

STANDARD TERMS AND CONDITIONS OF SALE

Sales under these standard terms and conditions of sale (these "Terms") are by Behco, a division of H&P Technologies, Inc. a Michigan corporation, or any other business name under which H&P Technologies, Inc. does business (in each case, "Seller"), to the person or entity named as the buyer, purchaser or customer ("Buyer") in the documentation to which these Terms are attached, or in which these Terms are referenced, or with which these Terms are associated, and all sales by Seller to Buyer are conditional upon Buyer's agreement with these Terms and only these Terms. If these Terms are first tendered to Buyer before Buyer tenders a purchase order or similar document to Seller, these Terms are in lieu of any terms later submitted by Buyer and Seller rejects all additional or different terms and conditions of Buyer, whether confirmatory or otherwise. If Seller tenders these terms after the tender by Buyer of other terms, whether as part of a purchase order or otherwise, then Seller's acceptance of any offer by Buyer associated with Buyer's terms is expressly conditioned upon Buyer's acceptance of these Terms, exclusively, and to the exclusion of any proffered Buyer terms or conditions, regardless of whether these Terms contain any terms additional to, or different from, any terms proffered by Buyer. Buyer's receipt or acceptance of, or payment for, any products or services from Seller will constitute Buyer's acceptance of these Terms exclusively. These Terms, together with any associated description of the products and quantity and price terms that are the subject of the purchase and sale transaction under these Terms constitute a "Supply Agreement." Buyer represents and warrants that any products that it purchases from Seller are for business or commercial use only and not for domestic, personal, family, or household use.

1. **Description of Products or Services.** Seller agrees to sell, and Buyer agrees to purchase, the products and services described as part of the Supply Agreement.
2. **Prices; Quantities.** The prices of the products and/or services supplied by Seller are as stated in the Supply Agreement. Buyer acknowledges and agrees that the prices for certain products offered by Seller are based on Buyer purchasing a stated minimum order quantity and/or minimum shipment quantity of those products. Where Buyer orders a product that is subject to a minimum order quantity and the quantity ordered does not meet that minimum order quantity, Seller reserves the right to adjust the price or ship the minimum order quantity at Seller's discretion. Where a Supply Agreement states a quantity but does not state a period over which the quantity is to be ordered or delivered, the period over which the quantity is to be ordered or delivered will be a reasonable time under the circumstances. Where a Supply Agreement states a quantity over a specified period but does not identify specific quantities to be shipped within that period, the parties anticipate that Buyer will order, and Supplier will ship, the quantity evenly over the stated time. Seller will use commercially reasonable efforts to accommodate orders (a) in excess of the quantities specified and/or (b) for quantities greater than would be expected if the orders were evenly spread over the contemplated time period; but Seller makes no guaranty of shipment of such excess quantities and, further, reserves the right to allocate products to customers from which Seller has firm orders for specific quantities at specific times. All orders are subject to a minimum charge of \$50.00.
3. **Taxes and Fees.** All prices are exclusive of sales, use, excise, customs, export, import, commodity and/or any other taxes. Buyer will pay all such taxes and any license fees or other charges incidental to the sale of products. Buyer will, at Seller's request, provide to Seller reasonable proof of payment by Buyer of such taxes, fees, and assessments. If Seller is required to prepay any taxes on behalf of Buyer, Buyer will promptly reimburse Seller for all such taxes paid. If provision of the products and/or services requires any documentary letter of credit or similar document, instrument, or process, Buyer shall pay all fees and costs associated therewith.
4. **Payment Terms.** Unless provided otherwise in writing in a Supply Agreement, payment terms are net 30 days from date of shipment. Buyer will pay any invoice issued by Seller without discount, setoff, or reduction. Seller may, at its sole discretion, require payment by bank transfer, cash, certified check, or letter of credit. All trading accounts are subject to prior approval of Seller's credit department in accordance with Seller's credit policies and practices in effect from time to time. Seller may revise the amount of credit or terms of payment at any time for any reason. If Buyer fails to make payment when due or defaults in any other way, Seller may, at its option, without limiting any of its other rights or remedies available under these Terms or applicable law, and until Buyer's account is current: (1) withdraw credit and suspend or cancel performance under any or all Supply Agreements; and/or (2) reschedule shipment. Seller may invoice separately for each shipment and, in any case, Buyer will pay for each shipment as invoiced without regard for other shipments. All payments must be in U.S. dollars. Interest at the rate of 1-1/2% per month (or, if lower, the highest rate allowed under applicable law) will be charged on delinquent amounts not paid when due.
5. **Shipments.** Seller may select the freight carrier, and Buyer accepts carrier selection by Seller unless Buyer timely specifies in writing an alternative carrier reasonably acceptable to Seller. Delivery of products to the carrier constitutes delivery to Buyer, title to products will pass to Buyer, and Buyer will have all risk of loss or damage at that time. Any claims against Seller for shortages or non-conformance that could, with due diligence, be discovered by inspection upon receipt must be made within five (5) days after receipt. Damages incurred in commercial shipments must be claimed through the common carrier. Seller may make deliveries in installments with appropriate partial invoicing issued for each such installment. Each shipment of products to be delivered is a separate sale and Buyer will pay the price for each shipment without regard for any failure to deliver, or non-conformity of, any previous or subsequent shipment. Seller's breach or default in the delivery of any particular shipment will not permit Buyer the right to refuse to receive any other shipment. Time is not of the essence and Buyer is not entitled to reject an otherwise conforming tender made within a reasonable time. Any failure by Buyer to pay for any shipment within the time stated for payment is an anticipatory material breach with regard to other shipments. Unless otherwise agreed to in writing by both parties, Buyer shall pay for shipping costs and charges for any products shipped or delivered to Buyer.
6. **Security Interest.** Buyer grants to Seller a security interest in the products supplied under any Supply Agreement and any proceeds thereof and accessions thereto as security for Buyer's obligations (payment and otherwise) to Seller. Seller may file any financing statement or similar document and/or take any other action permitted by applicable law to perfect and enforce such security interest and, if local law requires that a financing statement or similar document be signed or otherwise acknowledged by a debtor party, Buyer authorizes Seller to execute and deliver on Buyer's behalf any such document.
7. **Termination; Default.**
 - (a) **Termination for Default.** Seller may, in addition to, and without prejudice to, all other rights or remedies available to Seller, terminate a Supply Agreement by notice to Buyer if: (1) Buyer files a petition in bankruptcy or assignment generally for the benefit of creditors or initiates, or has initiated against it, any similar proceeding under any law with respect to creditor's rights, adjustment of debts, or similar law, becomes insolvent, becomes, or admits that it is, unable to pay its debts generally as they become due, or has a third-party manager or receiver appointed over any of its assets or (2) Buyer defaults under these Terms and does not remedy the default within 30 days (10 days in the case of payment defaults) following notice by the aggrieved party. If Buyer fails to pay in accordance with these Terms or any Supply Agreement or fails to comply with any provision of these Terms or any Supply Agreement, Seller may terminate any Supply Agreement as to unshipped portions of the products and terminate any applicable product and/or materials orders placed with its suppliers, and Buyer will remain liable for shipped products. If Seller elects to continue to make shipments after the Buyer has failed to make payment for the shipment in advance or fails to provide adequate assurances of performance, no action by Seller shall constitute a waiver of any default by the Buyer or in any way affect Seller's remedies for any such default.
 - (b) **Adequate Assurance of Performance.** In any instance in which Seller has the right to demand adequate assurance of Buyer's performance (such as, but not limited to, under Section 2-609 of the Uniform Commercial Code), Buyer will provide such assurance within a reasonable time not to exceed five days.
8. **Technical Assistance.** Except as provided for in a separate signed agreement or as expressly stated in a Supply Agreement, Seller will not be required to provide technical advice, facilities or service in connection with any Supply Agreement or the products supplied.
9. **Assignment.** Seller may subcontract the performance of any obligation of Seller under any Supply Agreement, provided only that Seller remains primarily liable for the performance of the obligation. Buyer may not assign any right or obligation under any Supply Agreement.
10. **Warranty.**
 - (a) **For Products Sold by Seller.** Except as expressly set forth in these Terms, (1) Seller makes no warranties, express or implied, of performance, merchantability, workmanship, fitness, quality, durability or suitability of the merchandise or products sold by Seller, in any respect, including its/their fitness for the purpose and uses of Buyer; (2) the only warranties applying to products or materials sold by Seller are those specifically provided by the manufacturer of those products or materials, copies of which Seller will furnish to Buyer upon request; and (3) all products and/or services provided by Seller and its employees and agents are provided "as is," "where is," and "with all faults."
 - (b) **For Systems Assembled and Sold by Seller.** With respect to systems consisting of multiple products that are assembled by Seller ("System" or "Systems"), Seller warrants that the Systems shall be free from defects in assembly, only, under normal use and service for a period of one (1) year after shipment thereof to the original purchaser (the "Limited Assembly Warranty"). Buyer must notify Seller in writing promptly of any failure by a System to conform to the Limited Assembly Warranty. Buyer will pay for shipping to Seller of any System assembled by Seller that is subject to the Limited Assembly Warranty. Seller will pay for return shipping to Buyer if it is determined by Seller that the System is subject to a legitimate Limited Assembly Warranty claim pursuant to these Terms; otherwise, Buyer shall be responsible for the cost of return shipping to Buyer. Seller's liability under the Limited Assembly Warranty will be reduced to the extent that: (1) the System is not maintained according to Seller's specifications, (2) the System fails, malfunctions, or is damaged as a result of improper handling, improper storage conditions (including, but not limited to, where applicable, temperature and humidity), installation, maintenance, removal,

modification or repair, (3) the non-conformity is caused by casualty, abuse, or improper use, (4) the System is altered other than by Seller or with Seller's express written approval, (5) the System is installed, used, or configured other than as contemplated by the parties under the applicable Supply Agreement or at or in a place other than that contemplated by the parties under the applicable Supply Agreement, (6) the System is used, operated, or connected with a third-party good or service not expressly designated by Seller's documentation and specifications for the product, (7) any failure results from a design or specification supplied by Buyer, or (8) the failure is attributable to a defective component manufactured by another person or entity.

- (c) **Limited Warranty on Repairs.** Subject to the limitations and conditions set forth below in this subparagraph (c), Seller warrants all equipment repaired by Seller against defects in parts, material and workmanship for a period of ninety (90) days following the return of the equipment (the "Limited Repair Warranty"). This Limited Repair Warranty does not cover (1) damage due to ordinary wear and tear, abusive use or lack of proper maintenance; (2) damage due to the user's failure to adhere to manufacturer's guidelines; (3) equipment that is disassembled or modified in any way by anyone other than Seller; (4) equipment that is "repaired as needed"; or (5) consequential or incidental damages of any kind. Seller's liability under this Limited Repair Warranty shall not exceed the amount paid for the initial repair. This Limited Repair Warranty is the only warranty given by Seller. Any warranties that may be implied by law, including, but not limited to, warranties of merchantability and fitness for a particular purpose, shall be subject to the limitations, conditions and duration set forth above.
11. **Product Returns.** Buyer may not return any product unless Seller approves in writing the return. Seller may refuse returned shipments not approved by Seller or not in new, saleable condition and in their original packaging. The request for return approval must include a full identification of products to be returned and a copy of the packing list, shipper and/or invoice from Seller relating to the product. Proper handling procedures must be used in the packing and shipping of all returns. Buyer retains title and assumes all risk of loss relating to products returned for repair or replacement until Seller completes repair or identifies products as replacements. Neither special order items nor items held for more than 30 days may be returned for credit or refund. Approved returns will be subject to a restocking charge of not less than 20% of the original sale price. Items and/or quantities that are not normally held in stock by Seller may be returned only if approved by the manufacturer and may be subject to any additional restocking charges and limitations imposed by the manufacturer.
12. **Disclaimers and Limitation of Liability.** EXCEPT AS EXPRESSLY DESCRIBED IN SECTION 10, ALL GOODS AND SERVICES DELIVERED UNDER ANY SUPPLY AGREEMENT ARE SUPPLIED "AS IS" AND WITH ALL FAULTS. SELLER MAKES NO OTHER REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO ANY GOODS OR SERVICES, AND EXPRESSLY DISCLAIMS ANY REPRESENTATION OR WARRANTY AS TO THEIR QUALITY, PERFORMANCE, MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE. NOTWITHSTANDING ANYTHING IN ANY SUPPLY AGREEMENT OR OTHERWISE TO THE CONTRARY, SELLER WILL NOT BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF REVENUE OR PROFITS) ARISING FROM OR CAUSED, DIRECTLY OR INDIRECTLY, BY THE USE OR SALE OF ANY GOOD OR SERVICE BY BUYER OR ANY CUSTOMER OR SUCCESSOR HOLDER (INCLUDING, BUT NOT LIMITED TO, ANY END USER) OF ANY GOOD OR SERVICE; BY THE PERFORMANCE OR FAILURE OF SELLER TO PERFORM UNDER THESE TERMS; BY ANY OTHER ACT OR OMISSION OF SELLER; OR BY ANY OTHER CAUSE. IN NO EVENT WILL SELLER'S TOTAL LIABILITY TO BUYER FOR ANY CLAIM EXCEED THE SUM PAID TO SELLER BY BUYER FOR THE GOODS OR SERVICES SUPPLIED UNDER THE SUPPLY AGREEMENT IN CONNECTION WITH WHICH THE CLAIM ARISES. NO ACTION MAY BE BROUGHT BY BUYER FOR ANY BREACH OF THESE TERMS MORE THAN ONE YEAR AFTER THE ACCRUAL OF SUCH CAUSE OF ACTION.
13. **Policies Regarding Items Received for Repair.** Any tool, equipment, component or system of Buyer that is/are evaluated by Seller for possible repair but not approved by Buyer for repair will be subject to an inspection charge and, for safety reasons, will be returned to Buyer disassembled. Electrical cords also may be cut. If Seller does not receive an authorization to repair or replace equipment estimated for repair within ninety (90) days, Seller reserves the right to either return the equipment unrepaired or scrap the equipment at Seller's facility. In either case, Buyer will be responsible for any inspection charge imposed by Seller.
14. **Governing Law; Jurisdiction; Venue; Severability.** These Terms and all Supply Agreements will be governed by and construed in accordance with the law of the State of Michigan without regard for their conflict of law rules. The United Nations Convention on Contracts for the International Sale of Goods will not apply to these Terms or any Supply Agreement. Any action or claim arising out of or related to these Terms or any Supply Agreement may be brought only in the courts of the State of Michigan sitting in Macomb County, Michigan or the United States District Court for the Eastern District of Michigan and Seller and Buyer each irrevocably consent to the jurisdiction of, and venue in, such courts. If any provision of any Supply Agreement is illegal or unenforceable, such provision will be reformed to, insofar as is possible, permit it to conform with applicable law and, in any case, the remaining provisions will continue in full force and effect.
15. **Use of Products.** Buyer shall use, and require its employees, contractors, and agents to use, all available safety precautions, in addition to any specifically set forth in any manuals, material safety data sheets, technical data sheets, instruction sheets, if any, furnished by Seller (or available from the underlying manufacturers of the products) relating to products furnished by Seller. If Buyer does not receive any required material safety data sheets, product manuals, instruction sheets or the like for any product from Seller, Buyer will request them from Seller. If Buyer fails to strictly observe each and every one of the obligations set forth in this Section 15 or if Buyer's use of any of Seller's products is in violation of any standard or rule of the American National Standards Institute or Occupational Health and Safety Act, or other applicable workplace law, regulation, or standard, Buyer will indemnify, defend, and hold harmless Seller and Seller and its employees, officers, directors, agents, affiliates, successors and assigns from and against any and all claims, demands, damages, actions, and causes of action, as well as any and all liability, loss, or expense of any kind, including reasonable attorneys' fees arising from, connected with or in any way pertaining to any such failure by Buyer. Typically, product information, instruction sheets and information in material safety data sheets is/are prepared and supplied by the underlying manufacturers of the products sold by Seller. Seller does not make any representation or warranty of any kind concerning the accuracy and/or reliability of said materials.
16. **Attorneys' Fees and Costs.** Buyer will pay Seller's reasonable attorneys' fees and other costs and expenses for any legal or equitable action undertaken by Seller to enforce these Terms or the provisions of any Supply Agreement and/or to recover any delinquent amounts due from Buyer to Seller.
17. **Errors.** Any and all typographical or clerical errors made by Seller in these Terms, in Seller's quotations or communications, or any Supply Agreement are subject to correction by Seller.
18. **Force Majeure.** Seller will not be liable for failure to deliver, or for delay in delivery of, the products to the extent arising out of or related to causes beyond its reasonable control, including, without limitation, acts of God or of the public enemy, acts of any governmental authority, fires, floods, other casualties, severe weather, epidemics, quarantine restrictions, strikes, labor disputes or shortages of labor, embargoes, wars, riots, civil commotion, shortage of rail cars or semi-trailors and trailers, delays in transit, unavailability of transportation services, or inability to secure necessary materials (whether at all or at commercially reasonable prices). In no event will Seller be liable for any loss or damage, including in particular, direct, incidental, indirect, special, punitive or consequential damages (including loss of profits) due to any failure to deliver or delay in delivery. Delays attributable to the foregoing shall not be grounds for Buyer's cancellation of the Supply Agreement, but, rather, the deliver date set forth in the Supply Agreement shall be extended, accordingly. If Seller is wholly or partially unable to perform because of any cause beyond its reasonable control, Seller may allocate production and deliveries among Seller's customers or may terminate the Supply Agreement without any further liability to Buyer.
19. **Remedies Cumulative; No Waiver.** All rights and remedies of Seller under these Terms and any Supply Agreement are cumulative. No pursuit or receipt by Seller of any particular remedy will constitute an exclusive election of remedies and Seller will have the benefit of all remedies available at law, in equity, or otherwise. Seller's failure to insist, in one or more instances, upon the performance of any term or terms set forth in these Terms shall not be construed as a waiver or relinquishment of its right to such performance or the future performance of such term or terms and Buyer's obligation with respect thereto shall continue in full force and effect.
20. **Third Parties.** There are no third-party beneficiaries of any right or obligation under these Terms or any Supply Agreement. Under no circumstances will Seller be obliged or liable to Buyer or to any third party with respect to any representation, warranty, covenant, duty, or liability to any third party, whether as part of a "directed sourcing" arrangement or otherwise. Without limiting the foregoing, Seller expressly disclaims and rejects any obligation of any kind to comply with any terms or conditions of Buyer's direct or indirect customer(s), regardless of any obligation to such persons taken on by, and/or imposed upon, Buyer and regardless of whether Seller is aware of any such requirement upon Buyer. Seller will be liable to any third party, if at all, solely according to such separately negotiated, written, and signed agreement, if any, as Seller actually negotiates and executes with such third party.
21. **Entire Agreement.** These Terms, together with any specific terms contained in any Supply Agreement, any separate written and signed distributor agreement, and any separate written confidentiality agreement between the parties, embody the entire agreement between the parties with regard to the subject matter hereof and thereof and supersede all other prior agreements between the parties with regard to such subject matter. Neither these Terms nor any Supply Agreement may be modified, except in writing and signed by the party against whom enforcement is sought.