



**FLUID HANDLING INC.
TERMS AND CONDITIONS OF SALE**

1. **Definitions**

- A. **Seller:** Fluid Handling Inc., 12130 W. Carmen Avenue, Milwaukee, WI 53225.
- B. **Buyer:** The party contracting with Seller for purchase of equipment.
- C. **The Contract:** Seller's Terms and Condition of Sale, any proposal issued by Seller, and any technical or commercial specifications agreed to in writing by Seller.
- D. **The Equipment:** All or any parts of the goods, works and services to be provided by Seller under the Contract.

2. **Limitation on Contract Terms**

Seller's proposal is an offer stating the terms and conditions under which Seller will enter into a contract with Buyer to provide Equipment. This offer expressly limits acceptance to the complete technical and commercial terms stated therein. Additional or different terms which Buyer submits to Seller, either in a purchase order, letter of authorization, or other communication of acceptance, will have no force and effect unless specifically agreed to in writing by Seller. An offer by Buyer can only be accepted in writing by an authorized officer by Seller. In no event shall Seller's performance constitute acceptance of any terms and conditions different from those set forth in Seller's proposal. Any performance by Seller is only an accommodation to Buyer.

3. **Termination or Modification**

The Contract may be modified or terminated only upon Seller's written consent. If all or part of the Contract is terminated, Buyer, in the absence of a contrary written agreement with Seller, shall pay termination charges based upon expenses and costs (including without limitation, the cost of design work, professional fees, and purchased items) incurred in the production of the Equipment to the date such termination is accepted by Seller plus a reasonable profit, except that any Equipment completed on or prior to Seller's acceptance of such termination shall be accepted and paid for in full by Buyer.

4. **Terms of Payment**

Unless otherwise noted all our prices are F.O.B. Seller's Point of Shipment. Transportation charges are the responsibility of the Buyer, unless otherwise noted.
On all orders under \$25,000 regardless of manufacturing schedule, and those orders over \$25,000 with a manufacturing schedule less than two (2) months:
Standard payment terms are 1% 10th/25th Prox, Net 30 which means if the invoice is dated the 1st-15th, then discounted payment must be received by the 25th of the same month. If invoice is dated the 16th-eom, then discounted payment must be received by the 10th of the following month. Otherwise net 30 days from invoice date, or after notification of readiness to ship. These terms apply to partial as well as complete shipments.
On equipment orders over \$25,000 with a manufacturing schedule of two (2) months or longer:
20% - Due upon drawing submittal.
30% - Due upon receipt of major materials.
50% - Net 30 Days after shipment or notification of readiness to ship.
Where the financial condition of Buyer does not justify the terms of payment previously specified, the Seller reserves the right to require full payment in cash before shipment.
Minimum billing \$20.00 F.O.B. Seller's Point of Shipment.
The Seller reserves the right to charge interest at the rate of 1-1/2% per month (18% annually) on all amounts not paid when due. In the event that the Seller retains legal counsel to assist in obtaining payment of any amounts due from Buyer, Buyer shall pay the reasonable fees and expenses of such counsel.

5. **Taxes**

Prices do not include taxes. All taxes and other governmental charges upon the production, sale or use of the equipment, to the extent required or not forbidden by law to be collected by Seller from Buyer, shall be paid by Buyer to Seller unless Buyer furnishes Seller with exemption certificates acceptable to taxing authorities.



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6. **Deliveries and Quantities**

Shipment dates are not guaranteed but are estimated on the basis of immediate receipt by Seller of all information to be furnished by Buyer and the absence of delays, direct or indirect, resulting from or contributed to by circumstances beyond Seller's reasonable control. Seller shall in good faith endeavor to meet estimated shipment dates.

7. **Risk of Loss**

Buyer assumes all risk of loss of equipment upon delivery by Seller to the carrier.

8. **Warranty**

Seller warrants to Buyer that the equipment at the time of shipment will be free from defects in material and workmanship and, that the equipment will conform in all material respects to Seller's specifications. This warranty shall be ineffective and shall not extend to equipment subjected to misuse, neglect, accident or improper installation, or maintenance, equipment which have been altered or repaired by anyone other than the Seller or its authorized representative, or if more than one year has elapsed from the date of shipment. Any model or sample provided to Buyer was used merely to illustrate the general type and quality of equipment and not to warrant that equipment shipped would be of that type or quality. No agent, employee or representative of Seller has any authority to bind Seller to any affirmation, representation or warranty concerning the equipment and/or services sold hereunder, and any such affirmation, representation or warranty has not formed a part of the basis of the bargain and shall be unenforceable. Seller's sole obligation under the foregoing warranty is limited to, at Seller's option, replacing or repairing defective equipment or refunding the purchase price. Buyer's exclusive remedy for breach of warranty will be enforcement of such obligation of Seller. The warranty contained herein is made only to and for the exclusive benefit of Buyer, and does not extend to any subsequent purchaser or user of the equipment or any product of which the equipment may be a component part.

THE ABOVE WARRANTY COMPRISES THE SELLER'S SOLE AND ENTIRE WARRANTY OBLIGATION AND LIABILITY. ALL OTHER WARRANTIES EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE EXPRESSLY EXCLUDED.

9. **Remedies and Limitation of Liability**

Buyer shall give Seller prompt written notice of any claim that Seller has breached any of its obligations under the contract, whether with respect to the warranty or otherwise. At Seller's request, Buyer shall return the equipment to Seller for inspection. At Seller's option, Seller may either repair the equipment, perform the service, or tender to Buyer the purchase price theretofore paid by Buyer, and, in such event, Seller shall have no further obligation under the contract. If Seller so requests the return of the equipment, the equipment will be redelivered to Seller in accordance with Seller's instructions and at Seller's expense. The remedies contained in this and the preceding paragraph shall constitute the sole recourse of Buyer against Seller for breach of any of Seller's obligations under the contract, whether of warranty or otherwise.

IN NO EVENT SHALL SELLER BE LIABLE FOR CONSEQUENTIAL DAMAGES, NOR SHALL SELLER'S LIABILITY ON ANY CLAIM FOR DAMAGES ARISING OUT OF OR CONNECTED WITH THE CONTRACT OR THE MANUFACTURE, SALE, DELIVERY OR USE OF THE EQUIPMENT EXCEED THE PURCHASE PRICE OF THE EQUIPMENT.

Seller shall not be liable for failure to perform its obligations under the contract resulting directly or indirectly from or contributed to by acts of God; acts of Buyer, civil or military authority; priorities; fires; strikes or other labor disputes; accident; floods; epidemics; war; riot; delays in transportation; lack of or inability to obtain raw materials, components, labor, fuel or supplies; or other circumstances beyond Seller's reasonable control; whether similar or dissimilar to the foregoing.



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10. **Patents**

Seller shall hold Buyer harmless against any rightful claim of any third person by way of infringement of any United States Letters Patent by such of the equipment as are of Seller's own manufacturer, but, if Buyer furnishes specifications to Seller, Buyer shall hold Seller harmless against any such claims which arise out of compliance with the specifications. Seller's agreement to hold Buyer harmless shall not apply to any infringement consisting of the use of equipment manufactured by seller as a part of any combination with equipment manufactured by others. In event that any equipment manufactured by Seller are in any suit held to constitute infringement and their use is enjoined, Seller, if unable within a reasonable time to secure for Buyer the right to continue using such equipment, either by suspension of the injunction, by securing for Buyer a license, or otherwise, shall, at its own expense, either replace such equipment with non-infringing equipment or modify such equipment so that they become non-infringing, or accept the return of the enjoined equipment and refund the purchase price theretofore paid therefore. Except as in this paragraph provided, Seller makes no warranty that the goods will be delivered free of the rightful claim of any third person by way of infringement or the like.

11. **Selection and Installation**

Buyer represents that the equipment sold hereunder are fit for their actual or intended use and that the Buyer placed no reliance on Seller's skill or judgment in selecting suitable equipment. Installation of the equipment shall be Buyer's responsibility. Buyer represents that the use an installation of the equipment shall be made in compliance with applicable government requirements.

12. **Governing Law and Limitations**

The formation and performance of the contract shall be governed by the laws of the state of the Wisconsin including the Uniform Commercial Code as adopted therein. Whenever a term defined by said Uniform Commercial Code is used in this contract, the definition contained in the Uniform Commercial Code is to control. Any action for breach of the contract or in any way related thereto must be commenced within one year after the cause of action has accrued.

13. **Deviations to the Terms and Conditions of Sale**

Any deviations to the Terms and Conditions of Sale in this document must be approved by an Owner of Fluid Handling to be binding.