO WARRANTY IS MADE THAT ITEMS ARE FIT FOR A PARTICULAR PURPOSE OR THAT THE ITEMS COMPLY WITH FEDERAL OR STATE OSHA OR OSHA RELATED REGULATIONS (WHICH HOLD EMPLOYERS RESPONSIBLE FOR THE HEALTH AND SAFETY OF THEIR EMPLOYEES, AND WHICH DEPEND UPON THE CONDITIONS OF USE WHICH DICTATE THE APPLICATION OF OSHA REGULATIONS). (C.) ON ITEMS WHICH SELLER BUYS AND RESELLS PURSUANT TO THIS ORDER, SELLER WARRANTS THAT THE ITEMS SHALL CARRY THE THEN STANDARD WARRANTIES OF THE MANUFACTURERS THEREOF, A COPY OF WHICH SHALL BE MADE AVAILABLE TO CUSTOMER UPON REQUEST. (D.) THE USE OF ANY SAMPLE OR MODEL IN CONNECTION WITH THIS ORDER IS FOR ILLUSTRATIVE PURPOSES ONLY AND IS NOT TO BE CONSTRUED AS A WARRANTY THAT THE ITEM WILL CONFORM TO THE SAMPLE OR MODEL (E.) SELLER MAKES NO CLAIM OF ANY THIRD PARTY BY WAY OF PATENT INFRINGEMENT OR THE LIKE (F.) THIS WARRANTY IS CONDITIONED UPON SELLER'S RECEIPT WITHIN TEN (10) DAYS AFTER A BUYER'S DISCOVERY OF A DEFECT OF A WRITTEN NOTICE STATING IN WHAT SPECIFIC MATERIAL RESPECTS THE ITEM FAILED TO MEET THIS WARRANTY. IF SUCH NOTICE IS TIMELY GIVEN, SELLER WILL, AT ITS OPTION, EITHER MODIFY THE PRODUCT OR PART TO CORRECT THE DEFECT, REPLACE THE ITEM OR PART WITH COMPLYING ITEMS OR

PARTS, OR REFUND THE AMOUNT PAID FOR THE DEFECTIVE ITEM, ANY ONE OF WHICH WILL CONSTITUTE THE SOLE LIABILITY OF SELLER AND A FULL SETTLEMENT OF ALL CLAIMS. NO ALLOWANCE WILL BE MADE FOR ALTERATIONS OR REPAIRS MADE BY OTHERS THAN THOSE AUTHORIZED BY SELLER WITHOUT THE PRIOR WRITTEN CONSENT OF SELLER. BUYER SHALL AFFORD SELLER PROMPT AND REASONABLE OPPORTUNITY TO INSPECT THE ITEM FOR WHICH ANY CLAIM IS MADE AS ABOVE STATED. ALL FREIGHT CHARGES REQUIRED FOR REPAIR OR REPLACEMENT OF DEFECTIVE ITEMS SHALL BE THE RESPONSIBILITY OF BUYER.

EXCEPT AS EXPRESSLY SET FORTH ABOVE, ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED.

5. Specifications. No specifications or changes in specifications pertaining to this order which are made after the date of this order will be considered binding on Seller unless so agreed in writing. Buyer furnished designs, drawings and/or specifications are adhered to where deemed material by Seller and Seller shall have no responsibility for the suitability of same for the application intended. The Buyer shall pay all additional costs, as determined by Seller arising from erroneous specifications and/or information supplied to Seller. Preparation, submission and applicability of design and component specifications is solely Buyer's responsibility.
6. Security Interest and Retaking. To secure the payment of the purchase price, Buyer hereby grants to Seller a security interest in the terms and all accessories, substitutions, additions or replacements. Buyer agrees to execute UCC Form 1 and/or any and all papers that may be desirable to carry out the terms, intention or purpose of this agreement after the offer is accepted. In the event Buyer fails to pay the purchase price, Seller shall be at liberty and is hereby authorized to enter upon any premises where the items may then be and take same either with or without legal process but items may then be and take same either with or without legal process but without breach of the peace. Upon any such retaking, Seller shall have the right to resell for the account of Buyer at a private sale or otherwise, without prior notice to Buyer and may, upon such resale, re-purchase the said items. The purchase price obtained upon such resale shall be applied first to the payment price remaining due from Buyer. In the event that after such application of proceeds of resale, a deficiency arises, Buyer shall pay such deficiency. In the event that after applying the proceeds of sale to the expenses of retaking the resale and the balance due a surplus exists, such surplus shall be paid to Buyer.
7. BUYER HEREBY REPRESENTS THAT IT IS SOLVENT WITHIN THE MEANING AND FOR THE PURPOSES OF UCC SECTION 2-702 AND SHALL NEITHER ORDER NOR ACCEPT GOODS SHOULD THEY BUYER BECOME INSOLVENT. ANY ORDER OR ACCEPTANCE OF GOODS IS DEEMED AS WRITTEN AFFIRMATION OF THIS REPRESENTATION.
8. Nonconforming Goods. If nonconforming goods are shipped, they shall be sent merely for the accommodation of the Buyer.
10. Attorney's Fees. In the event that any proceeding shall be brought to enforce or interpret this agreement, the Buyer agrees to pay all of Seller's court costs and expenses, including such additional sums of attorney's fees as may be adjudged reasonable by all courts, including appellate courts. Buyer further agrees to pay Seller's costs and expenses, including its attorney's fees, if Seller refers this agreement to any attorney for collection.
11. Jurisdiction and Venue. Buyer and Seller agree to submit to the jurisdiction of the courts of the State of California, in and for the County of San Francisco, that any action that may be instituted relating to this Agreement shall be prosecuted in said county, and that each party waives the right to change venue to any other state or county.
12. Amendment. No verbal agreement nor any change or amendment hereof will be considered binding on Seller unless so agreed in writing.
13. A service charge of 1¹/₂% per month (18% per annum) will be charged on all past due balances.

"Seller hereby certifies that these goods were produced in compliance with all applicable requirements of Sections 6, 7, and 12 of the Fair Labor Standards Act, as amended, and of regulations and orders of the United States Department of Labor issued under Section 14 thereof."