



## **GENERAL TERMS AND CONDITIONS OF SALE**

Enflow Industries Inc. ("Enflow") OBJECTS IN ADVANCE TO ANY TERMS OR CONDITIONS WHICH ATTEMPT TO MODIFY OR ADD TO THESE TERMS AND CONDITIONS, WHETHER OR NOT SUCH MODIFICATIONS OR ADDITIONS BE CONTAINED IN ANY DOCUMENTS OR ACCEPTANCES WHICH MAY BE FURNISHED BY THE CUSTOMER ("Buyer"), OR ARE COMMUNICATED BY ANY OTHER MEANS. ANY SUCH MODIFICATIONS OR ADDITIONS SHALL BE VOID, UNLESS EXPRESSLY ACCEPTED IN WRITING BY ENFLOW.

### **1. GENERAL AND CONTRACT ACCEPTANCE:**

Any written or oral purchase order received from Buyer by Enflow Industries Inc. ("Seller") shall be construed as a written acceptance of Seller's offer to sell and shall be filled in accordance with the terms and conditions of sale set forth herein. All Purchase Orders are subject to credit approval and acceptance by Seller. SELLER'S ACCEPTANCE OF ANY ORDER OF THE BUYER IS EXPRESSLY CONDITIONED ON BUYER'S ASSENT TO THE TERMS AND CONDITIONS CONTAINED HEREIN. These terms and conditions of Seller shall prevail over any conflicting or different terms in Buyer's order. Buyer's standard terms of purchase will not be considered a counteroffer to Seller's terms and conditions of sale. The failure of Seller to object to any provision in conflict herewith whether contained on Buyer's purchase order or otherwise shall neither be construed as a waiver of the provisions hereof nor as an acceptance of such conflicting provisions.

These terms and conditions are intended to cover all activities between Seller and Buyer. This document together with any sales order issued by Seller represents the final, complete and exclusive statements of the agreement (the "Agreement") between Seller and Buyer. Any reference in this document to exclusions or limits of liability of Seller includes the Seller's directors, officers, employees, representatives and agents.

### **2. QUOTATIONS AND PRICES:**

Prices that are provided in a specific quotation will remain firm for thirty (30) days of the issued date of the written quotation.

All prices are exclusive of freight costs, insurance, taxes and duties unless specified. Prices stated in general price lists are subject to change without prior notice, at Seller's sole discretion.

Any documentation pertaining to traceability requirements for raw materials or products or documentation required for any routine or special processes must be identified by the Buyer at the time of quotation (if any) or at the time of order placement.

### **3. TAXES:**

Any tax or other charge imposed by law on the sale or production of goods or the performance of services shall be paid by the Buyer, unless the law specifically provides that such payment must be made by Seller, in which case Buyer shall reimburse Seller for such payment as part of the purchase price. Customs duties, consular fees,

insurance charges and other comparable charges will be borne by Buyer.

### **4. SHIPPING SCHEDULE AND DELIVERY:**

Seller will make a good faith effort to complete delivery of the products as indicated by Seller in writing, but Seller assumes no responsibility or liability and will accept no back charge for loss or damage due to delay or inability to deliver, caused by acts of God, war, labor difficulties, accidents, inability to obtain materials, delays of carriers, contractors or suppliers or any other causes of any kind whatever beyond the control of Seller. Under no circumstances shall Seller be liable for any loss arising directly or indirectly from delays or failure to give notice of delay.

Seller reserves the right to furnish commercially equivalent or better substitutes for materials or to subcontract the Buyer's order or portions thereof as Seller deems necessary. Seller also reserves the right to supply partial delivery of the products.

Any hold points, witness points or the need for inspection by Buyer's representatives must be identified by Buyer at the time of quotation (if any) and /or order placement in order that the effect on the prices or shipping schedules (if any) can be taken into account.

Additional inspection or testing required by Buyer which affects normal production sequence will be considered as extending the shipping dates accordingly.

Upon tender of delivery, title shall pass to Buyer, subject to Seller's right of stoppage in transit and to Seller's security interests in the products, as set forth in Section 5.

### **5. TERMS OF PAYMENT AND SELLER'S RIGHT OF LIEN/SECURITY INTEREST:**

Payment shall be due net thirty (30) days from the date of invoice.

All unpaid invoices are subject to a carrying charge of two percent (2%) per month on the unpaid balance until paid in full.

In the event Buyer shall default on its obligations hereunder, Buyer shall be liable for all of Seller's costs and expenses of collection, including legal fees on a solicitor and his own client full indemnity basis. Seller may, at its option, cancel and/or sell any unshipped products should Buyer fail to fulfill the complete terms of payment. Buyer shall have no right to offset any amounts against any payments or other obligations Seller may have to Buyer. The Buyer hereby grants to Seller a general lien and right of detention in the products sold as well as a purchase money security interest to secure Buyer's payment of the purchase price and any other amounts owed by Buyer to the Seller, and The Buyer agrees that Seller may (but is not obligated) to take such action as Seller deems advisable to evidence and perfect such general lien and right of detention and that Buyer will cooperate with Seller in the taking of such actions.

**6. CANCELLATIONS AND RETURNS:**

Purchase Orders once placed by Buyer and accepted by Seller can be cancelled only with Seller's written consent and upon terms which will save Seller from loss. No products may be returned for credit or adjustment without written permission from Seller.

**7. RECOMMENDATIONS BY SELLER:**

Seller may assist Buyer in selection decisions by providing information regarding products that it manufactures and those manufactured by others. However, Buyer acknowledges that Buyer ultimately chooses the product's suitability for its particular use. Any recommendations made by Seller concerning the use, design, application or operation of the products shall not be construed as representations or warranties, expressed or implied. Failure by Seller to make recommendations or give advice to Buyer shall not impose any liability upon Seller.

**8. LIMITED WARRANTY:**

8.1 Warranty. Subject to the limitations expressed herein, Seller warrants that products manufactured or supplied by Seller shall be free from defects in design, material and workmanship under Normal Use for a period of twelve (12) months from date of installation of the product sold or eighteen (18) months from the date of sale whichever occurs first ("Seller's Warranty"). This Seller's Warranty is void for any damage caused by misuse, abuse, neglect, acts of God, or improper storage, preservation, maintenance handling or installation. For the purpose of this section, "Normal Use" means use which is in strict accordance with the product installation, operation and maintenance manuals (available upon request).

8.2 Remedies. Seller's obligations under the Seller's Warranty are limited to the repair or replacement at no additional charge of any part or parts of its products which prove to be non-conforming or defective within the time period mentioned in sub-section 8.1 above. For greater certainty and without limiting the generality of the foregoing, Seller is not responsible for the labor or expense of repairing or replacing defective products or workmanship or any damage arising from same. All claims under the Seller's Warranty provided herein must be made within sixty (60) days from the date of discovery of the non-conformance or defect. SELLER MAKES NO OTHER WARRANTY OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, AND ALL WARRANTIES OR IMPLIED CONDITIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER WARRANTY OR CONDITION IMPLIED BY STATUTE, ARE HEREBY AGREED BY THE PARTIES NOT TO BE PART OF THE AGREEMENT AND EXCLUDED FROM THE TERMS AND CONDITIONS OF THE AGREEMENT BETWEEN THE BUYER AND SELLER. THE BUYER'S SOLE AND EXCLUSIVE REMEDY AGAINST THE SELLER, WHETHER BASED UPON WARRANTY, STATUTE, CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), OR ANY OTHER BASIS, WILL BE LIMITED TO THE

RIGHTS OF THE CUSTOMER UNDER THIS WARRANTY SECTION 8.

**9. LIMITATION OF LIABILITY:**

WITHOUT IN ANY WAY LIMITING THE TERMS AND CONDITIONS OF THE LIMITED WARRANTY SECTION 8 ABOVE WHICH LIMIT THE REMEDIES OF THE BUYER TO THAT CONTAINED IN THE WARRANTY, THE PARTIES FURTHER AGREE THAT:

A. THE TOTAL LIABILITY OF SELLER WITH RESPECT TO THE PRODUCTS FURNISHED UNDER THE AGREEMENT, INCLUDING ANY CLAIM IN RELATION TO THE PERFORMANCE OR BREACH OF THE AGREEMENT, OR ARISING FROM THE MANUFACTURE, SALE, DELIVERY, INSTALLATION, REPAIR OR TECHNICAL CORRECTION OR OTHER WORK OR SERVICES COVERED BY OR FURNISHED UNDER THE AGREEMENT, AND WHETHER SUCH CLAIM IS BASED UPON WARRANTY, STATUTE, CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR ANY OTHER BASIS, SHALL NOT EXCEED THE CONTRACT PRICE AGREED TO BY THE SELLER IN RELATION TO SUCH PRODUCTS, PARTS, WORK OR SERVICES.

B. SELLER SHALL IN NO EVENT BE LIABLE TO THE BUYER, ANY SUCCESSORS IN INTEREST OR ANY BENEFICIARY OR ASSIGNEE OF THE AGREEMENT, FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL OR PUNITIVE, EXEMPLARY OR AGGRAVATED DAMAGES, INCLUDING BUT NOT LIMITED TO CLAIMS BASED UPON LOSS OF USE, LOST PROFITS OR REVENUE, INTEREST, LOST GOODWILL, WORK STOPPAGE, IMPAIRMENT OF OTHER GOODS, LOSS BY REASON OF SHUTDOWN OR NON-OPERATION, INCREASED EXPENSES OF OPERATION, COST OF PURCHASE OF REPLACEMENT POWER, OR CLAIMS OF THE BUYER OR ITS CUSTOMERS FOR SERVICE INTERRUPTION, WHETHER OR NOT THE CLAIM FOR SUCH LOSS OR DAMAGE IS BASED ON WARRANTY, STATUTE, CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), OR ANY OTHER BASIS.

SELLER DISCLAIMS ALL LIABILITY, WHETHER THE CLAIM IS BASED UPON WARRANTY, STATUTE, CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), OR ANY OTHER BASIS, TO ANY PARTY OTHER THAN BUYER.

**10. GOVERNING LAW:**

The rights and obligations of the parties under the Agreement as well as any dispute between the parties shall exclusively be governed by and dealt with through the laws and courts of the Province of Alberta, Canada.