

Terms and Conditions of Sale

The goods, services or work (referred to as the "Products") offered by Hydra Dyne Tech, its subsidiaries, groups, divisions, and authorized distributors ("Seller") are offered for sale at prices indicated in the accepted quote attached to this document, or as may be established by Seller. The offer to sell the Products and acceptance of Seller's offer by any customer ("Buyer") is contingent upon, and will be governed by all of the terms and conditions contained in this document which will override and supersede any terms and conditions contained in the Buyer's purchase order which are contrary to or inconsistent with the terms and conditions set out in this document or the accepted Quote. Buyer's order for any Products specified in Buyer's purchase document or Seller's offer, proposal or quote ("Quote") attached to the Buyer's purchase order, that is accepted in writing by Hydra Dyne Tech's Production Planning shall constitute acceptance by the Buyer of the terms set out in this document.

1. **Terms and Conditions:** Seller's willingness to offer Products for sale or accept an order for Products is subject to the terms and conditions contained in this document or any newer version of the same, published by Seller electronically at www.hydradynetech.com. Seller objects to and absolutely rejects any contrary or additional terms or conditions of Buyer's purchase order or any other document or other communication issued by Buyer which is not expressly accepted by the Seller in writing.

2. **Price; Payment:** Prices stated on Seller's Quote are valid for thirty (30) days, except as explicitly otherwise stated therein, and do not include any sales, use, or other taxes or duties unless specifically stated. Seller reserves the right to modify prices to adjust for any raw material price fluctuations. Unless otherwise specified by Seller, all prices are F.O.B. Seller's loading dock facility. Method of payment is subject to credit approval and payment for all purchases is due thirty (30) days from the date of invoice (or such date as may be specified by Seller's Credit Department). Unpaid invoices beyond the specified payment date incur interest at the rate of 1.5% per month compounded monthly which is equivalent to an annual rate of 19.5618%.

3. **Shipment Delivery Title and Risk of Loss:** All delivery dates are approximate. Seller is not responsible for damages resulting from any delay. Regardless of the manner of shipment, delivery occurs and title and risk of loss or damage pass to Buyer, upon placement of the Products with the shipment carrier at the Seller's loading dock facility. Unless otherwise stated, Seller reserves the right to choose the carrier and means of delivery. No deferment of shipment at Buyers' request beyond the respective dates indicated in the Quote will be made except on terms that will indemnify, defend and hold Seller harmless against all loss and additional expense. Buyer shall be responsible for any additional shipping charges incurred by Seller due to any delay caused by Buyer's acts or omissions.

4. **Warranty:** Seller warrants that the Products sold pursuant to the accepted Quote shall be free from defects in material or workmanship for a period which shall expire at the earlier of twenty-four (24) months from the date of delivery of the Products to Buyer or twelve (12) months after the Buyer puts the Product(s) into use. All prices are based upon the exclusive limited warranty stated herein, and upon the following disclaimer: **DISCLAIMER OF WARRANTY: THIS WARRANTY IS THE SOLE AND ENTIRE WARRANTY PERTAINING TO PRODUCTS PROVIDED. SELLER DISCLAIMS ALL OTHER WARRANTIES, EXPRESS AND IMPLIED, INCLUDING DESIGN, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

5. **Claims; Commencement of Actions:** In addition to any other terms set out herein, the Buyer agrees it shall promptly inspect all Products upon receipt. No claims for shortages will be allowed unless reported to the Seller within ten (10) days of delivery. No other claims against Seller for shortages or damage in transit will be allowed unless asserted in writing within thirty (30) days after delivery. Buyer shall notify Seller in writing of any alleged breach of warranty within thirty (30) days after the date the defect is or should have been discovered by the Buyer. Subject to the Buyer's obligation to notify the Seller of any defect as aforesaid, any claim or action against Seller based upon breach of contract or any other theory, including tort, negligence, or otherwise must be commenced within twelve (12) months from the date of the alleged breach or other alleged event, without regard to the date of discovery. Claims for Products damaged in transit must be made against the carrier. 6. **LIMITATION OF LIABILITY:** IN THE EVENT OF A BREACH OF WARRANTY, SELLER WILL, AT ITS OPTION, REPAIR OR REPLACE A DEFECTIVE PRODUCT, OR REFUND THE PURCHASE PRICE WITHIN A REASONABLE PERIOD OF TIME. IN NO EVENT IS SELLER LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF, OR AS THE RESULT OF, THE SALE, DELIVERY, NON-DELIVERY, SERVICING, USE OR LOSS OF USE OF THE PRODUCTS OR ANY PART THEREOF, OR FOR ANY CHARGES OR EXPENSES OF ANY NATURE INCURRED WITHOUT SELLER'S WRITTEN CONSENT, WHETHER BASED IN CONTRACT, TORT OR OTHER LEGAL THEORY. IN NO EVENT SHALL SELLER'S LIABILITY UNDER ANY CLAIM MADE BY BUYER EXCEED THE PURCHASE PRICE OF THE PRODUCTS.

No warranties or representations made by any of the Seller's employees, agents or distributors which deviate from the terms of this document or the Quote shall be effective unless authorized in writing by a signing officer of the Seller.

7. **Buyer Responsibility:** The Buyer, through its own analysis and testing, is solely responsible for making the final selection of its system and Product and assuring that all performance, endurance, maintenance, safety and warning requirements of the application are met. The Buyer must analyze all aspects of the system application and follow applicable industry standards and Production formation. If Seller provides Product or system options based upon data or specifications provided by the Buyer, the Buyer is responsible for determining that such data and specifications are suitable and sufficient for all system applications and reasonably foreseeable uses of the Products or systems.

Terms and Conditions of Sale

8. **Loss to Buyer's Property:** Any designs, tools, patterns, materials, drawings, confidential information or equipment furnished by Buyer or any other items in the Seller's possession or control which become Buyer's property, will be considered obsolete and may be destroyed by Seller after one (1) year has elapsed from the date of the purchase order unless the Buyer accepts the Seller's Quote pertaining to such materials. Seller shall not be responsible for any loss or damage to such property while it is in Seller's possession or control.
9. **Special Tooling:** An additional tooling charge may be imposed by the Seller for any special tooling, including without limitation, dies, fixtures, molds and patterns, acquired to manufacture the Products referred to in the Quote. Such special tooling shall be and remain Seller's property notwithstanding payment of any charges by Buyer. In no event will Buyer acquire any interest in apparatus belonging to Seller which is utilized in the manufacture of the Products, even if such apparatus has been specially converted or adapted for such manufacture and notwithstanding any charges paid by Buyer. Unless otherwise agreed, Seller has the right to alter, discard or otherwise dispose of any special tooling or other property in its sole discretion at any time.
10. **Buyer's Obligation; Rights of Seller:** To secure payment of all sums due or otherwise owing with respect to the Products, the Seller retains a purchase money security interest ("PMSI") in all Products delivered to Buyer and the proceeds thereof and this agreement is deemed to be a PMSI Security Agreement within the meaning of the Personal Property Security Act R.S.O. 1990. Buyer authorizes Seller as its agent to execute and file on Buyer's behalf all documents including financing statements Seller deems necessary to perfect its security interest in the Products.
11. **Improper Use and Indemnity:** Buyer shall indemnify, defend, and hold Seller harmless from any losses, claims, liabilities, damages, lawsuits, judgments and costs (including legal fees and defense costs), whether for personal injury, property damage, patent, trademark or copyright infringement or any other claim, brought by or incurred by Buyer, Buyer's employees, or any other person, arising out of: (a) improper selection, application, design, specification or other misuse of Products purchased by Buyer from Seller; (b) any act or omission, negligent or otherwise, of Buyer; (c) Seller's use of patterns, plans, drawings, or specifications furnished by Buyer to manufacture Products; or (d) Buyer's failure to comply with the terms and conditions of use and maintenance specified by the Seller. Seller shall not indemnify Buyer under any circumstance except as otherwise expressly provided herein.
12. **Cancellations and Changes:** Buyer may not cancel or modify any order for any reason, except with Seller's written consent and upon terms that will indemnify, defend and hold Seller harmless against all direct, incidental and consequential loss or damage arising from or in connection with such cancellation or modification. Seller may change Product features, specifications, designs and availability.
13. **Limitation on Assignment:** Buyer may not assign its rights or obligations under this agreement without the prior written consent of Seller.
14. **Force Majeure:** Seller does not assume the risk and is not liable for delay or failure to perform any of Seller's obligations set out in the accepted purchase order or Quote by reason of events or circumstances beyond its reasonable control (herein after "Events of Force Majeure"). Events of Force Majeure shall include without limitation: accidents, strikes, acts of terrorism or sabotage or labour disputes, acts of any government or government agency, acts of nature, delays or failures in delivery from carriers or suppliers, shortages of materials, or any other cause beyond Seller's reasonable control.
15. **Waiver and Severability:** Failure on the part of the Seller to enforce any provision of this document will not invalidate that provision; nor will any such failure prejudice Seller's right to enforce that provision in the future. Invalidation of any provision of this document by legislation or other rule of law shall not invalidate any other provision herein. The remaining provisions of this document will remain in full force and effect.
16. **Termination:** Seller may terminate this document and the Quote for any reason and at any time by giving Buyer thirty (30) days prior written notice. Seller may immediately terminate this document and the Quote, in writing, if Buyer: (a) breaches any provision of this document (b) appoints a trustee, receiver or custodian for all or any part of Buyer's property (c) files a petition for relief in bankruptcy on its own behalf, or if filed such petition is filed by a third party (d) makes an assignment for the benefit of creditors; or (e) dissolves its business or liquidates all or a majority of its assets. The Seller shall have all rights at law arising from a breach or default on the part of the Buyer of a provision of this document.
17. **Governing Law:** This document and the sale and delivery of all Products are deemed to have taken place in, and shall be governed and construed in accordance with, the laws of the Province of Ontario, as applicable to contracts executed and wholly performed therein and without regard to conflicts of laws principles. Buyer irrevocably agrees and consents to the exclusive jurisdiction and venue of the courts of Ontario Canada respect to any dispute, controversy or claim arising out of or relating to this agreement.
18. **Indemnity for Infringement of Intellectual Property Rights:** Seller is not liable for infringement of any patents, trademarks, copyrights, trade dress, trade secrets or similar rights except as provided in this Section. Seller will defend and indemnify Buyer against allegations of infringement of patents, trademarks, copyrights, trade dress and trade secrets ("Intellectual Property Rights"). Subject to the limitation set out in section 6 herein, Seller will defend at its expense and will pay the cost of any settlement or damages awarded in an action brought against Buyer based on an

Terms and Conditions of Sale

allegation that a Product sold pursuant to this agreement infringes the Intellectual Property Rights of a third party. Seller's obligation to defend and indemnify Buyer is contingent on Buyer notifying Seller within ten (10) days after Buyer becomes aware of such allegations of infringement, and Seller having sole control over the defense of any allegations or actions including all negotiations for settlement or compromise failing which the Seller's indemnity set out in this paragraph 18 shall automatically be rendered null and void. If a Product is subject to a claim that it infringes the Intellectual Property Rights of a third party, Seller may, at its sole expense and option, procure for Buyer the right to continue using the Product, replace or modify the Product so as to make it non infringing, or offer to accept return of the Product and refund the purchase price less a reasonable allowance for depreciation. Notwithstanding the foregoing, Seller is not liable for claims of infringement based on information provided directly or indirectly by Buyer, or directed to Products delivered hereunder for which the designs are specified in whole or part by Buyer, or infringements resulting from the modification, combination or use in a system of any Product sold hereunder. The foregoing provisions of this Section constitute Seller's sole and exclusive liability and Buyer's sole and exclusive remedy for infringement of Intellectual Property Rights.

19. Entire Agreement: Except as otherwise specifically provided for herein, this document together with the accepted purchase order and Quote contains the entire agreement between the Buyer and Seller and constitutes the final, complete and exclusive expression of the terms of sale of the Products. All prior or contemporaneous written or oral agreements or negotiations with respect to the subject matter are here in merged. The terms contained herein may not be modified unless in writing and signed by an authorized representative of Seller.

20. Compliance with Laws: Buyer agrees to comply with all applicable laws, regulations, and industry and professional standards of care, including those of Canada, the United States of America, and the country or countries in which Buyer may operate, including without limitation the Canadian Foreign Anti-Bribery Act, the U.S. Foreign Corrupt Practices Act ("FCPA"), the U.S. Anti-Kickback Act ("Anti-Kickback Act") and each as currently amended, and the rules and regulations promulgated by the U.S. Food and Drug Administration ("FDA"), and agrees to indemnify and hold harmless Seller from the consequences of any violation of such provisions by Buyer, its employees or agents. Buyer acknowledges that it is familiar with the provisions of the U.K. Bribery Act, the FCPA, the FDA, and the Anti-Kickback Act, and certifies that Buyer will adhere to the requirements thereof. In particular, Buyer represents and agrees that Buyer will not make any payment or give anything of value, directly or indirectly to any governmental official, any foreign political party or official thereof, any candidate for foreign political office, or any commercial entity or person, for the purpose of influencing such person to purchase Products or otherwise benefit the business of Seller.