

Terms and Conditions of Purchase

1. DEFINITIONS

- a. “Customer” means Hydraflow’s customer and any subsequent user of Goods.
- b. “Goods” means all deliverable products, tools, material, services, documents and other information or items under the Order.
- c. “Order” means Hydraflow’s purchase order, these terms and conditions and any additional requirements or Hydraflow-generated documents otherwise specified or submitted.
- d. “Supplier” means Hydraflow’s supplier identified on a purchase order subject to these terms and conditions. Supplier may also be referred to as sub-contractor or vendor within the Order.

2. GENERAL. These Terms and Conditions of Purchase shall govern all business transactions for the purchase of Goods between Hydraflow and Supplier. Acceptance of Hydraflow’s Order by Supplier, and Supplier’s performance thereunder, are expressly limited to and governed by the terms and conditions in the Order. Hydraflow rejects Supplier’s terms or conditions in any proposals, acknowledgments or in otherwise acknowledging or accepting the Order.

3. OFFER AND ACCEPTANCE. The Order is an offer by Hydraflow to purchase goods from Supplier in accordance with and subject to the terms of the Order. Supplier’s acceptance of the Order creates a binding contract between Hydraflow and Supplier. Supplier will be deemed to have accepted the Order when it: (i) sends Hydraflow written notice of acceptance; (ii) commences work under the Order; or (iii) accepts payment. Supplier’s acceptance is expressly limited to the terms of the Order. Any different or additional terms shall not be binding upon Hydraflow unless accepted in writing by Hydraflow.

4. QUALITY CONTROL. Hydraflow Quality Requirements for Suppliers (QF-06-04) is incorporated in and made a part of this Order by this reference. Supplier shall comply with all applicable HQ Clauses of QF-06-04 that are flowed down to Supplier on the Order. It is Supplier’s responsibility to comply with the latest revision of this document.

5. ORDER OF PRECEDENCE. In the event of a conflict or inconsistency between the terms and conditions of the following documents, this order of precedence shall control:

- a. The purchase order, then
- b. These Terms and Conditions of Purchase, then
- c. Hydraflow Quality Requirements for Suppliers (QF-06-04), then
- d. Any applicable Hydraflow document specified or submitted with the Order.

6. DELIVERY. Time is of the essence. Supplier will deliver the Goods on the date(s) specified in the Order (“Delivery Date”). Should Supplier fail to deliver the Goods on or before the Delivery Date, Hydraflow, at its option, may either: (i) accept a revised delivery schedule; or (ii) terminate the Order without liability to Hydraflow. Supplier agrees to indemnify Hydraflow against any losses, claims, damages and reasonable costs and expenses directly attributable to Supplier’s failure to deliver the Goods on or before the Delivery Date.

Delivery of the Goods will be made in accordance with the shipping terms specified in the Order.

Supplier shall notify Hydraflow immediately of any circumstances that may cause a delay in delivery by Supplier. The notification shall state the estimated duration of the delay and the actions being taken by Supplier to prevent future delays and recovery from the current delay.

7. PACKAGING. Supplier shall be responsible for ensuring the proper packaging of Goods hereunder. All Goods must be packaged pursuant to Workmanship and Handling Code Standard (WI-09-69), which is incorporated in and made a part of this Order by this reference. It is Supplier’s responsibility to comply with the latest revision of this document.

8. TITLE AND RISK OF LOSS. Supplier shall bear all risk of loss or damage to the Goods, and title shall not shift to Hydraflow, until Hydraflow’s receipt and acceptance of the Goods.

HYDRAFLOW

- 9. PERFORMANCE METRICS.** Supplier is required to maintain 94% on-time delivery and 98% quality ratings. Should Supplier fall below acceptable thresholds, Hydraflow will notify Supplier of the deficiency and may require a Corrective Action Plan.
- 10. CHANGES.** Hydraflow may, by written change order, suspend performance of the Order in whole or in part or make changes in quantities, drawings, designs, SOW, method of shipment or packing, time or place of delivery and/or services. If any such change causes an increase or decrease in the cost of or the time required for performance of the Order, an equitable adjustment shall be made in the price and/or Delivery Date, and the corresponding Order shall be modified in writing accordingly. Supplier shall detail any claim for adjustment under this section in writing and deliver it to Hydraflow within five (5) days from the date of Hydraflow's change order. Supplier shall begin work on any requested change order(s) while the parties set forth good faith efforts to reach an agreement on commercial terms.
- 11. INSPECTION, ACCEPTANCE AND REJECTION OF GOODS.** Supplier shall tender for acceptance only Goods that have been found by Supplier to be in conformance with the requirements of the Order. Payment for Goods shall not constitute acceptance by Hydraflow. All goods shall be subject to Hydraflow's inspection and rejection. If such inspection is made on Supplier's premises, Supplier shall provide, without additional charge, all reasonable facilities and assistance for such inspection. No inspection, test, approval or acceptance of the Goods shall relieve Supplier of responsibility for any defects in the Goods or other failures to meet the requirements of the Order.
- If the Goods are defective or otherwise not in conformity with the requirements of the Order, Hydraflow may, at its sole option: (i) rescind the Order as to such Goods; (ii) reject such Goods and require delivery of replacements; or (iii) accept such Goods at a reduced price. Delivery of any replacement Goods shall be at Supplier's cost and shall be accompanied by a written notice specifying that such Goods are replacements. If Supplier fails to deliver required replacements promptly, Hydraflow may: (i) replace or correct such Goods and charge Supplier the cost occasioned by Hydraflow; or (ii) terminate the Order for cause.
- Supplier agrees to reimburse Hydraflow for all reasonable and mutually agreed upon expenses resulting from the rejection of Goods that fail to conform to the requirements of the Order. Any rejected Goods held by Hydraflow pending Supplier's disposition will be held at Supplier's risk.
- 12. PRICES.** The prices payable for the Goods are the prices stated in the Order. Supplier warrants that the prices will be inclusive of all charges, including, but not limited to, shipping, handling and packaging costs and taxes.
- 13. INVOICING, PAYMENT TERMS AND SET OFF.** After each shipment of Goods, Supplier shall invoice Hydraflow. Unless otherwise stated in the Order, payment terms shall be 1% 10/Net 30. Hydraflow may set off any amounts Supplier owes Hydraflow against any amounts owed by Hydraflow to Supplier.
- 14. ASSURANCE OF PERFORMANCE.** If Hydraflow determines at any time it is not sufficiently assured of Supplier's full timely and continuing performance hereunder, Hydraflow may request written assurance with respect to any specific matters that are affecting or could affect Supplier's performance under an Order.
- 15. INTELLECTUAL PROPERTY.** For those products that are manufactured to a design, specification or drawing provided by Hydraflow, Hydraflow will maintain all ownership of all intellectual property. Hydraflow will also be the sole and exclusive owner of all right, title and interest of any technical work, work product and all intellectual property rights that are produced by or for Supplier under the Order.
- 16. PROPRIETARY INFORMATION.** All written information, tooling and/or other tangible objects obtained by Supplier from Hydraflow in accordance with an Order is Hydraflow's proprietary information whether or not it is marked as proprietary

HYDRAFLOW

("Proprietary Information"). All Proprietary Information shall be received in confidence and disclosed by Supplier only to the extent necessary for performance of the Order. All Proprietary Information shall remain the property of Hydraflow.

Hydraflow's Proprietary Information shall only be used in the performance of and for the purpose of the Order.

Upon Hydraflow's request and upon the completion, termination or cancellation of the Order, Supplier shall return all of Hydraflow's Proprietary Information.

- 17. HYDRAFLOW DRAWINGS.** All drawings obtained by Supplier from Hydraflow in accordance with an Order are proprietary and confidential. Supplier shall not share nor reproduce the Hydraflow drawings for any reason without written consent from Hydraflow.
- 18. NO EXCLUSIVITY OR MINIMUMS.** The Order is a non-exclusive agreement. Hydraflow is free to engage others to supply goods the same or similar to those being provided under the Order. Hydraflow is not obligated to any minimum purchase or future purchase obligations under the Order.
- 19. INDEPENDENT CONTRACTOR.** Hydraflow and Supplier are independent contractors. Neither party is the agent or legal representative of the other party. Neither party has authority to assume or to create any obligation on behalf of the other party.
- 20. ASSIGNMENT AND SUBCONTRACTING.** Supplier shall not assign the Order without the prior written consent of Hydraflow. Supplier shall not subcontract any part of the Order without the prior written consent of Hydraflow.
- 21. DEFAULT.** Supplier shall be in default hereunder if Supplier does not comply with the Order in all respects.
- 22. REMEDIES.** Hydraflow's remedies relating hereto shall be cumulative and in addition to any other remedies provided herein or by law or in equity.
- 23. TERMINATION FOR CONVENIENCE.** Hydraflow may terminate all or any part of an Order at any time by written notice to Supplier. If the termination occurs within Supplier's quoted lead time, Hydraflow will pay Supplier a reasonable price for completed Goods so long as Supplier submits a written claim to Hydraflow within forty-five (45) days following the termination date.
- 24. TERMINATION FOR DEFAULT.** If Supplier (i) breaches the Order, (ii) fails to deliver Goods according to the Order, (iii) fails to perform any other provision of the Order and/or (iv) fails to make progress on the Order so as to endanger performance, and Supplier does not cure such breach or fails to provide a cure plan acceptable to Hydraflow within ten (10) days after notice from Hydraflow, Hydraflow may, in addition to any other right or remedy provided by law, terminate all or any part of the Order by written notice to Supplier without liability. Hydraflow may purchase substitute Goods elsewhere and charge Supplier for any additional costs incurred.

Hydraflow may require Supplier transfer title and deliver to Hydraflow any (i) completed Goods and (ii) any partially completed Goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information and contract rights that Supplier has specifically produced or acquired for the cancelled portion of the Order.
- 25. WARRANTIES.** In addition to all express and implied warranties provided by law or otherwise, Supplier warrants that the Goods to be delivered under the Order shall be: (a) free from defects; (b) merchantable and fit for their intended use; (c) in conformance with all specifications, drawings, samples and other descriptions furnished by Hydraflow; (d) free and clear of all liens and encumbrances; and (e) free from infringements upon any patents, trademarks or copyrights. All warranties will remain in effect for a period of thirty-six (36) months from the date of acceptance of the Goods by Hydraflow and will not be deemed

HYDRAFLOW

waived by reason of Hydraflow's receipt, inspection or acceptance of, or payment for, the Goods. All warranties run to Hydraflow, its customers and subsequent owners of the Goods.

- 26. EXPORT CONTROL.** The information provided by Hydraflow under the Order may be subject to U.S. export control laws and regulations, including the International Traffic in Arms Regulations (ITAR). Supplier may not export or re-export any information, technical data or supplies except in strict compliance with all U.S. export control laws and regulations. Technical data subject to ITAR shall not be released to foreign nationals, including employees, companies or other entities, whether within or outside of the United States unless Supplier first obtains the written consent of Hydraflow and any appropriate license or other advanced approval from the U.S. Government.

Supplier's obligation to adhere to export control laws and regulations shall survive the expiration or termination of this Order.

Supplier hereby agrees to defend and indemnify Hydraflow from and against any liability Hydraflow may incur as a result of Supplier's violation of any U.S. export or re-export control law or regulation.

- 27. GOVERNMENT CONTRACTS.** If Hydraflow advises Supplier that the Goods under the Order are necessary to the performance of a U.S. Government contract, Supplier agrees to comply with all applicable provisions of that U.S. Government contract as though Supplier is a prime contractor. Supplier shall adhere to the requirements of 41 C.F.R. sections 60-1.4(a), 60-300.5(a) and 60-741.5(a), which are hereby incorporated by reference.

- 28. BUSINESS CONTINUITY.** Supplier shall maintain an effective and viable Business Continuity Plan that ensures the continued ability to provide products to Hydraflow.

- 29. ADVERTISING AND USE OF NAME.** Supplier shall not, without first obtaining written consent from Hydraflow, in any manner advertise or publish the fact that Supplier has furnished or contracted to furnish Hydraflow the Goods provided for in the Order. Supplier agrees that it shall not use Hydraflow's name or logo in any manner whatsoever without Hydraflow's prior written consent in each instance.

- 30. COMPLIANCE WITH LAWS.** Supplier warrants that it, along with its employees, agents and representatives, will comply with all applicable federal, state and local laws, codes, regulations, rules and orders in performing its obligations under the Order. Supplier warrants that the goods under the Order have been manufactured in compliance with the Fair Labor Standards Act, as well as all other applicable federal, state and local laws, codes, regulations, rules and orders. Supplier further warrants that it will not discriminate against any applicant or employee based on race, color, religion, sex or national origin.

- 31. GRATUITIES.** Supplier warrants that neither it nor any of its employees, agents or representatives has offered or given, or shall offer or give, any gratuities to any Hydraflow employees, agents or representatives for the purposes of securing any Order.

- 32. INDEMNIFICATION.** Supplier agrees to indemnify, defend and hold harmless Hydraflow, its affiliates, and customers, and each of their employees, officers, directors, shareholders and agents, from and against any and all claims, demands, actions, suits, costs, fees, penalties and/or damages arising out of or related in any way to Supplier's performance or obligations under the Order.

- 33. HYDRAFLOW'S LIABILITY.** At no time and in no event shall Hydraflow be liable to Supplier or any third party for anticipated profits, benefits, penalties, damages (including, but not limited to, incidental, consequential, punitive or exemplary) or liabilities in connection with the Order.

- 34. STOP WORK ORDER.** Hydraflow may, at any time and for any reason, submit a written direction to Supplier to stop all or part of the work called for by the Order for up to 120 calendar days ("Stop Work Order"). Supplier shall immediately comply with the Stop Work Order and shall take all reasonable steps to minimize costs arising from the work covered by the Stop Work Order.

HYDRAFLOW

Within 120 days of the Stop Work Order being delivered to Supplier, Hydraflow will either (i) extend the Stop Work Order, (ii) cancel the Stop Work Order, or (iii) terminate all or part of Supplier's performance of the work covered by the Stop Work Order. If the Stop Work Order is cancelled or the period of the Stop Work Order expires, Supplier shall resume work on the Order.

- 35. FORCE MAJEURE.** Neither party shall be liable for reasonable delay or default in performing its obligations under the Order if such delay or default is due to any cause not within the party's control, without the negligence of the party affected, and which could not have been reasonably foreseen or avoided, including, but not limited to, fire, flood, explosion, act of God or a public enemy, strike, labor dispute, civil riot, act of war, embargoes or industrial disturbances. The party claiming the Force Majeure event shall notify the other party in writing within ten (10) days of such event.
- 36. APPLICABLE LAW.** All matters relating to the Order shall be governed by and construed in accordance with the laws of the state of California. Each party expressly consents to the exclusive jurisdiction of the federal, state and local courts serving Orange County, California, to govern all disputes.
- 37. DISPUTES.** All disputes between the Parties shall be submitted in writing by the party reporting the conflict. The Parties shall set forth their best efforts to resolve the dispute within thirty (30) days of the date notice of the dispute was given. If after thirty (30) days the dispute is unresolved, either Party may submit the dispute to a court of law. To the extent permitted by law, each Party agrees to waive any right it may have to a trial by jury. Pending final resolution of any dispute, Supplier shall proceed with performance under the Order.
- 38. SEVERABILITY.** If any term or provision of the Order is found to be unenforceable, the remaining terms and provisions of the Order shall be interpreted and enforced as if the unenforceable provision had never been a part of the Order.
- 39. NOTICES.** All notices and other communications that are required pursuant to the Order shall be made in writing and sent by mail, overnight courier or facsimile to Supplier at the address indicated on the Order or to Hydraflow at the address indicated on the Order.
- 40. AMENDMENT AND MODIFICATION.** No part of these Terms and Conditions of Purchase may be modified or amended except in accordance with its terms or by a written instrument executed by both Parties.
- 41. WAIVER.** No delay by either party in the enforcement of any provision of the Order shall result in a waiver thereof.
- 42. SURVIVAL.** The following clauses shall survive any cancellation, termination or expiration of the Order: "Quality Control", "Order of Precedence", "Intellectual Property", "Proprietary Information", "Hydraflow Drawings", "Advertising and Use of Name", "Applicable Law", "Disputes", "Waiver" and "Survival", as well as all others that by their sense and context are intended to survive the performance, termination or expiration of the Order.
- 43. HEADINGS.** The headings used in these Terms and Conditions of Purchase are for reference only and shall not be used or relied upon in the interpretation of the document.
- 44. ENTIRE AGREEMENT.** The Order constitutes the sole and entire agreement of the parties with respect to the purchase and sale of the Goods and supersedes all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and written and oral communications regarding the subject matter of the Order.