



TERMS AND CONDITIONS OF SALE

FluiDyne Fluid Power, Inc. products and services described herein (the "Products") are offered for sale at prices established by FluiDyne Fluid Power, Inc. ("Seller"). This offer and its acceptance by any customer ("Buyer") shall be governed by all of the following Terms and Conditions. Buyer's orders for the Products, when communicated to Seller verbally or in writing, shall constitute acceptance of this offer.

- 1. Terms and Conditions of Sale:** All descriptions, quotations, proposals, offers, acknowledgments, acceptances and sales of the Products are subject to and shall be governed exclusively by the terms and conditions stated herein. No additional, different or inconsistent terms or conditions shall become part of this Agreement unless expressly accepted in writing by Seller.
- 2. Payment:** Payment shall be made by Buyer to Seller as follows: Payment made within Fluidyne Fluid Power agreed upon terms. This Payment to be made in US dollars by check or wire transfer to the Fluidyne designated bank account. All bank and other fees/charges on the buyer's side to be paid by the buyer. Any claims for damages in transit, etc. must be made in writing within 14 days of receipt of Products.
- 3. Delivery:** Unless otherwise accepted in writing by Seller, delivery of the Products shall be FOB, Seller's plant. There is a \$100 net minimum value per order. Shipping dates are approximate, and Seller shall have no liability for failure to ship on such approximate shipping date.
- 4. Warranty:** Seller warrants to Buyer that the Products: (a) conform to Seller's published specifications, and (b) are free from defects in material or workmanship. The duration of this warranty is eighteen (18) months from the date of shipment to Buyer. If Buyer discovers within the Warranty Period a failure of the Products to conform to specifications, or a defect in material or workmanship, Buyer must notify Seller in writing within the Warranty Period. Within a reasonable time after such notification, Seller may correct any failure of the Products to conform to specifications, or a defect in material or workmanship. Such repair shall include both parts and labor, and will be at Seller's expense. All warranty service will be performed FOB Seller's plant, or FOB point as applicable.
Products are not to be returned to Seller without prior written approval of Seller

(see paragraph 6, Returns). All claims must be submitted within the Warranty Period and must be accompanied by full particulars, including, but not limited to, applicable system and operating conditions and relevant maintenance procedures. If Seller is unable to repair the Products to conform to the Warranty after a reasonable number of attempts, Seller will provide, at its option, one of the following: (a) a replacement Product, or (b) full refund of the purchase price. THE FOREGOING ARE BUYER'S EXCLUSIVE REMEDIES FOR BREACH OF THE SUBJECT WARRANTY. THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

Seller does not warrant (a) any Products, components or parts not manufactured by Seller, (b) defects caused by failure to install the Product(s) properly, (c) damage caused by use of the Products for purposes other than those for which it was designed, or at other than recommended design conditions, (d) damage caused by failure to maintain in accordance with Seller's instructions, (e) damage caused by unauthorized attachment or modifications, (f) filter element life (time between filter changes), (g) damages during shipment, or (h) any other abuse or misuse by the Buyer. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES BASED UPON BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, STRICT TORT, OR ANY OTHER LEGAL THEORY. SUCH DAMAGES SO EXCLUDED INCLUDE, BUT ARE NOT LIMITED TO, LOSS OF PROFITS, LOSS OF SAVINGS OR REVENUE, LOSS OF THE PRODUCT OR ANY ASSOCIATED EQUIPMENT, COST OF CAPITAL, COST OF SUBSTITUTE EQUIPMENT, FACILITIES OR SERVICES DOWN TIME, THE CLAIMS OF THIRD PARTIES INCLUDING CUSTOMERS, AND INJURY TO PERSON OR PROPERTY. SOME STATES DO NOT ALLOW LIMITS ON WARRANTIES OR ON REMEDIES FOR BREACH IN CERTAIN TRANSACTIONS. IN SUCH STATES, LIMITS IN THIS AND OTHER PARAGRAPHS MAY NOT APPLY.

5. Cancellations or Revisions: Open orders can only be cancelled or revised 30 days or more prior to the scheduled delivery date and may be subject to charges based on the costs incurred by the Seller through the time of notification.

6. Returns: All returns must be pre-approved by the Seller and must be identified by a Returned Goods number issued by the Seller. All returns must be sent "freight prepaid".

7. Taxes: Unless otherwise indicated hereon, all prices and charges are exclusive of excise, sales, use, property, occupational or like taxes which may be imposed by any taxing authority upon the manufacture, sale or delivery of the Products. If any such taxes must be paid by Seller, or if Seller is liable for the collection of such tax, the amount thereof shall be in addition to the amounts for the Products sold. Buyer agrees to pay all such taxes or to reimburse Seller

therefore upon receipt of Seller's invoice.

8. Force Majeure: Seller does not assume the risk of and shall not be liable for delay or failure to perform any of Seller's obligations by reason of circumstances beyond the reasonable control of Seller (hereinafter "Events of Force Majeure:"). Events of Force Majeure shall include without limitation, accidents, acts of God, strikes or labor disputes, acts (including acts of war or terrorism, etc.), laws, rules or regulations of any government or government agency, fires, floods, delays or failures in delivery of carriers or suppliers, shortages of materials and any other cause beyond Seller's control

9. Entire Agreement/ Governing Law: The terms and conditions set forth herein, together with any amendments, modifications and any different terms or conditions expressly accepted by Seller in writing, shall constitute the entire Agreement concerning the items sold, and there are no oral or other representation or agreements which pertain thereto. This Agreement shall be governed in all respects by the law of the state of Michigan, USA. No actions arising out of the sale of the Products or this Agreement may be brought by Buyer more than eighteen months (18) after the cause of action accrues.