

## GENERAL TERMS AND CONDITIONS OF SALE

1. **General.** These terms and conditions shall be the complete and exclusive terms and conditions with respect to the subject matter hereof applicable to any agreement between Advanced Control Products LLC or J Flow Controls, Ltd. ("Seller") and any buyer ("Buyer") with respect to the sale of goods by Seller to Buyer (this "agreement"). Seller shall not be bound by any other terms or conditions unless expressly agreed to in writing by Seller. In the absence of written acceptance of these Terms and Conditions by Buyer, either acceptance of or payment for the goods shall constitute Buyer's acceptance of these Terms and Conditions. Any different or additional terms or conditions in any request for quotation, order, proposal, acknowledgement form, or any other document of Buyer are hereby deemed material alterations and are null and void and superseded by these Terms and Conditions. Seller shall have the right to revise these terms and conditions from time to time; provided, however, that such revised terms and conditions shall apply only to sales occurring after the date thereof.
2. **Price.** Prices as quoted by Seller are in U.S. dollars and are firm for thirty (30) days from the date of such quotation, unless otherwise indicated by Seller. Thereafter, they are subject to change without notice to the prices prevailing at time of acceptance. Prices are F.O.B. place of shipment and are exclusive of all taxes-federal, state or local. If Seller is required to pay or collect any tax or duty owed by Buyer, Buyer shall reimburse Seller therefor. If there is a delay in completion or shipment of order due to any change requested by Buyer, or as a result of any delay on Buyer's part in furnishing information necessary for completion of the order, the price initially agreed upon at time of acceptance is subject to change.
3. **Delivery Date.** The promised delivery date is the best estimate possible of when the goods will be shipped. Seller shall have no liability for lost profits or incidental or consequential damage due to delays. If any contingency beyond the control of Seller occurs that prevents Seller from shipping the goods on time, Seller may allocate delivery among Seller's customers as Seller deems appropriate, without liability.
4. **Payment.** Payment shall be net thirty (30) days from date of shipment unless otherwise indicated on Seller's quotation or agreed to in writing by Seller. Production, shipment, and delivery shall at all times be subject to the approval of Seller's credit department. Seller reserves the right at any time to modify or withdraw credit terms without notice and to require guarantees, security, or payment in advance of the amount of the credit involved. If Seller at any time doubts Buyer's financial responsibility, Seller may decline to make shipments hereunder except upon cash payment in advance or receipt of security or other proof of responsibility satisfactory to Seller. A charge of 1.5% per month shall be applied to all past due balances.
5. **Title.** Title to all goods shall remain in Seller until the complete purchase price and all additional costs and charges, as adjusted, are paid by Buyer. Seller shall retain a security interest in, and right to repossess, any such goods until it is paid in full. Risk of loss shall pass to Buyer upon delivery to the carrier.
6. **Changes.** Any change order by Buyer will not be considered effective until mutual agreement has been reached between the Buyer and Seller as to the effect of any changes in prices, delivery, and other conditions of the order.
7. **Inspection and Notice of Defect.** Unless otherwise specified, the goods to be furnished hereunder shall be subject to Seller's standard inspection at its facility or the place of manufacture. If inspection by the Buyer is

provided for, Buyer's inspectors shall be deemed agents of Buyer to accept the goods on Buyer's behalf regardless of deviation from formal specifications. Notice of any defects or claims of any nature (except warranty) must be made within 10 days of delivery. Returns will not be accepted for any reason without Seller's prior written authorization.

8. **Limited Warranty.** Subject to the following conditions, Seller warrants to the original Buyer only (and not to anyone else) of goods manufactured by Seller that any part thereof made by Seller which fails to meet Seller's published specifications therefor within one year from the date of sale by Seller will, at Seller's option, be repaired or replaced without charge, or Seller's sales price therefor refunded to Buyer upon return to Seller of the defective product; provided any defect in the goods is brought to the attention of Seller within the warranty period. Seller alone will be authorized to furnish or arrange for repairs or replacements, or refund of Seller's sales price within the terms of this warranty. Labor, travel, removal, installation and other expenses incidental to the repair or replacement are not included.

BUYER AGREES THAT NO OTHER REMEDY (INCLUDING, BUT NOT LIMITED TO, INCIDENTAL OR CONSEQUENTIAL DAMAGES FOR LOST PROFITS, LOST SALES, LOST PRODUCTION, OVERHEAD, LABOR, INJURY TO PERSON OR PROPERTY, OR ANY OTHER INCIDENTAL LOSS) SHALL BE AVAILABLE TO BUYER OR USER.

This limited warranty does not apply, and no warranty, either express or implied, shall be applicable: (a) to damage resulting from accident, alteration, misuse or abuse; or (b) if the goods are not installed, operated and maintained according to procedures recommended by Seller. In no case shall the warranty extend to defects in materials, components, or services furnished by Buyer or any third party, or for modifications made by Buyer or any third party. If any repairs or

alterations are made or any other parts are replaced during the warranty period by any party other than Seller or with other than parts authorized by Seller, Seller shall be relieved of any responsibility for fulfillment of this warranty.

To the extent Seller has manufactured the goods to Buyer's design and/or engineering specifications, Buyer assumes all responsibility therefore, and Seller makes no representations or warranties of any kind with respect to such design and/or engineering specifications other than that the goods meet such design and/or engineering specifications. Buyer shall indemnify and hold harmless Seller with respect to such design and/or engineering specifications and any liability resulting therefrom. Further, this warranty does not extend to any goods sold "as-is" or "as-inspected;" no warranties, express or implied, are made with respect to such goods.

To the extent Seller is not the manufacturer of the goods, but is only the distributor thereof, Seller specifically disclaims any and all warranties of any kind whatsoever, but Seller shall pass through to Buyer any standard published warranties provided by the manufacturer(s) of the particular goods at the time of shipment, to the extent permitted by such manufacturer(s).

9. **Limitation of Liability.** In the event Buyer claims that Seller has breached any of its obligations under this agreement, whether in warranty or otherwise, Seller may request and require return of the goods and refund the Buyer's purchase price upon Seller's receipt of the returned goods. In such event, Seller shall absolutely have no further obligation to Buyer except to refund the purchase price. THIS REMEDY SHALL CONSTITUTE THE SOLE RECOURSE OF BUYER AGAINST SELLER FOR BREACH OF ANY OF SELLER'S OBLIGATIONS UNDER THIS AGREEMENT, WHETHER THE CLAIM IS MADE IN TORT, CONTRACT, OR IN ADMIRALTY, INCLUDING CLAIMS BASED ON WARRANTY, NEGLIGENCE OR

OTHERWISE. Any cause of action against Seller arising out of this agreement must be brought within one year after the cause of action has accrued.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL SELLER BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, NOR SHALL SELLER'S LIABILITY FOR ANY CLAIMS OR DAMAGE ARISING OUT OF OR CONNECTED WITH THE SALES AGREEMENT WITH BUYER, OR THE MANUFACTURE, SALE, DELIVERY OR USE OF THE GOODS, EXCEED THE PURCHASE PRICE THEREOF FROM SELLER.

10. **Use and Safety.** There are no representations or warranties by Seller that the goods comply with the requirements of federal, state or local laws and industrial codes. Buyer acknowledges that it is Buyer's responsibility to provide proper safety training, devices and equipment for the particular application or use intended by Buyer so as to protect the operator and others from harm, and to comply with all federal, state and local laws, rules and regulations relating to safety standards and all industry safety standards. Buyer agrees to indemnify and hold Seller harmless from and against any such liability, as well as all claims and expenses resulting from Buyer's modification of the goods or failure to implement any changes to the goods directed by Seller.

11. **Proprietary Information – Confidentiality.** Any specifications, drawings, plans, notes, instructions, engineering notices, or technical data of Seller furnished to Buyer shall be deemed to be incorporated herein by reference the same as if fully set forth. Seller shall at all times retain title to all such documents, and Buyer shall not disclose such to any third party without Seller's prior written consent. Upon Seller's request, Buyer shall promptly return to Seller all such documents and copies thereof.

12. **Termination.** Seller may terminate this agreement upon immediate written notice to Buyer on the happening of any of the following events: (a) failure of Buyer to accept delivery of goods or to pay any indebtedness to Seller when due, accompanied by a failure within ten (10) days after demand therefor, to fully pay the same or provide assurance of payment satisfactory to Seller; (b) failure by Buyer to honor any promise on Buyer's part contained in this agreement or to perform any of its obligations under this agreement, other than the payment of any indebtedness to Seller; (c) the material inaccuracy of any information set forth in any application, claim, schedule, certificate, or other document heretofore or hereafter furnished by Buyer to Seller; and (d) if Buyer shall cease to function as a going concern, or makes an assignment for the benefit of creditor's or any proceeding under any federal or state bankruptcy, receivership, or insolvency laws is instituted by or against Buyer, or the liquidation, dissolution, merger, or consolidation of Buyer occurs, or a receiver or trustee for Buyer or any of its assets or property is appointed or applied for. Termination shall not release or affect, and this agreement shall remain fully operative as to, any obligations or liabilities incurred by Buyer prior to the effective date of such termination; provided, however, that all indebtedness of Buyer to Seller shall become immediately due and payable on the effective date of termination without demand, and Seller may deduct from any sums it owes to Buyer sums owned by Buyer to Seller. Any orders received from Buyer, regardless of acceptance (or the lack thereof) by Seller, which have not been shipped prior to Buyer's receipt of notice of termination or the effective date of termination or expiration, whichever shall occur first, shall only be shipped C.O.D. or cash in advance.

13. **Miscellaneous.** Buyer's rights and obligations hereunder may not be assigned or delegated without the prior written consent of Seller. Seller may freely assign its rights and obligations. This agreement shall be governed by and construed in accordance with the

Uniform Commercial Code as adopted by Ohio under which jurisdiction Buyer consents. This agreement supersedes all prior written or oral agreements with respect to the subject matter hereof. The invalidity of any part of these Terms and Conditions shall not affect the validity of the remaining provisions. All claims or suits against Seller must be made within one (1) year of the date the cause of actions occurred (regardless of when they were discovered) or be forever barred. No waiver shall be effective against Buyer unless Buyer agrees to such waiver in writing. Paragraph headings found herein are for convenience only and are not to be considered in interpreting any of the provisions hereof.

This agreement and any controversy arising in connection herewith shall be governed by the internal laws of the State of Ohio. The state and federal courts within Hamilton County, Ohio, shall have exclusive jurisdiction over any litigation resulting with respect to this agreement or the goods, and the parties consent to the jurisdiction thereof.

14. **Contingencies.** Seller shall not be liable for any default or delay in performance if caused, directly or indirectly, by any of the following: acts of God; war; force of arms; fire; the elements; riot; labor disputes; picketing or other labor controversies; sabotage; civil commotion; accidents; any governmental action, prohibition or regulation; delay in transportation facilities; shortage or breakdown of or inability to obtain or non-arrival of any labor, material, or goods used in the manufacture of the goods; failure of any party to perform any contract with Seller relative to the production of the goods; or from any cause whatsoever beyond Seller's control, whether or not such cause be similar or dissimilar to those enumerated. Seller shall promptly notify Buyer of the happening of any such contingency and of the contemplated effect thereof on the manufacture and delivery of the goods.
15. **Electronic Transactions.** Buyer and Seller agree that any transactions under this agreement may be conducted by electronic means in accordance with Chapter 1306 of the Ohio Revised Code.
16. **Disputes:** The United Nations Convention for the International Sale of Goods shall not apply to this agreement, any dispute arising out of, or related to this agreement, any sale of goods hereunder or otherwise by Seller to Buyer, or the relationship between Buyer and Seller.